

FLIGHT 100—CENTURY OF AVIATION REAUTHORIZATION
ACT

JUNE 6, 2003.—Committed to the Committee of the Whole House on the State of
the Union and ordered to be printed

Mr. YOUNG of Alaska, from the Committee on Transportation and
Infrastructure, submitted the following

R E P O R T

[To accompany H.R. 2115]

[Including cost estimate of the Congressional Budget Office]

The Committee on Transportation and Infrastructure, to whom
was referred the bill (H.R. 2115) to amend title 49, United States
Code, to reauthorize programs for the Federal Aviation Administra-
tion, and for other purposes, having considered the same, report fa-
vorably thereon with an amendment and recommend that the bill
as amended do pass.

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) **SHORT TITLE.**—This Act may be cited as the “Flight 100—Century of Aviation
Reauthorization Act”.

(b) **TABLE OF CONTENTS.**—

Sec. 1. Short title; table of contents.
Sec. 2. Amendments to title 49, United States Code.
Sec. 3. Effective date.

TITLE I—AUTHORIZATIONS

Sec. 101. Federal Aviation Administration operations.
Sec. 102. Air navigation facilities and equipment.
Sec. 103. Airport planning and development and noise compatibility planning and programs.
Sec. 104. Additional reauthorizations.
Sec. 105. Insurance.
Sec. 106. Pilot program for innovative financing for terminal automation replacement systems.

TITLE II—AIRPORT PROJECT STREAMLINING

Sec. 201. Short title.
Sec. 202. Findings.
Sec. 203. Promotion of new runways.
Sec. 204. Airport project streamlining.
Sec. 205. Governor's certificate.
Sec. 206. Construction of certain airport capacity projects.
Sec. 207. Limitations.
Sec. 208. Relationship to other requirements.

TITLE III—FEDERAL AVIATION REFORM

- Sec. 301. Management advisory committee members.
- Sec. 302. Reorganization of the Air Traffic Services Subcommittee.
- Sec. 303. Clarification of the responsibilities of the Chief Operating Officer.
- Sec. 304. Small Business Ombudsman.
- Sec. 305. FAA purchase cards.

TITLE IV—AIRLINE SERVICE IMPROVEMENTS

- Sec. 401. Improvement of aviation information collection.
- Sec. 402. Data on incidents and complaints involving passenger and baggage security screening.
- Sec. 403. Definitions.
- Sec. 404. Clarifications to procurement authority.
- Sec. 405. Low-emission airport vehicles and ground support equipment.
- Sec. 406. Streamlining of the passenger facility fee program.
- Sec. 407. Financial management of passenger facility fees.
- Sec. 408. Government contracting for air transportation.
- Sec. 409. Overflights of national parks.
- Sec. 410. Collaborative decisionmaking pilot program.
- Sec. 411. Availability of aircraft accident site information.
- Sec. 412. Slot exemptions at Ronald Reagan Washington National Airport.
- Sec. 413. Notice concerning aircraft assembly.
- Sec. 414. Special rule to promote air service to small communities.
- Sec. 415. Small community air service.
- Sec. 416. Type certificates.
- Sec. 417. Design organization certificates.
- Sec. 418. Counterfeit or fraudulently represented parts violations.
- Sec. 419. Runway safety standards.
- Sec. 420. Availability of maintenance information.
- Sec. 421. Certificate actions in response to a security threat.
- Sec. 422. Flight attendant certification.
- Sec. 423. Civil penalty for closure of an airport without providing sufficient notice.
- Sec. 424. Noise exposure maps.
- Sec. 425. Amendment of general fee schedule provision.
- Sec. 426. Improvement of curriculum standards for aviation maintenance technicians.
- Sec. 427. Task force on future of air transportation system.
- Sec. 428. Air quality in aircraft cabins.
- Sec. 429. Recommendations concerning travel agents.
- Sec. 430. Task force on enhanced transfer of applications of technology for military aircraft to civilian aircraft.
- Sec. 431. Reimbursement for losses incurred by general aviation entities.
- Sec. 432. Impasse procedures for National Association of Air Traffic Specialists.
- Sec. 433. FAA inspector training.
- Sec. 434. Prohibition on air traffic control privatization.
- Sec. 435. Airfares for members of the Armed Forces.
- Sec. 436. Air carriers required to honor tickets for suspended air service.
- Sec. 437. International air show.
- Sec. 438. Definition of air traffic controller.
- Sec. 439. Justification for air defense identification zone.
- Sec. 440. International air transportation.
- Sec. 441. Reimbursement of air carriers for certain screening and related activities.
- Sec. 442. General aviation flights at Ronald Reagan Washington National Airport.

TITLE V—AIRPORT DEVELOPMENT

- Sec. 501. Definitions.
- Sec. 502. Replacement of baggage conveyor systems.
- Sec. 503. Security costs at small airports.
- Sec. 504. Withholding of program application approval.
- Sec. 505. Runway safety areas.
- Sec. 506. Disposition of land acquired for noise compatibility purposes.
- Sec. 507. Grant assurances.
- Sec. 508. Allowable project costs.
- Sec. 509. Apportionments to primary airports.
- Sec. 510. Cargo airports.
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- Sec. 512. Flexible funding for nonprimary airport apportionments.
- Sec. 513. Use of apportioned amounts.
- Sec. 514. Military airport program.
- Sec. 515. Terminal development costs.
- Sec. 516. Contract towers.
- Sec. 517. Airport safety data collection.
- Sec. 518. Airport privatization pilot program.
- Sec. 519. Innovative financing techniques.
- Sec. 520. Airport security program.
- Sec. 521. Low-emission airport vehicles and infrastructure.
- Sec. 522. Compatible land use planning and projects by State and local governments.
- Sec. 523. Prohibition on requiring airports to provide rent-free space for Federal Aviation Administration.
- Sec. 524. Midway Island Airport.

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

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

SEC. 3. EFFECTIVE DATE.

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

TITLE I—AUTHORIZATIONS

SEC. 101. FEDERAL AVIATION ADMINISTRATION OPERATIONS.

(a) IN GENERAL.—Section 106(k) is amended to read as follows:

“(k) AUTHORIZATION OF APPROPRIATIONS.—

“(1) SALARIES, OPERATIONS, AND MAINTENANCE.—There is authorized to be appropriated to the Secretary of Transportation for salaries, operations, and maintenance of the Administration—

“(A) \$7,591,000,000 for fiscal year 2004;

“(B) \$7,732,000,000 for fiscal year 2005;

“(C) \$7,889,000,000 for fiscal year 2006; and

“(D) \$8,064,000,000 for fiscal year 2007.

Such sums shall remain available until expended.

“(2) OPERATION OF CENTER FOR MANAGEMENT AND DEVELOPMENT.—Out of amounts appropriated under paragraph (1), such sums as may be necessary may be expended by the Center for Management Development of the Federal Aviation Administration to operate at least 200 courses each year and to support associated student travel for both residential and field courses.

“(3) AIR TRAFFIC MANAGEMENT SYSTEM.—Out of amounts appropriated under paragraph (1), such sums as may be necessary may be expended by the Federal Aviation Administration for the establishment and operation of a new office to develop, in coordination with the Department of Defense, the National Aeronautics and Space Administration, and the Department of Homeland Security, the next generation air traffic management system and a transition plan for the implementation of that system. The office shall be known as the ‘Next Generation Air Transportation System Joint Program Office’.

“(4) HELICOPTER AND TILTROTOR PROCEDURES.—Out of amounts appropriated under paragraph (1), such sums as may be necessary may be expended by the Federal Aviation Administration for the establishment of helicopter and tiltrotor approach and departure procedures using advanced technologies, such as the Global Positioning System and automatic dependent surveillance, to permit operations in adverse weather conditions to meet the needs of air ambulance services.

“(5) ADDITIONAL AIR TRAFFIC CONTROLLERS.—Out of amounts appropriated under paragraph (1), such sums as may be necessary may be expended to hire additional air traffic controllers in order to meet increasing air traffic demands and to address the anticipated increase in the retirement of experienced air traffic controllers.

“(6) COMPLETION OF ALASKA AVIATION SAFETY PROJECT.—Out of amounts appropriated under paragraph (1), \$6,000,000 may be expended for the completion of the Alaska aviation safety project with respect to the 3 dimensional mapping of Alaska’s main aviation corridors.

“(7) AVIATION SAFETY REPORTING SYSTEM.—Out of amounts appropriated under paragraph (1), \$3,400,000 may be expended on the Aviation Safety Reporting System.”.

(b) AIRLINE DATA AND ANALYSIS.—There is authorized to be appropriated to the Secretary of Transportation, out of the Airport and Airway Trust Fund established by section 9502 of the Internal Revenue Code of 1986 (26 U.S.C. 9502), \$3,971,000 for fiscal year 2004, \$4,045,000 for fiscal year 2005, \$4,127,000 for fiscal year 2006, and \$4,219,000 for fiscal year 2007 to gather airline data and conduct analyses of such data in the Bureau of Transportation Statistics of the Department of Transportation.

(c) HUMAN CAPITAL WORKFORCE STRATEGY.—

(1) DEVELOPMENT.—The Administrator of the Federal Aviation Administration shall develop a comprehensive human capital workforce strategy to determine the most effective method for addressing the need for more air traffic controllers that is called for in the June 2002 report of the General Accounting Office.

(2) COMPLETION DATE.—The Administrator shall complete development of the strategy not later than 1 year after the date of enactment of this Act.

(3) REPORT.—Not later than 30 days after the date on which the strategy is completed, the Administrator shall transmit to Congress a report describing the strategy.

(d) GOALS AND OBJECTIVES OF AVIATION SAFETY REPORTING SYSTEM.—Not later than 90 days after the date of enactment of this Act, the Administrator shall transmit to Congress a report on the long-term goals and objectives of the Aviation Safety Reporting System and how such system interrelates with other safety reporting systems of the Federal Government.

SEC. 102. AIR NAVIGATION FACILITIES AND EQUIPMENT.

Section 48101 is amended—

(1) in subsection (a) by striking paragraphs (1) through (5) and inserting the following:

- “(1) \$3,138,000,000 for fiscal year 2004;
- “(2) \$2,993,000,000 for fiscal year 2005;
- “(3) \$3,053,000,000 for fiscal year 2006; and
- “(4) \$3,110,000,000 for fiscal year 2007.”;

(2) by striking subsection (b);

(3) by redesignating (c) as subsection (b);

(4) by striking subsections (d) and (e) and inserting the following:

“(c) ENHANCED SAFETY AND SECURITY FOR AIRCRAFT OPERATIONS IN THE GULF OF MEXICO.—Of amounts appropriated under subsection (a), such sums as may be necessary for fiscal years 2004 through 2007 may be used to expand and improve the safety, efficiency, and security of air traffic control, navigation, low altitude communications and surveillance, and weather services in the Gulf of Mexico.

“(d) OPERATIONAL BENEFITS OF WAKE VORTEX ADVISORY SYSTEM.—Of amounts appropriated under subsection (a), \$20,000,000 for each of fiscal years 2004 through 2007 may be used to document and demonstrate the operational benefits of a wake vortex advisory system.

“(e) GROUND-BASED PRECISION NAVIGATIONAL AIDS.—Of amounts appropriated under subsection (a), \$20,000,000 for each of fiscal years 2004 to 2007 may be used to establish a program for the installation, operation, and maintenance of a closed-loop precision approach aid designed to improve aircraft accessibility at mountainous airports with limited land if the approach aid is able to provide curved and segmented approach guidance for noise abatement purposes and has been certified or approved by the Administrator.”; and

(5) in subsection (f)—

(A) by striking “for fiscal years beginning after September 30, 2000”; and

(B) by inserting “may be used” after “necessary”.

SEC. 103. AIRPORT PLANNING AND DEVELOPMENT AND NOISE COMPATIBILITY PLANNING AND PROGRAMS.

(a) AUTHORIZATION.—Section 48103 is amended—

(1) by striking “September 30, 1998” and inserting “September 30, 2003”; and

(2) by striking paragraphs (1) through (5) and inserting:

- “(1) \$3,400,000,000 for fiscal year 2004;
- “(2) \$3,600,000,000 for fiscal year 2005;
- “(3) \$3,800,000,000 for fiscal year 2006; and
- “(4) \$4,000,000,000 for fiscal year 2007.”.

(b) OBLIGATIONAL AUTHORITY.—Section 47104(c) is amended by striking “September 30, 2003” and inserting “September 30, 2007”.

SEC. 104. ADDITIONAL REAUTHORIZATIONS.

(a) CONTRACT AIR TRAFFIC CONTROL TOWER PILOT PROGRAM.—Section 47124(b)(3)(E) is amended by striking “\$6,000,000 per fiscal year” and inserting “\$6,500,000 for fiscal year 2004, \$7,000,000 for fiscal year 2005, \$7,500,000 for fiscal year 2006, and \$8,000,000 for fiscal year 2007”.

(b) SMALL COMMUNITY AIR SERVICE.—Section 41743(e)(2) is amended—

(1) by striking “and” the first place it appears and inserting a comma; and

(2) by inserting after “2003” the following “, and \$35,000,000 for each of fiscal years 2004 through 2008”.

(c) REGIONAL AIR SERVICE INCENTIVE PROGRAM.—Section 41766 is amended by striking “2003” and inserting “2007”.

(d) FUNDING FOR AVIATION PROGRAMS.—Section 106 of the Wendell H. Ford Aviation Investment and Reform Act for the 21st Century (49 U.S.C. 48101 note) is amended by striking “2003” each place it appears and inserting “2007”.

(e) DESIGN-BUILD CONTRACTING.—Section 139(e) of the Wendell H. Ford Aviation Investment and Reform Act for the 21st Century (49 U.S.C. 47104 note) is amended by striking “2003” and inserting “2007”.

(f) METROPOLITAN WASHINGTON AIRPORTS AUTHORITY.—Section 49108 is amended by striking “2004” and inserting “2007”.

SEC. 105. INSURANCE.

(a) TERMINATION.—Section 44310 is amended to read as follows:

“§ 44310. Termination date

“Effective December 31, 2007, the authority of the Secretary of Transportation to provide insurance and reinsurance under this chapter shall be limited to—

“(1) the operation of an aircraft by an air carrier or foreign air carrier in foreign air commerce or between at least 2 points, all of which are outside the United States; and

“(2) insurance obtained by a department, agency, or instrumentality of the United States under section 44305.”

(b) EXTENSION OF POLICIES.—Section 44302(f)(1) is amended by striking “through December 31, 2004,” and inserting “thereafter”.

(c) AIRCRAFT MANUFACTURER LIABILITY FOR THIRD PARTY CLAIMS ARISING OUT OF ACTS OF TERRORISM.—Section 44303(b) is amended by adding at the end the following: “The Secretary may extend the provisions of this subsection to the United States manufacturer (as defined in section 44310) of the aircraft of the air carrier involved.”

(d) VENDORS, AGENTS, SUBCONTRACTORS, AND MANUFACTURERS.—

(1) IN GENERAL.—Chapter 443 is amended—

(A) by redesignating section 44310 (as amended by subsection (a) of this section) as section 44311; and

(B) by inserting after section 44309 the following:

“§ 44310. Vendors, agents, subcontractors, and manufacturers

“(a) IN GENERAL.—The Secretary of Transportation may extend the application of any provision of this chapter to a loss by a vendor, agent, and subcontractor of an air carrier and a United States manufacturer of an aircraft used by an air carrier but only to the extent that the loss involved an aircraft of an air carrier.

“(b) UNITED STATES MANUFACTURER DEFINED.—In this section, the term ‘United States manufacturer’ means a manufacturer incorporated under the laws of a State of the United States and having its principal place of business in the United States.”

(2) CONFORMING AMENDMENT.—The analysis for chapter 443 is amended by striking the item relating to section 44310 and inserting the following:

“44310. Vendors, agents, subcontractors, and manufacturers.
“44311. Termination date.”

(e) TECHNICAL CORRECTIONS.—Effective November 19, 2001, section 124(b) of the Aviation and Transportation Security Act (115 Stat. 631) is amended by striking “to carry out foreign policy” and inserting “to carry out the foreign policy”.

SEC. 106. PILOT PROGRAM FOR INNOVATIVE FINANCING FOR TERMINAL AUTOMATION REPLACEMENT SYSTEMS.

(a) IN GENERAL.—In order to test the cost-effectiveness and feasibility of long-term financing of modernization of major air traffic control systems, the Administrator of the Federal Aviation Administration may establish a pilot program to test innovative financing techniques through amending a contract, subject to section 1341 of title 31, United States Code, of more than one, but not more than 20, fiscal years to purchase and install terminal automation replacement systems for the Administration. Such amendments may be for more than one, but not more than 10 fiscal years.

(b) CANCELLATION.—A contract described in subsection (a) may include a cancellation provision if the Administrator determines that such a provision is necessary and in the best interest of the United States. Any such provision shall include a cancellation liability schedule that covers reasonable and allocable costs incurred by the contractor through the date of cancellation plus reasonable profit, if any, on those costs. Any such provision shall not apply if the contract is terminated by default of the contractor.

(c) CONTRACT PROVISIONS.—If feasible and practicable for the pilot program, the Administrator may make an advance contract provision to achieve economic-lot purchases and more efficient production rates.

(d) LIMITATION.—The Administrator may not amend a contract under this section until the program for the terminal automation replacement systems has been rebaselined in accordance with the acquisition management system of the Administration.

(e) ANNUAL REPORTS.—At the end of each fiscal year during the term of the pilot program, 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 report on how the Administrator has implemented in such fiscal year the pilot program, the number and types of contracts or contract amendments that are entered into under the program, and the program’s cost-effectiveness.

(f) FUNDING.—Out of amounts appropriated under section 48101 for fiscal year 2004, \$200,000,000 shall be used to carry out this section.

TITLE II—AIRPORT PROJECT STREAMLINING

SEC. 201. SHORT TITLE.

This title may be cited as the “Airport Streamlining Approval Process Act of 2003”.

SEC. 202. FINDINGS.

Congress finds that—

- (1) airports play a major role in interstate and foreign commerce;
- (2) congestion and delays at our Nation’s major airports have a significant negative impact on our Nation’s economy;
- (3) airport capacity enhancement projects at congested airports are a national priority and should be constructed on an expedited basis;
- (4) airport capacity enhancement projects must include an environmental review process that provides local citizenry an opportunity for consideration of and appropriate action to address environmental concerns; and
- (5) the Federal Aviation Administration, airport authorities, communities, and other Federal, State, and local government agencies must work together to develop a plan, set and honor milestones and deadlines, and work to protect the environment while sustaining the economic vitality that will result from the continued growth of aviation.

SEC. 203. PROMOTION OF NEW RUNWAYS.

Section 40104 is amended by adding at the end the following:

“(c) AIRPORT CAPACITY ENHANCEMENT PROJECTS AT CONGESTED AIRPORTS.—In carrying out subsection (a), the Administrator shall take action to encourage the construction of airport capacity enhancement projects at congested airports as those terms are defined in section 47178.”.

SEC. 204. AIRPORT PROJECT STREAMLINING.

(a) IN GENERAL.—Chapter 471 is amended by inserting after section 47153 the following:

“SUBCHAPTER III—AIRPORT PROJECT STREAMLINING

“§ 47171. DOT as lead agency

“(a) AIRPORT PROJECT REVIEW PROCESS.—The Secretary of Transportation shall develop and implement a coordinated review process for airport capacity enhancement projects at congested airports.

“(b) COORDINATED REVIEWS.—

“(1) IN GENERAL.—The coordinated review process under this section shall provide that all environmental reviews, analyses, opinions, permits, licenses, and approvals that must be issued or made by a Federal agency or airport sponsor for an airport capacity enhancement project at a congested airport will be conducted concurrently, to the maximum extent practicable, and completed within a time period established by the Secretary, in cooperation with the agencies identified under subsection (c) with respect to the project.

“(2) AGENCY PARTICIPATION.—Each Federal agency identified under subsection (c) shall formulate and implement administrative, policy, and procedural mechanisms to enable the agency to ensure completion of environmental reviews, analyses, opinions, permits, licenses, and approvals described in paragraph (1) in a timely and environmentally responsible manner.

“(c) IDENTIFICATION OF JURISDICTIONAL AGENCIES.—With respect to each airport capacity enhancement project at a congested airport, the Secretary shall identify, as soon as practicable, all Federal and State agencies that may have jurisdiction over environmental-related matters that may be affected by the project or may be required by law to conduct an environmental-related review or analysis of the project or determine whether to issue an environmental-related permit, license, or approval for the project.

“(d) STATE AUTHORITY.—If a coordinated review process is being implemented under this section by the Secretary with respect to a project at an airport within the boundaries of a State, the State, consistent with State law, may choose to participate in such process and provide that all State agencies that have jurisdiction over environmental-related matters that may be affected by the project or may be required by law to conduct an environmental-related review or analysis of the project or determine whether to issue an environmental-related permit, license, or approval for the project, be subject to the process.

“(e) MEMORANDUM OF UNDERSTANDING.—The coordinated review process developed under this section may be incorporated into a memorandum of understanding

for a project between the Secretary and the heads of other Federal and State agencies identified under subsection (c) with respect to the project and the airport sponsor.

“(f) EFFECT OF FAILURE TO MEET DEADLINE.—

“(1) NOTIFICATION OF CONGRESS AND CEQ.—If the Secretary determines that a Federal agency, State agency, or airport sponsor that is participating in a coordinated review process under this section with respect to a project has not met a deadline established under subsection (b) for the project, the Secretary shall notify, within 30 days of the date of such determination, the Committee on Transportation and Infrastructure of the House of Representatives, the Committee on Commerce, Science, and Transportation of the Senate, the Council on Environmental Quality, and the agency or sponsor involved about the failure to meet the deadline.

“(2) AGENCY REPORT.—Not later than 30 days after date of receipt of a notice under paragraph (1), the agency or sponsor involved shall submit a report to the Secretary, the Committee on Transportation and Infrastructure of the House of Representatives, the Committee on Commerce, Science, and Transportation of the Senate, and the Council on Environmental Quality explaining why the agency or sponsor did not meet the deadline and what actions it intends to take to complete or issue the required review, analysis, opinion, permit, license, or approval.

“(g) PURPOSE AND NEED.—For any environmental review, analysis, opinion, permit, license, or approval that must be issued or made by a Federal or State agency that is participating in a coordinated review process under this section with respect to an airport capacity enhancement project at a congested airport and that requires an analysis of purpose and need for the project, the agency, notwithstanding any other provision of law, shall be bound by the project purpose and need as defined by the Secretary.

“(h) ALTERNATIVES ANALYSIS.—The Secretary shall determine the reasonable alternatives to an airport capacity enhancement project at a congested airport. Any other Federal or State agency that is participating in a coordinated review process under this section with respect to the project shall consider only those alternatives to the project that the Secretary has determined are reasonable.

“(i) SOLICITATION AND CONSIDERATION OF COMMENTS.—In applying subsections (g) and (h), the Secretary shall solicit and consider comments from interested persons and governmental entities.

“(j) MONITORING BY TASK FORCE.—The Transportation Infrastructure Streamlining Task Force, established by Executive Order 13274 (67 Fed. Reg. 59449; relating to environmental stewardship and transportation infrastructure project reviews), may monitor airport projects that are subject to the coordinated review process under this section.

“§ 47172. **Categorical exclusions**

“Not later than 120 days after the date of enactment of this section, the Secretary of Transportation shall develop and publish a list of categorical exclusions from the requirement that an environmental assessment or an environmental impact statement be prepared under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) for projects at airports.

“§ 47173. **Access restrictions to ease construction**

“At the request of an airport sponsor for a congested airport, the Secretary of Transportation may approve a restriction on use of a runway to be constructed at the airport to minimize potentially significant adverse noise impacts from the runway only if the Secretary determines that imposition of the restriction—

“(1) is necessary to mitigate those impacts and expedite construction of the runway;

“(2) is the most appropriate and a cost-effective measure to mitigate those impacts, taking into consideration any environmental tradeoffs associated with the restriction; and

“(3) would not adversely affect service to small communities, adversely affect safety or efficiency of the national airspace system, unjustly discriminate against any class of user of the airport, or impose an undue burden on interstate or foreign commerce.

“§ 47174. **Airport revenue to pay for mitigation**

“(a) IN GENERAL.—Notwithstanding section 47107(b), section 47133, or any other provision of this title, the Secretary of Transportation may allow an airport sponsor carrying out an airport capacity enhancement project at a congested airport to make payments, out of revenues generated at the airport (including local taxes on aviation

fuel), for measures to mitigate the environmental impacts of the project if the Secretary finds that—

“(1) the mitigation measures are included as part of, or support, the preferred alternative for the project in the documentation prepared pursuant to the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.);

“(2) the use of such revenues will provide a significant incentive for, or remove an impediment to, approval of the project by a State or local government; and

“(3) the cost of the mitigation measures is reasonable in relation to the mitigation that will be achieved.

“(b) MITIGATION OF AIRCRAFT NOISE.—Mitigation measures described in subsection (a) may include the insulation of residential buildings and buildings used primarily for educational or medical purposes to mitigate the effects of aircraft noise and the improvement of such buildings as required for the insulation of the buildings under local building codes.

“§ 47175. Airport funding of FAA staff

“(a) ACCEPTANCE OF SPONSOR-PROVIDED FUNDS.—Notwithstanding any other provision of law, the Administrator of the Federal Aviation Administration may accept funds from an airport sponsor, including funds provided to the sponsor under section 47114(c), to hire additional staff or obtain the services of consultants in order to facilitate the timely processing, review, and completion of environmental activities associated with an airport development project.

“(b) ADMINISTRATIVE PROVISION.—Instead of payment from an airport sponsor from funds apportioned to the sponsor under section 47114, the Administrator, with agreement of the sponsor, may transfer funds that would otherwise be apportioned to the sponsor under section 47114 to the account used by the Administrator for activities described in subsection (a).

“(c) RECEIPTS CREDITED AS OFFSETTING COLLECTIONS.—Notwithstanding section 3302 of title 31, any funds accepted under this section, except funds transferred pursuant to subsection (b)—

“(1) shall be credited as offsetting collections to the account that finances the activities and services for which the funds are accepted;

“(2) shall be available for expenditure only to pay the costs of activities and services for which the funds are accepted; and

“(3) shall remain available until expended.

“(d) MAINTENANCE OF EFFORT.—No funds may be accepted pursuant to subsection (a), or transferred pursuant to subsection (b), in any fiscal year in which the Federal Aviation Administration does not allocate at least the amount it expended in fiscal year 2002, excluding amounts accepted pursuant to section 337 of the Department of Transportation and Related Agencies Appropriations Act, 2002 (115 Stat. 862), for the activities described in subsection (a).

“§ 47176. Authorization of appropriations

“In addition to the amounts authorized to be appropriated under section 106(k), there is authorized to 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), \$4,200,000 for fiscal year 2004 and for each fiscal year thereafter to facilitate the timely processing, review, and completion of environmental activities associated with airport capacity enhancement projects at congested airports.

“§ 47177. Designation of aviation safety and aviation security projects for priority environmental review

“(a) IN GENERAL.—The Administrator of the Federal Aviation Administration may designate an aviation safety or aviation security project for priority environmental review. The Administrator may not delegate this designation authority.

“(b) PROJECT DESIGNATION CRITERIA.—The Administrator shall establish guidelines for the designation of an aviation safety or aviation security project for priority environmental review. Such guidelines shall include consideration of—

“(1) the importance or urgency of the project;

“(2) the potential for undertaking the environmental review under existing emergency procedures under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.);

“(3) the need for cooperation and concurrent reviews by other Federal or State agencies; and

“(4) the prospect for undue delay if the project is not designated for priority review.

“(c) COORDINATED ENVIRONMENTAL REVIEWS.—

“(1) TIMELINES AND HIGH PRIORITY FOR COORDINATED ENVIRONMENTAL REVIEWS.—The Administrator, in consultation with the heads of affected agencies, shall establish specific timelines for the coordinated environmental review of an aviation safety or aviation security project designated under subsection (a). Such timelines shall be consistent with the timelines established in existing laws and regulations. Each Federal agency with responsibility for project environmental reviews, analyses, opinions, permits, licenses, and approvals shall accord any such review a high priority and shall conduct the review expeditiously and, to the maximum extent possible, concurrently with other such reviews.

“(2) AGENCY PARTICIPATION.—Each Federal agency identified under subsection (c) shall formulate and implement administrative, policy, and procedural mechanisms to enable the agency to ensure completion of environmental reviews, analyses, opinions, permits, licenses, and approvals described in paragraph (1) in a timely and environmentally responsible manner.

“(d) STATE PARTICIPATION.—

“(1) INVITATION TO PARTICIPATE.—If a priority environmental review process is being implemented under this section with respect to a project within the boundaries of a State with applicable State environmental requirements and approvals, the Administrator shall invite the State to participate in the process.

“(2) STATE CHOICE.—A State invited to participate in a priority environmental review process, consistent with State law, may choose to participate in such process and direct that all State agencies, which have jurisdiction by law to conduct an environmental review or analysis of the project to determine whether to issue an environmentally related permit, license, or approval for the project, be subject to the process.

“(e) FAILURE TO GIVE PRIORITY REVIEW.—

“(1) NOTICE.—If the Secretary of Transportation determines that a Federal agency or a participating State is not complying with the requirements of this section and that such noncompliance is undermining the environmental review process, the Secretary shall notify, within 30 days of such determination, the head of the Federal agency or, with respect to a State agency, the Governor of the State.

“(2) REPORT TO SECRETARY.—A Federal agency that receives a copy of a notification relating to that agency made by the Secretary under paragraph (1) shall submit, within 30 days after receiving such copy, a written report to the Secretary explaining the reasons for the situation described in the notification and what remedial actions the agency intends to take.

“(3) NOTIFICATION OF CEQ AND COMMITTEES.—If the Secretary determines that a Federal agency has not satisfactorily addressed the problems within a reasonable period of time following a notification under paragraph (1), the Secretary shall notify the Committee on Transportation and Infrastructure of the House of Representatives, the Committee on Commerce, Science and Transportation of the Senate, and the Council on Environmental Quality.

“(f) PROCEDURAL PROVISIONS.—The procedures set forth in subsections (c), (e), (g), (h), and (i) of section 47171 shall apply with respect to an aviation safety or aviation security project under this section in the same manner and to the same extent as such procedures apply to an airport capacity enhancement project at a congested airport under section 47171.

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

“(1) AVIATION SAFETY PROJECT.—The term ‘aviation safety project’ means an aviation project that—

“(A) has as its primary purpose reducing the risk of injury to persons or damage to aircraft and property, as determined by the Administrator; and

“(B)(i) is needed to respond to a recommendation from the National Transportation Safety Board; or

“(ii) is necessary for an airport to comply with part 139 of title 14, Code of Federal Regulations (relating to airport certification).

“(2) AVIATION SECURITY PROJECT.—The term ‘aviation security project’ means a security project at an airport required by the Department of Homeland Security.

“(3) FEDERAL AGENCY.—The term ‘Federal agency’ means a department or agency of the United States Government.

“§ 47178. Definitions

“In this subchapter, the following definitions apply:

“(1) AIRPORT SPONSOR.—The term ‘airport sponsor’ has the meaning given the term ‘sponsor’ under section 47102.

“(2) CONGESTED AIRPORT.—The term ‘congested airport’ means an airport that accounted for at least 1 percent of all delayed aircraft operations in the United

States in the most recent year for which such data is available and an airport listed in table 1 of the Federal Aviation Administration's Airport Capacity Benchmark Report 2001.

“(3) AIRPORT CAPACITY ENHANCEMENT PROJECT.—The term ‘airport capacity enhancement project’ means—

“(A) a project for construction or extension of a runway, including any land acquisition, taxiway, or safety area associated with the runway or runway extension; and

“(B) such other airport development projects as the Secretary may designate as facilitating a reduction in air traffic congestion and delays.”.

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

“SUBCHAPTER III—AIRPORT PROJECT STREAMLINING

“47171. DOT as lead agency.

“47172. Categorical exclusions.

“47173. Access restrictions to ease construction.

“47174. Airport revenue to pay for mitigation.

“47175. Airport funding of FAA staff.

“47176. Authorization of appropriations.

“47177. Designation of aviation safety and aviation security projects for priority environmental review.

“47178. Definitions.”.

SEC. 205. GOVERNOR'S CERTIFICATE.

Section 47106(c) of title 49, United States Code, is amended—

(1) in paragraph (1)—

(A) by inserting “and” after the semicolon at the end of subparagraph (A)(i);

(B) by striking subparagraph (B); and

(C) by redesignating subparagraph (C) as subparagraph (B);

(2) in paragraph (2)(A) by striking “stage 2” and inserting “stage 3”;

(3) by striking paragraph (4); and

(4) by redesignating paragraph (5) as paragraph (4).

SEC. 206. CONSTRUCTION OF CERTAIN AIRPORT CAPACITY PROJECTS.

Section 47504(c)(2) of title 49, United States Code, is amended—

(1) by moving subparagraphs (C) and (D) 2 ems to the right;

(2) by striking “and” at the end of subparagraph (C);

(3) by striking the period at the end of subparagraph (D) and inserting “; and”;

(4) by adding at the end the following:

“(E) to an airport operator of a congested airport (as defined in section 47178) and a unit of local government referred to in paragraph (1)(B) of this subsection to carry out a project to mitigate noise in the area surrounding the airport if the project is included as a commitment in a record of decision of the Federal Aviation Administration for an airport capacity enhancement project (as defined in section 47178) even if that airport has not met the requirements of part 150 of title 14, Code of Federal Regulations.”.

SEC. 207. LIMITATIONS.

Nothing in this title, including any amendment made by this title, shall preempt or interfere with—

(1) any practice of seeking public comment;

(2) any power, jurisdiction, or authority that a State agency or an airport sponsor has with respect to carrying out an airport capacity enhancement project; and

(3) any obligation to comply with the provisions of the National Environmental Policy Act of 1969 (42 U.S.C. 4371 et seq.) and the regulations issued by the Council on Environmental Quality to carry out such Act.

SEC. 208. RELATIONSHIP TO OTHER REQUIREMENTS.

The coordinated review process required under the amendments made by this title shall apply to an airport capacity enhancement project at a congested airport whether or not the project is designated by the Secretary of Transportation as a high-priority transportation infrastructure project under Executive Order 13274 (67 Fed. Reg. 59449; relating to environmental stewardship and transportation infrastructure project reviews).

TITLE III—FEDERAL AVIATION REFORM

SEC. 301. MANAGEMENT ADVISORY COMMITTEE MEMBERS.

Section 106(p) is amended—

- (1) in the subsection heading by inserting “AND AIR TRAFFIC SERVICES BOARD” after “COUNCIL”; and
- (2) in paragraph (2)—
 - (A) by striking “consist of” and all that follows through “members, who” and inserting “consist of 13 members, who”;
 - (B) by inserting after “Senate” in subparagraph (C)(i) “, except that initial appointments made after May 1, 2003, shall be made by the Secretary of Transportation”;
 - (C) by striking the semicolon at the end of subparagraph (C)(ii) and inserting “; and”; and
 - (D) by striking “employees, by—” in subparagraph (D) and all that follows through the period at the end of subparagraph (E) and inserting “employees, by the Secretary of Transportation.”.

SEC. 302. REORGANIZATION OF THE AIR TRAFFIC SERVICES SUBCOMMITTEE.

Section 106(p) is amended—

- (1) in paragraph (3)—
 - (A) by striking “(A) NO FEDERAL OFFICER OR EMPLOYEE.—”;
 - (B) by striking “or (2)(E)” and inserting “or to the Air Traffic Services Board”; and
 - (C) by striking subparagraphs (B) and (C);
- (2) in paragraph (4)(C) by inserting “or Air Traffic Services Board” after “Council” each place it appears;
- (3) in paragraph (5) by inserting “, the Air Traffic Services Board,” after “Council”;
- (4) in paragraph (6)(C)—
 - (A) by striking “SUBCOMMITTEE” in the subparagraph heading and inserting “BOARD”;
 - (B) by striking “member” and inserting “members”;
 - (C) by striking “under paragraph (2)(E)” the first place it appears and inserting “to the Air Traffic Services Board”; and
 - (D) by striking “of the members first” and all that follows through the period at the end and inserting “the first members of the Board shall be the members of the Air Traffic Services Subcommittee of the Council on the day before the date of enactment of the Flight 100—Century of Aviation Reauthorization Act who shall serve as members of the Board until their respective terms as members of the Subcommittee would have ended under this subparagraph, as in effect on such day.”;
- (5) in paragraph (6)(D) by striking “under paragraph (2)(E)” and inserting “to the Board”;
- (6) in paragraph (6)(E) by inserting “or Board” after “Council”;
- (7) in paragraph (6)(F) by inserting “of the Council or Board” after “member”;
- (8) in the second sentence of subparagraph (6)(G)—
 - (A) by striking “Council” and inserting “Board”; and
 - (B) by striking “appointed under paragraph (2)(E)”;
- (9) in paragraph (6)(H)—
 - (A) by striking “SUBCOMMITTEE” in the subparagraph heading and inserting “BOARD”;
 - (B) by striking “under paragraph (2)(E)” in clause (i) and inserting “to the Board”; and
 - (C) by striking “Air Traffic Services Subcommittee” and inserting “Board”;
- (10) in paragraph (6)(I)(i)—
 - (A) by striking “appointed under paragraph (2)(E) is” and inserting “is serving as”; and
 - (B) by striking “Subcommittee” and inserting “Board”;
- (11) in paragraph (6)(I)(ii)—
 - (A) by striking “appointed under paragraph (2)(E)” and inserting “who is a member of the Board”; and
 - (B) by striking “Subcommittee” and inserting “Board”;
- (12) in paragraph (6)(K) by inserting “or Board” after “Council”;
- (13) in paragraph (6)(L) by inserting “or Board” after “Council” each place it appears; and
- (14) in paragraph (7)—

(A) by striking “SUBCOMMITTEE” in the paragraph heading and inserting “BOARD”;

(B) by striking subparagraph (A) and inserting the following:

“(A) ESTABLISHMENT.—The Administrator shall establish a board that is independent of the Council by converting the Air Traffic Services Subcommittee of the Council, as in effect on the day before the date of enactment of the Flight 100—Century of Aviation Reauthorization Act, into such board. The board shall be known as the Air Traffic Services Board (in this subsection referred to as the ‘Board’).”;

(C) by redesignating subparagraphs (B) through (F) as subparagraphs (D) through (H), respectively;

(D) by inserting after subparagraph (A) the following:

“(B) MEMBERSHIP AND QUALIFICATIONS.—Subject to paragraph (6)(C), the Board shall consist of 5 members, one of whom shall be the Administrator and shall serve as chairperson. The remaining members shall be appointed by the President with the advice and consent of the Senate and—

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

“(ii) shall be citizens of the United States; and

“(iii) shall be appointed without regard to political affiliation and solely on the basis of their professional experience and expertise in one or more of the following areas and, in the aggregate, should collectively bring to bear expertise in all 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.

“(C) PROHIBITIONS ON MEMBERS OF BOARD.—No member of the Board may—

“(i) have a pecuniary interest in, or own stock in or bonds of, an aviation or aeronautical enterprise, except an interest in a diversified mutual fund or an interest that is exempt from the application of section 208 of title 18;

“(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.”;

(E) by striking “Subcommittee” each place it appears in subparagraphs (D) and (E) (as redesignated by subparagraph (C) of this paragraph) and inserting “Board”;

(F) by striking “approve” in subparagraph (E)(v)(I) (as so redesignated) and inserting “make recommendations on”;

(G) by striking “request” in subparagraph (E)(v)(II) (as so redesignated) and inserting “recommendations”;

(H) by striking “ensure that the budget request supports” in subparagraph (E)(v)(III) (as so redesignated) and inserting “base such budget recommendations on”;

(I) by striking “The Secretary shall submit” in subparagraph (E) (as so redesignated) and all that follows through the period at the end of such subparagraph (E) and inserting “The Secretary shall submit the budget recommendations referred to in clause (v) to the President who shall transmit such recommendations to the Committee on Transportation and Infrastructure and the Committee on Appropriations of the House of Representatives and the Committee on Commerce, Science, and Transportation and the Committee on Appropriations of the Senate together with the annual budget request of the Federal Aviation Administration.”;

(J) by striking subparagraph (F) (as so redesignated) and inserting the following:

“(F) BOARD PERSONNEL MATTERS.—The Board may appoint and terminate any personnel that may be necessary to enable the Board to perform its duties, and may procure temporary and intermittent services under section 40122.”;

(K) in subparagraph (G) (as so redesignated)—

(i) by striking clause (i);

(ii) by redesignating clauses (ii), (iii), and (iv) as clauses (i), (ii), and (iii), respectively; and

- (iii) by striking “Subcommittee” each place it appears in clauses (i), (ii), and (iii) (as so redesignated) and inserting “Board”;
- (L) in subparagraph (H) (as so redesignated)—
 - (i) by striking “Subcommittee” each place it appears and inserting “Board”;
 - (ii) by striking “Administrator, the Council” each place it appears in clauses (i) and (ii) and inserting “Secretary”; and
 - (iii) in clause (ii) by striking “(B)(i)” and inserting “(D)(i)”; and
- (M) by adding at the end the following:

“(I) AUTHORIZATION.—There are authorized to be appropriated to the Board such sums as may be necessary for the Board to carry out its activities.”.

SEC. 303. CLARIFICATION OF THE RESPONSIBILITIES OF THE CHIEF OPERATING OFFICER.

Section 106(r) is amended—

- (1) in each of paragraphs (1)(A) and (2)(A) by striking “Air Traffic Services Subcommittee of the Aviation Management Advisory Council” and inserting “Air Traffic Services Board”;
- (2) in paragraph (2)(B) by inserting “in” before “paragraph (3).”;
- (3) in paragraph (3) by striking “Air Traffic Control Subcommittee of the Aviation Management Advisory Committee” and inserting “Air Traffic Services Board”;
- (4) in paragraph (4) by striking “Transportation and Congress” and inserting “Transportation, the Committee on Transportation and Infrastructure of the House of Representatives, and the Committee on Commerce, Science, and Transportation of the Senate”;
- (5) in paragraph (5)(A)—
 - (A) by striking “develop a” and inserting “implement the”; and
 - (B) by striking “, including the establishment of” and inserting “in order to further”;
- (6) in paragraph (5)(B)—
 - (A) by striking “review” and all that follows through “Administration,” and inserting “oversee the day-to-day operational functions of the Administration for air traffic control.”;
 - (B) by striking “and” at the end of clause (ii);
 - (C) by striking the period at the end of clause (iii) and inserting “; and”;
 and
 - (D) by adding at the end the following:

“(iv) the management of cost-reimbursable contracts.”;
- (7) in paragraph (5)(C)(i) by striking “prepared by the Administrator”;
- (8) in paragraph (5)(C)(ii) by striking “and the Secretary of Transportation” and inserting “and the Board”; and
- (9) in paragraph (5)(C)(iii)—
 - (A) by inserting “agency’s” before “annual”; and
 - (B) by striking “developed under subparagraph (A) of this subsection.” and inserting “for air traffic control services.”.

SEC. 304. SMALL BUSINESS OMBUDSMAN.

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

“(s) SMALL BUSINESS OMBUDSMAN.—

- “(1) ESTABLISHMENT.—There shall be in the Administration a Small Business Ombudsman.
- “(2) GENERAL DUTIES AND RESPONSIBILITIES.—The Ombudsman shall—
 - “(A) be appointed by the Administrator;
 - “(B) serve as a liaison with small businesses in the aviation industry;
 - “(C) be consulted when the Administrator proposes regulations that may affect small businesses in the aviation industry;
 - “(D) provide assistance to small businesses in resolving disputes with the Administration; and
 - “(E) report directly to the Administrator.”.

SEC. 305. FAA PURCHASE CARDS.

(a) IN GENERAL.—The Administrator of the Federal Aviation Administration shall take appropriate actions to implement the recommendations contained in the report of the General Accounting Office entitled “FAA Purchase Cards: Weak Controls Resulted in Instances of Improper and Wasteful Purchases and Missing Assets”, numbered GAO–03–405 and dated March 21, 2003.

(b) REPORT.—Not later than 1 year after the date of enactment of this Act, the Administrator shall transmit to Congress a report containing a description of the actions taken by the Administrator under this section.

TITLE IV—AIRLINE SERVICE IMPROVEMENTS

SEC. 401. IMPROVEMENT OF AVIATION INFORMATION COLLECTION.

(a) IN GENERAL.—Section 329(b)(1) is amended by striking “except that in no case” and all that follows through the semicolon at the end.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the issuance of a final rule to modernize the Origin and Destination Survey of Airline Passenger Traffic, pursuant to the Advance Notice of Proposed Rule-making published July 15, 1998 (Regulation Identifier Number 2105–AC71), that reduces the reporting burden for air carriers through electronic filing of the survey data collected under section 329(b)(1) of title 49, United States Code.

SEC. 402. DATA ON INCIDENTS AND COMPLAINTS INVOLVING PASSENGER AND BAGGAGE SECURITY SCREENING.

Section 329 is amended by adding at the end the following:

“(e) INCIDENTS AND COMPLAINTS INVOLVING PASSENGER AND BAGGAGE SECURITY SCREENING.—

“(1) PUBLICATION OF DATA.—The Secretary of Transportation shall publish data on incidents and complaints involving passenger and baggage security screening in a manner comparable to other consumer complaint and incident data.

“(2) MONTHLY REPORTS FROM SECRETARY OF HOMELAND SECURITY.—To assist the Secretary of Transportation in the publication of data under paragraph (1), the Secretary of Homeland Security shall submit monthly to the Secretary of Transportation a report on the number of complaints about security screening received by the Secretary of Homeland Security.”.

SEC. 403. DEFINITIONS.

(a) IN GENERAL.—Section 40102(a) is amended—

(1) by redesignating paragraphs (38) through (42) as paragraphs (43) through (47), respectively;

(2) by inserting after paragraph (37) the following:

“(42) ‘small hub airport’ means a commercial service airport (as defined in section 47102) that has at least 0.05 percent but less than 0.25 percent of the passenger boardings.”;

(3) by redesignating paragraphs (33) through (37) as paragraphs (37) through (41) respectively;

(4) by inserting after paragraph (32) the following:

“(36) ‘passenger boardings’—

“(A) means, unless the context indicates otherwise, revenue passenger boardings in the United States in the prior calendar year on an aircraft in service in air commerce, as the Secretary determines under regulations the Secretary prescribes; and

“(B) includes passengers who continue on an aircraft in international flight that stops at an airport in the 48 contiguous States, Alaska, or Hawaii for a nontraffic purpose.”;

(5) by redesignating paragraph (32) as paragraph (35);

(6) by inserting after paragraph (31) the following:

“(34) ‘nonhub airport’ means a commercial service airport (as defined in section 47102) that has less than 0.05 percent of the passenger boardings.”;

(7) by redesignating paragraphs (30) and (31) as paragraphs (32) and (33), respectively;

(8) by inserting after paragraph (29) the following:

“(31) ‘medium hub airport’ means a commercial service airport (as defined in section 47102) that has at least 0.25 percent but less than 1.0 percent of the passenger boardings.”;

(9) by redesignating paragraph (29) as paragraph (30); and

(10) by inserting after paragraph (28) the following:

“(29) ‘large hub airport’ means a commercial service airport (as defined in section 47102) that has at least 1.0 percent of the passenger boardings.”.

(b) CONFORMING AMENDMENTS.—

(1) AIR SERVICE TERMINATION NOTICE.—Section 41719(d) is amended—

(A) by striking paragraph (1); and

(B) by redesignating paragraphs (2) through (5) as paragraphs (1) through (4), respectively.

(2) SMALL COMMUNITY AIR SERVICE.—Section 41731(a) is amended by striking paragraphs (3) through (5).

(3) AIRPORTS NOT RECEIVING SUFFICIENT SERVICE.—Section 41743 is amended—

(A) in subsection (c)(1) by striking “(as that term is defined in section 41731(a)(5))”; and

(B) in subsection (f) by striking “(as defined in section 41731(a)(3))”.

(4) PRESERVATION OF BASIC ESSENTIAL AIR SERVICE AT SINGLE CARRIER DOMINATED HUB AIRPORTS.—Section 41744(b) is amended by striking “(as defined in section 41731)”.

(5) REGIONAL AIR SERVICE INCENTIVE PROGRAM.—Section 41762 is amended—

(A) by striking paragraphs (11) and (15); and

(B) by redesignating paragraphs (12), (13), (14), and (16) as paragraphs (11), (12), (13), and (14), respectively.

SEC. 404. CLARIFICATIONS TO PROCUREMENT AUTHORITY.

(a) DUTIES AND POWERS.—Section 40110(c) is amended—

(1) by striking “Administration—” and all that follows through “(2) may—” and inserting “Administration may—”;

(2) by striking subparagraph (D);

(3) by redesignating subparagraphs (A), (B), (C), (E), and (F) as paragraphs (1), (2), (3), (4), and (5) respectively; and

(4) by moving such paragraphs (1) through (5) 2 ems to the left.

(b) ACQUISITION MANAGEMENT SYSTEM.—Section 40110(d) is amended—

(1) in paragraph (1)—

(A) by striking “, not later than January 1, 1996,”; and

(B) by striking “provides for more timely and cost-effective acquisitions of equipment and materials.” and inserting the following:

“provides for—

“(A) more timely and cost-effective acquisitions of equipment, services, property, and materials; and

“(B) the resolution of bid protests and contract disputes related thereto, using consensual alternative dispute resolution techniques to the maximum extent practicable.”; and

(2) by striking paragraph (4), relating to the effective date, and inserting the following:

“(4) ADJUDICATION OF CERTAIN BID PROTESTS AND CONTRACT DISPUTES.—A bid protest or contract dispute that is not addressed or resolved through alternative dispute resolution shall be adjudicated by the Administrator through Dispute Resolution Officers or Special Masters of the Federal Aviation Administration Office of Dispute Resolution for Acquisition, acting pursuant to sections 46102, 46104, 46105, 46106 and 46107.”.

(c) AUTHORITY OF ADMINISTRATOR TO ACQUIRE SERVICES.—Section 106(f)(2)(A)(ii) is amended by inserting “, services,” after “property”.

SEC. 405. LOW-EMISSION AIRPORT VEHICLES AND GROUND SUPPORT EQUIPMENT.

(a) IN GENERAL.—Section 40117(a)(3) is amended by inserting at the end the following:

“(G) A project for the acquisition or conversion of ground support equipment or airport-owned vehicles used at a commercial service airport with, or to, low-emission technology (as defined in section 47102) or cleaner burning conventional fuels, or the retrofitting of such equipment or vehicles that are powered by a diesel or gasoline engine with emission control technologies certified or verified by the Environmental Protection Agency to reduce emissions, 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(2)) or a maintenance area referred to in section 175A of such Act (42 U.S.C. 7505a), and if such project will result in an airport receiving appropriate emission credits as described in section 47138.”.

(b) MAXIMUM COST FOR CERTAIN LOW-EMISSION TECHNOLOGY PROJECTS.—Section 40117(b) is amended by adding at the end the following:

“(5) MAXIMUM COST FOR CERTAIN LOW-EMISSION TECHNOLOGY PROJECTS.—The maximum cost that may be financed by imposition of a passenger facility fee under this section for a project described in subsection (a)(3)(G) with respect to vehicle or ground support equipment may not exceed the incremental amount of the project cost that is greater than the cost of acquiring a vehicle or equipment that is not low-emission and would be used for the same purpose, or the cost of low-emission retrofitting, as determined by the Secretary.”.

(c) GROUND SUPPORT EQUIPMENT DEFINED.—Section 40117(a) is amended—

(1) by redesignating paragraphs (4) and (5) as paragraphs (5) and (6), respectively;

(2) by inserting after paragraph (3) the following:

“(4) GROUND SUPPORT EQUIPMENT.—The term ‘ground support equipment’ means service and maintenance equipment used at an airport to support aeronautical operations and related activities.”.

SEC. 406. STREAMLINING OF THE PASSENGER FACILITY FEE PROGRAM.

(a) APPLICATION REQUIREMENTS.—Section 40117(c) is amended—

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

“(E) The agency will include in its application or notice submitted under subparagraph (A) copies of all certifications of agreement or disagreement received under subparagraph (D).

“(F) For the purpose of this section, an eligible agency providing notice and an opportunity for consultation to an air carrier or foreign air carrier is deemed to have satisfied the requirements of this paragraph if the eligible agency limits such notices and consultations to air carriers and foreign air carriers that have a significant business interest at the airport. In the subparagraph, the term ‘significant business interest’ means an air carrier or foreign air carrier that had no less than 1.0 percent of passenger boardings at the airport in the prior calendar year, had at least 25,000 passenger boardings at the airport in the prior calendar year, or provides scheduled service at the airport.”;

(2) by redesignating paragraph (3) as paragraph (4);

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

“(3) Before submitting an application, the eligible agency must provide reasonable notice and an opportunity for public comment. The Secretary shall prescribe regulations that define reasonable notice and provide for at least the following under this paragraph:

“(A) A requirement that the eligible agency provide public notice of intent to collect a passenger facility fee so as to inform those interested persons and agencies who may be affected, which public notice may include—

“(i) publication in local newspapers of general circulation;

“(ii) publication in other local media; and

“(iii) posting the notice on the agency’s Web site.

“(B) A requirement for submission of public comments no sooner than 30 days, and no later than 45 days, after the date of the publication of the notice.

“(C) A requirement that the agency include in its application or notice submitted under subparagraph (A) copies of all comments received under subparagraph (B).”; and

(4) in the first sentence of paragraph (4) (as redesignated by paragraph (2) of this subsection) by striking “shall” and inserting “may”.

(b) PILOT PROGRAM FOR PASSENGER FACILITY FEE AUTHORIZATIONS AT NONHUB AIRPORTS.—Section 40117 is amended by adding at the end the following:

“(1) PILOT PROGRAM FOR PASSENGER FACILITY FEE AUTHORIZATIONS AT NONHUB AIRPORTS.—

“(1) IN GENERAL.—The Secretary shall establish a pilot program to test alternative procedures for authorizing eligible agencies for nonhub airports to impose passenger facility fees. An eligible agency may impose in accordance with the provisions of this subsection a passenger facility fee under this section. For purposes of the pilot program, the procedures in this subsection shall apply instead of the procedures otherwise provided in this section.

“(2) NOTICE AND OPPORTUNITY FOR CONSULTATION.—The eligible agency must provide reasonable notice and an opportunity for consultation to air carriers and foreign air carriers in accordance with subsection (c)(2) and must provide reasonable notice and opportunity for public comment in accordance with subsection (c)(3).

“(3) NOTICE OF INTENTION.—The eligible agency must submit to the Secretary a notice of intention to impose a passenger facility fee under this subsection. This shall include—

“(A) information that the Secretary may require by regulation on each project for which authority to impose a passenger facility fee is sought;

“(B) the amount of revenue from passenger facility fees that is proposed to be collected for each project; and

“(C) the level of the passenger facility fee that is proposed.

“(4) ACKNOWLEDGEMENT OF RECEIPT AND INDICATION OF OBJECTION.—The Secretary shall acknowledge receipt of the notice and indicate any objection to the imposition of a passenger facility fee under this subsection for any project identified in the notice within 30 days after receipt of the eligible agency’s notice.

“(5) AUTHORITY TO IMPOSE FEE.—Unless the Secretary objects within 30 days after receipt of the eligible agency’s notice, the eligible agency is authorized to impose a passenger facility fee in accordance with the terms of its notice under this subsection.

“(6) DEADLINE.—Not later than 180 days after the date of enactment of this subsection, the Secretary shall propose such regulations as may be necessary to carry out this subsection.

“(7) SUNSET.—This subsection shall not be in effect 3 years after the date of issuance of regulations to carry out this subsection.

“(8) ACKNOWLEDGEMENT NOT AN ORDER.—An acknowledgement issued under paragraph (4) shall not be considered an order of the Secretary issued under section 46110.”.

(c) CLARIFICATION OF APPLICABILITY OF PFCS TO MILITARY CHARTERS.—Section 40117(e)(2) is amended—

(1) by striking the period at the end of subparagraph (C) and inserting a semicolon;

(2) by striking “and” at the end of subparagraph (D);

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

(4) by inserting after subparagraph (E) the following:

“(F) enplaning at an airport if the passenger did not pay for the air transportation which resulted in such enplanement due to charter arrangements and payment by the Department of Defense.”.

(d) TECHNICAL AMENDMENTS.—Section 40117(a)(3)(C) is amended—

(1) by striking “for costs” and inserting “A project”; and

(2) by striking the semicolon and inserting a period.

SEC. 407. FINANCIAL MANAGEMENT OF PASSENGER FACILITY FEES.

(a) IN GENERAL.—Section 40117 is further amended by adding at the end the following:

“(m) FINANCIAL MANAGEMENT OF FEES.—

“(1) HANDLING OF FEES.—

“(A) PLACEMENT OF FEES IN ESCROW ACCOUNT.—Subject to subparagraph (B), passenger facility revenue held by an air carrier or any of its agents shall be segregated from the carrier’s cash and other assets and placed in an escrow account for the benefit of the eligible agencies entitled to such revenue.

“(B) ALTERNATIVE METHOD OF COMPLIANCE.—Instead of placing amounts in an escrow account under subparagraph (A), an air carrier may provide to the eligible agency a letter of credit, bond, or other form of adequate and immediately available security in an amount equal to estimated remittable passenger facility fees for 180 days, to be assessed against later audit, upon which security the eligible agency shall be entitled to draw automatically, without necessity of any further legal or judicial action to effectuate foreclosure.

“(2) TRUST FUND STATUS.—If an air carrier or its agent commingles passenger facility revenue in violation of the subsection, the trust fund status of such revenue shall not be defeated by an inability of any party to identify and trace the precise funds in the accounts of the air carrier.

“(3) PROHIBITION.—An air carrier and its agents may not grant to any third party any security or other interest in passenger facility revenue.

“(4) COMPENSATION TO ELIGIBLE ENTITIES.—An air carrier that fails to comply with any requirement of this subsection, or otherwise unnecessarily causes an eligible entity to expend funds, through litigation or otherwise, to recover or retain payment of passenger facility revenue to which the eligible entity is otherwise entitled shall be required to compensate the eligible agency for the costs so incurred.

“(5) INTEREST ON AMOUNTS.—An air carrier that collects passenger facility fees is entitled to receive the interest on passenger facility fee accounts, if the accounts are established and maintained in compliance with this subsection.”.

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendment made by subsection (a) shall take effect 60 days after the date of enactment of this Act.

(2) EXISTING REGULATIONS.—Beginning 60 days after the date of enactment of this Act, the provisions of section 158.49 of title 14, Code of Federal Regulations, that permit the commingling of passenger facility fees with other air carrier revenue shall have no force or effect.

SEC. 408. GOVERNMENT CONTRACTING FOR AIR TRANSPORTATION.

(a) GOVERNMENT-FINANCED AIR TRANSPORTATION.—Section 40118(f)(2) is amended by inserting before the period at the end the following: “, except that it shall not include a contract for the transportation by air of passengers”.

(b) AIRLIFT SERVICE.—Section 41106(b) is amended by inserting after “military department” the following: “, or by a person that has contracted with the Secretary of Defense or the Secretary of a military department,”.

SEC. 409. OVERFLIGHTS OF NATIONAL PARKS.

(a) AIR TOUR MANAGEMENT ACT CLARIFICATIONS.—Section 40128 is amended—

(1) in subsection (a)(1) by inserting “, as defined by this section,” after “lands” the first place it appears;

(2) in subsections (b)(3)(A), (b)(3)(B), and (b)(3)(C) by inserting “over a national park” after “operations”;

(3) in subsection (b)(3)(D) by striking “at the park” and inserting “over a national park”;

(4) in subsection (b)(3)(E) by inserting “over a national park” after “operations” the first place it appears;

(5) in subsections (c)(2)(A)(i) and (c)(2)(B) by inserting “over a national park” after “operations”;

(6) in subsection (f)(1) by inserting “over a national park” after “operation”;

(7) in subsection (f)(4)(A)—

(A) by striking “commercial air tour operation” and inserting “commercial air tour operation over a national park”; and

(B) by striking “park, or over tribal lands,” and inserting “park (except the Grand Canyon National Park), or over tribal lands (except those within or abutting the Grand Canyon National Park),”;

(8) in subsection (f)(4)(B) by inserting “over a national park” after “operation”; and

(9) in the heading for paragraph (4) of subsection (f) by inserting “OVER A NATIONAL PARK” after “OPERATION”.

(b) GRAND CANYON NATIONAL PARK SPECIAL FLIGHT RULES AREA OPERATION CURFEW.—

(1) IN GENERAL.—The Administrator of the Federal Aviation Administration may not restrict commercial Special Flight Rules Area operations in the Dragon and Zuni Point corridors of the Grand Canyon National Park during the period beginning 1 hour after sunrise and ending 1 hour before sunset, unless required for aviation safety purposes.

(2) EFFECT ON EXISTING REGULATIONS.—Beginning on the date of enactment of this Act, section 93.317 of title 14, Code of Federal Regulations, shall not be in effect.

SEC. 410. COLLABORATIVE DECISIONMAKING PILOT PROGRAM.

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

“§ 40129. Collaborative decisionmaking pilot program

“(a) ESTABLISHMENT.—Not later than 90 days after the date of enactment of this section, the Administrator of the Federal Aviation Administration shall establish a collaborative decisionmaking pilot program in accordance with this section.

“(b) DURATION.—Except as provided in subsection (k), the pilot program shall be in effect for a period of 2 years.

“(c) GUIDELINES.—

“(1) ISSUANCE.—The Administrator shall issue guidelines concerning the pilot program. Such guidelines, at a minimum, shall define the criteria and process for determining when a capacity reduction event exists that warrants the use of collaborative decisionmaking among carriers at airports participating in the pilot program and that prescribe the methods of communication to be implemented among carriers during such an event.

“(2) VIEWS.—The Administrator may obtain the views of interested parties in issuing the guidelines.

“(d) EFFECT OF DETERMINATION OF EXISTENCE OF CAPACITY REDUCTION EVENT.—Upon a determination by the Administrator that a capacity reduction event exists, the Administrator may authorize air carriers and foreign air carriers operating at an airport participating in the pilot program to communicate for a period of time not to exceed 24 hours with each other concerning changes in their respective flight schedules in order to use air traffic capacity most effectively. The Administration shall facilitate and monitor such communication.

“(e) SELECTION OF PARTICIPATING AIRPORTS.—Not later than 30 days after the date on which the Administrator establishes the pilot program, the Administrator shall select 3 airports to participate in the pilot program from among the most capacity-constrained airports in the country based on the Administration’s Airport Capacity Benchmark Report 2001 or more recent data on airport capacity that is available to the Administrator. The Administrator shall select an airport for participation in the pilot program if the Administrator determines that collaborative decision-

making among air carriers and foreign air carriers would reduce delays at the airport and have beneficial effects on reducing delays in the national airspace system as a whole.

“(f) ELIGIBILITY OF AIR CARRIERS.—An air carrier or foreign air carrier operating at an airport selected to participate in the pilot program is eligible to participate in the pilot program if the Administrator determines that the carrier has the operational and communications capability to participate in the pilot program.

“(g) MODIFICATION OR TERMINATION OF PILOT PROGRAM AT AN AIRPORT.—The Administrator may modify or end the pilot program at an airport before the term of the pilot program has expired, or may ban an air carrier or foreign air carrier from participating in the program, if the Administrator determines that the purpose of the pilot program is not being furthered by participation of the airport or air carrier or if the Secretary of Transportation finds that the pilot program or the participation of an air carrier or foreign air carrier in the pilot program has had, or is having, an adverse effect on competition among carriers.

“(h) EVALUATION.—

“(1) IN GENERAL.—Before the expiration of the 2-year period for which the pilot program is authorized under subsection (b), the Administrator shall determine whether the pilot program has facilitated more effective use of air traffic capacity and the Secretary shall determine whether the pilot program has had an adverse effect on airline competition or the availability of air services to communities. The Administrator shall also examine whether capacity benefits resulting from the participation in the pilot program of an airport resulted in capacity benefits to other parts of the national airspace system.

“(2) OBTAINING NECESSARY DATA.—The Administrator may require participating air carriers and airports to provide data necessary to evaluate the pilot program’s impact.

“(i) EXTENSION OF PILOT PROGRAM.—At the end of the 2-year period for which the pilot program is authorized, the Administrator may continue the pilot program for an additional 2 years and expand participation in the program to up to 7 additional airports if the Administrator determines pursuant to subsection (h) that the pilot program has facilitated more effective use of air traffic capacity and if the Secretary determines that the pilot program has had no adverse effect on airline competition or the availability of air services to communities. The Administrator shall select the additional airports to participate in the extended pilot program in the same manner in which airports were initially selected to participate.”

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

“40129. Collaborative decisionmaking pilot program.”

SEC. 411. AVAILABILITY OF AIRCRAFT ACCIDENT SITE INFORMATION.

(a) DOMESTIC AIR TRANSPORTATION.—Section 41113(b) is amended—

(1) in paragraph (16) by striking “the air carrier” the third place it appears; and

(2) by adding at the end the following:

“(17)(A) An assurance that, in the case of an accident that results in significant damage to a man-made structure or other property on the ground that is not government-owned, the air carrier will promptly provide notice, in writing, to the extent practicable, directly to the owner of the structure or other property about liability for any property damage and means for obtaining compensation.

“(B) At a minimum, the written notice shall advise an owner (i) to contact the insurer of the property as the authoritative source for information about coverage and compensation; (ii) to not rely on unofficial information offered by air carrier representatives about compensation by the air carrier for accident-site property damage; and (iii) to obtain photographic or other detailed evidence of property damage as soon as possible after the accident, consistent with restrictions on access to the accident site.

“(18) An assurance that, in the case of an accident in which the National Transportation Safety Board conducts a public hearing or comparable proceeding at a location greater than 80 miles from the accident site, the air carrier will ensure that the proceeding is made available simultaneously by electronic means at a location open to the public at both the origin city and destination city of the air carrier’s flight if that city is located in the United States.”

(b) FOREIGN AIR TRANSPORTATION.—Section 41313(c) is amended by adding at the end the following:

“(17) NOTICE CONCERNING LIABILITY FOR MAN-MADE STRUCTURES.—

“(A) IN GENERAL.—An assurance that, in the case of an accident that results in significant damage to a man-made structure or other property on the ground that is not government-owned, the foreign air carrier will

promptly provide notice, in writing, to the extent practicable, directly to the owner of the structure or other property about liability for any property damage and means for obtaining compensation.

“(B) MINIMUM CONTENTS.—At a minimum, the written notice shall advise an owner (i) to contact the insurer of the property as the authoritative source for information about coverage and compensation; (ii) to not rely on unofficial information offered by foreign air carrier representatives about compensation by the foreign air carrier for accident-site property damage; and (iii) to obtain photographic or other detailed evidence of property damage as soon as possible after the accident, consistent with restrictions on access to the accident site.

“(18) SIMULTANEOUS ELECTRONIC TRANSMISSION OF NTSB HEARING.—An assurance that, in the case of an accident in which the National Transportation Safety Board conducts a public hearing or comparable proceeding at a location greater than 80 miles from the accident site, the foreign air carrier will ensure that the proceeding is made available simultaneously by electronic means at a location open to the public at both the origin city and destination city of the foreign air carrier’s flight if that city is located in the United States.”.

(c) UPDATE PLANS.—Air carriers and foreign air carriers shall update their plans under sections 41113 and 41313 of title 49, United States Code, respectively, to reflect the amendments made by subsections (a) and (b) of this section not later than 90 days after the date of enactment of this Act.

SEC. 412. SLOT EXEMPTIONS AT RONALD REAGAN WASHINGTON NATIONAL AIRPORT.

(a) BEYOND-PERIMETER EXEMPTIONS.—Section 41718(a) is amended by striking “12” and inserting “24”.

(b) WITHIN-PERIMETER EXEMPTIONS.—Section 41718(b) is amended—

(1) by striking “12” and inserting “20”; and

(2) by striking “that were designated as medium hub or smaller airports”.

(c) LIMITATIONS.—

(1) GENERAL EXEMPTIONS.—Section 41718(c)(2) is amended by striking “two” and inserting “3”.

(2) ALLOCATION OF WITHIN-PERIMETER EXEMPTIONS.—Section 41718(c)(3) is amended—

(A) in subparagraph (A)—

(i) by striking “four” and inserting “six”; and

(ii) by striking “and” at the end;

(B) in subparagraph (B)—

(i) by striking “eight” and inserting “ten”; and

(ii) by striking the period at the end and inserting “; and”; and

(C) by adding at the end the following:

“(C) four shall be for air transportation to airports without regard to their size.”.

(d) APPLICATION PROCEDURES.—Section 41718(d) is amended to read as follows:

“(d) APPLICATION PROCEDURES.—The Secretary shall establish procedures to ensure that all requests for exemptions under this section are granted or denied within 90 days after the date on which the request is made.”.

(e) EFFECT OF PERIMETER RULES ON COMPETITION AND AIR SERVICE.—

(1) IDENTIFICATION OF OTHER AIRPORTS.—The Secretary of Transportation shall identify airports (other than Ronald Reagan Washington National Airport) that have imposed perimeter rules like those in effect with respect to Ronald Reagan Washington National Airport.

(2) LIMITATION ON APPLICABILITY.—This subsection does not apply to perimeter rules imposed by Federal law.

(3) STUDY.—The Secretary shall conduct a study of the effect that perimeter rules for airports identified under paragraph (1) have on competition and on air service to communities outside the perimeter.

(4) REPORT.—Not later than 120 days after the date of enactment of this Act, the Secretary shall transmit to Congress a report on the results of the study.

(f) EFFECT OF CHANGING DEFINITION OF COMMUTER AIR CARRIER.—

(1) STUDY.—The Secretary shall study the effects of changing the definition of commuter air carrier in regulations of the Federal Aviation Administration to increase the maximum size of aircraft of such carriers to 76 seats or less on air service to small communities and on commuter air carriers operating aircraft with 56 seats or less.

(2) REPORT.—Not later than 90 days after the date of enactment of this Act, the Secretary shall transmit to Congress a report on the results of the study.

SEC. 413. NOTICE CONCERNING AIRCRAFT ASSEMBLY.

(a) IN GENERAL.—Subchapter I of chapter 417 is amended by adding at the end the following:

“§ 41722. Notice concerning aircraft assembly

“The Secretary of Transportation shall require, beginning after the last day of the 1-year period following the date of enactment of this section, an air carrier using an aircraft to provide scheduled passenger air transportation to display a notice, on an information placard available to each passenger on the aircraft, that informs the passengers of the nation in which the aircraft was finally assembled.”

(b) CONFORMING AMENDMENT.—The analysis for chapter 417 is amended by striking the item relating to section 41721 and inserting the following:

“41721. Reports by carriers on incidents involving animals during air transport.
“41722. Notice concerning aircraft assembly.”.

SEC. 414. SPECIAL RULE TO PROMOTE AIR SERVICE TO SMALL COMMUNITIES.

(a) IN GENERAL.—Subchapter I of chapter 417 is further amended by adding at the end the following:

“§ 41723. Special rule to promote air service to small communities

“In order to promote air service to small communities, the Secretary of Transportation shall permit an operator of a turbine powered or multiengine piston powered aircraft with 10 passenger seats or less (1) to provide air transportation between an airport that is a nonhub airport and another airport or between an airport that is not a commercial service airport and another airport, and (2) to sell individual seats on that aircraft at a negotiated price, if the aircraft is otherwise operated in accordance with parts 119 and 135 of title 14, Code of Federal Regulations, and the air transportation is otherwise provided in accordance with part 298 of such title 14.”

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

“41723. Special rule to promote air service to small communities.”.

SEC. 415. SMALL COMMUNITY AIR SERVICE.

(a) COMPENSATION GUIDELINES, LIMITATION, AND CLAIMS.—

(1) PAYMENT OF PROMOTIONAL AMOUNTS.—Section 41737(a)(2) is amended by inserting before the period at the end “or may be paid directly to the unit of local government having jurisdiction over the eligible place served by the air carrier”.

(2) LOCAL SHARE.—Section 41737(a) is amended by adding at the end the following:

“(3) PAYMENT OF COST BY LOCAL GOVERNMENT.—

“(A) GENERAL REQUIREMENT.—The guidelines may require a unit of local government having jurisdiction over an eligible place that is less than 170 miles from a medium or large hub or less than 75 miles from a small hub or a State within the boundaries of which the eligible place is located to pay 2.5 percent in fiscal year 2005, 5 percent in fiscal year 2006, 7.5 percent in fiscal year 2007, and 10 percent in fiscal year 2008 of the amount of compensation payable under this subchapter for air transportation with respect to the eligible place to ensure the continuation of that air transportation.

“(B) WAIVER.—The Secretary may waive the requirement, or reduce the amount, of a payment from a unit of local government under subparagraph (A) if the Secretary finds that—

“(i) the unit of local government lacks the ability to pay; and

“(ii) the loss of essential air service to the eligible place would have an adverse effect on the eligible place’s access to the national air transportation system.

“(C) DETERMINATION OF MILEAGE.—In determining the mileage between the eligible place and a hub under this paragraph, the Secretary shall use the most commonly used highway route between the eligible place and the hub.”.

(3) AUTHORITY TO MAKE AGREEMENTS AND INCUR OBLIGATIONS.—Section 41737(d) is amended—

(A) by striking “(1) The Secretary” and inserting the “The Secretary”; and

(B) by striking paragraph (2).

(b) AIRPORTS NOT RECEIVING SUFFICIENT SERVICE.—Section 41743 is amended—

(1) in the heading of subsection (a) by striking “PILOT”;

(2) in subsection (a) by striking “pilot”;

(3) in subsection (c)—

- (A) by striking paragraph (3);
 - (B) by redesignating paragraphs (4) and (5) as paragraphs (3) and (4), respectively; and
 - (C) in paragraph (4) (as so redesignated)—
 - (i) by striking “and” at the end of subparagraph (C);
 - (ii) by striking the period at the end of subparagraph (D) and inserting “; and”; and
 - (iii) by adding at the end the following:
 - “(E) the assistance can be used in the fiscal year in which it is received.”;
 - and
 - (4) in subsection (f) by striking “pilot”.
 - (c) ESSENTIAL AIR SERVICE AUTHORIZATION.—Section 41742 is amended—
 - (1) in subsection (a)(2) by striking “\$15,000,000” and inserting “\$65,000,000”;
 - (2) by adding at the end of subsection (a) the following:
 - “(3) AUTHORIZATION FOR ADDITIONAL EMPLOYEES.—In addition to amounts authorized under paragraphs (1) and (2), there are authorized to be appropriated such sums as may be necessary for the Secretary of Transportation to hire and employ 4 additional employees for the office responsible for carrying out the essential air service program.”; and
 - (3) by striking subsection (c).
 - (d) PROCESS FOR DISCONTINUING CERTAIN SUBSIDIES.—Section 41734 is amended by adding at the end the following:
 - “(i) PROCESS FOR DISCONTINUING CERTAIN SUBSIDIES.—If the Secretary determines that no subsidy will be provided to a carrier to provide essential air service to an eligible place because the eligible place does not meet the requirements of section 332 of the Department of Transportation and Related Agencies Appropriations Act, 2000 (49 U.S.C. 41731 note; 113 Stat. 1022), the Secretary shall notify the affected community that the subsidy will cease but shall continue to provide the subsidy for 90 days after providing the notice to the community.”.
 - (e) JOINT PROPOSALS.—Section 41740 is amended by inserting “, including joint fares,” after “joint proposals”.
 - (f) COMMUNITY AND REGIONAL CHOICE PROGRAM.—
 - (1) IN GENERAL.—Subchapter II of chapter 417 is amended by adding at the end the following:

“§ 41745. Community and regional choice program

“(a) ESTABLISHMENT.—The Secretary of Transportation shall establish an alternate essential air service pilot program in accordance with the requirements of this section.

“(b) COMPENSATION TO ELIGIBLE PLACES.—In carrying out the program, the Secretary, instead of paying compensation to an air carrier to provide essential air service to an eligible place, may pay compensation directly to a unit of local government having jurisdiction over the eligible place or a State within the boundaries of which the eligible place is located.

“(c) USE OF COMPENSATION.—A unit of local government or State receiving compensation for an eligible place under the program shall use the compensation for any of the following purposes:

 - “(1) To provide assistance to an air carrier to provide scheduled air service to and from the eligible place, without being subject to the requirements of 41732(b).
 - “(2) To provide assistance to an air carrier to provide on-demand air taxi service to and from the eligible place.
 - “(3) To provide assistance to a person to provide scheduled or on-demand surface transportation to and from the eligible place and an airport in another place.
 - “(4) In combination with other units of local government in the same region, to provide transportation services to and from all the eligible places in that region at an airport or other transportation center that can serve all the eligible places in that region.
 - “(5) To purchase aircraft, or a fractional share in aircraft, to provide transportation to and from the eligible place.
 - “(6) To pay for other transportation or related services that the Secretary may permit.
- “(d) FRACTIONALLY OWNED AIRCRAFT.—Notwithstanding any other provision of law, only those operating rules that relate to an aircraft that is fractionally owned apply when an aircraft described in subsection (c)(5) is used to provide transportation described in subsection (c)(5).
- “(e) APPLICATIONS.—

“(1) IN GENERAL.—A unit of local government or State seeking to participate in the program for an eligible place shall submit to the Secretary an application in such form and containing such information as the Secretary may require.

“(2) REQUIRED INFORMATION.—At a minimum, the application shall include—

“(A) a statement of the amount of compensation required; and

“(B) a description of how the compensation will be used.

“(f) PARTICIPATION REQUIREMENTS.—

“(1) ELIGIBLE PLACES.—An eligible place for which compensation is received under the program in a fiscal year shall not be eligible to receive in that fiscal year the essential air service that it would otherwise be entitled to under this subchapter.

“(2) GOVERNMENTAL ENTITIES.—A unit of local government or State receiving compensation for an eligible place under the program in a fiscal year shall not be required to pay the local share described in 41737(a)(3) in such fiscal year.

“(g) SUBSEQUENT PARTICIPATION.—A unit of local government participating in the program under this section in a fiscal year shall not be prohibited from participating in the basic essential air service program under this chapter in a subsequent fiscal year if such unit is otherwise eligible to participate in such program.

“(h) FUNDING.—Amounts appropriated or otherwise made available to carry out the essential air service program under this subchapter shall be available to carry out this section.”

(2) CONFORMING AMENDMENT.—The analysis for chapter 417 is amended by inserting after the item relating to section 41744 the following:

“41745. Community and regional choice program.”

SEC. 416. TYPE CERTIFICATES.

(a) AGREEMENTS TO PERMIT USE OF CERTIFICATES BY OTHER PERSONS.—Section 44704(a) is amended by adding at the end the following:

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

(b) CERTIFICATION OF PRODUCTS MANUFACTURED IN FOREIGN NATIONS.—Section 44704 is further amended by adding at the end the following:

“(e) CERTIFICATION OF PRODUCTS MANUFACTURED IN FOREIGN NATIONS.—In order to ensure safety, the Administrator shall spend at least the same amount of time and perform a no-less-thorough review in certifying, or validating the certification of, an aircraft, aircraft engine, propeller, or appliance manufactured in a foreign nation as the regulatory authorities of that nation employ when the authorities certify, or validate the certification of, an aircraft, aircraft engine, propeller, or appliance manufactured in the United States.”

SEC. 417. DESIGN ORGANIZATION CERTIFICATES.

(a) GENERAL AUTHORITY TO ISSUE CERTIFICATES.—Effective on the last day of the 7-year period beginning on the date of enactment of this Act, section 44702(a) is amended by inserting “design organization certificates,” after “airman certificates.”

(b) DESIGN ORGANIZATION CERTIFICATES.—

(1) PLAN.—Not later than 3 years after the date of enactment of this Act, the Administrator of the Federal Aviation Administration 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 plan for the development and oversight of a system for certification of design organizations to certify compliance with the requirements and minimum standards prescribed under section 44701(a) of title 49, United States Code, for the type certification of aircraft, aircraft engines, propellers, or appliances.

(2) ISSUANCE OF CERTIFICATES.—Section 44704 is further amended by adding at the end the following:

“(f) DESIGN ORGANIZATION CERTIFICATES.—

“(1) ISSUANCE.—Beginning 7 years after the date of enactment of this subsection, the Administrator may issue a design organization certificate to a design organization to authorize the organization to certify compliance with the requirements and minimum standards prescribed under section 44701(a) for the type certification of aircraft, aircraft engines, propellers, or appliances.

“(2) APPLICATIONS.—On receiving an application for a design organization certificate, the Administrator shall examine and rate the design organization submitting the application, in accordance with regulations to be prescribed by the Administrator, to determine whether the design organization has adequate engineering, design, and testing capabilities, standards, and safeguards to ensure

that the product being certificated is properly designed and manufactured, performs properly, and meets the regulations and minimum standards prescribed under section 44701(a).

“(3) ISSUANCE OF TYPE CERTIFICATES BASED ON DESIGN ORGANIZATION CERTIFICATION.—On receiving an application for a type certificate under subsection (a) that is accompanied by a certification of compliance by a design organization certificated under this subsection, instead of conducting an independent investigation under subsection (a), the Administrator may issue the type certificate based on the certification of compliance.

“(4) PUBLIC SAFETY.—The Administrator shall include in a design organization certificate issued under this subsection terms required in the interest of safety.”.

(c) REINSPECTION AND REEXAMINATION.—Section 44709(a) is amended by inserting “design organization, production certificate holder,” after “appliance.”.

(d) PROHIBITIONS.—Section 44711(a)(7) is amended by striking “agency” and inserting “agency, design organization certificate,”.

(e) CONFORMING AMENDMENTS.—

(1) SECTION HEADING.—Section 44704 is amended by striking the section designation and heading and inserting the following:

“§ 44704. Type certificates, production certificates, airworthiness certificates, and design organization certificates”.

(2) CHAPTER ANALYSIS.—The analysis for chapter 447 is amended by striking the item relating to section 44704 and inserting the following:

“44704. Type certificates, production certificates, airworthiness certificates, and design organization certificates.”.

SEC. 418. COUNTERFEIT OR FRAUDULENTLY REPRESENTED PARTS VIOLATIONS.

Section 44726(a)(1) is amended—

(1) by striking “or” at the end of subparagraph (A);

(2) by redesignating subparagraph (B) as subparagraph (C);

(3) by inserting after subparagraph (A) the following:

“(B) whose certificate is revoked under subsection (b); or”; and

(4) in subparagraph (C) (as redesignated by paragraph (2) of this section) by striking “convicted of such a violation.” and inserting “described in subparagraph (A) or (B).”.

SEC. 419. RUNWAY SAFETY STANDARDS.

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

“§ 44727. Runway safety areas

“An airport owner or operator shall not be required to reduce the length of a runway or declare the length of a runway to be less than the actual pavement length in order to meet standards of the Federal Aviation Administration applicable to runway safety areas.”.

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

“44727. Runway safety areas.”.

SEC. 420. AVAILABILITY OF MAINTENANCE INFORMATION.

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

“§ 44728. Availability of maintenance information

“(a) IN GENERAL.—The Administrator of the Federal Aviation Administration shall continue in effect the requirement of section 21.50(b) of title 14, Code of Federal Regulations, that the holder of a design approval—

“(1) shall prepare and furnish at least one set of complete instructions for continued airworthiness as prescribed in such section to the owner of each type of aircraft, aircraft engine, or propeller upon its delivery or upon the issuance of the first standard airworthiness certificate for the affected aircraft, whichever occurs later; and

“(2) thereafter shall make the instructions, and any changes thereto, available to any other person required by parts 1 through 199 of title 14, Code of Federal Regulations, to comply with any of the terms of the instructions.

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

“(1) MAKE AVAILABLE.—The term ‘make available’ means providing at a cost not to exceed the cost of preparation and distribution.

“(2) DESIGN APPROVAL.—The term ‘design approval’ means a type certificate, supplemental type certificate, amended type certificate, parts manufacturer ap-

proval, technical standard order authorization, and any other action as determined by the Administrator pursuant to subsection (c)(2).

“(3) INSTRUCTIONS FOR CONTINUED AIRWORTHINESS.—The term ‘instructions for continued airworthiness’ means any information (and any changes to such information) considered essential to continued airworthiness that sets forth the methods, techniques, and practices for performing maintenance and alteration on civil aircraft, aircraft engines, propellers, appliances or any part installed thereon. Such information may include maintenance, repair, and overhaul manuals, standard practice manuals, service bulletins, service letters, or similar documents issued by a design approval holder.

“(c) RULEMAKING.—The Administrator shall conduct a rulemaking proceeding for the following purposes:

“(1) To determine the meaning of the phrase ‘essential to continued airworthiness’ of the applicable aircraft, aircraft engine, and propeller as that term is used in parts 23 through 35 of title 14, Code of Federal Regulations.

“(2) To determine if a design approval should include, in addition to those approvals specified in subsection (b)(2), any other activity in which persons are required to have technical data approved by the Administrator.

“(3) To revise existing rules to reflect the definition of design approval holder in subsections (b)(2) and (c)(2).

“(4) To determine if design approval holders that prepared instructions for continued airworthiness or maintenance manuals before January 29, 1981, should be required to make the manuals available (including any changes thereto) to any person required by parts 1 through 199 of title 14, Code of Federal Regulations, to comply with any of the terms of those manuals.

“(5) To require design approval holders that—

“(A) are operating an ongoing business concern;

“(B) were required to produce maintenance manuals or instructions for continued airworthiness under section 21.50(b) of title 14, Code of Federal Regulations; and

“(C) have not done so,

to prepare those documents and make them available as required by this section not later than 1 year after date on which the regulations are published.

“(6) To revise its rules to reflect the changes made by this section.

“(d) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this section shall be construed as requiring the holder of a design approval to make available proprietary information unless it is deemed essential to continued airworthiness.”

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

“44728. Availability of maintenance information.”

SEC. 421. CERTIFICATE ACTIONS IN RESPONSE TO A SECURITY THREAT.

(a) IN GENERAL.—Chapter 461 is amended by adding at the end the following:

“§ 46111. Certificate actions in response to a security threat

“(a) ORDERS.—The Administrator of Federal Aviation Administration shall issue an order amending, modifying, suspending, or revoking any part of a certificate issued under this title if the Administrator is notified by the Under Secretary for Border and Transportation Security of the Department of Homeland Security that the holder of the certificate poses, or is suspected of posing, a risk of air piracy or terrorism or a threat to airline or passenger safety. If requested by the Under Secretary, the order shall be effective immediately.

“(b) HEARINGS FOR CITIZENS.—An individual who is a citizen of the United States who is adversely affected by an order of the Administrator under subsection (a) is entitled to a hearing on the record.

“(c) HEARINGS.—When conducting a hearing under this section, the administrative law judge shall not be bound by findings of fact or interpretations of laws and regulations of the Administrator or the Under Secretary.

“(d) APPEALS.—An appeal from a decision of an administrative law judge as the result of a hearing under subsection (b) shall be made to the Transportation Security Oversight Board established by section 115. The Board shall establish a panel to review the decision. The members of this panel (1) shall not be employees of the Transportation Security Administration, (2) shall have the level of security clearance needed to review the determination made under this section, and (3) shall be given access to all relevant documents that support that determination. The panel may affirm, modify, or reverse the decision.

“(e) REVIEW.—A person substantially affected by an action of a panel under subsection (d), or the Under Secretary when the Under Secretary decides that the action of the panel under this section will have a significant adverse impact on car-

rying out this part, may obtain review of the order under section 46110. The Under Secretary and the Administrator shall be made a party to the review proceedings. Findings of fact of the panel are conclusive if supported by substantial evidence.

“(f) EXPLANATION OF DECISIONS.—An individual who commences an appeal under this section shall receive a written explanation of the basis for the determination or decision and all relevant documents that support that determination to the maximum extent that the national security interests of the United States and other applicable laws permit.

“(g) CLASSIFIED EVIDENCE.—

“(1) IN GENERAL.—The Under Secretary, in consultation with the Administrator, shall issue regulations to establish procedures by which the Under Secretary, as part of a hearing conducting under this section, may substitute an unclassified summary of classified evidence upon the approval of the administrative law judge.

“(2) APPROVAL AND DISAPPROVAL OF SUMMARIES.—Under the procedures, an administrative law judge shall—

“(A) approve a summary if the judge finds that it is sufficient to enable the certificate holder to appeal an order issued under subsection (a); or

“(B) disapprove a summary if the judge finds that it is not sufficient to enable the certificate holder to appeal such an order.

“(3) MODIFICATIONS.—If an administrative law judge disapproves a summary under paragraph (2)(B), the judge shall direct the Under Secretary to modify the summary and resubmit the summary for approval.

“(4) INSUFFICIENT MODIFICATIONS.—If an administrative law judge is unable to approve a modified summary, the order issued under subsection (a) that is the subject of the hearing shall be set aside unless the judge finds that such a result—

“(A) would likely cause serious and irreparable harm to the national security; or

“(B) would likely cause death or serious bodily injury to any person.

“(5) SPECIAL PROCEDURES.—If an administrative law judge makes a finding under subparagraph (A) or (B) of paragraph (4), the hearing shall proceed without an unclassified summary provided to the certificate holder. In such a case, subject to procedures established by regulation by the Under Secretary in consultation with the Administrator, the administrative law judge shall appoint a special attorney to assist the accused by—

“(A) reviewing in camera the classified evidence; and

“(B) challenging, through an in camera proceeding, the veracity of the evidence contained in the classified information.”.

(b) CONFORMING AMENDMENT.—The analysis for chapter 461 is amended by adding at the end the following:

“46111. Certificate actions in response to a security threat.”.

SEC. 422. FLIGHT ATTENDANT CERTIFICATION.

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

“§ 44729. Flight attendant certification

“(a) CERTIFICATE REQUIRED.—

“(1) IN GENERAL.—No person may serve as a flight attendant aboard an aircraft of an air carrier unless that person holds a certificate of demonstrated proficiency from the Administrator of the Federal Aviation Administration. Upon the request of the Administrator or an authorized representative of the National Transportation Safety Board or another Federal agency, a person who holds such a certificate shall present the certificate for inspection within a reasonable period of time after the date of the request.

“(2) SPECIAL RULE FOR CURRENT FLIGHT ATTENDANTS.—An individual serving as a flight attendant on the effective date of this section may continue to serve aboard an aircraft as a flight attendant until completion by that individual of the required recurrent or requalification training and subsequent certification under this section.

“(3) TREATMENT OF FLIGHT ATTENDANT AFTER NOTIFICATION.—On the date that the Administrator is notified by an air carrier that an individual has the demonstrated proficiency to be a flight attendant, the individual shall be treated for purposes of this section as holding a certificate issued under the section.

“(b) ISSUANCE OF CERTIFICATE.—The Administrator shall issue a certificate of demonstrated proficiency under this section to an individual after the Administrator is notified by the air carrier that the individual has successfully completed all the training requirements for flight attendants approved by the Administrator.

“(c) DESIGNATION OF PERSON TO DETERMINE SUCCESSFUL COMPLETION OF TRAINING.—In accordance with part 183 of chapter 14, Code of Federal Regulation, the director of operations of an air carrier is designated to determine that an individual has successfully completed the training requirements approved by the Administrator for such individual to serve as a flight attendant.

“(d) SPECIFICATIONS RELATING TO CERTIFICATES.—Each certificate issued under this section shall—

“(1) be numbered and recorded by the Administrator;

“(2) contain the name, address, and description of the individual to whom the certificate is issued;

“(3) contain the name of the air carrier that employs or will employ the certificate holder on the date that the certificate is issued;

“(4) is similar in size and appearance to certificates issued to airmen;

“(5) contain the airplane group for which the certificate is issued; and

“(6) be issued not later than 30 days after the Administrator receives notification from the air carrier of demonstrated proficiency and, in the case of an individual serving as flight attendant on the effective date of this section, not later than 1 year after such effective date.

“(e) APPROVAL OF TRAINING PROGRAMS.—Air carrier flight attendant training programs shall be subject to approval by the Administrator. All flight attendant training programs approved by the Administrator in the 1-year period ending on the date of enactment of this section shall be treated as providing a demonstrated proficiency for purposes of meeting the certification requirements of this section.

“(f) FLIGHT ATTENDANT DEFINED.—In this section, the term ‘flight attendant’ means an individual working as a flight attendant in the cabin of an aircraft that has 20 or more seats and is being used by an air carrier to provide air transportation.”.

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

“44729. Flight attendant certification.”.

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall take effect on the 365th day following the date of enactment of this Act.

SEC. 423. CIVIL PENALTY FOR CLOSURE OF AN AIRPORT WITHOUT PROVIDING SUFFICIENT NOTICE.

(a) IN GENERAL.—Chapter 463 is amended by adding at the end the following:

“§ 46319. Closure of an airport without providing sufficient notice

“(a) PROHIBITION.—A public agency (as defined in section 47102) may not close an airport listed in the national plan of integrated airport systems under section 47103 without providing written notice to the Administrator of the Federal Aviation Administration at least 30 days before the date of the closure.

“(b) PUBLICATION OF NOTICE.—The Administrator shall publish each notice received under subsection (a) in the Federal Register.

“(c) CIVIL PENALTY.—A public agency violating subsection (a) shall be liable for a civil penalty of \$10,000 for each day that the airport remains closed without having given the notice required by this section.”.

(b) CONFORMING AMENDMENT.—The analysis for chapter 463 is amended by adding at the end the following:

“46319. Closure of an airport without providing sufficient notice.”.

SEC. 424. NOISE EXPOSURE MAPS.

Section 47503 is amended—

(1) in subsection (a) by striking “1985,” and inserting “a forecast period that is at least 5 years in the future”; and

(2) by striking subsection (b) and inserting the following:

“(b) REVISED MAPS.—If, in an area surrounding an airport, a change in the operation of the airport would establish a substantial new noncompatible use, or would significantly reduce noise over existing noncompatible uses, that is not reflected in either the existing conditions map or forecast map currently on file with the Federal Aviation Administration, the airport operator shall submit a revised noise exposure map to the Secretary showing the new noncompatible use or noise reduction.”.

SEC. 425. AMENDMENT OF GENERAL FEE SCHEDULE PROVISION.

The amendment made by section 119(d) of the Aviation and Transportation Security Act (115 Stat. 629) shall not be affected by the savings provisions contained in section 141 of that Act (115 Stat. 643).

SEC. 426. IMPROVEMENT OF CURRICULUM STANDARDS FOR AVIATION MAINTENANCE TECHNICIANS.

(a) **IN GENERAL.**—The Administrator of the Federal Aviation Administration shall ensure that the training standards for airframe and powerplant mechanics under part 65 of title 14, Code of Federal Regulations, are updated and revised in accordance with this section. The Administrator may update and revise the training standards through the initiation of a formal rulemaking or by issuing an advisory circular or other agency guidance.

(b) **ELEMENTS FOR CONSIDERATION.**—The updated and revised standards required under subsection (a) shall include those curriculum adjustments that are necessary to more accurately reflect current technology and maintenance practices.

(c) **MINIMUM TRAINING HOURS.**—In making adjustments to the maintenance curriculum requirements pursuant to this section, the current requirement of 1900 minimum training hours shall be maintained.

(d) **CERTIFICATION.**—Any adjustment or modification of current curriculum standards made pursuant to this section shall be reflected in the certification examinations of airframe and powerplant mechanics.

(e) **COMPLETION.**—The revised and updated training standards required by subsection (a) shall be completed not later than 12 months after the date of enactment of this Act.

(f) **PERIODIC REVIEWS AND UPDATES.**—The Administrator shall review the content of the curriculum standards for training airframe and powerplant mechanics referred to in subsection (a) every 3 years after completion of the revised and updated training standards required under subsection (a) as necessary to reflect current technology and maintenance practices.

SEC. 427. TASK FORCE ON FUTURE OF AIR TRANSPORTATION SYSTEM.

(a) **IN GENERAL.**—The President shall establish a task force to work with the Next Generation Air Transportation System Joint Program Office authorized under section 106(k)(3).

(b) **MEMBERSHIP.**—The task force shall be composed of representatives, appointed by the President, from air carriers, general aviation, pilots, and air traffic controllers and the following government organizations:

- (1) The Federal Aviation Administration.
- (2) The National Aeronautics and Space Administration.
- (3) The Department of Defense.
- (4) The Department of Homeland Security.
- (5) The National Oceanic and Atmospheric Administration.
- (6) Other government organizations designated by the President.

(c) **FUNCTION.**—The function of the task force shall be to develop an integrated plan to transform the Nation's air traffic control system and air transportation system to meet its future needs.

(d) **PLAN.**—Not later than 1 year after the date of establishment of the task force, the task force shall transmit to the President and Congress a plan outlining the overall strategy, schedule, and resources needed to develop and deploy the Nation's next generation air traffic control system and air transportation system.

SEC. 428. AIR QUALITY IN AIRCRAFT CABINS.

(a) **IN GENERAL.**—The Administrator of the Federal Aviation Administration shall undertake the studies and analysis called for in the report of the National Research Council entitled "The Airliner Cabin Environment and the Health of Passengers and Crew".

(b) **REQUIRED ACTIVITIES.**—In carrying out this section, the Administrator, at a minimum, shall—

- (1) conduct surveillance to monitor ozone in the cabin on a representative number of flights and aircraft to determine compliance with existing Federal Aviation Regulations for ozone;
- (2) collect pesticide exposure data to determine exposures of passengers and crew; and
- (3) analyze samples of residue from aircraft ventilation ducts and filters after air quality incidents to identify the allergens, diseases, and other contaminants to which passengers and crew were exposed.

(c) **REPORT.**—Not later than 30 months after the date of enactment of this Act, the Administrator shall transmit to Congress a report on the findings of the Administrator under this section.

SEC. 429. RECOMMENDATIONS CONCERNING TRAVEL AGENTS.

(a) **REPORT.**—Not later than 6 months after the date of enactment of this Act, the Secretary of Transportation shall transmit to Congress a report on any actions that

should be taken with respect to recommendations made by the National Commission to Ensure Consumer Information and Choice in the Airline Industry on—

- (1) the travel agent arbiter program; and
- (2) the special box on tickets for agents to include their service fee charges.

(b) CONSULTATION.—In preparing this report, the Secretary shall consult with representatives from the airline and travel agent industry.

SEC. 430. TASK FORCE ON ENHANCED TRANSFER OF APPLICATIONS OF TECHNOLOGY FOR MILITARY AIRCRAFT TO CIVILIAN AIRCRAFT.

(a) IN GENERAL.—The President shall establish a task force to look for better methods for ensuring that technology developed for military aircraft is more quickly and easily transferred to applications for improving and modernizing the fleet of civilian aircraft.

(b) MEMBERSHIP.—The task force shall be composed of the Secretary of Transportation who shall be the chair of the task force and representatives, appointed by the President, from the following:

- (1) The Department of Transportation.
- (2) The Federal Aviation Administration.
- (3) The Department of Defense.
- (4) The National Aeronautics and Space Administration.
- (5) The aircraft manufacturing industry.
- (6) Such other organizations as the President may designate.

(c) REPORT.—Not later than 1 year after the date of enactment of this Act, the task force shall report to Congress on the methods looked at by the task force for ensuring the transfer of applications described in subsection (a).

SEC. 431. REIMBURSEMENT FOR LOSSES INCURRED BY GENERAL AVIATION ENTITIES.

(a) IN GENERAL.—The Secretary of Transportation may make grants to reimburse the following general aviation entities for the security costs incurred and revenue foregone as a result of the restrictions imposed by the Federal Government following the terrorist attacks on the United States that occurred on September 11, 2001, or the military action to free the people of Iraq that commenced in March 2003:

- (1) General aviation entities that operate at Ronald Reagan Washington National Airport.
- (2) Airports that are located within 15 miles of Ronald Reagan Washington National Airport and were operating under security restrictions on the date of enactment of this Act and general aviation entities operating at those airports.
- (3) General aviation entities that were affected by Federal Aviation Administration Notices to Airmen FDC 2/0199 and 3/1862 and section 352 of the Department of Transportation and Related Agencies Appropriations Act, 2003 (P.L. 108–7, Division I).
- (4) General aviation entities affected by implementation of section 44939 of title 49, United States Code.
- (5) Any other general aviation entity that is prevented from doing business or operating by an action of the Federal Government prohibiting access to airspace by that entity.

(b) DOCUMENTATION.—Reimbursement under this section shall be made in accordance with sworn financial statements or other appropriate data submitted by each general aviation entity demonstrating the costs incurred and revenue foregone to the satisfaction of the Secretary.

(c) GENERAL AVIATION ENTITY DEFINED.—In this section, the term “general aviation entity” means any person (other than a scheduled air carrier or foreign air carrier, as such terms are defined in section 40102 of title 49, United States Code) that—

- (1) operates nonmilitary aircraft under part 91 of title 14, Code of Federal Regulations, for the purpose of conducting its primary business;
 - (2) manufactures nonmilitary aircraft with a maximum seating capacity of fewer than 20 passengers or aircraft parts to be used in such aircraft;
 - (3) provides services necessary for nonmilitary operations under such part 91;
- or
- (4) operates an airport, other than a primary airport (as such terms are defined in such section 40102), that—
 - (A) is listed in the national plan of integrated airport systems developed by the Federal Aviation Administration under section 47103 of such title;
 or
 - (B) is normally open to the public, is located within the confines of enhanced class B airspace (as defined by the Federal Aviation Administration in Notice to Airmen FDC 1/0618), and was closed as a result of an order issued by the Federal Aviation Administration in the period beginning Sep-

tember 11, 2001, and ending January 1, 2002, and remained closed as a result of that order on January 1, 2002.

Such term includes fixed based operators, flight schools, manufacturers of general aviation aircraft and products, persons engaged in nonscheduled aviation enterprises, and general aviation independent contractors.

(d) **AUTHORIZATION OF APPROPRIATIONS.**—There is authorized to be appropriated to carry out this section \$100,000,000. Such sums shall remain available until expended.

SEC. 432. IMPASSE PROCEDURES FOR NATIONAL ASSOCIATION OF AIR TRAFFIC SPECIALISTS.

(a) **FAILURE OF CURRENT NEGOTIATIONS.**—If, within 30 days after the date of enactment of this Act, the Federal Aviation Administration and the exclusive bargaining representative of the National Association of Air Traffic Specialists have failed to achieve agreement through a mediation process of the Federal Mediation and Conciliation Service, the current labor negotiation shall be treated for purposes of this section to have failed.

(b) **SUBMISSION TO IMPASSE PANEL.**—Not later than 30 days after the negotiation has failed under subsection (a), the parties to the negotiation shall submit unresolved issues to the Federal Service Impasses Panel described in section 7119(c) of title 5, United States Code, for final and binding resolution.

(c) **ASSISTANCE.**—The Panel shall render assistance to the parties in resolving their dispute in accordance with section 7119 of title 5, United States Code, and parts 2470 and 2471 of title 5, Code of Federal Regulations.

(d) **DETERMINATION.**—The Panel shall make a just and reasonable determination of the matters in dispute. In arriving at such determination, the Panel shall specify the basis for its findings, taking into consideration such relevant factors as are normally and customarily considered in the determination of wages or impasse Panel proceedings. The Panel shall also take into consideration the financial ability of the Administration to pay.

(e) **EFFECT OF PANEL DETERMINATION.**—The determination of the Panel shall be final and binding upon the parties for the period prescribed by the Panel or a period otherwise agreed to by the parties.

(f) **REVIEW.**—The determination of the Panel shall be subject to review in the manner prescribed in chapter 71 of title 5, United States Code.

SEC. 433. FAA INSPECTOR TRAINING.

(a) **STUDY.**—

(1) **IN GENERAL.**—The Comptroller General shall conduct a study of the training of the aviation safety inspectors of the Federal Aviation Administration (in this section referred to as “FAA inspectors”).

(2) **CONTENTS.**—The study shall include—

(A) an analysis of the type of training provided to FAA inspectors;

(B) actions that the Federal Aviation Administration has undertaken to ensure that FAA inspectors receive up-to-date training on the latest technologies;

(C) the extent of FAA inspector training provided by the aviation industry and whether such training is provided without charge or on a quid-pro-quo basis; and

(D) the amount of travel that is required of FAA inspectors in receiving training.

(3) **REPORT.**—Not later than 1 year after the date of enactment of this Act, the Comptroller General 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 results of the study.

(b) **SENSE OF THE HOUSE.**—It is the sense of the House of Representatives that—

(1) FAA inspectors should be encouraged to take the most up-to-date initial and recurrent training on the latest aviation technologies;

(2) FAA inspector training should have a direct relation to an individual’s job requirements; and

(3) if possible, a FAA inspector should be allowed to take training at the location most convenient for the inspector.

(c) **WORKLOAD OF INSPECTORS.**—

(1) **STUDY BY NATIONAL ACADEMY OF SCIENCES.**—Not later than 90 days after the date of enactment of this Act, the Administrator of the Federal Aviation Administration shall make appropriate arrangements for the National Academy of Sciences to conduct a study of the assumptions and methods used by the Federal Aviation Administration to estimate staffing standards for FAA inspectors to ensure proper oversight over the aviation industry, including the designee program.

(2) CONTENTS.—The study shall include the following:

(A) A suggested method of modifying FAA inspectors staffing models for application to current local conditions or applying some other approach to developing an objective staffing standard.

(B) The approximate cost and length of time for developing such models.

(3) REPORT.—Not later than 12 months after the initiation of the arrangements under subsection (a), the National Academy of Sciences shall transmit to Congress a report on the results of the study.

SEC. 434. PROHIBITION ON AIR TRAFFIC CONTROL PRIVATIZATION.

(a) IN GENERAL.—The Secretary of Transportation may not authorize the transfer of the air traffic separation and control functions operated by the Federal Aviation Administration on the date of enactment of this Act to a private entity or to a public entity other than the United States Government.

(b) CONTRACT TOWER PROGRAM.—Subsection (a) shall not apply to the contract tower program authorized by section 47124 of title 49, United States Code.

SEC. 435. AIRFARES FOR MEMBERS OF THE ARMED FORCES.

(a) FINDINGS.—Congress finds that—

(1) the Armed Forces is comprised of approximately 1,400,000 members who are stationed on active duty at more than 6,000 military bases in 146 different countries;

(2) the United States is indebted to the members of the Armed Forces, many of whom are in grave danger due to their engagement in, or exposure to, combat;

(3) military service, especially in the current war against terrorism, often requires members of the Armed Forces to be separated from their families on short notice, for long periods of time, and under very stressful conditions;

(4) the unique demands of military service often preclude members of the Armed Forces from purchasing discounted advance airline tickets in order to visit their loved ones at home; and

(5) it is the patriotic duty of the people of the United States to support the members of the Armed Forces who are defending the Nation's interests around the world at great personal sacrifice.

(b) SENSE OF CONGRESS.—It is the sense of Congress that each United States air carrier should—

(1) establish for all members of the Armed Forces on active duty reduced air fares that are comparable to the lowest airfare for ticketed flights; and

(2) offer flexible terms that allow members of the Armed Forces on active duty to purchase, modify, or cancel tickets without time restrictions, fees, and penalties.

SEC. 436. AIR CARRIERS REQUIRED TO HONOR TICKETS FOR SUSPENDED AIR SERVICE.

Section 145(c) of the Aviation and Transportation Security Act (49 U.S.C. 40101 note; 115 stat. 645) is amended by striking “more than” and all that follows through “after” and inserting “more than 36 months after”.

SEC. 437. INTERNATIONAL AIR SHOW.

(a) STUDY.—The Secretary of Transportation shall study the feasibility of the United States hosting a world-class international air show.

(b) REPORT.—Not later than 9 months after the date of enactment of this Act, the Secretary shall transmit to Congress a report on the results of the study conducted under subsection (a) together with recommendations concerning potential locations at which the air show could be held.

SEC. 438. DEFINITION OF AIR TRAFFIC CONTROLLER.

(a) CIVIL SERVICE RETIREMENT SYSTEM.—Section 8331 of title 5, United States Code, is amended—

(1) by striking “and” at the end of paragraph (27);

(2) by striking the period at the end of paragraph (28) and inserting “; and”; and

(3) by adding at the end the following:

“(29) ‘air traffic controller’ or ‘controller’ means—

“(A) a controller within the meaning of section 2109(1); and

“(B) a civilian employee of the Department of Transportation or the Department of Defense holding a supervisory, managerial, executive, technical, semiprofessional, or professional position for which experience as a controller (within the meaning of section 2109(1)) is a prerequisite.”.

(b) FEDERAL EMPLOYEES’ RETIREMENT SYSTEM.—Section 8401 of title 5, United States Code, is amended—

(1) by striking “and” at the end of paragraph (33);

- (2) by striking the period at the end of paragraph (34) and inserting “; and”; and
- (3) by adding at the end the following:
- “(35) ‘air traffic controller’ or ‘controller’ means—
- “(A) a controller within the meaning of section 2109(1); and
- “(B) a civilian employee of the Department of Transportation or the Department of Defense holding a supervisory, managerial, executive, technical, semiprofessional, or professional position for which experience as a controller (within the meaning of section 2109(1)) is a prerequisite.”.
- (c) MANDATORY SEPARATION TREATMENT NOT AFFECTED.—
- (1) CIVIL SERVICE RETIREMENT SYSTEM.—Section 8335(a) of title 5, United States Code, is amended by adding at the end the following: “For purposes of this subsection, the term ‘air traffic controller’ or ‘controller’ has the meaning given to it under section 8331(29)(A).”.
- (2) FEDERAL EMPLOYEES’ RETIREMENT SYSTEM.—Section 8425(a) of title 5, United States Code, is amended by adding at the end the following: “For purposes of this subsection, the term ‘air traffic controller’ or ‘controller’ has the meaning given to it under section 8401(35)(A).”.
- (d) EFFECTIVE DATE.—This section and the amendments made by this section—
- (1) shall take effect on the 60th day after the date of enactment of this Act; and
- (2) shall apply with respect to—
- (A) any annuity entitlement to which is based on an individual’s separation from service occurring on or after that 60th day; and
- (B) any service performed by any such individual before, on, or after that 60th day, subject to subsection (e).
- (e) DEPOSIT REQUIRED FOR CERTAIN PRIOR SERVICE TO BE CREDITABLE AS CONTROLLER SERVICE.—
- (1) DEPOSIT REQUIREMENT.—For purposes of determining eligibility for immediate retirement under section 8412(e) of title 5, United States Code, the amendment made by subsection (b) shall, with respect to any service described in paragraph (2), be disregarded unless there is deposited into the Civil Service Retirement and Disability Fund, with respect to such service, in such time, form, and manner as the Office of Personnel Management by regulation requires, an amount equal to the amount by which—
- (A) the deductions from pay which would have been required for such service if the amendments made by this section had been in effect when such service was performed, exceeds
- (B) the unrefunded deductions or deposits actually made under subchapter II of chapter 84 of such title 5 with respect to such service.
- The amount under the preceding sentence shall include interest, computed under paragraphs (2) and (3) of section 8334(e) of such title 5.
- (2) PRIOR SERVICE DESCRIBED.—This subsection applies with respect to any service performed by an individual, before the 60th day following the date of enactment of this Act, as an employee described in section 8401(35)(B) of such title 5 (as set forth in subsection (b)).

SEC. 439. JUSTIFICATION FOR AIR DEFENSE IDENTIFICATION ZONE.

(a) IN GENERAL.—If the Administrator of the Federal Aviation Administration establishes an Air Defense Identification Zone (in this section referred to as an “ADIZ”), the Administrator shall transmit, not later than 60 days after the date of establishing the ADIZ, 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 explanation of the need for the ADIZ. The Administrator also shall transmit to the Committees updates of the report every 60 days until the ADIZ is rescinded. The reports and updates shall be transmitted in classified form.

(b) EXISTING ADIZ.—If an ADIZ is in effect on the date of enactment of this Act, the Administrator shall transmit an initial report under subsection (a) not later than 30 days after such date of enactment.

(c) DEFINITION.—In this section, the terms “Air Defense Identification Zone” and “ADIZ” each mean a zone established by the Administrator with respect to airspace under 18,000 feet in approximately a 15- to 38-mile radius around Washington, District of Columbia, for which security measures are extended beyond the existing 15-mile no-fly zone around Washington and in which general aviation aircraft are required to adhere to certain procedures issued by the Administrator.

SEC. 440. INTERNATIONAL AIR TRANSPORTATION.

It is the sense of Congress that, in an effort to modernize its regulations, the Department of Transportation should formally define “Fifth Freedom” and “Seventh Freedom” consistently for both scheduled and charter passenger and cargo traffic.

SEC. 441. REIMBURSEMENT OF AIR CARRIERS FOR CERTAIN SCREENING AND RELATED ACTIVITIES.

The Secretary of Transportation, subject to the availability of funds (other than amounts in the Aviation Trust Fund) provided for this purpose, shall reimburse air carriers and airports for the following:

- (1) All screening and related activities that the air carriers or airports are still performing or continuing to be responsible for, including—
 - (A) the screening of catering supplies;
 - (B) checking documents at security checkpoints;
 - (C) screening of passengers; and
 - (D) screening of persons with access to aircraft.
- (2) The provision of space and facilities used to perform screening functions if such space and facilities have been previously used, or were intended to be used, for revenue-producing purposes.

SEC. 442. GENERAL AVIATION FLIGHTS AT RONALD REAGAN WASHINGTON NATIONAL AIRPORT.

It is the sense of Congress that Ronald Reagan Washington National Airport should be open to general aviation flights as soon as possible.

TITLE V—AIRPORT DEVELOPMENT

SEC. 501. DEFINITIONS.

(a) **IN GENERAL.**—Section 47102 is amended—

(1) by redesignating paragraphs (19) and (20) as paragraphs (24) and (25), respectively;

(2) by inserting after paragraph (18) the following:

“(23) ‘small hub airport’ means a commercial service airport that has at least 0.05 percent but less than 0.25 percent of the passenger boardings.”;

(3) in paragraph (10) by striking subparagraphs (A) and (B) and inserting following:

“(A) means, unless the context indicates otherwise, revenue passenger boardings in the United States in the prior calendar year on an aircraft in service in air commerce, as the Secretary determines under regulations the Secretary prescribes; and

“(B) includes passengers who continue on an aircraft in international flight that stops at an airport in the 48 contiguous States, Alaska, or Hawaii for a nontraffic purpose.”;

(4) by redesignating paragraphs (10) through (18) as paragraphs (14) through (22), respectively;

(5) by inserting after paragraph (9) the following:

“(10) ‘large hub airport’ means a commercial service airport that has at least 1.0 percent of the passenger boardings.

“(12) ‘medium hub airport’ means a commercial service airport that has at least 0.25 percent but less than 1.0 percent of the passenger boardings.

“(13) ‘nonhub airport’ means a commercial service airport that has less than 0.05 percent of the passenger boardings.”; and

(6) by striking paragraph (6) and inserting the following:

“(6) ‘amount made available under section 48103’ or ‘amount newly made available’ means the amount authorized for grants under section 48103 as that amount may be limited in that year by a subsequent law, but as determined without regard to grant obligation recoveries made in that year or amounts covered by section 47107(f).”.

(b) **CONFORMING AMENDMENT.**—Section 47116(b)(1) is amended by striking “(as defined in section 41731 of this title)”.

SEC. 502. REPLACEMENT OF BAGGAGE CONVEYOR SYSTEMS.

Section 47102(3)(B)(x) is amended by striking the period at the end and inserting the following: “; except that such activities shall be eligible for funding under this subchapter only using amounts apportioned under section 47114.”.

SEC. 503. SECURITY COSTS AT SMALL AIRPORTS.

(a) **SECURITY COSTS.**—Section 47102(3)(J) is amended to read as follows:

“(J) in the case of a nonhub airport or an airport that is not a primary airport in fiscal year 2004, direct costs associated with new, additional, or revised security requirements imposed on airport operators by law, regulation, or order on or after September 11, 2001, if the Government’s share is paid only from amounts apportioned to a sponsor under section 47114(c) or 47114(d)(3)(A).”

- (b) CONFORMING AMENDMENT.—Section 47110(b)(2) is amended—
 (1) in subparagraph (D) by striking “, 47102(3)(K), or 47102(3)(L)”; and
 (2) by aligning the margin of subparagraph (D) with the margin of subparagraph (B).

SEC. 504. WITHHOLDING OF PROGRAM APPLICATION APPROVAL.

Section 47106(d) is amended—

- (1) in paragraph (1) by striking “section 47114(c) and (e) of this title” and inserting “subsections (c), (d), and (e) of section 47114”; and
 (2) by adding at the end the following:
 “(4) If the Secretary withholds a grant to an airport from the discretionary fund under section 47115 or from the small airport fund under section 47116 on the grounds that the sponsor has violated an assurance or requirement of this subchapter, the Secretary shall follow the procedures of this subsection.”

SEC. 505. RUNWAY SAFETY AREAS.

Section 47106 is amended by adding at the end the following:

- “(h) RUNWAY SAFETY AREAS.—The Secretary may approve an application under this chapter for a project grant to construct, reconstruct, repair, or improve a runway only if the Secretary receives written assurances, satisfactory to the Secretary, that the sponsor will undertake, to the maximum extent practical, improvement of the runway’s safety area to meet the standards of the Federal Aviation Administration.”

SEC. 506. DISPOSITION OF LAND ACQUIRED FOR NOISE COMPATIBILITY PURPOSES.

Section 47107(c) is amended by adding at the end the following:

- “(4) Notwithstanding paragraph (2)(A)(iii), an airport owner or operator may retain all or any portion of the proceeds from a land disposition described in that paragraph if the Secretary finds that the use of the land will be compatible with airport purposes and the proceeds retained will be used for airport development or to carry out a noise compatibility program under section 47504(c).”

SEC. 507. GRANT ASSURANCES.

(a) HANGAR CONSTRUCTION.—Section 47107(a) is amended—

- (1) by striking “and” at the end of paragraph (19);
 (2) by striking the period at the end of paragraph (20) and inserting “; and”;
 and
 (3) by adding at the end the following:
 “(21) if the airport owner or operator and a person who owns an aircraft agree that a hangar is to be constructed at the airport for the aircraft at the aircraft owner’s expense, the airport owner or operator will grant to the aircraft owner for the hangar a long-term lease (of not less than 50 years) that is subject to such terms and conditions on the hangar as the airport owner or operator may impose.”

(b) STATUTE OF LIMITATIONS.—Section 47107(1)(5)(A) is amended by inserting “or any other governmental entity” after “sponsor”.

(c) AUDIT CERTIFICATION.—Section 47107(m) is amended—

- (1) in paragraph (1) by striking “promulgate regulations that” and inserting “include a provision in the compliance supplement provisions to”;
 (2) in paragraph (1) by striking “and opinion of the review”; and
 (3) by striking paragraph (3).

SEC. 508. ALLOWABLE PROJECT COSTS.

(a) CONSTRUCTION OR MODIFICATION OF PUBLIC PARKING FACILITIES FOR SECURITY PURPOSES.—Section 47110 is amended—

- (1) in subsection (f) by striking “subsection (d)” and inserting “subsections (d) and (h)”; and
 (2) by adding at the end the following:

“(h) CONSTRUCTION OR MODIFICATION OF PUBLIC PARKING FACILITIES FOR SECURITY PURPOSES.—Notwithstanding subsection (f)(1), a cost of constructing or modifying a public parking facility for passenger automobiles to comply with a regulation or directive of the Department of Homeland Security shall be treated as an allowable airport development project cost.”

(b) DEBT FINANCING.—Section 47110 is further amended by adding at the end the following:

“(i) DEBT FINANCING.—In the case of an airport that is not a medium hub airport or large hub airport, the Secretary may determine that allowable airport development project costs include payments of interest, commercial bond insurance, and other credit enhancement costs associated with a bond issue to finance the project.”.

(c) CLARIFICATION OF ALLOWABLE COSTS.—Section 47110(b)(1) is amended by inserting before the semicolon at the end “and any cost of moving a Federal facility impeding the project if the rebuilt facility is of an equivalent size and type”.

(d) TECHNICAL AMENDMENTS.—Section 47110(e) is amended by aligning the margin of paragraph (6) with the margin of paragraph (5).

SEC. 509. APPORTIONMENTS TO PRIMARY AIRPORTS.

(a) FORMULA CHANGES.—Section 47114(c)(1)(A) is amended by striking clauses (iv) and (v) and by inserting the following:

“(iv) \$.65 for each of the next 500,000 passenger boardings at the airport during the prior calendar year;

“(v) \$.50 cents for each of the next 2,500,000 passenger boardings at the airport during the prior calendar year; and

“(vi) \$.45 cents for each additional passenger boarding at the airport during the prior calendar year.”.

(b) SPECIAL RULE FOR FISCAL YEARS 2004 AND 2005.—Section 47114(c)(1) is amended by adding at the end the following:

“(F) SPECIAL RULE FOR FISCAL YEARS 2004 AND 2005.—Notwithstanding subparagraph (A) and the absence of scheduled passenger aircraft service at an airport, the Secretary may apportion in fiscal years 2004 and 2005 to the sponsor of the airport an amount equal to the amount apportioned to that sponsor in fiscal year 2002 or 2003, whichever amount is greater, if the Secretary finds that—

“(i) the passenger boardings at the airport were below 10,000 in calendar year 2002;

“(ii) the airport had at least 10,000 passenger boardings and scheduled passenger aircraft service in either calendar year 2000 or 2001; and

“(iii) the reason that passenger boardings described in clause (i) were below 10,000 was the decrease in passengers following the terrorist attacks of September 11, 2001.”.

SEC. 510. CARGO AIRPORTS.

Section 47114(c)(2) is amended—

(1) in the paragraph heading by striking “ONLY”; and

(2) in subparagraph (A) by striking “3 percent” and inserting “3.5 percent”.

SEC. 511. CONSIDERATIONS IN MAKING DISCRETIONARY GRANTS.

Section 47115(d) is amended to read as follows:

“(d) CONSIDERATIONS.—

“(1) FOR CAPACITY ENHANCEMENT PROJECTS.—In selecting a project for a grant to preserve and improve capacity funded in whole or in part from the fund, the Secretary shall consider—

“(A) the effect that the project will have on overall national transportation system capacity;

“(B) the benefit and cost of the project, including, in the case of a project at a reliever airport, the number of operations projected to be diverted from a primary airport to the reliever airport as a result of the project, as well as the cost savings projected to be realized by users of the local airport system;

“(C) the financial commitment from non-United States Government sources to preserve or improve airport capacity;

“(D) the airport improvement priorities of the States to the extent such priorities are not in conflict with subparagraphs (A) and (B); and

“(E) the projected growth in the number of passengers or aircraft that will be using the airport at which the project will be carried out.

“(2) FOR ALL PROJECTS.—In selecting a project for a grant described in paragraph (1), the Secretary shall consider whether—

“(A) funding has been provided for all other projects qualifying for funding during the fiscal year under this chapter that have attained a higher score under the numerical priority system employed by the Secretary in administering the fund; and

“(B) the sponsor will be able to commence the work identified in the project application in the fiscal year in which the grant is made or within 6 months after the grant is made, whichever is later.”.

SEC. 512. FLEXIBLE FUNDING FOR NONPRIMARY AIRPORT APPORTIONMENTS.

- (a) **IN GENERAL.**—Section 47117(c) is amended to read as follows:
- “(c) **USE OF SPONSOR’S APPORTIONED AMOUNTS AT PUBLIC USE AIRPORTS.**—
- “(1) **OF SPONSOR.**—An amount apportioned to a sponsor of an airport under section 47114(c) or 47114(d)(3)(A) is available for grants for any public-use airport of the sponsor included in the national plan of integrated airport systems.
- “(2) **IN SAME STATE OR AREA.**—A sponsor of an airport may make an agreement with the Secretary of Transportation waiving the sponsor’s claim to any part of the amount apportioned for the airport under section 47114(c) or 47114(d)(3)(A) if the Secretary agrees to make the waived amount available for a grant for another public-use airport in the same State or geographical area as the airport, as determined by the Secretary.”.
- (b) **PROJECT GRANT AGREEMENTS.**—Section 47108(a) is amended by inserting “or 47114(d)(3)(A)” after “under section 47114(c)”.
- (c) **ALLOWABLE PROJECT COSTS.**—Section 47110 is further amended—
- (1) in subsection (b)(2)(C) by striking “of this title” and inserting “or section 47114(d)(3)(A)”;
- (2) in subsection (g)—
- (A) by inserting “or section 47114(d)(3)(A)” after “of section 47114(c)”;
- (B) by striking “of project” and inserting “of the project”;
- (3) by adding at the end the following:
- “(j) **NONPRIMARY AIRPORTS.**—The Secretary may decide that the costs of revenue producing aeronautical support facilities, including fuel farms and hangars, are allowable for an airport development project at a nonprimary airport if the Government’s share of such costs is paid only with funds apportioned to the airport sponsor under section 47114(d)(3)(A) and if the Secretary determines that the sponsor has made adequate provision for financing airside needs of the airport.”.
- (d) **TERMINAL DEVELOPMENT COSTS.**—Section 47119(b) is amended—
- (1) by striking “or” at the end of paragraph (3);
- (2) by striking the period at the end of paragraph (4) and inserting “; or”;
- (3) by adding at the end the following:
- “(5) to a sponsor of a nonprimary airport, any part of amounts apportioned to the sponsor for the fiscal year under section 47114(d)(3)(A) for project costs allowable under section 47110(d).”.

SEC. 513. USE OF APPORTIONED AMOUNTS.

- (a) **SPECIAL APPORTIONMENT CATEGORIES.**—Section 47117(e)(1)(A) is amended—
- (1) by striking “of this title” the first place it appears and inserting a comma; and
- (2) by striking “of this title” the second place it appears and inserting “, for noise mitigation projects approved in an environmental record of decision for an airport development project under this title, for compatible land use planning and projects carried out by State and local governments under section 47140, and for airport development described in section 47102(3)(F) or 47102(3)(K) to comply with the Clean Air Act (42 U.S.C. 7401 et seq.)”.
- (b) **ELIMINATION OF SUPER RELIEVER SET-ASIDE.**—Section 47117(e)(1)(C) is repealed.
- (c) **RECOVERED FUNDS.**—Section 47117 is further amended by adding at the end the following:
- “(h) **TREATMENT OF CANCELED OR REDUCED GRANT OBLIGATIONS.**—For the purpose of determining compliance with a limitation, enacted in an appropriations Act, on the amount of grant obligations of funds made available by section 48103 that may be incurred in a fiscal year, an amount that is recovered by canceling or reducing a grant obligation of funds made available by section 48103 shall be treated as a negative obligation that is to be netted against the obligation limitation as enacted and thus may permit the obligation limitation to be exceeded by an equal amount.”.

SEC. 514. MILITARY AIRPORT PROGRAM.

Subsections (e) and (f) of section 47118 are each amended by striking “\$7,000,000” and inserting “\$10,000,000”.

SEC. 515. TERMINAL DEVELOPMENT COSTS.

Section 47119(a) is amended to read as follows:

“(a) **REPAYING BORROWED MONEY.**—

“(1) **TERMINAL DEVELOPMENT COSTS INCURRED AFTER JUNE 30, 1970, AND BEFORE JULY 12, 1976.**—An amount apportioned under section 47114 and made available to the sponsor of a commercial service airport at which terminal development was carried out after June 30, 1970, and before July 12, 1976, is available to repay immediately money borrowed and used to pay the costs for such

terminal development if those costs would be allowable project costs under section 47110(d) if they had been incurred after September 3, 1982.

“(2) TERMINAL DEVELOPMENT COSTS INCURRED BETWEEN JANUARY 1, 1992, AND OCTOBER 31, 1992.—An amount apportioned under section 47114 and made available to the sponsor of a nonhub airport at which terminal development was carried out between January 1, 1992, and October 31, 1992, is available to repay immediately money borrowed and to pay the costs for such terminal development if those costs would be allowable project costs under section 47110(d).

“(3) TERMINAL DEVELOPMENT COSTS AT PRIMARY AIRPORTS.—An amount apportioned under section 47114 or available under subsection (b)(3) to a primary airport—

“(A) that was a nonhub airport in the most recent year used to calculate apportionments under section 47114;

“(B) that is a designated airport under section 47118 in fiscal year 2003; and

“(C) at which terminal development is carried out between January 2003 and August 2004,

is available to repay immediately money borrowed and used to pay the costs for such terminal development if those costs would be allowable project costs under section 47110(d).

“(4) CONDITIONS FOR GRANT.—An amount is available for a grant under this subsection only if—

“(A) the sponsor submits the certification required under section 47110(d);

“(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; and

“(C) amounts available for airport development under this subchapter will not be used for additional terminal development projects at the airport for at least 3 years beginning on the date the grant is used to repay the borrowed money.

“(5) APPLICABILITY OF CERTAIN LIMITATIONS.—A grant under this subsection shall be subject to the limitations in subsection (b)(1) and (2).”.

SEC. 516. CONTRACT TOWERS.

Section 47124(b) is amended—

(1) in paragraph (1) by striking “on December 30, 1987,” and inserting “on date of enactment of the Flight 100—Century of Aviation Reauthorization Act”;

(2) in the heading for paragraph (3) by striking “PILOT”;

(3) in paragraph (4)(C) by striking “\$1,100,000” and inserting “\$1,500,000”; and

(4) by striking “pilot” each place it appears.

SEC. 517. AIRPORT SAFETY DATA COLLECTION.

Section 47130 is amended to read as follows:

“§ 47130. Airport safety data collection

“Notwithstanding any other provision of law, the Administrator of the Federal Aviation Administration may award a contract, using sole source or limited source authority, or enter into a cooperative agreement with, or provide a grant from amounts made available under section 48103 to, a private company or entity for the collection of airport safety data. In the event that a grant is provided under this section, the United States Government’s share of the cost of the data collection shall be 100 percent.”.

SEC. 518. AIRPORT PRIVATIZATION PILOT PROGRAM.

(a) IN GENERAL.—Section 47134(b)(1) is amended—

(1) in subparagraph (A) by striking clauses (i) and (ii) and inserting the following:

“(i) in the case of a primary airport, by at least 65 percent of the scheduled air carriers serving the airport and by scheduled and non-scheduled air carriers whose aircraft landing at the airport during the preceding calendar year, had a total landed weight during the preceding calendar year of at least 65 percent of the total landed weight of all aircraft landing at the airport during such year; or

“(ii) by the Secretary at any nonprimary airport after the airport has consulted with at least 65 percent of the owners of aircraft based at that airport, as determined by the Secretary.”;

(2) by redesignating subparagraph (B) as subparagraph (C); and

(3) by inserting after subparagraph (A) the following:

“(B) OBJECTION TO EXEMPTION.—An air carrier shall be deemed to have approved a sponsor’s application for an exemption under subparagraph (A) unless the air carrier has submitted an objection, in writing, to the sponsor within 60 days of the filing of the sponsor’s application with the Secretary, or within 60 days of the service of the application upon that air carrier, whichever is later.”.

- (b) FEDERAL SHARE.—Section 47109(a) is amended—
 (1) by inserting “and” at the end of paragraph (3);
 (2) by striking paragraph (4); and
 (3) by redesignating paragraph (5) as paragraph (4).

SEC. 519. INNOVATIVE FINANCING TECHNIQUES.

- (a) ELIGIBLE PROJECTS.—Section 47135(a) is amended—
 (1) in the first sentence by inserting after “approve” the following: “after the date of enactment of the Flight 100—Century of Aviation Reauthorization Act”;
 (2) in the first sentence by striking “20” and inserting “10”; and
 (3) by striking the second sentence and inserting the following: “Such projects shall be located at airports that are not medium or large hub airports.”.
 (b) INNOVATIVE FINANCING TECHNIQUES.—Section 47135(c)(2) is amended—
 (1) by striking subparagraphs (A) and (B); and
 (2) by redesignating subparagraphs (C) and (D) as subparagraphs (A) and (B), respectively.
 (c) SAVINGS CLAUSE.—The amendments made by this section shall not affect applications approved under section 47135 of title 49, United States Code, before the date of enactment of this Act.

SEC. 520. AIRPORT SECURITY PROGRAM.

Section 47137 is amended—

- (1) by redesignating subsections (e) and (f) as subsections (f) and (g), respectively; and
 (2) by inserting after subsection (d) the following:
 “(e) ADMINISTRATION.—The Secretary, in cooperation with the Secretary of Homeland Security, shall administer the program authorized by this section.”.

SEC. 521. LOW-EMISSION AIRPORT VEHICLES AND INFRASTRUCTURE.

- (a) EMISSIONS CREDITS.—Subchapter I of chapter 471 is amended by adding at the end the following:

“§ 47138. Emission credits for air quality projects

“(a) IN GENERAL.—The Secretary of Transportation and the Administrator of the Environmental Protection Agency shall jointly agree on how to assure that airport sponsors receive appropriate emission credits for carrying out projects described in sections 40117(a)(3)(G), 47102(3)(K), and 47102(3)(L). Such agreement must include, at a minimum, the following conditions:

“(1) The provision of credits is consistent with the Clean Air Act (42 U.S.C. 7402 et seq.).

“(2) Credits generated by the emissions reductions are kept by the airport sponsor and may only be used for purposes of any current or future general conformity determination under the Clean Air Act or as offsets under the Environmental Protection Agency’s new source review program for projects on the airport or associated with the airport.

“(3) Credits are calculated and provided to airports on a consistent basis nationwide.

“(4) Credits are provided to airport sponsors in a timely manner.

“(5) The establishment of a method to assure the Secretary that, for any specific airport project for which funding is being requested, the appropriate credits will be granted.

“(b) ASSURANCE OF RECEIPT OF CREDITS.—

“(1) IN GENERAL.—As a condition for making a grant for a project described in section 47102(3)(K), 47102(3)(L), or 47139 or as a condition for granting approval to collect or use a passenger facility fee for a project described in section 40117(a)(3)(G), 47102(3)(K), 47102(3)(L), or 47139, the Secretary must receive assurance from the State in which the project is located, or from the Administrator of the Environmental Protection Agency where there is a Federal implementation plan, that the airport sponsor will receive appropriate emission credits in accordance with the conditions of this section.

“(2) AGREEMENT ON PREVIOUSLY APPROVED PROJECTS.—The Secretary and the Administrator of the Environmental Protection Agency shall jointly agree on how to provide emission credits to airport projects previously approved under

section 47136 under terms consistent with the conditions enumerated in this section.”.

(b) AIRPORT GROUND SUPPORT EQUIPMENT EMISSIONS RETROFIT PILOT PROGRAM.—Subchapter I of chapter 471 is further amended by adding at the end the following:

“§ 47139. Airport ground support equipment emissions retrofit pilot program

“(a) IN GENERAL.—The Secretary of Transportation shall carry out a pilot program at not more than 10 commercial service airports under which the sponsors of such airports may use an amount made available under section 48103 to retrofit existing eligible airport ground support equipment that burns conventional fuels to achieve lower emissions utilizing emission control technologies certified or verified by the Environmental Protection Agency.

“(b) LOCATION IN AIR QUALITY NONATTAINMENT OR MAINTENANCE AREAS.—A commercial service 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(2))) or a maintenance area referred to in section 175A of such Act (42 U.S.C. 7505a).

“(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) MAXIMUM AMOUNT.—Not more than \$500,000 may be expended under the pilot program at any single commercial service airport.

“(e) GUIDELINES.—The Secretary, in consultation with the Administrator of the Environmental Protection Agency, shall establish guidelines regarding the types of retrofit projects eligible under the pilot program by considering remaining equipment useful life, amounts of emission reduction in relation to the cost of projects, and other factors necessary to carry out this section. The Secretary may give priority to ground support equipment owned by the airport and used for airport purposes.

“(f) ELIGIBLE EQUIPMENT DEFINED.—In this section, the term ‘eligible equipment’ means ground service or maintenance equipment that is located at the airport, is used to support aeronautical and related activities at the airport, and will remain in operation at the airport for the life or useful life of the equipment, whichever is earlier.”.

(c) ADDITION TO AIRPORT DEVELOPMENT.—Section 47102(3) is further amended by striking subparagraphs (K) and (L) and inserting the following:

“(K) work necessary to construct or modify airport facilities to provide low-emission fuel systems, gate electrification, and other related air quality improvements at a commercial service airport if the airport is located in an air quality nonattainment or maintenance area (as defined in sections 171(2) and 175A of the Clean Air Act (42 U.S.C. 7501(2), 7505a) and if such project will result in an airport receiving appropriate emission credits, as described in section 47138.

“(L) converting vehicles and ground support equipment owned by a commercial service airport to low-emission technology or acquiring for use at a commercial service airport vehicles and ground support equipment that include low-emission technology 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(2))) or a maintenance area referred to in section 175A of such Act (42 U.S.C. 7505a) and if such project will result in an airport receiving appropriate emission credits as described in section 47138.”.

(d) ALLOWABLE PROJECT COST.—Section 47110(b) is further amended—

(1) by striking “and” at the end of paragraph (4);

(2) by striking the period at the end of paragraph (5) and inserting “; and”; and

(3) by adding at the end the following:

“(6) in the case of a project for acquiring for use at a commercial service airport vehicles and ground support equipment owned by an airport that is not described in section 47102(3) and that include low-emission technology, if the total costs allowed for the project are not more than the incremental cost of equipping such vehicles or equipment with low-emission technology, as determined by the Secretary.”.

(e) LOW-EMISSION TECHNOLOGY EQUIPMENT.—Section 47102 (as amended by section 501 of this Act) is further amended by inserting after paragraph (10) the following:

“(11) ‘low-emission technology’ means technology for vehicles and equipment whose emission performance is the best achievable under emission standards established by the Environmental Protection Agency and that relies exclusively on alternative fuels that are substantially non-petroleum based, as defined by the Department of Energy, but not excluding hybrid systems or natural gas powered vehicles.”.

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

“47138. Emission credits for air quality projects.

“47139. Airport ground support equipment emissions retrofit pilot program.”.

SEC. 522. COMPATIBLE LAND USE PLANNING AND PROJECTS BY STATE AND LOCAL GOVERNMENTS.

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

“§ 47140. Compatible land use planning and projects by State and local governments

“(a) IN GENERAL.—The Secretary of Transportation may make grants from amounts set aside under section 47117(e)(1)(A) to States and units of local government for land use compatibility plans or projects resulting from those plans for the purposes of making the use of land areas around large hub airports and medium hub airports compatible with aircraft operations if—

“(1) the airport operator has not submitted a noise compatibility program to the Secretary under section 47504 or has not updated such program within the past 10 years; and

“(2) the land use plan meets the requirements of this section and any project resulting from the plan meets such requirements.

“(b) ELIGIBILITY.—In order to receive a grant under this section, a State or unit of local government must—

“(1) have the authority to plan and adopt land use control measures, including zoning, in the planning area in and around a large or medium hub airport;

“(2) provide written assurance to the Secretary that it will work with the affected airport to identify and adopt such measures; and

“(3) provide written assurance to the Secretary that it will achieve, to the maximum extent possible, compatible land uses consistent with Federal land use compatibility criteria under section 47502(3) and that those compatible land uses will be maintained.

“(c) ASSURANCES.—The Secretary shall require a State or unit of local government to which a grant may be awarded under this section for a land use plan or a project resulting from such a plan to provide—

“(1) assurances satisfactory to the Secretary that the plan—

“(A) is reasonably consistent with the goal of reducing existing non-compatible land uses and preventing the introduction of additional non-compatible land uses;

“(B) addresses ways to achieve and maintain compatible land uses, including zoning, building codes, and any other projects under section 47504(a)(2) that are within the authority of the State or unit of local government to implement;

“(C) uses noise contours provided by the airport operator that are consistent with the airport operation and planning, including any noise abatement measures adopted by the airport operator as part of its own noise mitigation efforts;

“(D) does not duplicate, and is not inconsistent with, the airport operator’s noise compatibility measures for the same area; and

“(E) has received concurrence by the airport operator prior to adoption by the State or unit of local government; and

“(2) such other assurances as the Secretary determines to be necessary to carry out this section.

“(d) GUIDELINES.—The Secretary shall establish guidelines to administer this section in accordance with the purposes and conditions described in this section. The Secretary may require the State or unit of local government to which a grant may be awarded under this section to provide progress reports and other information as the Secretary determines to be necessary to carry out this section.

“(e) ELIGIBLE PROJECTS.—The Secretary may approve a grant under this section to a State or unit of local government for a land use compatibility project only if the Secretary is satisfied that the project is consistent with the guidelines established by the Secretary under this section, that the State or unit of local government has provided the assurances required by this section, that the Secretary has received evidence that the State or unit of local government has implemented (or has

made provision to implement) those elements of the plan that are not eligible for Federal financial assistance, and that the project is not inconsistent with Federal standards.

“(f) SUNSET.—This section shall not be in effect after September 30, 2007.”

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

“47140. Compatible land use planning and projects by State and local governments.”.

SEC. 523. PROHIBITION ON REQUIRING AIRPORTS TO PROVIDE RENT-FREE SPACE FOR FEDERAL AVIATION ADMINISTRATION.

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

“§ 47141. Prohibition on rent-free space requirements for Federal Aviation Administration

“(a) IN GENERAL.—The Secretary of Transportation may not require an airport sponsor to provide to the Federal Aviation Administration, without compensation, space in a building owned by the sponsor and costs associated with such space for building construction, maintenance, utilities, and other expenses.

“(b) NEGOTIATED AGREEMENTS.—Subsection (a) does not prohibit—

“(1) the negotiation of agreements between the Secretary and an airport sponsor to provide building construction, maintenance, utilities and expenses, or space in airport sponsor-owned buildings to the Federal Aviation Administration without cost or at below-market rates; or

“(2) the Secretary of Transportation from requiring airport sponsors to provide land without cost to the Federal Aviation Administration for air traffic control facilities.”.

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

“47141. Prohibition on rent-free space requirements for Federal Aviation Administration.”.

SEC. 524. MIDWAY ISLAND AIRPORT.

(a) FINDINGS.—Congress finds that the continued operation of the Midway Island Airport in accordance with the standards of the Federal Aviation Administration applicable to commercial airports is critical to the safety of commercial, military, and general aviation in the mid-Pacific Ocean region.

(b) MEMORANDUM OF UNDERSTANDING ON SALE OF AIRCRAFT FUEL.—The Secretary of Transportation shall enter into a memorandum of understanding with the Secretaries of Defense, Interior, and Homeland Security to facilitate the sale of aircraft fuel on Midway Island at a price that will generate sufficient revenue to improve the ability of the airport to operate on a self-sustaining basis in accordance with the standards of the Federal Aviation Administration applicable to commercial airports. The memorandum shall also address the long-range potential of promoting tourism as a means to generate revenue to operate the airport.

(c) TRANSFER OF NAVIGATION AIDS AT MIDWAY ISLAND AIRPORT.—The Midway Island Airport may transfer, without consideration, to the Administrator the navigation aids at the airport. The Administrator shall accept the navigation aids and operate and maintain the navigation aids under criteria of the Administrator.

(d) FUNDING TO THE SECRETARY OF INTERIOR FOR MIDWAY ISLAND AIRPORT.—

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

“§ 48114. Funding to the Secretary of Interior for Midway Island Airport

“The following amounts shall be available (and shall remain available until expended) to the Secretary of Interior, out of the Airport and Airway Trust Fund established under section 9502 of the Internal Revenue Code of 1986 (26 U.S.C. 9502), for airport capital projects at the Midway Island Airport:

“(1) \$750,000 for fiscal year 2004.

“(2) \$2,500,000 for fiscal year 2005.

“(3) \$1,000,000 for fiscal year 2006.

“(4) \$1,000,000 for fiscal year 2007.”.

(2) CONFORMING AMENDMENT.—The analysis for chapter 481 is amended by adding at the end the following:

“48114. Funding to the Secretary of Interior for Midway Island Airport.”.

PURPOSE OF THE LEGISLATION

The reported bill reauthorizes programs of the Federal Aviation Administration and makes a number of changes in aviation laws

in order to increase the safety, efficiency, and capacity of the aviation system.

BACKGROUND AND NEED FOR THE LEGISLATION

The Airport Improvement Program (AIP) is a contract authority program. If it is not reauthorized by September 30th of this year, airports will not be able to receive any grants from the Aviation Trust Fund after that date. This sets AIP apart from the other programs funded from the Trust Fund. While the other programs should be reauthorized as well, they can receive money as long as an appropriations act is passed.

Programs providing federal aid to airports began in 1946 and have been modified several times. The Aviation Trust Fund was created in 1970. The current AIP program began in 1982.

The Airport Improvement Program (AIP) is funded entirely by the Airport & Airway Trust Fund. The Trust Fund, in turn, is supported entirely by the following taxes on aviation users:

- 7.5% passenger ticket tax;
- \$3 passenger flight segment fee (does not apply to passengers departing from a rural airport which are defined as those that have less than 100,000 passengers per year);
- 6.25% freight waybill tax;
- \$13.40 international departure and arrival taxes;
- 7.5% 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.

According to the President's budget, these taxes raised about \$9 billion in 2002 in the following amounts:

- \$4.8 billion from the passenger ticket taxes;
- \$1.5 billion from the passenger flight segment fee;
- \$474 million from the freight waybill tax;
- \$789 million from the various aviation fuel taxes;
- \$1.3 billion from the international departure and arrival taxes; and
- \$148 million from frequent flyer award tax.

The Aviation Trust Fund continues to earn interest on its cash balance, which was \$12.6 billion at the beginning of this fiscal year. Interest revenue in 2002 was about \$860 million. This means that Trust Fund tax and interest revenue together with various off-setting collections totaled about \$10.1 billion last year. The President's budget projects that Trust Fund revenue will increase to \$10.2 billion in 2003 and to \$11.1 billion in 2004.

In addition to the 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 reported bill does not include any provisions involving aviation research. The Fund also partially pays for the salaries, expenses, and operations of the FAA. In 2003, these programs should receive the following amounts from the Trust Fund:

- Airport Improvement Program—\$3.4 billion;
- Facilities and Equipment—\$3 billion;
- Research and Development—\$124 million; and

- FAA Operations—\$3.9 billion from the Trust Fund (the remainder of the \$7.2 billion FAA operating budget comes from the General Fund).

AIR 21 procedural protections. When it was created in 1970, the Trust Fund was intended as a fund to pay for improvements to the aviation infrastructure. For many years, the Transportation and Infrastructure Committee and the aviation community had sought to ensure that the money aviation users paid into the Trust Fund would actually be used for aviation infrastructure improvements. However, this was not usually done because Trust Fund spending was counted as part of the general budget so every dollar spent from the Trust Fund increased the deficit or reduced the surplus.

As a result of this chronic underfunding, the uncommitted balance in the Trust Fund continued to grow, reaching a peak of \$7.7 billion in 1991. This meant that there were billions of dollars in the Trust Fund unused even though there were significant needs to expand airport capacity and modernize the air traffic control system. This surplus was reduced by spending more Trust Fund money on FAA Operations despite formulas in the law that were intended to give priority to the capital programs.

In the 1980s and 1990s, legislation was introduced to take the aviation trust fund off budget. But none was enacted.

In 1999, another effort was launched to unlock the Trust Fund. This culminated in the enactment on April 5, 2000 of the Wendell H. Ford Aviation Investment and Reform Act for the 21st Century (Public Law 106–181), commonly known as AIR 21. While the Trust Fund remained on budget, AIR 21, through a series of procedural points of order, ensured that every dollar aviation users pay into the Trust Fund is actually spent on aviation programs.

Section 106 of AIR 21 (114 Stat. 72) requires (1) that the total amount available for spending from the Trust Fund each year is equal to the Trust Fund receipts plus interest as estimated by the President's budget for that year and (2) that the total spending on the two major capital programs (AIP and F&E) must be at authorized levels. If an appropriations bill is brought to the House or Senate that does not meet these two requirements, any Member can make a point of order against it and the bill may not be considered in that form.

As a result of AIR 21, spending on aviation infrastructure has increased dramatically. AIP increased from \$1.9 billion in 2000 to \$3.2 billion in 2001 and F&E increased from \$2 billion to \$2.7 billion.

The Trust Fund share of FAA's operating account varies from year to year depending on Trust Fund receipts and the amount spent on the capital programs. The Trust Fund share is calculated by subtracting from total Trust Fund receipts and interest, the amount spent on the capital programs (AIP, F&E, and Research).

The uncommitted balance in the Trust Fund is now \$4.8 billion.

An important feature of the reported bill is that the procedural protections adopted in AIR 21 are continued. Section 104(d) extends these procedural protections for another 4 years.

AIP formula. There are approximately 19,000 airports in the United States. Of those, 5,314 are open to the public. The FAA's National Plan of Integrated Airport System (NPIAS) identifies

3,489 airports that are significant to the national aviation system and are eligible for AIP grants.

The AIP grants are distributed by formulas that are set forth in the law. In a recent report, the General Accounting Office found that FAA was doing a good job of awarding the grants in accordance with the statutory formulas (GAO-02-283, April 2002). These formulas are described below.

Passenger entitlements. The law divides AIP money into two broad categories: entitlement funds and discretionary funds. Entitlement funds are further divided into four sub-categories. They are—

- Primary airport entitlements;
- Cargo airport entitlements;
- State and general aviation entitlements; and
- Alaskan airport entitlements.

If a public airport has scheduled passenger 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;
- \$2.60 for each of the next 400,000 passengers boarded;
- 65 cents for each of the next 500,000 passengers boarded;

and

- 50 cents for each additional passenger boarded.

Regardless of the number of passengers boarded, the minimum entitlement is \$1,000,000 per year and no primary airport is entitled to more than \$26 million per year.

Large and medium hub airports that choose to collect a \$3 passenger facility charge (PFC) receive only half their entitlement. Those that charge a PFC of either \$4 or \$4.50 receive only 25% of 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. An airport can retain the right to receive its entitlement money for 3 years (4 years in the case of smaller airports that are classified as non-hub airports). Entitlement money deferred to a later year is referred to as carryover entitlement.

The Administration proposed reducing this entitlement in half for the medium and large hub airports (currently the 66 largest airports in the U.S.) to provide more money for discretionary grants.

The Committee supports the goal of this initiative but believes a 50% cut is too severe. Instead, the reported bill adjusts the formula described above by reducing by 5 cents the entitlement for each passenger above 3.5 million. This will affect the top 50 airports. The money thus saved would go into the discretionary fund to be spent on high priority projects, many of which are likely to be at some of these same 50 airports.

Additionally, in recognition of the unusual situation following the September 11th tragedy, the reported bill allows airports that no longer qualify as primary airports to continue to receive their passenger entitlement for 2 years.

There are 437 primary airports. This year, FAA estimates that the passenger entitlement will total about \$962 million. Under the bill, as reported by the Committee, it will total about \$932 million.

Cargo entitlement. Cargo service airports include airports that: (1) are served by cargo-only (freighter) aircraft with a total annual landed weight of more than 100 million pounds; and (2) other airports that DOT finds will be served primarily by freighter aircraft. These airports are entitled to share money that equals 3% of total AIP funds. A cargo service airport shares in this money in proportion to which the total landed weight of cargo-only aircraft landing at an airport is to the total landed weight of such aircraft at all cargo service airports. Landed weight means the weight of aircraft transporting only cargo under regulations prescribed by the Secretary of Transportation.

There are 111 airports that qualify for the cargo entitlement and they will receive \$97 million this year in proportion to their cargo aircrafts' landed weight.

The reported bill increases the cargo entitlement to 3.5% of total AIP funds in recognition of the important role these airports play in the commerce of this country. As a result, the cargo entitlement will increase to \$119 million.

State entitlement/general aviation. General aviation airports share 20% of total AIP funds. These are airports that are used by private planes or that have only limited commercial airline service (less than 10,000 passengers per year).

Each general aviation airport is entitled to receive the amount of money needed for their planned development as listed in the FAA's national plan known as the National Plan of Integrated Airport Systems (NPIAS). The amount of this entitlement is limited to \$150,000 per year per airport.

The remaining money is allocated to the States by a formula that takes into account the population and area of each State. General aviation airports that are seeking AIP money from this allocation usually apply directly to the FAA. Some States require their airports to channel their AIP applications through the State aviation agency. The FAA then decides which airports will get the money. Nine States (Illinois, Michigan, Missouri, New Jersey, North Carolina, Pennsylvania, Tennessee, Texas, and Wisconsin) participate in the State Block Grant program. FAA is authorized to select another State for this program. Under this program, the FAA gives the State aviation agency more responsibility to manage its AIP allocation and the State, not the FAA, decides which general aviation airports will receive grants. States that participate in the State Block Grant program do not receive more money but they do get more control over how it is distributed to airports in their State.

This entitlement is not changed by the reported bill and is estimated to total about \$680 million.

Alaska entitlement. By law, Alaskan airports are entitled to receive at least the same amount of money that they received in 1980, i.e. \$10.5 million. If total AIP funding is at least \$3.2 billion in a year, that amount is doubled.

Discretionary. The FAA at its own discretion can spend any money left over after the above entitlements are funded. However, this discretionary fund is subject to three set-asides.

Noise set-aside. The law sets aside 34% of this discretionary fund for noise projects. These could include such things as buying property for a noise buffer or soundproofing buildings. The noise set-aside is expected to receive \$261 million this year and \$318 million under the reported bill.

Military airports. Under the military airport program (MAP), FAA selects 15 current or former military airports (including at least one general aviation airport) to share in a set-aside, which 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.

Airports currently in the military airport program are Plattsburgh International, NY; Guam International, Guam; Tipton Airport, MD; Eglin AFB, Valparaiso, FL; Gray AAF, Killeen, TX; March ARB, CA; Mather Field, Sacramento, CA; Cecil Field, Jacksonville, FL; K.I. Sawyer AFB, Gwinn, MI; and Mid America Airport, St. Louis, MO. There are 5 openings, including one for a general aviation airport. These airports will compete for \$30.7 million this year and \$37.4 million under the reported bill.

Reliever Airports. For many years, the AIP program included a set-aside for reliever airports. These were small airports that the FAA determined would help relieve congestion at nearby larger airports. However, GAO issued a study that found these airports were not effective in relieving congestion. As a result, the Federal Aviation Reauthorization Act of 1996 (P.L. 104-264) eliminated this set-aside.

In AIR 21, a more limited version of this set-aside was recreated. In order to qualify, an airport must meet the following criteria:

- have more than 75,000 annual operations;
 - have a 5,000 foot runway;
 - have a precision instrument landing procedure;
 - have a minimum number of aircraft based at the airport;
- and
- be designated by FAA as a reliever airport to an airport with at least 20,000 hours of annual delays.

Airports that meet these criteria are eligible for two-thirds of 1% of the discretionary funds. This year that will be \$5.1 million to be shared among 37 airports that qualify.

The reported bill does not continue this set aside since there is no evidence that these airports rely on this very small set-aside to accomplish their function as relievers.

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 that will reduce noise. FAA projects that there will be \$470 million in the discretionary fund this year and \$581 million under the reported bill.

Passenger Facility Charge. In 1990, the Committee became concerned that AIP alone would not be able to meet the future infrastructure needs of U.S. airports. Consequently, the 1990 AIP reauthorization law permitted an airport to assess a fee on passengers. This is known as the passenger facility charge (PFC). PFCs are col-

lected by the airlines and paid directly to the airport without going through the Federal treasury. They are intended to supplement AIP by providing more money for runways, taxiways, terminals, gates, and other airport improvements.

The 1990 law limited the PFC to \$3. AIR 21 raised it to \$4.50.

No airport may charge a PFC of more than \$4.50 per passenger and no passenger has to pay more than \$18 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.

FAA has approved PFCs at 333 airports and 309 were actually collecting money at the end of last year. The total approved collections are over \$37 billion. Last year, \$2 billion was collected and about the same amount is expected to be collected this year.

If a medium or large hub airport charges a \$3 PFC, it must forego up to 50% of its AIP passenger entitlement. If it charges more than \$3, it must forego 75% of its AIP passenger entitlement. The foregone entitlements go into a special small airport fund to be 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.

This year non-hubs will receive \$220 million, general aviation airports will receive \$110 million, and small hubs will receive \$55 million from the small airport fund. Those amounts will drop to \$204 million, \$102 million, and \$51 million respectively because of the cut in the large airport entitlement.

The Committee continues to support the PFC program. The reported bill includes provisions to streamline the collection of PFCs and to ensure that those funds are protected should an airline become insolvent.

Air service to underserved airports. The Committee continues to be concerned about air service to the small and medium sized airports. Section 203 of AIR 21 (114 Stat. 92), codified at section 41743 of title 49, included a pilot program to make grants to small communities to help them bolster their air service. This program is only now beginning to get underway. The Committee believes this program will lead to the desired air service improvements and the reported bill reauthorizes it for another 5 years at \$35 million per year. In selecting communities for participation in this program, the Committee encourages the Secretary of Transportation to give preference to airports that have demonstrated the ability to sustain service and that have strong support from the local community.

Essential air service (EAS) program. The EAS program was created in 1978 to ensure that no communities lost air service as a result of the Airline Deregulation Act. It provides subsidies to commuter airlines to provide service to small communities where there are not enough passengers to operate profitably. The cost of this program has increased from \$22,900,000 in 1996 to an estimate of more than \$110,000,000 in 2003. GAO recently issued a report recommending changes to the program to bring down its costs. One suggestion was to provide grants to the community, rather than to the airline, to provide the service. The President's budget suggests

that there be a local matching share of the subsidy cost to be paid by any community that continues to seek the Federally subsidized air service. The reported bill adopts part of both suggestions. It phases in a local share of up to 10% for EAS communities that are close to larger airports. It also gives all communities that rely on the EAS program the option of developing their own transportation links and receiving a grant from the Federal government to help pay for it.

Security. In an October 2002 report, the GAO found that AIP spending on security had increased from 2% of the program's total funding to 17%. With security no longer the responsibility of FAA, the Committee believes that more of the cost of security projects at airports should be borne by the new Homeland Security Department rather than by the FAA through the AIP fund. Yet testimony at the Subcommittee's hearings revealed that some airports continue to want the option of spending some of their AIP grants on security. Accordingly, the reported bill continues to allow airports to use AIP entitlement funds to pay for terminal modifications to accommodate explosive detection systems. However, discretionary funds could no longer be used for this purpose.

Streamlining. GAO recently issued a report describing the challenges to building new runways. Last year, the House passed H.R. 4481 to streamline the process for building new runways at congested airports. However, the Senate did not act, so the reported bill once again includes this streamlining provision.

Over the last 20 years, air travel in the United States has grown faster than any other mode of transportation. Unfortunately, airport runway capacity has not kept pace with the growth. Not long ago, FAA released the Airport Capacity Benchmarks Report 2001, which indicated that many of our Nation's busiest airports were at or above capacity for at least some portion of the day. While the events of September 11th, the economic downturn and SARS, have negatively impacted the aviation industry, the Committee expects that the industry will turn around. Therefore, this is the time to address aviation capacity and delay issues so that gridlock will not return to our busiest airports.

In the past, insufficient airport runway capacity led to chronic and worsening congestion. In the summer of 2001, one out of every four commercial flights experienced a significant delay or a cancellation. Yet, even with the apparent national need for additional runway capacity, airports have had difficulty building new runways. In the last decade, only six of our Nation's largest airports managed to complete new runway projects.

The current runway planning and approval process routinely takes ten years and can take much longer. To build a runway, an airport must coordinate with dozens of Federal, state, and local agencies, including the Federal Aviation Administration, the Environmental Protection Agency, the Fish and Wildlife Service, the Park Service, the Army Corps of Engineers, the Advisory Council on Historic Preservation, state historical preservation offices, and state air and water pollution agencies. Airports must also comply with over 40 Federal laws, often with conflicting and confusing mandates.

According to FAA data, the average environmental impact statement (EIS) takes three and one half years to complete. There are

several additional Federal environmental planning and permitting requirements outside of the EIS process that can add significant delays. For example, FAA completed the EIS for Seattle's third runway in 1997 in less than three years, yet construction has been delayed for the last six years due to the Clean Water Act and Endangered Species Act permitting requirements. Legal challenges to environmental documents can also add significant delays to the process.

Title II of the reported bill is intended to cut through red tape and eliminate duplication without diminishing existing environmental laws or limiting local input or control over these critical projects. It will ensure that once a community reaches consensus on a critical capacity project, the review process will not unnecessarily delay construction. It designates the Department of Transportation as the lead agency for the project review process, and it directs the Secretary of Transportation to develop a coordinated review process for major airport capacity projects that will ensure that all environmental reviews by government agencies will be conducted at the same time, whenever possible.

Decisions to take actions authorizing airport development projects are reviewable in the circuit courts of appeals under section 46110, notwithstanding the nature of the petitioner's objections to the decision. In addition, the Committee believes that FAA orders pertaining to airport compliance are exclusively reviewable in the circuit courts of appeals, like other orders issued under similar provisions in part B of subtitle VII of title 49.

The Committee strongly supports construction and improvements at all airports, not only the ones that qualify as congested. While most of the streamlining provisions of this bill focus on congested airports because of their impact on the national air transportation system, improvements at other airports are also important and should be encouraged.

At the same time, the Committee does not wish to deny the legitimate rights of citizens that live near airports. Therefore, the Committee encourages the FAA and airport authorities, during public consideration of an airport development project at any airport, even a general aviation airport, to clearly explain the impacts of such a project to local communities surrounding the airport, in terms that will be understood by those communities.

Imperial County, California. The Committee strongly encourages the San Diego California Regional Airport Authority to continue its process to find a site for the next San Diego International Airport, authorized and funded under Pub. Law No. 106-622, the FY 2001 Transportation Appropriations bill, including giving appropriate consideration to the cost and benefits to travelers of constructing an airport in Imperial County, California.

Airport Technical Assistance Program. The Committee strongly encourages the FAA to work with state aviation agencies to develop a national, innovative program that would offer practical training and information resources for those who operate, maintain, and administer public use airports across the nation on topics such as pavement maintenance, snow and ice control, project development and funding, wildlife control and safety, and operations. To further this program, the Committee recommends that FAA consult with

a state aviation agency and a university that have created a similar program for general aviation airports in their state.

New York Integrated Control Complex. The Committee strongly encourages the integration into one new facility of the functions of the New York Air Route Traffic Control Center (ZNY) and the New York TRACON (N90), both of which are aging facilities in need of replacement. Integration of these facilities and their controllers will bring about a highly responsive, dynamic system to meet the future air traffic demands of this complex airspace, allowing for more efficient routing, increased capacity and reduced delays for aircraft approaching the New York, New Jersey, and Philadelphia air space.

Temporary Flight Restrictions. The Committee is concerned with the operational impacts of post 9–11 Department of Defense security Temporary Flight Restrictions (TFRs), including TFRs imposed by FAA notice to airman (NOTAM) numbers 2/0447, 2/0449, 2/0451 and 1/1812. The Committee encourages the FAA to work with DOD representatives, and all affected parties to evaluate the need for on-going DOD requested TFRs for the areas affected by NOTAM numbers referenced above as well as with on-going DOD requested TFRs in other areas of the country.

OSHA. The Committee strongly encourages the FAA and the Occupational Safety and Health Administration to continue to work under the framework established in the August 2000 Memorandum of Understanding and establish a coordination mechanism to determine which existing and future OSHA regulations can be applied to an aircraft in operation without compromising aviation safety. This mechanism should build upon the “joint team” framework initiated by the August 2000 MOU. It could include recommendations for facilitating the training of inspectors to inspect and enforce any safety and health standards on board aircraft that may be adopted. Airlines should work with the Federal government to develop empirical data regarding workplace safety in the cabin during flight operations, identify potential occupational safety issues, and develop appropriate and feasible responses.

SUMMARY OF THE LEGISLATION

Section 1. Short Title; Table of Contents

The short title is “Flight 100—Century of Aviation Reauthorization Act”. This is intended to commemorate the fact that this bill is being enacted during the 100th anniversary of the Wright Brothers first flight. It both honors the achievements of the past century and sets the stage for further improvements in the century to come.

Section 2. Amendments to Title 49, United States Code

Amendments in this Act are to Title 49 of the U.S. Code.

Section 3. Effective Date

Except as otherwise provided, this Act, and amendments made by this Act, are effective on the date of enactment.

TITLE I—AUTHORIZATIONS

Section 101. Federal Aviation Administration Operations

Subsection (a) amends section 106(k) of Title 49.

Paragraph (k)(1) authorizes \$7.591 billion in 2004, \$7.732 billion in 2005, \$7.889 billion in 2006, and \$8,064 billion in 2007 for the operating costs of the FAA.

Paragraph (k)(2) authorizes some of this money to be used to fully utilize the FAA's Palm Coast management training facility.

Paragraph (k)(3) authorizes some of this money to be used to establish an office in the FAA to develop and plan for the implementation of the next generation air traffic control system.

Paragraph (k)(4) authorizes some of this money to be used to establish approach and departure procedures using GPS and ADS-B in order to meet the needs of air ambulance services.

Paragraph (k)(5) authorizes some of this money to be used to hire additional air traffic controllers in order to accommodate the growth in air traffic and address the expected increase in retirement of experienced controllers.

Paragraph (k)(6) authorizes some of this money be used to complete the mapping of Alaska's main aviation corridors.

Paragraph (k)(7) authorizes some of this money be used for the Aviation Safety Reporting System.

Subsection (b) authorizes Trust Fund money to be spent to support the Bureau of Transportation Statistics' activities collecting and analyzing aviation data.

Subsection (c) directs the FAA to develop a human capital workforce strategy to address the need for more air traffic controllers as called for by the General Accounting Office.

Subsection (d) calls for a report on the Aviation Safety Reporting System.

Section 102. Air Navigation Facilities and Equipment

This section authorizes \$2.938 billion in 2004, \$2.993 billion in 2005, \$3.053 billion in 2006, and \$3.110 billion in 2007 for the FAA's facilities and equipment (F&E) program. Out of these amounts, money should be spent to improve the safety and efficiency of air operations in the Gulf of Mexico, \$20 million should be spent to document and demonstrate the benefits of a wake vortex advisory system, and \$20 million should be spent for precision approach landing systems contingent on FAA certifying or approving these systems. Precision approach landing systems are designed for use at airports where complex terrain or land constraints make the installation and use of a traditional Instrument Landing System (ILS) cost-prohibitive or infeasible. The precision approach landing systems may promote aviation safety and economic growth by enabling aircraft to land in Instrument Meteorological Conditions at airports where such landings are not otherwise possible. Authorizations in this section are somewhat higher than the Administration's request in order to accommodate section 106 of this Act and the specific authorizations in this section.

Section 103. Airport Planning and Development and Noise Compatibility Planning and Programs

Provides \$3.4 billion for the Airport Improvement Program (AIP) in 2004. This amount is increased by \$200 million each year thereafter.

Section 104. Additional Authorizations

Subsection (a) authorizes funding for the contract tower program for 4 years.

Subsection (b) authorizes funding for 5 years for the program established in AIR 21 to improve service at underserved airports.

Subsection (c) reauthorizes the program to permit loan guarantees to be offered for the purchase of regional jets to serve small airports.

Subsection (d) reauthorizes the procedural protections in AIR 21 that ensure that all Trust Fund revenue and interest is fully spent and that the AIP and F&E programs are fully funded at their authorized levels.

Subsection (e) continues the provision permitting contractors to both design and build an airport improvement project.

Subsection (f) allows Washington Reagan National and Washington Dulles airports to continue to receive AIP grants.

Section 105. Insurance

Subsection (a) makes permanent war risk insurance for international flights and for non-premium insurance. War risk insurance for domestic flights would continue to be subject to periodic reauthorizations.

Subsection (b) permits DOT to keep in effect after August 31, 2004 the war risk insurance policies that must be in effect until that date.

Subsection (c) permits DOT to extend the \$100 million cap on liability for third party damages to U.S. aircraft manufacturers until the end of next year.

Subsection (d) allows DOT to provide war risk insurance coverage to U.S. aircraft manufacturers and to vendors, agents, and subcontractors of airlines but only to the extent that the loss involved aircraft of a U.S. airline.

Section 106. Pilot Program for Innovative Financing for Terminal Automation Replacement Systems

This section authorizes FAA to conduct a pilot program to test the cost-effectiveness and feasibility of innovative financing techniques to purchase and install terminal automation replacement systems. This proposal is designed to replace existing obsolete air traffic control equipment at FAA TRACONS. This section provides \$200,000,000 in FY 2004 from the Facilities and Equipment Account for this pilot program and allows the FAA to make multi-year advance contract provisions to achieve economic-lot purchases and more efficient production rates.

TITLE II—AIRPORT PROJECT STREAMLINING

Section 201. Short Title

Provides that the Title may be cited as the “Airport Streamlining Approval Process Act of 2003”.

Section 202. Findings

Makes a number of findings regarding our Nation’s major airports and the environmental review process for airport capacity projects at congested airports.

Section 203. Promotion of New Runways

Amends section 40104 of Title 49, United States Code, by adding a new subsection, which provides that the Administrator shall take action to encourage the construction of airport capacity enhancement projects at congested airports. This is designed to encourage the FAA to take a more proactive approach in encouraging the construction of new runways when it determines that it would be in the national interest.

Section 204. Airport Project Streamlining

Subsection (a) amends Chapter 471 of Title 49, United States Code, by adding after section 47153 a new “Subchapter III—Airport Project Streamlining” with the following new sections:

Section 47171, “DOT as lead agency,” subsection (a) requires the Secretary to develop and implement an airport project review process for airport capacity enhancement projects at congested airports.

Subsection (b) provides for a coordinated review process for all environmental reviews, analyses, opinions, permits, licenses, and approvals to be conducted concurrently and completed within a time period established by the Secretary in cooperation with the agencies involved.

Subsection (c) requires that for each airport capacity enhancement project at a congested airport, the Secretary shall identify all Federal and state agencies that may have jurisdiction over environmental-related matters, may be required by law to conduct an environment review, or may have jurisdiction to determine whether to issue an environmental-related permit, license, or approval for the project. The Committee recommends that this section be implemented in a manner consistent with Council on Environmental Quality regulations and policy guidance.

Subsection (d) allows a State and its associated agencies, consistent with State law, to choose to participate in the coordinated review process for a project at an airport within that State.

Subsection (e) allows the coordinated review process for a project to be incorporated into a Memorandum of Understanding between the Secretary and the heads of other Federal and State agencies identified in subsection (c), and the airport involved.

Subsection (f) sets forth the notification and reporting requirements should the Secretary determine that a Federal agency, state agency, or airport sponsor participating in the coordinated review process has not met a deadline established under subsection (b).

Subsection (g) provides that for any environmental review process or approval issued or made by a Federal or state agency participating in a coordinated review process requiring an analysis of the

purpose and need for a project, the agency is bound by the project's purpose and need as defined by the Secretary.

Subsection (h) provides that the Secretary shall determine the reasonable alternatives to an airport capacity enhancement project at a congested airport and any other Federal or state agency participating in a coordinated review process shall consider only those alternatives to the project that the Secretary has determined are reasonable.

The Committee recognizes that the Department of Transportation and the Federal Aviation Administration have significant expertise and experience on transportation-related matters. Therefore, the Committee believes that in conducting environmental reviews within the jurisdiction of the DOT, the Secretary should play a lead role in determining which analytical methods are reasonable for use in determining the transportation impacts and benefits of project alternatives, particularly in the area of noise impacts. Other agencies have expertise in determining the environmental impacts of transportation projects, and the Secretary should rely on the expertise of these agencies in analyzing these impacts. The Committee believes that, to the maximum extent possible, all Federal and state agencies participating in the coordinated review process should use a common set of data for their analyses in carrying out their responsibilities to conduct environmental reviews under Federal law.

Subsection (i) states that in applying subsections (g) and (h), the Secretary shall solicit and consider comments from interested persons and governmental entities.

Subsection (j) provides that the Transportation Infrastructure Streamlining Task Force, established by Executive Order 13274, may monitor airport projects that are subject to the coordinated review process under this section.

Section 47172, "Categorical exclusions," states that not later than 120 days after the date of enactment of this section, the Secretary shall develop and publish a list of categorical exclusions from the requirement that an environmental assessment or an environmental impact statement be prepared for projects at airports. The Committee is aware that the FAA has a process, consistent with the National Environmental Policy Act, whereby it excludes certain types of projects from the environmental review process.

This section would require the FAA to publish a list of categorical exclusions from the requirement under the National Environmental Policy Act ("NEPA") to prepare an environmental assessment or environmental impact statement. This requirement is not intended to alter NEPA, or to change or expand the definition of a categorical exclusion. The Committee notes that the FAA has committed to prepare a full environmental impact statement regarding several regional airspace redesign projects, including the redesign of the New York-New Jersey-Philadelphia airspace. This provision is not intended to alter that commitment. In particular, the Committee notes that, under current FAA policy stated in FAA Order 1050.1D, the presumption that airspace changes over 3,000 feet above ground level will not cause a significant environmental impact does not apply where there are "extraordinary circumstances" present, such as when the action is "highly controversial on environmental grounds." This provision is not intended to

change current FAA policy. At the same time, this provision does not bar the FAA from revising FAA Order 1050.1D in accordance with NEPA and Council on Environmental Quality regulations.

The Committee has been made aware of an issue regarding the environmental review of air carrier operations specifications. Operations specifications govern the class and size of aircraft to be operated by an air carrier at specific airports to ensure that those specific aircraft can be operated safely at those airports, but do not control the frequency or timing of operations. FAA environmental procedures allow for operations specifications to be categorically excluded from NEPA review, unless the FAA determines that approval may significantly change the character of the operational environment of an airport. In that case, FAA will conduct the necessary environmental review of the proposed operations specifications. However, the Committee has been informed that the data and analysis required to determine whether the approval or amendment of an operations specification should be categorically excluded has not been consistently applied throughout the FAA offices responsible for conducting such reviews, which has added to the cost and time of processing operations specifications. The Committee strongly urges the FAA to issue guidance to ensure consistent and timely review of all applications for operations specifications approvals and amendments.

In addition, the Committee is concerned that the environmental review requirements place an unfair burden on new entrants to a market. The Committee will assess whether further legislative action is needed to address the problems identified.

Section 47173, "Access restrictions to ease construction," provides that at the request of an airport sponsor for a congested airport, the Secretary may approve a restriction on use of a runway to be constructed at the airport to minimize potentially significant adverse noise impacts from the runway only if the Secretary determines that the imposition of the restriction is (1) necessary to mitigate significant noise impacts and expedite construction of the runway; (2) the most appropriate and cost-effective measure to mitigate those impacts, taking into consideration any environmental tradeoffs; and (3) would not adversely affect service to small communities, adversely affect safety or efficiency of the national airspace system, unjustly discriminate against any class of user of the airport, or impose an undue burden on interstate or foreign commerce.

Section 47174, "Airport revenue to pay for mitigation," subsection (a) states, that the Secretary may allow an airport sponsor carrying out an airport capacity enhancement project at a congested airport to make payments out of revenues generated at the airport for measures to mitigate the environmental impacts of the project if the Secretary finds that (1) the mitigation measures are included as part of, or are consistent with, the preferred alternative for the project in the documentation prepared for NEPA; (2) the use of such revenues will provide a significant incentive for, or remove an impediment to, approval of the project by a State or local government; and (3) the cost of the mitigation measures is reasonable in relation to the mitigation that will be achieved. The Secretary should allow such payments to be made only if they are designed

to further the project, not if they are designed to thwart it or would be abused by opponents of the project.

Subsection (b) describes what the mitigation measures described in Subsection (a) may include.

Section 47175, "Airport funding of FAA staff," subsection (a) provides that the Administrator of the FAA may accept funds from an airport sponsor to hire additional staff or obtain the services of consultants to facilitate the timely processing, review, and completion of environmental documents associated with an airport development project.

Subsection (b) allows the Administrator, with agreement of the airport sponsor, to transfer funds that would otherwise be apportioned to the sponsor under section 47114 to the account used by the Administrator for activities described in subsection (a).

Subsection (c) states that, notwithstanding section 3302 of title 31, any funds accepted under this section, except funds transferred pursuant to subsection (b) shall (1) be credited as offsetting collections to the account that finances the activities and services for which the funds are accepted; (2) be available for expenditure only to pay the costs of activities and services for which the funds are accepted; and (3) remain available until expended.

Subsection (d) provides that no funds may be accepted pursuant to subsection (a), or transferred under subsection (b), in any fiscal year for which the FAA does not allocate at least the amount it expended in fiscal year 2002, excluding amounts accepted pursuant to section 337 of the Department of Transportation and Related Agencies Appropriations Act, 2002, for the activities described in subsection (a). This is designed to ensure that airport or AIP money is utilized only to provide additional funds for environmental staff, not merely replace funds the FAA's operating account that would have been provided for this purpose in any event.

Section 47176, "Authorization of appropriations," authorizes funds to be appropriated to the Secretary out of the Airport and Airway Trust Fund, in the amount of \$4,200,000 for fiscal year 2004 and for each fiscal year thereafter for the timely processing, review and completion of environmental review activities associated with airport capacity enhancement projects at congested airports.

Section 47177, "Designation of aviation safety and aviation security projects for priority environmental review," allows, in subsection (a), the Administrator of the Federal Aviation Administration to designate an aviation safety or aviation security project for priority environmental review. The Administrator is not allowed to delegate this designation authority.

Subsection (b) directs the Administrator to establish guidelines for the designation of an aviation safety or aviation security project for priority environmental review. The guidelines must include consideration of: (1) the importance or urgency of the project; (2) the potential for undertaking the environmental review under existing emergency procedures under the National Environmental Policy Act; (3) the need for cooperation and concurrent reviews by other Federal or State agencies; and (4) the prospect for undue delay if the project is not designated for priority review.

Subsection (c) sets forth the procedures for coordinated environmental reviews. Paragraph (1) directs the Administrator, in con-

sultation with the heads of affected agencies, to establish specific timelines for coordinated environmental reviews of an aviation safety or aviation security projects. The timelines shall be consistent with timelines established in existing laws and regulations. Also, this subsection directs each Federal agency with responsibility for project environmental reviews, analyses, opinions, permits, licenses, and approvals to accord any such review a high priority and to conduct the review expeditiously and, to the maximum extent possible, concurrently with other such reviews. Paragraph (2) directs each Federal agency identified under subsection (c) to formulate and implement administrative, policy, and procedural mechanisms to enable the agency to ensure completion of environmental reviews, analyses, opinions, permits, licenses, and approvals described in paragraph (1) in a timely and environmentally responsible manner.

Subsection (d) provides for State participation. Paragraph (1) states that if a priority environmental review process is being implemented with respect to a project within the boundaries of a State with State environmental requirements and approvals, the Administrator must invite the State to participate in the process. Paragraph (2) allows that a State invited to participate in a priority environmental review process, consistent with State law, may choose to participate and may direct that all State agencies, which have jurisdiction to conduct an environmental review or analysis of the project, be subject to the coordinated review process.

Subsection (e) sets forth the procedures for when a Federal agency or participating State fail to give priority review. Paragraph (1) provides that if the Secretary of Transportation determines that a Federal agency or a participating State is not complying with the requirements of this section and that the noncompliance is undermining the environmental review process, the Secretary must notify, within 30 days the head of the Federal agency or, with respect to a State agency, the Governor of the State. Paragraph (2) states that when a Federal agency receives such a notification, the Agency must submit a written report to the Secretary within 30 days explaining the reasons for the situation described in the notification and what remedial actions the agency intends to take. Paragraph (3) states that if the Secretary determines that a Federal agency has not satisfactorily addressed the problems within a reasonable period of time allowed under this subsection, the Secretary shall notify the Council on Environmental Quality, the Committee on Transportation and Infrastructure of the House of Representatives, and the Committee on Commerce, Science and Transportation of the Senate.

Subparagraph (f) cross-references the procedures set forth in subsections (c), (e), (g), (h), and (i) of section 47171 and directs that they shall apply with respect to an aviation safety or aviation security project under this section in the same manner and to the same extent as such procedures apply to an airport capacity enhancement project at a congested airport under section 47171.

Subsection (g) provides a list of definitions of terms used in the section.

Section 47178, "Definitions," provides a list of definitions of terms used in the subchapter.

Section 205. Governor's Certificate

Repeals the requirement in section 47106(c)(1)(B) that the Governor of the state in which the project is located certifies in writing to the Secretary that there is reasonable assurance that the project will be in compliance with applicable air and water quality standards.

Section 206. Construction of Certain Airport Capacity Projects

Authorizes the issuance of a grant to an airport operator of a congested airport and a unit of local government to carry out a project to mitigate noise in the area surrounding the airport if the project is included as a commitment in a record of decision of the FAA for an airport capacity enhancement project.

Section 207. Limitations

States that nothing in the Act shall preempt or interfere with any practice of seeking public comment; any power, jurisdiction, or authority that a state agency or an airport sponsor has with respect to carrying out an airport capacity enhancement project; and any obligation under the National Environmental Policy Act and Council on Environmental Quality regulations.

Section 208. Relationship to Other Requirements

Provides that the coordinated review process required under this Title for airport capacity enhancement projects at congested airports shall apply whether or not the project is a high-priority transportation infrastructure project under Executive Order 13274.

TITLE III—FEDERAL AVIATION REFORM

Section 301. Management Advisory Committee Members

This section reduces the FAA's Management Advisory Council (MAC) to 13 members to reflect the removal of the Air Traffic Services Subcommittee. The DOT Secretary rather than the President would fill any remaining vacancies in the MAC.

Section 302. Reorganization of the Air Traffic Services Subcommittee

This section establishes the Air Traffic Services Board and moves the members of the Air Traffic Services Subcommittee to this new Board. The FAA Administrator would be the Chairman of this Board. Compensation of the Board Members is eliminated.

Section 303. Clarification of the Responsibilities of the Chief Operating Officer

This section revises the functions of the FAA's Chief Operating Officer (COO) to more closely reflect the duties of such a position. The current statutory functions have been criticized for being more appropriate for a CEO than a COO. The COO is given the added responsibility of developing a comprehensive plan with specific performance goals for managing cost-reimbursable contracts as called for in the report of the Inspector General (Report F1-2202-092, May 8, 2002).

Section 304. Small Business Ombudsman

This section establishes the position of small business ombudsman within FAA to serve as a liaison with small business and provide assistance to those businesses. The Committee continually hears that regulatory actions designed primarily to address problems at larger carriers have a disproportionate effect on smaller air carriers. Many of these companies do not have the sort of Washington representation to effectively make their concerns known to decisionmakers. This provision is designed to help small businesses bridge that gap and help to ensure that small aviation business concerns are considered when regulatory and other decisions are made.

Section 305. FAA Purchase Cards

This section requires FAA to take appropriate actions to implement General Accounting Office recommendations made in a report (GAO-03-405, March 2003) that uncovered abuses of FAA purchase cards. Similar concerns had been raised earlier about practices in Alaska (GAO-02-606, May 2002).

TITLE IV—AIRLINE SERVICE IMPROVEMENTS

Section 401. Improvement of Aviation Information Collection

This section would repeal the prohibition on collecting information by specific flight effective on the date of issuance of a final rule that reduces the reporting burden for air carriers through electronic filing of the Origin & Destination Survey data.

Under current law, the Secretary of Transportation is required to collect and disseminate information on civil aeronautics, including information on the origin and destination of passengers in interstate air transportation, and the number of passengers traveling by air between any two points in interstate air transportation. However, current law specifically prohibits the Secretary from requiring an air carrier to provide information on the number of passengers or the amount of cargo on a specific flight. According to the Department of Transportation, the prohibition on collecting information by specific flight was considered necessary to protect the competitive position of air carriers, but has not substantially encouraged competition and is not effective. Air carriers can and do obtain their competitors' passenger and cargo data by flight number in other ways, including surveys, observations of traffic, and purchase of reservation data from private third parties. As part of the Department's Aviation Data Requirements Review and Modernization Program, the Department is planning to modernize the O&D data collection system so that it is based on existing internal automated data systems maintained by the airlines and/or computer reservation systems (CRSs). For example, there is a CRS-based data file called the Transaction Control Number (TCN) file. In the process of ticketing airline passengers, airlines and related computer reservation systems electronically record the majority of transactions in the standard TCN formats for various accounting, reconciliation, and seat inventory control purposes. The Department believes that these TCN data could provide an alternative, less expensive source of traffic and fare data. The Department anticipates issuing a proposed rule on this subject by early 2004. Removal of the restriction

on collecting data by flight will enable the Department to calculate more accurately such performance measures as the number of passengers affected by flight delays, the average time required to travel on particular routes, the reliability of travel time for passengers, and the average fare paid by passengers. It will also enable the Transportation Security Administration to deploy its screening workforce more effectively by identifying the times of day and days of the week that experience the most passenger travel and, therefore, require the most screening personnel.

Section 402. Data on Incidents and Complaints Involving Passenger and Baggage Security Screening

This section requires DOT to publish passenger complaints about screening problems in the same way that it publishes complaints about delays, lost baggage, etc.

Section 403. Definitions

This section places the various definitions of “hub” in one place in Title 49 rather than scattered throughout the code as they are now.

Section 404. Clarifications to Procurement Authority

Subsection (a) deletes references to certain statutes that no longer apply to the FAA as a result of the procurement reform contained in section 40110(d) of title 49.

Subsection (b) deletes the reference to the deadline for implementing procurement reform since that deadline has long since been met. It adds the procurement of “services” to the list of actions to which the FAA’s procurement system applies. It also clarifies the procedures for contract.

Section 405. Low-Emission Airport Vehicles and Ground Support Equipment

Subsection (a) allows passenger facility charge (PFC) revenue to be used to purchase low-emission vehicles or to convert existing equipment.

Subsection (b) makes clear that PFC revenue can be used only to pay the difference in cost between the low-emission vehicle and a regular vehicle. PFCs can also be used to pay the cost of converting an existing vehicle to a low emission vehicle.

Subsection (c) defines the type of equipment that is eligible.

Section 406. Streamlining of the Passenger Facility Fee Program

Subsection (a) is designed to streamline the PFC approval process by requiring that notice and comment is provided before the airport submits its PFC application to FAA and all the certifications be included in that application. This would obviate the need for further notice and comment after the application is submitted and paragraph (a)(4) makes that current notice and comment requirement optional with the agency. The subsection also states that an airport is required to consult with only those airlines operating there that provide scheduled air service or major charter operations.

Subsection (b) provides a 3-year test of expedited procedures for approval of PFC applications at small airports. Such an airport

that notifies FAA of its intention to impose a PFC shall be allowed to do so unless FAA objects within 30 days of receiving the notice.

Subsection (c) makes clear that passengers on a military charter are not required to pay a PFC since payment for the flight is made by the Department of Defense rather than by the individual passengers.

Section 407. Financial Management of Passenger Facility Fees

This section requires airlines to place PFC revenue that they collect in a separate account so that the airport for which the PFC was collected will be assured of receiving its money should the airline go out of business during the interim period between the time that the PFC was collected and the time it is remitted to the airport.

Section 408. Government Contracting for Air Transportation

Subsection (a) makes clear that the term “commercial item” does not include the transportation of people by air. Such transportation must be on U.S. airlines to the extent required by the other provisions of 49 U.S.C. 40118.

Subsection (b) makes clear that a person that has contracted with the military has the same obligation under 49 U.S.C. 41106 to employ U.S. airlines for airlift services as the military.

Section 409. Overflights of National Parks

Subsection (a) states that the requirements and restrictions governing commercial air tour operations, as defined in the Air Tour Management Act of 2000, of national parks apply only to those flights that are over the park, or over an area within ½ mile outside the boundary of a national park, and not to those flights that may be near the park, even if they have some impact on the park.

Subsection (b) overrules an FAA regulation that establishes specific times that are considered daylight hours and instead uses the more common approach of defining daylight as the hours between 1 hour after sunrise and 1 hour before sunset.

Section 410. Collaborative Decision Making Pilot Program

Subsection (a) requires a pilot program to be established within 90 days that would allow airlines to discuss changes in flight schedules in the event of a capacity reduction event such as a thunderstorm.

Subsection (b) states that the pilot program will last for 2 years after it is established.

Subsection (c) directs FAA to issue guidelines for the program that, at least, define when a capacity reduction event exists that would warrant the use of collaborative decision making among airlines.

Subsection (d) states that when the FAA determines that a capacity reduction event exists at an airport, it may permit airlines to meet and discuss their schedules for up to 24 hours in order to use the available air traffic capacity most effectively. The FAA shall monitor these discussions.

Subsection (e) directs the FAA to choose three airports to participate in the program within 30 days after establishing the program. The airports chosen should be those with the most delays where

collaborative decision-making could help reduce delays there and throughout the nation.

Subsection (f) states which airlines are eligible to participate.

Subsection (g) permits the FAA to modify or cancel the program or prevent an airline from participating if it finds that the purposes of the program are not being furthered or there is an adverse impact on competition.

Subsection (h) requires FAA and DOT to evaluate the impact of the pilot program on the use of air traffic capacity, competition, the amount of air service to communities, and the impact of delays at other airports. In conducting this evaluation, the Committee suggests that the Administrator should consider using measures in addition to the existing 15-minute on-time departure standard. For example, factors such as the probability of making a connection and the average delay per itinerary could be helpful in better understanding passenger delays, since data on aircraft departure delays do not reflect the delay experienced by passengers on cancelled flights. In addition, 30- and 45-minute on-time departure standards metrics (rather than just 15-minute) could be helpful in measuring the average length of delays.

Subsection (i) allows the program to be extended for an additional two years and expanded to seven more airports if warranted by the evaluation in subsection (h).

Section 411. Availability of Aircraft Accident Site Information

This section adds two provisions to the family assistance plans that airlines are required to follow in the event of a plane crash. The first requires information to homeowners whose houses are damaged about liability and compensation. Typically, this information should direct homeowners to their insurance companies to obtain information on compensation for damages. The second requires the airline to provide closed circuit television or a similar method for families to view NTSB proceedings concerning the accident. This would apply only if the NTSB proceedings were more than 80 miles from the accident site. In such cases, the proceedings would have to be able to be viewed in the cities where the flight originated and where it was scheduled to land. This applies only to cities in the United States.

Section 412. Slot Exemptions at Ronald Reagan Washington National Airport

Subsection (a) increases the number of slot exemptions to be granted outside the 1,250 mile perimeter from 12 to 24.

Subsection (b) increases the number of slot exemptions to be granted inside the perimeter from 12 to 20.

Subsection (c) accommodates the above additional exemptions by increasing the number that can be granted during each one-hour period from 2 to 3. It also distributes the 20 inside-the-perimeter exemptions as follows—6 for air service from Reagan National to small airports, 10 to medium size or smaller airports, and 4 to any airport.

Subsection (d) directs DOT to establish procedures for the grant of these slot exemptions.

Subsection (e) requires DOT to study the impact of locally imposed perimeter rules on competition and air service to communities outside that perimeter.

Subsection (f) requires DOT to study the impact of changing the definition of commuter to encompass 76 seat regional jets in that definition.

Section 413. Notice Concerning Aircraft Assembly

This section requires U.S. airlines to include on the placard in the seat back pocket a notice informing the passenger of where the aircraft was built. This placard now typically contains information about the model of the aircraft and safety procedures concerning the aircraft. Other products people purchase typically inform customers where that product was made.

Section 414. Special Rule To Promote Air Service to Small Communities

In order to promote air service to small communities, this section directs FAA to permit small turbine powered or multi-engine aircraft to carry passengers between a small airport and another airport and to accept payment from those passengers if the aircraft is otherwise operated in accordance with FAA rules in Parts 119 and 135 and DOT rules in Part 298 of 14 CFR. It would authorize air service with aircraft configured for ten passenger seats or less to or from smaller airports, with individual seats sold at a negotiated price. There are no requirements on the frequency of this service or the cities it would serve. This service is not intended as a replacement for essential air service, and the service will be subject to all applicable FAA and DOT regulations.

This provision is designed to encourage a charter-type service to non-hub airports, in which flights would be operated on-demand, with the times and destinations negotiated by prospective passengers. It is anticipated that these negotiations could take place on the Internet. While the Committee is supportive of encouraging this type of service, it believes that it must not be permitted to turn into scheduled service, without complying with all regulations governing scheduled service. The service would lose its character as on-demand service if the operator indicated on its web site, or in published material, that flights would be operated at specific times to specific destinations. However, operators would be allowed to advertise destinations only to spark interest by customers. In addition, an operator should be able to post to the web that a customer has requested travel to a specific destination within a certain timeframe on a particular day so that others can join in and all reduce their respective price. Furthermore, this provision is not intended to increase traffic at reliever airports in markets already being served by one or more hub airports.

Section 415. Small Community Air Service

Subsection (a) allows the portion of the essential air service (EAS) subsidy paid to an airline to promote its service to be paid to the community instead so that it can promote that service. It also phases in a requirement that communities pay a local share of the subsidy in order to continue to receive EAS. Whether a community is subject to a local share requirement will depend on its

distance from a hub. That distance should be determined by the most commonly used highway route, which may not be the most direct route in all cases.

Subsection (b) revises the small community air service development grant program to improve air service at underserved communities by eliminating the per-State limit on the number of communities that can participate and by giving priority to those communities that can use the money in the fiscal year that they receive it.

Subsection (c) authorizes \$65 million, in addition to the \$50 million already required to be provided, for the EAS program and for the alternative program established by subsection (f) below. It also authorizes the hiring of additional employees in DOT to manage the program.

Subsection (d) requires DOT to give a community 90 days notice before it discontinues subsidies to a community as a result of that community's failure to meet mileage or per passenger subsidy targets established in Appropriations Acts.

Subsection (e) directs DOT to encourage the submission of joint fare proposals, as they would benefit service to small communities.

Subsection (f) establishes an alternative to the EAS program. Under this alternative, rather than receiving service from an airline subsidized by DOT, the community could receive a grant from DOT to establish and pay for its own service. This could include scheduled air service, air taxi service, fractional ownership where passengers pay for the service, surface transportation, or some other approach approved by DOT. Communities choosing to participate in this alternative program would not have to pay a local share and could not receive service under the established EAS program in the fiscal year in which they participated in the alternate program. This would not prohibit a community from getting back into the EAS program in a later fiscal year if it was still otherwise eligible for it.

Section 416. Type Certificates

Subsection (a) requires anyone building a new aircraft based on a type certificate to have the permission of the holder of that type certificate. This treats type certificates the same as supplemental type certificates for this purpose.

Subsection (b) requires the FAA to spend the same amount of time and perform a similarly thorough review when certifying or validating a foreign aviation product as the foreign nation spends in certifying or validating U.S. aviation products.

Section 417. Design Organization Certificates

This section directs FAA to develop within 3 years a plan for certification of design organizations and allows the FAA to implement within 7 years a system for certifying design organizations if it so chooses.

Section 418. Counterfeit or Fraudulently Represented Parts Violations

This section would direct the FAA to deny a certificate to a person whose certificate was previously revoked for involvement in an activity relating to counterfeit or fraudulent aviation parts.

Section 419. Runway Safety Areas

This section states that an airport shall not be required to reduce the length of a runway or declare the length of the runway to be less than the actual pavement length in order to meet FAA requirements for runway safety areas.

Section 420. Availability of Maintenance information

Requires manufacturers of aircraft and aircraft parts to provide maintenance manuals at a reasonable cost to repair stations that are authorized to work on those aircraft or aircraft parts. This section does not require manufacturers to provide proprietary information or to produce maintenance manuals if they were not already required to produce them under FAA rules. The Committee believes safety would be enhanced if repair stations always had access to the information in these manuals.

Subsection (a) codifies the existing Federal Aviation Regulation (FAR) in 14 CFR section 21.50(b) that requires holders of a design approval to prepare and furnish Instructions for Continued Airworthiness (ICA) to the owner of each type certificated product and thereafter to make those instructions available to any person required to comply with the FAR. This includes subsequent owner/operators and maintenance providers.

Subsection (b) contains definitions clarifying the meaning of several terms in subsection (a).

Subsection (b)(1) defines “make available” to mean at a price not to exceed the cost of preparation and distribution. This is the same standard used by the Food and Drug Administration (FDA) in 21 CFR section 1050.10(f) pertaining to the availability of servicing information for ultrasound therapy products. It is similar to the “fair and reasonable” standard used by the EPA in requiring automobile manufacturers to make maintenance information available to independent service stations pursuant to 40 CFR section 86.094–38. The Committee intends that the cost of preparation and distribution contemplated by subsection (b)(1) include such factors as the type of information provided, the format in which it is distributed (such as hard copy, compact disks or through the world-wide web), the quantity of material and the detail of the information. It could reasonably include, for example, the cost of maintaining a technical publications department, technical writers and those engineers specifically assigned to develop new repairs and alterations essential to continued airworthiness. The creation of ICAs (and changes thereto) is currently required as a condition for obtaining most FAA design approvals. Therefore, design approval holders should not charge for engineering costs associated with obtaining their original FAA design approval, creating the original ICAs or making FAA-required changes to the approved design under 14 CFR Part 21. The Committee recognizes that many design approval holders charge for their engineering services, such as when a repair station submits an independently developed repair to the design approval holder for approval. This section does not affect this practice.

Subsection (b)(2) defines the term “design approval” to include at least those design approvals issued by the FAA, such as type certificates, amended and supplemental type certificates, parts manufacturer approvals and technical standard order authorizations. This section requires each design approval holder to create ICAs

unless information essential to continued airworthiness of that article is included in the ICAs of a higher-level design approval holder.

Subsection (b)(3) defines the term “Instructions for Continued Airworthiness”. The definition is consistent with FAA regulations contained in 14 CFR Parts 21 and 43, as well as FAA guidance material.

Subsection (c) requires the Administrator to conduct a rule-making to accomplish several objectives.

Subsection (c)(1) requires the Administrator to determine what is essential to continued airworthiness of the applicable aircraft, aircraft engine or propeller.

Subsection (c)(2) requires the Administrator to determine whether other activities requiring FAA-approved technical data, such as major repairs and major alterations, are design approvals and should therefore be subject to the ICA rules. The Committee notes that the same airworthiness standards apply to major repairs and major alterations as apply to new products. The Committee understands that the FAA has extended the ICA requirement to parts manufacturer approvals (in those cases where the existing ICAs are not adequate to ensure continued airworthiness) and major alterations conducted under the field approval process. The Administrator should also consider whether ICAs (such as inspection criteria or wear tolerances) should be required for independently developed major repairs. Because information necessary to determine the continued airworthiness of these repairs are not contained in the ICAs, this would enable a subsequent maintenance provider to adequately determine whether a major repair remained in an airworthy condition.

Subsection (c)(3) requires the Administrator to change current section 21.50(b) to reflect the definition of design approval contained in subsections (b)(2) and (c)(2) of this section.

Section (c)(4) requires the Administrator to determine whether maintenance manuals that were created prior to January 29, 1981 (and any changes thereto) should be made available to persons required to comply with the Federal Aviation Regulations. There is no doubt that maintenance manuals are critical to ensuring aviation safety. In addition, the Committee notes that some predecessor regulations to section 21.50(b) required that these manuals be made available. Finally, maintenance providers are required to comply with these manuals when they perform maintenance and alterations on civil aviation articles. Accordingly, the Committee believes these pre-1981 manuals should be made available to the maximum feasible extent.

Subsection (c)(5) requires the Administrator to conduct a rule-making requiring design approval holders that (1) are operating an ongoing business, (2) were required to produce maintenance manuals or ICAs under section 21.50(b), and (3) have not done so, to prepare and make the ICAs available as required by this section not later than one year after the regulations are adopted. The Committee notes that such entities are not currently in compliance with the regulations and expects the Administrator to act expeditiously to ensure that corrective action is taken.

Subsection (c)(6) requires the Administrator to revise its regulations to reflect the changes made by this section. The current loca-

tion of section 21.50(b) in Subpart B has resulted in confusion as to which entities are design approval holders covered by this regulation. The reported bill clarifies the definition of design approval holder in subsection (b)(2) and directs the Administrator to consider whether additional entities are also design approval holders. Accordingly, the Administrator should consider relocating section 21.50(b) within Part 21 (such as Subpart A or another location of general applicability) that is consistent with this definition.

Subsection (d) provides that nothing in this section requires a design approval holder to make available proprietary information unless it is deemed essential to continued airworthiness pursuant to the rulemaking required by subsection (c)(1).

Section 421. Certificate Actions in Response to a Security Threat

Subsection (a) requires FAA to revoke a pilot's certificate if the Department of Homeland Security notifies the FAA that the pilot is a security risk.

Subsection (b) gives a pilot who is a U.S. citizen the right to a hearing before an administrative law judge (ALJ). Others have the right to the appeal procedures that the Transportation Security Administration (TSA) has already provided for them.

Subsection (c) states that the ALJ is not bound by the FAA's or TSA's findings of fact or law.

Subsection (d) allows either party to appeal an ALJ decision to a special panel created by the Transportation Security Oversight Board.

Subsection (e) allows either party to appeal the panel's decision to the U.S. Court of Appeals.

Subsection (f) requires TSA to give a person appealing under this section an explanation of the reason for the revocation and all supporting documents to the extent that national security permits.

Subsection (g) sets forth the procedures for handling classified evidence.

Section 422. Flight Attendant Certification

Subsection (a) prohibits a person from serving as a flight attendant on an aircraft of a U.S. airline unless that person holds a certificate from the FAA. That person must present that certificate, upon request, to an authorized Federal official within a reasonable time. People currently serving as flight attendants can continue to do so pending their certification. After the airline notifies the FAA that a person has met the qualifications for certification, that person may serve as a flight attendant even if that person does not have the certificate in hand.

Subsection (b) requires the FAA to issue a certificate to a person after the airline notifies the FAA that the person has completed all FAA approved training.

Subsection (c) designates the appropriate airline official to determine whether a person has successfully completed the training.

Subsection (d) requires the certificate to be numbered and recorded by the FAA, contain the name, address, and description of the flight attendant, contain the name of the airline that the flight attendant works for, be similar to airmen certificates, contain the airplane group (jet or prop) for which the certificate is issued, and

be issued by the FAA within 30 days of notification by the airline or within 1 year of the effective date of this section.

Subsection (e) states that all flight attendant training programs, other than those involving security, are subject to FAA approval. Training programs approved within one year prior to the date of enactment may be used as the basis for certifying flight attendants.

Subsection (f) defines “flight attendant”.

This section takes effect one year after the date of enactment.

Section 423. Civil Penalty for Closure of an Airport Without Providing Sufficient Notice

Requires the government agency that owns or controls an airport to provide 30 days notice before that airport is closed. This is in addition to any grant assurance with which the airport may have to comply. There is \$10,000 penalty for each day that the airport remains closed without having given the proper notice.

Section 424. Noise Exposure Maps

This section replaces an obsolete date reference and directs airports to update their noise exposure maps if there is a change in the operations at the airport that would lead to a significant increase or decrease in noise.

Section 425. Amendment of General Fee Schedule Provision

This section makes clear that the changes to the method for calculating overflight fees in the Aviation and Transportation Security Act were not nullified by the savings provision in that Act.

Section 426. Improvement of Curriculum Standards for Aviation Maintenance Technicians

This section requires FAA to update the curriculum for training aircraft mechanics to reflect current technology and maintenance practices.

Section 427. Task Force on Future of Air Transportation System

This section requires the President to establish a Task Force to develop an integrated plan to transform the Nation’s air traffic control and air transportation system to meet its future needs. This is based on the recommendation of the National Commission on the Future of the Aerospace Industry

Section 428. Air Quality in Aircraft Cabins

This section directs the FAA to undertake the studies and analysis called for in the National Academy of Sciences study on airline cabin air quality.

Section 429. Recommendations Concerning Travel Agents

This section requires DOT to consider the recommendations of the National Commission to Ensure Consumer Information and Choice in the Airline Industry and to report to Congress on any actions that it believes should be taken.

Section 430. Task Force on Enhanced Transfer of Applications of Technology for Military Aircraft to Civilian Aircraft

This section directs the President to establish a task force to look for ways to ensure that technology developed for military aircraft is more quickly and easily transferred to applications for improving and modernizing the fleet of civilian aircraft.

Section 431. Reimbursement for Losses Incurred by General Aviation Entities

This section authorizes \$100 million to reimburse general aviation businesses that have incurred costs or lost money as a result of security restrictions. The businesses eligible for this reimbursement are the fixed based operator and any other general aviation businesses at Reagan National Airport that has been largely closed to general aviation since September 11, 2001, the 3 general aviation airports in the Washington, D.C. area that were closed after September 11th and are now operating under security restrictions, banner towers who have been prohibited from flying over stadiums, flight schools that have been unable to train foreign students, and any other general aviation business that is prohibited from operating due to similar restrictions.

Section 432. Impasse Procedures for National Association of Air Traffic Specialists

This section requires the wage dispute between the FAA and the National Association of Air Traffic Specialists to be submitted to the Federal Services Impasse Panel if it has not been resolved within 30 days of enactment of this Act.

Section 433. FAA Inspector Training

Subsection (a) directs GAO to undertake a study of the training of FAA's safety inspectors.

Subsection (b) is a Sense of the House that FAA safety inspectors should take the most up-to-date training at a location convenient to the inspector and that the training should have a direct relation to the inspector's job requirements.

Subsection (c) directs the FAA to arrange for the National Academy of Sciences to study the staffing standards the FAA uses for its inspector workforce.

Section 434. Prohibition on Air Traffic Control Privatization

Subsection (a) prohibits DOT from privatizing the functions performed by its air traffic controllers who separate and control aircraft.

Subsection (b) states that this prohibition does not apply to the functions performed at air traffic control towers that are operated by private entities under the FAA's contract tower program. This exemption covers the current airport traffic control towers that are part of the FAA contract tower program in addition to non-towered airports and non-federal towers that would qualify for participation in this program.

Section 435. Airfares for Members of the Armed Forces

This is a sense of Congress urging airlines to provide low fares for Members of the Armed Forces of the United States.

Section 436. Air Carriers Required to Honor Tickets for Suspended Air Service

This section extends for 9 more months the requirement that airlines accommodate passengers whose flight is cancelled due to the bankruptcy of the carrier on which that passenger was ticketed.

Section 437. International Air Show

This section directs DOT to study the feasibility of the United States hosting an international air show to rival the one in Paris. The Committee is aware that a similar provision has been included in H.R. 1588 and urges DOT to work with the Department of Defense on this matter.

Section 438. Definition of Air Traffic Controller

This section allows an air traffic controller who is promoted to a supervisory or managerial position to retain the same retirement benefits as one who was not so promoted.

Subsections (a) and (b) amend the definition of an "air traffic controller" within the Civil Service Retirement System (CSRS) and Federal Employee Retirement System (FERS) to include second level air traffic controller supervisors.

Subsection (c) clarifies that CSRS and FERS mandatory retirement provisions that apply to line air traffic controllers do not apply to second level supervisors.

Subsection (d) specifies that this section shall take effect on the 60th day after the date of enactment.

Subsection (e) allows current second level supervisors who have been promoted prior to enactment to retroactively pay into the higher CSRS accrual rate.

Section 439. Justification for Air Defense Identification Zone

If the FAA imposes flight restrictions in the Washington D.C. area, this section requires FAA to submit a report to Congress within 60 days explaining the need for such restrictions. If such restrictions are in effect on the date of enactment, this report must be filed within 30 days of the date of enactment.

Section 440. International Air Transportation

This is a sense of Congress urging DOT to define "fifth freedom" and "seventh freedom" consistently for both scheduled and charter passenger and cargo traffic.

Section 441. Reimbursement of Air Carriers for Certain Screening and Related Activities

This section directs DOT, subject to the availability of funds, to reimburse U.S. airlines and airports for the security activities that they are still being required to perform. It also directs DOT to reimburse airports for the space being used to screen passengers if that space was being used or would have been used by concessionaires or other for revenue producing activities.

Section 442. General Aviation Flights at Ronald Reagan Washington National Airport

This is a sense of Congress that Reagan National Airport should be opened to general aviation flights as soon as possible.

TITLE V—AIRPORT DEVELOPMENT

Section 501. Definitions

This section includes the various hub definitions in Chapter 471 of title 49.

Section 502. Replacement of Baggage Conveyor Systems

This section states that an airport can only use its AIP entitlement funds for airport terminal modifications to accommodate explosive detection systems. AIP discretionary funds will not be available for this purpose.

Section 503. Security Costs at Small Airports

This section allows small airports to use their AIP entitlement funds in fiscal year 2004 to pay the operating costs required to meet new security requirements.

Section 504. Withholding of Program Application Approval

If an AIP discretionary grant is withheld from an airport on the grounds that the airport has violated a grant assurance, this section requires that the airport be given the same right to a hearing that it would have if the FAA had withheld an entitlement grant. This section does not require the FAA to give a discretionary grant to any particular airport.

Section 505. Runway Safety Areas

This section requires airports to undertake, to the maximum extent practical, improvements to the runway safety overrun area to meet FAA standards when they receive grants to construct, reconstruct, repair, or improve that runway. This does not require that airport to build a shorter runway, reduce the length of that runway or similar actions that are prohibited by section 419 of this bill.

Section 506. Disposition of Land Acquired for Noise Compatibility Purposes

Rather than depositing the proceeds from the sale of land into the aviation trust fund, this section allows an airport to retain those proceeds and use them for another noise compatibility project including the purchase of residential or non-residential property near the airport.

Section 507. Grant Assurances

If an airport owner and an aircraft owner agree that an aircraft hangar can be constructed at the airport at the aircraft owner's expense, subsection (a) requires the airport owner to grant a long-term lease to the aircraft owner for that hangar. The lease may be subject to such terms and conditions on the hangar as the airport may impose.

Subsection (b) makes a governmental entity subject to the 6-year statute of limitations on making requests for reimbursement from an airport. Currently, only the airport sponsor is subject to this statute of limitations.

Subsection (c) clarifies the review of revenue use through the annual audit activities under the Single Audit Act of Title 31.

Section 508. Allowable Project Costs

Subsection (a) permits AIP grants to be used to build or modify a revenue generating parking facility at an airport if it is needed to comply with a security directive.

Subsection (b) permits AIP grants to be used at small airports to pay the interest on a bond used to finance an airport project.

Subsection (c) permits AIP grants to be used to pay the cost of moving a Federal building that is impeding an airport project to the extent the new building is similar to the old one.

Section 509. Apportionments to Primary Airports

Subsection (a) lowers the entitlement for the largest airports by 5 cents for each passenger at that airport over 3.5 million in a year.

Subsection (b) allows airports that fell below the \$10,000 passenger threshold for qualifying as a primary airport following the September 11th terrorist attack to continue to receive their primary airport entitlement for two years.

Section 510. Cargo Airports

This section increases the entitlement for airports with air cargo service from 3% of total AIP to 3.5%.

Section 511. Considerations in Making Discretionary Grants

This section restates the first five factors that FAA must consider in deciding whether to make a discretionary grant for a project to enhance capacity at an airport. The sixth consideration in current law is eliminated, as it is not a provision of general applicability like the others. This section also adds two additional factors for FAA to consider when making discretionary grants for all projects. One is where the project stands in the FAA's priority system. The second is whether work can begin on the project soon after the grant is made.

Section 512. Flexible Funding for Nonprimary Airport Apportionments

Subsection (a) permits an airport sponsor to make AIP entitlement grants for one of its airports available to another one of its airports if that other airport is eligible to receive AIP grants. It also permits an airport to make an agreement with FAA to forego its entitlement if the FAA agrees to make the money foregone available for a grant to another airport in the same State or to an airport that the FAA determines is in the same geographical area.

Subsection (b) permits multiyear grants using the general aviation entitlement to the same extent that they are permitted using the primary airport entitlement.

Subsection (c) permits retroactive use of the general aviation entitlement in the same way that the primary airport entitlement can be used. It also permits a general aviation airport to use its AIP entitlement for revenue producing facilities, such as building fuel farms and hangars, if the airport certifies that its airside needs are being met. This will help small airports become more self-sufficient.

Subsection (d) permits a general aviation airport to use its AIP entitlement for terminal development.

Section 513. Use of Apportioned Amounts

Subsection (a) broadens the category for which noise set-aside funds may be used.

Subsection (b) eliminates the special set-aside for reliever airports since there is no evidence that the particular airports singled out by that set-aside are actually providing any more relief from congestion than other airports that do not qualify it.

Subsection (c) allows AIP grant funds that are not spent by an airport to be recovered by the FAA and used for a grant to another airport notwithstanding any obligation limitation in an appropriations act.

Section 514. Military Airport Program

This section increases from \$7 million to \$10 million the amount that an airport designated under the military airport program can use for terminal development, parking lots, fuel farms, or hangar construction.

Section 515. Terminal Development Costs

This section restates two provision in current law that permit reimbursement for terminal development costs and adds a third provision. The third provision allows a small airport that is designated under the military airport program at which terminal development is carried out between January 2003 and August 2004 to use AIP money to repay money borrowed to build that terminal.

Section 516. Contract Towers

This section updates the section on the FAA's contract tower program and increases the maximum Federal share for the construction of a tower under this program. The Committee supports the FAA contract tower program as a cost-effective way to enhance air traffic safety at smaller airports that otherwise would not enjoy the safety benefits of a tower. The Department of Transportation Inspector General has supported the benefits of this program in numerous audits.

Section 517. Airport Safety Data Collection

This section allows FAA to use AIP money to enter into a sole source contract with a private entity to collect airport safety data.

Section 518. Airport Privatization Pilot Program

Subsection (a) allows a proposed airport privatization to proceed if it is approved by 65% of the scheduled U.S. airlines serving the airport rather than by 65% of all scheduled and charter airlines serving the airport. With respect to a general aviation airport, approval must be by 65% of the owners of aircraft based at the airport, as determined by the Secretary. If an airline has not filed an objection within 60 days, it will be considered to have approved the proposed privatization.

Subsection (b) eliminates the provision that limits the Federal share of a discretionary grant for a privatized airport to 40%.

Section 519. Innovative Financing Techniques

This section allows 10 more grants for innovative financing techniques to be issued but eliminates payment of interest and com-

mercial bond insurance as permitted techniques since those are now covered by section 508(b) of the reported bill.

Section 520. Airport Security Program

This section directs the FAA to continue to administer this particular program to test and evaluate innovate aviation security systems and technologies at airports even though most security responsibilities have been transferred to the Department of Homeland Security.

Section 521. Low-Emission Airport Vehicles and Infrastructure

Subsection (a) requires DOT and EPA to ensure that an airport will receive appropriate emission credits for carrying out a project that will reduce emissions at that airport.

Subsection (b) directs DOT to carry out a pilot program at no more than 10 airports under which an airport may use AIP grants of not more than \$500 thousand to retrofit equipment used at the airport so that they produce lower emissions.

Subsection (c) makes projects that will reduce emissions at airports eligible for AIP grants.

Subsection (d) states that with respect to low-emission equipment that is not already eligible to be purchased with AIP funds, the only portion of the cost that is eligible to be paid for with AIP funds is the portion that the FAA determines represents the increase in the cost of the low-emission equipment over a similar piece of equipment that is not low-emission.

Subsection (e) defines low-emission equipment.

Section 522. Compatible Land Use Planning and Projects by State and Local Governments

This section would allow the FAA to use AIP funds to make grants to States and localities for land use planning near airports so that the communities may make the use of land in their jurisdictions more compatible with aircraft operations. The goal is to achieve more responsible land uses around airports in jurisdictions that are not under the control of the airport owner or operator. Conditions are imposed to avoid undermining the efforts of the airport. This provision will expire in 4 years and could be reevaluated and continued at that time if it is meeting its goals without impeding airport operations. The FAA should utilize this section only where it will further the interests of aviation and should not allow it to be abused by opponents of the airport.

Section 523. Prohibition on Requiring Airports To Provide Rent-Free Space for Federal Aviation Administration

This section continues provisions that have previously been included in various appropriations acts to require FAA to pay rent for the space that they use at airports. Exceptions are provided for agreements that might be negotiated with the airport and for land and facilities needed to house the air traffic controllers. This section is not intended to supersede the grant assurance in section 47107(a)(12) that facilities be provided without charge to the FAA for air traffic control and navigation.

Section 524. Midway Island Airport

Subsection (a) finds that the airport on Midway Island is critical to the safety of flights over the Pacific Ocean.

Subsection (b) directs DOT to enter into an MOU with other government agencies to facilitate the sale of fuel at the airport to help it become self-sufficient.

Subsection (c) allows the airport to transfer its navigation aids to the FAA and requires the FAA to operate and maintain them.

Subsection (d) makes aviation trust fund money available to the Interior Department for capital projects at the airport.

LEGISLATIVE HISTORY AND COMMITTEE CONSIDERATION

Hearings were held on FAA reauthorization on February 12, March 6, March 12, March 27, and April 9, 2003. The Subcommittee approved by voice vote a committee print of H.R. 2115 on May 14, 2003 and the Committee on Transportation and Infrastructure approved by voice vote H.R. 2115, as amended, on May 21, 2003.

ROLLCALL VOTES

Clause 3(b) of rule XIII of the Rules of the House of Representatives requires each committee report to include the total number of votes cast for and against on each rollcall 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 rollcall votes on H.R. 2115.

COMMITTEE OVERSIGHT FINDINGS

With respect to the requirements of clause 3(c)(1) 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(c)(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 performance goals and objective of this legislation are to improve the safety and efficiency of the civil aviation system in the United States.

3. With respect to the requirement of clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 402 of the Congressional Budget Act of 1974, the Committee has received the

following cost estimate for H.R. 2115 from the Director of the Congressional Budget Office.

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, June 5, 2003.

Hon. DON YOUNG,
*Chairman, Committee on Transportation and Infrastructure,
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 2115, the Flight 100—Century of Aviation Reauthorization Act, as ordered reported by the House Committee on Transportation and Infrastructure on May 21, 2003, and including amendments specified in a letter to CBO on June 4, 2003.

If you wish further details on this estimate, we will be pleased to provide them. The principal CBO staff contacts for federal costs are Mark Hadley and Megan Carroll. The staff contact for the private-sector impact is Jean Talarico, and the contact for the state and local impact is Gregory Waring.

Sincerely,

DOUGLAS HOLTZ-EAKIN,
Director.

Enclosure.

H.R. 2115—Flight 100—Century of Aviation Reauthorization Act

Summary: H.R. 2115 would authorize appropriations for programs administered by the Federal Aviation Administration (FAA). Most of the bill's authorizations would extend for four years: the 2004–2007 period. CBO estimates that implementing H.R. 2115 would cost about \$48.4 billion over the next five years, assuming appropriation actions consistent with the amounts that would be authorized by the bill and the levels of new contract authority (a mandatory form of budget authority) it would provide for aviation programs. In addition, we also estimate that enacting the bill would increase direct spending by \$1.4 billion over the 2004–2008 period and by \$2.7 billion over the next 10 years. Finally, CBO and the Joint Committee on Taxation (JCT) estimate that H.R. 2115 would increase revenues by \$3 million over the 2004–2008 period and \$11 million over the next 10 years.

H.R. 2115 contains an intergovernmental mandate as defined in the Unfunded Mandates Reform Act (UMRA) because it would require state and local governments to notify the FAA if they intend to close an airport. CBO estimates that the cost of this mandate would be minimal and would be significantly below the threshold established in that act (\$59 million in 2003, adjusted annually for inflation). The bill would authorize grants for various activities that would benefit state and local governments.

H.R. 2115 would impose private-sector mandates as defined in UMRA on air carriers. CBO estimates that the direct costs of those mandates would fall below the annual threshold established in UMRA (\$117 million in 2003, adjusted annually for inflation) in the first five years the mandates are in effect.

Estimated cost to the Federal Government: The estimated budgetary impact of H.R. 2115 is shown in Table 1. The costs of this

legislation fall within budget function 400 (transportation) and 600 (income security).

TABLE 1.—ESTIMATED BUDGETARY IMPACT OF H.R. 2115

	By fiscal year, in millions of dollars—					
	2003	2004	2005	2006	2007	2008
SPENDING SUBJECT TO APPROPRIATION						
Spending under current law:						
Budget authority ¹	10,160	15	15	15	15	15
Estimated outlays ²	13,364	5,764	3,886	3,616	3,500	3,472
Proposed changes:						
FAA operations:						
Estimated authorization level	0	7,591	7,732	7,889	8,064	0
Estimated outlays	0	6,756	7,716	7,872	8,045	887
Air navigation facilities and equipment:						
Estimated authorization level	0	3,138	2,993	3,053	3,110	0
Estimated outlays	0	1,349	2,542	2,824	3,015	1,730
Reimbursing airports and air carriers:						
Estimated authorization level	0	1,300	800	800	800	800
Estimated outlays	0	780	870	850	800	800
Airport improvement program (AIP)³						
Estimated authorization level	0	0	0	0	0	0
Estimated outlays	0	-56	13	154	327	480
Other:						
Estimated authorization level	0	210	110	111	114	113
Estimated outlays	0	148	139	122	114	113
Total proposed changes:						
Estimated authorization level	0	12,239	11,635	11,853	12,088	913
Estimated outlays	0	8,978	11,281	11,822	12,300	4,010
Spending under H.R. 2115:						
Estimated authorization level ¹	10,160	12,254	11,650	11,868	12,103	928
Estimated outlays	13,364	14,742	15,167	15,437	15,799	7,483
DIRECT SPENDING						
Baseline spending under current law:						
Estimated budget authority ³	3,333	3,518	3,762	3,637	3,564	3,527
Estimated outlays	-39	140	384	258	186	149
Proposed changes:						
Terrorism risk insurance:						
Estimated budget authority	0	-3	-38	172	472	738
Estimated outlays	0	-3	-38	172	472	738
AIP authorization:³						
Estimated budget authority	0	22	222	422	622	622
Estimated outlays	0	0	0	0	0	0
Retirement Benefits for Certain FAA Employees:						
Estimated budget authority	0	1	1	1	2	2
Estimated outlays	0	1	1	1	2	2
Funding for Midway Island Airport:						
Estimated budget authority	0	1	3	1	1	0
Estimated outlays	0	0	1	2	1	1
Spending under H.R. 2115:						
Estimated budget authority ³	3,333	3,539	3,950	4,233	4,661	4,889
Estimated outlays	-39	139	349	433	661	890
CHANGES IN REVENUES						
Estimated revenues	0	1	1	1	1	1

¹The 2003 level is the amount appropriated for that year for FAA's operations account; facilities and equipment account; research, engineering, and development account; and essential air service.

²Estimated outlays under current law are from amounts appropriated for 2003 and previous years for the FAA operations account and the facilities and equipment account, as well as the discretionary outlays from the obligation limitations for the Airport Improvement Program, as assumed to continue in the budget resolution baseline (adopted in April 2003).

³Budget authority for AIP is provided as contract authority, a mandatory form of budget authority; however, outlays from AIP contract authority are subject to obligation limitations contained in appropriation acts and are therefore discretionary.

Note.—Details may not add to totals because of rounding.

Basis of Estimate

Implementing H.R. 2115 would increase spending subject to appropriation. Enacting the bill also would increase direct spending and revenues. Outlay estimates are based on historical spending patterns for the affected programs and on information provided by the Department of Transportation (DOT) and FAA staff.

Spending subject to appropriation

For purposes of this estimate, CBO assumes that H.R. 2115 will be enacted before the start of fiscal year 2004 and that the amounts authorized for aviation programs will be appropriated for each fiscal year.

FAA Operations. The bill would authorize the appropriation of \$7.6 billion for fiscal year 2004, \$7.7 billion for 2005, \$7.9 billion for 2006, and \$8.0 billion for 2007 for FAA operations. (In comparison, for fiscal year 2003, the Congress provided roughly \$7 billion for that purpose.) CBO estimates that appropriation of the amounts specified in the bill would cost \$31.3 billion over the 2004–2008 period.

FAA Air Navigation Facilities and Equipment. H.R. 2115 would authorize the appropriation of about \$3.1 billion for fiscal year 2004, \$3.0 billion for 2005, \$3.1 billion for 2006, and \$3.1 billion for 2007 for facilities and equipment. (In comparison, for fiscal year 2003, the Congress provided about \$2.9 billion for that program.) CBO estimates that appropriation of those amounts would cost \$11.5 billion over the next five years.

Reimbursement of Airports and Air Carriers. H.R. 2115 would authorize the Secretary of Transportation to reimburse airports and air carriers for the costs of certain security activities. Such activities include the security screening of catering supplies, checking documents, screening persons with access to aircraft, and providing space in airports for security personnel that was previously used for revenue-producing purposes. Based on information from the American Association of Airport Executives and the Air Transport Association about the costs that airports and air carriers have incurred for these activities, CBO estimates reimbursing such costs could total \$4.1 billion over the 2004–2008 period.

FAA Airport Improvement Program. Title I would provide \$14.8 billion in contract authority (a mandatory form of budget authority) over the 2004–2007 for the airport improvement program (AIP). Consistent with section 257 of the Balanced Budget and Energy Deficit Control Act, which specifies that certain expiring programs be assumed to continue for budget projection purposes, we estimate that the projected total amount of contract authority for AIP would be \$18.8 billion over the 2004–2008 period. That total is \$1.9 billion above the amounts projected in the current budget resolution baseline. (See the discussion of AIP under “Direct Spending,” below, for more details on the budgetary treatment of this program.)

Assuming that the obligation limitations of AIP spending as set forth in annual appropriation acts, are equal to the projected contract authority amounts for each year, CBO estimates that implementing this provision would cost \$917 million over the 2004–2008 period. In addition, H.R. 2115 would change the composition of AIP

spending, thereby reducing outlays below the baseline level in 2004.

Other Provisions. CBO estimates that implementing other programs that would be authorized by H.R. 2115 would cost a total of \$636 million over the 2004–2008 period. Components of that estimate are described below.

Essential Air Service Program. Section 415 would authorize the appropriation of \$50 million a year for the Essential Air Service program above the \$15 million authorized under current law. In addition, section 415 would authorize the Secretary of Transportation to hire four additional employees to carry out the Essential Air Service Program. Based on historical spending patterns of this program, CBO estimates that implementing section 415 would cost \$242 million over the 2004–2008 period.

Small Community Air Service Development Program. Section 104 would authorize the appropriation of \$35 million a year over the 2004–2008 period for the small community air service development program. Based on historical spending patterns, CBO estimates this provision would cost \$168 million over the 2004–2008 period.

Reimbursing General Aviation Entities. Section 432 would authorize the appropriation of \$100 million to reimburse general aviation entities for the security costs incurred and revenue forgone as a result of the restrictions imposed following the terrorist attacks of September 11, 2001. CBO estimates this provision would cost \$100 million over the 2004–2008 period.

Retirement Benefits for Certain FAA Employees. Section 439 would provide an increase in retirement benefits to some federal employees working as air traffic controller supervisors. Agency retirement contributions for employees participating in the Federal Employees' Retirement System (FERS)—which includes most employees first hired after 1983—are tied to the cost of providing benefits under that system. Therefore, if the costs of providing benefits under FERS increase, agency contributions also increase. The FAA and Department of Defense currently employ about 600 air traffic controller supervisors who are covered by FERS. CBO estimates that section 439 would increase agency contributions for these employees by \$88 million over the 2004–2008 period. (This provision would also affect direct spending and revenues as described in the following sections.)

Miscellaneous Provisions. Section 101 would authorize the appropriation of about \$4 million a year over the 2004–2007 period for the Bureau of Transportation Statistics to gather and analyze airline information. In addition, section 204 would authorize the appropriation of \$4.2 million a year to facilitate the timely review of environmental impacts of projects that would enhance airport capacity. CBO estimates that implementing those two provisions would cost \$33 million over the 2004–2008 period, assuming appropriation of the necessary amounts.

Finally, the bill would authorize other activities that we estimate would cost \$5 million over the 2004–2008 period, including task forces and studies on the future of air transportation, staffing standards for FAA inspectors, the feasibility of hosting a world-class international air show, and methods for transferring military technologies to civilian aircraft.

Direct spending

H.R. 2115 would extend and expand the FAA's terrorism insurance program for commercial airlines, provide additional contract authority for the Airport Improvement Program, provide funding for Midway Island Airport, and increase spending for retirement benefits for certain FAA employees. CBO estimates that enacting those provisions would increase direct spending by \$1.4 billion over the 2004–2008 period and \$2.7 billion over the 2004–2013 period. The 10-year cost of those provisions is summarized in Table 2.

Terrorism Risk Insurance. Under current law, the FAA offers insurance to air carriers against liability arising from losses caused by terrorist events. The FAA's aviation terrorism insurance program is scheduled to end on December 31, 2004. H.R. 2115 would extend the authorization for that program through December 31, 2007. The bill also would authorize the FAA to expand the program by offering insurance coverage to companies that manufacture aircraft and aircraft engines. CBO estimates that the net cost of providing insurance to air carriers and manufacturers through December 31, 2007, would be about \$1.3 billion over the 2004–2008 period and about \$2.7 billion over the 2004–2013 period.

TABLE 2.—SUMMARY OF EFFECTS ON DIRECT SPENDING AND REVENUES UNDER H.R. 2115

	By fiscal year, in millions of dollars—									
	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013
CHANGES IN DIRECT SPENDING										
Estimated budget authority	21	188	596	1,097	1,362	1,154	975	866	757	708
Estimated outlays	–1	–35	175	475	741	532	353	244	135	86
CHANGES IN REVENUES										
Estimated budget authority	1	1	1	1	1	2	2	2	2	2

Currently, the FAA collects premiums from air carriers in exchange for certain insurance coverage. Under the bill, the government also would collect premiums from aircraft and aircraft engine manufacturers. Such premiums are recorded as an offset to direct spending in the year that they are collected. CBO estimates that under H.R. 2115, the FAA would collect about \$500 million in additional premiums over the 2004–2008 period. CBO expects that the cost of providing insurance, however, would be much greater than premiums collected. CBO estimates that payments for expected net losses under the FAA insurance program would cost about \$3.2 billion over the 2004–2013 period.

CBO cannot predict how much insured damage terrorists might cause in any specific year. Instead, our estimate of the cost of the insurance coverage under H.R. 2115 represents an expected value of payments from the program—a weighted average that reflects the probabilities of various outcomes, from zero damages up to very large damages due to possible future terrorist attacks. The expected value can be thought of as the amount of an insurance premium that would be necessary to just offset the risk of providing this insurance; indeed, our estimate of the expected cost for H.R. 2115 is based on private-sector premiums for terrorism insurance that have been adjusted for differences in costs faced by private insurance firms that are not borne by the federal government. While this cost estimate reflects CBO's best judgment on the basis of

available information, costs are a function of inherently unpredictable future terrorist attacks. As such, actual costs could fall anywhere within an extremely broad range.

Airport Improvement Program. H.R. 2115 would provide \$14.8 billion in contract authority over the 2004–2006 period for the airport improvement program. Consistent with the Balanced Budget and Emergency Deficit Control Act, we estimate that the projected total amount of contract authority would be \$18.8 billion over the 2004–2008 period and \$38.8 billion over the 2004–2013 period. Those totals are about \$1.9 billion and \$5 billion, respectively, above the amounts projected in the CBO baseline. The bill also would extend the authority of the Secretary of Transportation to incur obligations to make grants under the AIP program.

Under current law, AIP has about \$3.4 billion of contract authority available in 2003. Relative to the baseline, enacting title I would increase contract authority by \$22 million in fiscal year 2004 and by a total of \$1.3 billion over the 2004–2007 period. As noted above, although H.R. 2115 specifies contract authority only through 2007, section 257 of the Balanced Budget and Emergency Deficit Control Act requires CBO to assume that contract authority for AIP would continue (for baseline purposes) through the entire 2004–2013 period. Under that requirement, the estimated level of contract authority would remain at \$4 billion a year over the 2008–2013 period. That amount would exceed the amount assumed in the current baseline for those years by \$622 million a year. Hence, CBO estimated H.R. 2115 would increase contract authority—above baseline levels—by \$3.7 billion over the 2008–2013 period.

Expenditures from AIP contract authority are governed by obligation limitations contained in annual appropriation acts and are categorized as discretionary spending. For this estimate, we assume that appropriation acts will set obligation limitations for AIP equal to the annual levels of contract authority.

Current law provides for increases to AIP contract authority in any year that the amounts authorized to be appropriated for FAA's facilities and equipment account are greater than the amounts actually provided in appropriation acts for that program. By authorizing amounts for facilities and equipment over the 2004–2006 period, H.R. 2115 would authorize adjustments to AIP contract authority for those years as well. Any adjustment would constitute new direct spending authority, and all spending for AIP—including spending triggered by such adjustments—would still be subject to obligation limitations established in appropriation acts. Although H.R. 2115 could result in additional AIP contract authority of as much as \$12.1 billion over the 2004–2007 period if no appropriations were provided for facilities and equipment, CBO assumes that appropriations will equal or exceed authorized amounts; thus, we assume no increases to contract authority would be made under this provision.

Retirement Benefits for Certain FAA Employees. Section 439 would provide some supervisors of air traffic controllers more generous retirement benefits than they receive under current law. It would also make some covered workers eligible to collect retirement benefits earlier than they otherwise would be. There are about 2,500 air traffic controller supervisors currently employed by the Federal Aviation Administration and the Department of De-

fense, and about 150 retire each year. CBO estimates this section would increase costs in two ways: it would increase spending because some workers would retire earlier than they otherwise would have, and it would increase annuities for some employees, regardless of when they retire. CBO estimates that the cost of retirement benefits would increase by \$1 million in 2004 and by \$27 million over the next 10 years. Spending on retire health benefits would also increase, but by less than \$500,000 annually.

Funding for Midway Island Airport. Section 524 would provide \$750,000 in 2004, \$2.5 million in 2005, and \$1 million in each of 2006 and 2007 for capital projects at the Midway Island Airport. Based on historical spending patterns for such projects, CBO estimates this provision would cost about \$5 million over the 2004–2008 period.

Revenues

H.R. 2115 would increase amounts collected from certain federal employees as contributions toward retirement benefits. Those collections are recorded in the budget as revenues. The bill also would result in forgone revenues as a result of an expected increase in the use of tax-exempt financing for airport project. CBO and JCT estimate that the net impact of those provisions would be to increase revenues by \$3 million over the 2004–2008 period and \$11 million over the next 10 years.

Increased Employee Contributions for Retirement Benefits. Section 439 would provide an increase in retirement benefits for some air traffic controller supervisors. Under the bill, employees participating in FERS would be required to contribute a greater portion of their salary toward the increased benefits. CBO estimates that raising the contribution rate on those employees would increase federal revenues by \$1 million in 2004 and \$5 million over the 2004–2008 period. In order to qualify for the increased benefits for service already performed as a supervisor, currently employed supervisors participating in FERS would be required to deposit a special payment to the retirement fund by the time they retire. This payment would be designed to make up the difference between what they did contribute into the retirement system prior to the bill's enactment and what they would have contributed if that service has been covered all along. CBO estimates that implementing this provision would increase revenues by less than \$500,000 annually.

Forgone Revenues from Increased Use of Tax-Exempt Financing. By simplifying application procedures, H.R. 2115 could encourage more smaller airports to seek authority from the Secretary of Transportation to charge passenger facility fees. JCR expects that those provisions would result in an increase in tax-exempt financing for airport construction and a subsequent loss of federal revenue. JCT estimates that the revenue losses, which would not exceed \$500,000 in any year, would total \$2 million over the 2004–2008 period and \$4 million over the 2004–2013 period (see Table 2).

Estimated impact on state, local, and tribal governments: H.R. 2115 contains an intergovernmental mandate as defined in the Unfunded Mandates Reform Act because it would require state and local governments to notify the FAA if they intend to close an air-

port. CBO estimates that the cost of this mandate would be minimal and would be significantly below the threshold established in that act (\$59 million in 2003, adjusted annually for inflation).

Enacting this bill would benefit state and local governments because it would authorize grants to airports for planning, development, mitigation, and other initiatives. In addition, they would benefit from provisions that would authorize nonhub airports to use passenger facility fees to fund FAA-approved projects and prohibit the FAA from requiring airports to provide space and related services at no cost. Any costs incurred by state and local governments as a result of grant requirements in this bill would be voluntary.

Estimated impact on the private sector: H.R. 2115 would impose private-sector mandates as defined in UMRA on air carriers. CBO estimates that the direct costs of those mandates would fall below the annual threshold established in UMRA (\$117 million in 2003, adjusted annually for inflation) in the first five years the mandates are in effect.

H.R. 2115 would impose mandates by increasing the cost of two existing mandates. First, section 401 would require that air carriers provide certain flight information on interstate transportation to the Department of Transportation. The mandate would be effective on the date the first rule is issued to modernize the Origin and Destination Survey of Airline Passenger Traffic. In general, this rule would reduce the reporting burden for air carriers by allowing them to file information electronically with DOT. According to industry representatives, air carriers currently collect the flight information data. CBO estimates that the cost to comply with the mandate would be minimal.

Second, section 411 would require that certain domestic and foreign air carriers update their current plans that address the needs of the families of passengers involved in an aircraft accident resulting in a major loss. The updated plan must include an assurance that in the case of an accident in which the National Transportation Safety Board (NTSB) conducts a public hearing at a location greater than 80 miles from the accident site, the air carrier will ensure that the proceeding is made available simultaneously by electronic means at a location open to the public at both the origin city and destination city of the air carrier's flight.

Since 1997, the NTSB has held no more than three hearings per year for accidents involving passenger air service. Most of those were held in Washington, D.C., away from the accident site. Typically, such hearings lasted two or three days. According to industry representatives, in order to comply with this mandate, air carriers would be required to obtain sites in two cities, provide screens at those sites, and supply the audio and visual feed of the NTSB hearing. Based on this information, CBO expects that the cost of making the hearings available would be small.

Section 437 would extend the current requirement that air carriers honor other air carriers' tickets under certain circumstances as a result of an air carrier's bankruptcy or insolvency. Because the likelihood of an event resulting in large incremental losses to the airline industry for providing air transportation to passengers ticketed on a suspended route is relatively low, CBO estimates that

the annual costs of complying with this mandate (in expected-value terms) would not be substantial.

The bill also contains three mandates that would impose new requirements on air carriers. First, section 413 would require air carriers that provide scheduled passenger air transportation to display a placard available to each passenger that informs the passengers of the country in which the aircraft was finally assembled. Based on information from government sources, CBO estimates that air carriers would have to provide placards for about a million seats. The cost to provide the required notice on such placards would be small.

Second, section 407 would require that air carriers that collect a passenger facility fee for airports to place the fees in an escrow account or to provide the airport with a letter of credit, bond, or other form of adequate and immediately available security in an amount equal to the estimated remittable passenger facility fees for 180 days. CBO is uncertain about the cost to comply with this mandate but it is likely that the cost would not be substantial.

Third, section 423 would require air carriers to verify that a flight attendant has a certificate that demonstrates proficiency issued by the FAA. CBO estimates that the administrative cost to comply with this mandate would be minimal.

Previous CBO estimate: On May 22, 2003, CBO transmitted a cost estimate for S. 824, the Aviation Investment and Revitalization Vision Act, as reported by the Senate Committee on Commerce, Science, and Transportation on May 2, 2003. Our estimate of spending subject to appropriation under H.R. 2115 is about \$14 billion higher than under S. 824 because H.R. 2115 would authorize more funding over the next five years—\$48.7 billion compared to \$34.2 billion authorized under S. 824.

Our estimate of direct spending over the next 10 years under H.R. 2115 is about \$1 billion more than under S. 824, primarily because H.R. 2115 would allow the FAA to sell terrorism insurance a longer period of time, and we estimate that extending that program would cost \$1 billion more under H.R. 2115.

There are two reasons for differences in our estimates of revenues under H.R. 2115 and S. 824. First, H.R. 2115 would increase revenues received as employee contributions toward retirement benefits; S. 824 has no such provision. Second, while JCT estimates that both bills would reduce revenues because of greater use of tax-exempt financing for airport projects, JCT estimates those losses would be less under H.R. 2115 because provisions that would encourage such financing would be in effect for a shorter time than under S. 824.

Estimate prepared by: Federal spending: Mark Hadley, Megan Carroll, and Geoffrey Gerhardt—for retirement costs; federal revenues: Andrew Shaw; impact on state, local, and tribal governments: Gregory Waring; impact on the private sector: Jean Talarico.

Estimate approved by: Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

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).

PREEMPTION CLARIFICATION

Section 423 of the Congressional Budget Act of 1994 requires the report of any Committee on a bill or joint resolution to include a statement on the extent to which the bill or joint resolution is intended to preempt state, local or tribal law. The Committee states that H.R. 2115 does not preempt any state, local, or tribal law.

ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act are 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).

COMMITTEE CORRESPONDENCE

HOUSE OF REPRESENTATIVES,
COMMITTEE ON SCIENCE,
Washington, DC, June 6, 2003.

Hon. DON YOUNG,
*Chairman, House Committee on Transportation and Infrastructure,
Rayburn House Office Building, Washington, DC.*

DEAR CHAIRMAN YOUNG: I have reviewed H.R. 2115, Flight 100—Century of Aviation Reauthorization Act. The bill authorizes research and development (R&D) programs that fall within the jurisdiction of the Committee on Science.

In deference to your desire to bring this legislation before the House in an expeditious manner, I will not exercise this Committee's right to consider H.R. 2115—provided that your Committee acknowledges the jurisdiction of the Committee on Science over R&D programs regardless of the account from which they are funded. Further, the Committee on Science reserves its right to seek conferees on any provisions that are within this Committee's jurisdiction during any House-Senate conference that may be convened on this legislation and a corresponding Senate bill.

Specifically, the Committee on Science has jurisdiction over portions of section 102. That section authorizes, among other things, R&D programs within the Facilities & Equipment Account. This includes programs that the Committee on Appropriations transferred

to the Facilities & Equipment Account in 1999. The Committee retains its right to such conferees on other portions of this bill related to R&D.

I request that you include this letter as part of the Congressional Record during consideration of the legislation on the House floor.

Sincerely,

SHERWOOD BOEHLERT,
Chairman.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE,
Washington, DC, June 6, 2003.

Hon. SHERWOOD BOEHLERT,
*Chairman, Committee on Science,
Rayburn House Office Building, Washington, DC.*

DEAR MR. CHAIRMAN: Thank you for your letter concerning H.R. 2115, the Flight 100—Century of Aviation Reauthorization Act. I appreciate your offer to waive consideration of the bill.

Traditionally, the Transportation Committee has authorized the equipment deployment functions from the Federal Aviation Administration Facilities and Equipment (F&E) account. I recognize that in certain years functions under the jurisdiction of the Science Committee were moved from the FAA Research, Engineering and Development (RED) account to the F&E account through the annual appropriations process. While I believe that these unauthorized appropriations do not have any bearing on committee jurisdiction, I prefer that the Appropriations Committee adhere to the authorizing language and refrain from moving functions from the RED account to the F&E account in order to benefit from a slower spend-out rate. For example, I would prefer that the Advanced Technology Development and Prototyping program remain in the RED account.

Historically, the Science Committee has had oversight and authorization responsibility over the RED account while the Transportation Committee has had exclusive jurisdiction over the F&E account. I believe that continuing this practice is the best way to preserve the jurisdiction of both committees.

I thank you for your attention to this matter and look forward to working with you and your staff. As you request, a copy of your letter and my response will be placed in the Record.

Sincerely,

DON YOUNG,
Chairman.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON RESOURCES,
Washington, DC, June 4, 2003.

Hon. DON YOUNG,
*Chairman, Committee on Transportation and Infrastructure,
Rayburn HOB, Washington, DC.*

DEAR MR. CHAIRMAN: I have reviewed the text of H.R. 2115, Flight 100-Century of Aviation Reauthorization Act, as ordered reported from the Committee on Transportation and Infrastructure

on May 21, 2003. The Committee on Resources has a jurisdictional interest in Section 408, Overflights of National Parks.

Recognizing your wish that this critical bill be considered by the House of Representatives as soon as possible, and noting the continued strong spirit of cooperation between our Committees, I will forego seeking a sequential referral of H.R. 2115 for the Committee on Resources. However, waiving the Committee on Resources' right to a referral in this case does not waive the Committee's jurisdiction over any provision in H.R. 2115 or similar provisions in other bills. In addition, I ask that you support my request to have the Committee on Resources represented on the conference on this bill, if a conference is necessary. Finally, I ask that you include this letter in the Committee on Transportation and Infrastructure's bill report.

I appreciate your leadership and cooperation on this bill and I look forward to working with you to see that H.R. 2115 is enacted into law soon.

Sincerely,

RICHARD W. POMBO,
Chairman.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE,
Washington, DC, June 4, 2003.

Hon. RICHARD W. POMBO,
*Chairman, Committee on Resources,
Longworth Building, Washington, DC.*

DEAR MR. CHAIRMAN: Thank you for your letter of June 4, 2003, regarding H.R. 2115, the Flight 100—Century of Aviation Act, and for your willingness to waive consideration of the provision in the bill that falls within your Committee's jurisdiction under House Rules.

I agree that your waiving consideration of this provision of H.R. 2115 does not waive your Committee's jurisdiction over the bill. I also acknowledge your right to seek conferees on any provisions that are under your Committee's jurisdiction during any House-Senate conference on H.R. 2115 or similar legislation, and will support your request for conferees on such provisions.

As you request, your letter and this response will be included in the Committee report on the legislation.

Thank you for your cooperation in moving this important legislation to the House Floor.

Sincerely,

DON YOUNG,
Chairman.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON ENERGY AND COMMERCE,
Washington, DC, June 6, 2003.

Hon. DON YOUNG,
*Chairman, Committee on Transportation and Infrastructure, House
of Representatives, Rayburn House Office Building, Wash-
ington, DC.*

DEAR CHAIRMAN YOUNG: I am writing with regard to H.R. 2115, the flight 100—Century of Aviation Reauthorization Act, which was ordered reported by the Committee on Transportation and Infrastructure on May 21, 2003.

I recognize your desire to bring this legislation before the House in an expeditious manner. Accordingly, I will not exercise my Committee's right to a referral. By agreeing to waive its consideration of the bill, however, the Energy and Commerce Committee does not waive its jurisdiction over H.R. 2115. In addition, the Energy and Commerce Committee reserves its right 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 Energy and Commerce Committee for conferees on H.R. 2115 or similar legislation.

I request that you include this letter as part of the Committee's Report on H.R. 2115 and in the Record during consideration of the legislation on the House floor. Thank you for your attention to these matters.

Sincerely,

W.J. "BILL" TAUZIN
Chairman.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE,
Washington, DC, June 6, 2003.

Hon. W. J. (BILLY) TAUZIN,
*Chairman, Committee on Energy and Commerce, Rayburn
Building, Washington, DC.*

DEAR CHAIRMAN: Thank you for your letter of June 6, 2003 regarding H.R. 2115, the Flight 100—Century of Aviation Act, and for your willingness to waive consideration of provisions in the bill that falls within your Committee's jurisdiction under House Rules.

I agree that your waiving consideration of these provisions of H.R. 2115 does not waive your Committee's jurisdiction over the bill. I also acknowledge your right to seek conferees on any provisions that are under your Committee's jurisdiction during any House-Senate conference on H.R. 2115 or similar legislation, and will support your request for conferees on such provisions.

As you request, your letter and this response will be included in the Committee report on the legislation and in the Congressional Record.

Thank you for your cooperation in moving this important legislation to the House floor.

Sincerely,

DON YOUNG,
Chairman.

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 italic, 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

* * * * *

§ 106. Federal Aviation Administration

(a) * * *

* * * * *

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

(1) * * *

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

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

(i) * * *

(ii) the acquisition and maintenance of property, *services*, and equipment of the Administration;

* * * * *

[(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—

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

[(B) \$6,592,235,000 for fiscal year 2001;

[(C) \$6,886,000,000 for fiscal year 2002; and

[(D) \$7,357,000,000 for fiscal year 2003.

Such sums shall remain available until expended.

[(2) AUTHORIZED EXPENDITURES.—Out of amounts appropriated under paragraph (1), the following expenditures are authorized:

[(A) \$450,000 for each of fiscal years 2000 through 2003 for wildlife hazard mitigation measures and management

of the wildlife strike database of the Federal Aviation Administration.

[(B) \$9,100,000 for the 3-fiscal-year period beginning with fiscal year 2001 to support a university consortium established to provide an air safety and security management certificate program, working cooperatively with the Federal Aviation Administration and 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.

[(C) Such sums as may be necessary for fiscal years 2000 through 2003 to support infrastructure systems development for both general aviation and the vertical flight industry.

[(D) Such sums as may be necessary for fiscal years 2000 through 2003 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) Such sums as may be necessary for fiscal years 2000 through 2003 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.

[(F) \$3,300,000 for fiscal year 2000 and \$3,000,000 for each of fiscal years 2001 through 2003 to implement the 1998 airport surface operations safety action plan of the Federal Aviation Administration.

[(G) \$9,100,000 for fiscal year 2001 to support air safety efforts through payment of United States membership obligations in the International Civil Aviation Organization, to be paid as soon as practicable.

[(H) Such sums as may be necessary for fiscal years 2000 through 2003 for the Secretary to hire additional inspectors in order to enhance air cargo security programs.

[(I) Such sums as may be necessary for fiscal years 2000 through 2003 to develop and improve training programs (including model training programs and curriculum) for security screening personnel at airports that will be used by airlines to meet regulatory requirements relating to the training and testing of such personnel.]

(k) *AUTHORIZATION OF APPROPRIATIONS.*—

(1) *SALARIES, OPERATIONS, AND MAINTENANCE.*—*There is authorized to be appropriated to the Secretary of Transportation for salaries, operations, and maintenance of the Administration—*

(A) \$7,591,000,000 for fiscal year 2004;

(B) \$7,732,000,000 for fiscal year 2005;

(C) \$7,889,000,000 for fiscal year 2006; and

(D) \$8,064,000,000 for fiscal year 2007.

Such sums shall remain available until expended.

(2) OPERATION OF CENTER FOR MANAGEMENT AND DEVELOPMENT.—Out of amounts appropriated under paragraph (1), such sums as may be necessary may be expended by the Center for Management Development of the Federal Aviation Administration to operate at least 200 courses each year and to support associated student travel for both residential and field courses.

(3) AIR TRAFFIC MANAGEMENT SYSTEM.—Out of amounts appropriated under paragraph (1), such sums as may be necessary may be expended by the Federal Aviation Administration for the establishment and operation of a new office to develop, in coordination with the Department of Defense, the National Aeronautics and Space Administration, and the Department of Homeland Security, the next generation air traffic management system and a transition plan for the implementation of that system. The office shall be known as the “Next Generation Air Transportation System Joint Program Office”.

(4) HELICOPTER AND TILTROTOR PROCEDURES.—Out of amounts appropriated under paragraph (1), such sums as may be necessary may be expended by the Federal Aviation Administration for the establishment of helicopter and tiltrotor approach and departure procedures using advanced technologies, such as the Global Positioning System and automatic dependent surveillance, to permit operations in adverse weather conditions to meet the needs of air ambulance services.

(5) ADDITIONAL AIR TRAFFIC CONTROLLERS.—Out of amounts appropriated under paragraph (1), such sums as may be necessary may be expended to hire additional air traffic controllers in order to meet increasing air traffic demands and to address the anticipated increase in the retirement of experienced air traffic controllers.

(6) COMPLETION OF ALASKA AVIATION SAFETY PROJECT.—Out of amounts appropriated under paragraph (1), \$6,000,000 may be expended for the completion of the Alaska aviation safety project with respect to the 3 dimensional mapping of Alaska’s main aviation corridors.

(7) AVIATION SAFETY REPORTING SYSTEM.—Out of amounts appropriated under paragraph (1), \$3,400,000 may be expended on the Aviation Safety Reporting System.

* * * * *

(p) MANAGEMENT ADVISORY COUNCIL AND AIR TRAFFIC SERVICES BOARD.—

(1) * * *

(2) MEMBERSHIP.—The Council shall [consist of 18 members, who] consist of 13 members, who shall consist of—

(A) * * *

* * * * *

(C) 10 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, *except that initial appointments made after May 1, 2003, shall be made by the Secretary of Transportation*; and

(ii) in the case of subsequent appointments to the Council, the Secretary of Transportation【;】; and
 (D) 1 member appointed, from among individuals who are the leaders of their respective unions of air traffic control system 【employees, 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; and

【(E) 5 members appointed by the Secretary after consultation with the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.】 *employees, by the Secretary of Transportation.*

(3) QUALIFICATIONS.—

【(A) NO FEDERAL OFFICER OR EMPLOYEE.—】 No member appointed under paragraph (2)(C) 【or (2)(E)】 or to the *Air Traffic Services Board* may serve as an officer or employee of the United States Government while serving as a member of the Council.

【(B) AIR TRAFFIC SERVICES SUBCOMMITTEE.—】 Members appointed under paragraph (2)(E) 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 one 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 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).

【(C) PROHIBITIONS ON MEMBERS OF SUBCOMMITTEE.—】 No member appointed under paragraph (2)(E) may—

【(i) have a pecuniary interest in, or own stock in or bonds of, an aviation or aeronautical enterprise, except an interest in a diversified mutual fund or an interest that is exempt from the application of section 208 of title 18;

【(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.】

(4) FUNCTIONS.—

(A) * * *

* * * * *

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

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

(6) ADMINISTRATIVE MATTERS.—

(A) * * *

* * * * *

(C) TERMS FOR AIR TRAFFIC SERVICES [SUBCOMMITTEE] BOARD MEMBERS.—The [member] *members* appointed [under paragraph (2)(E)] *to the Air Traffic Services Board* shall be appointed for a term of 5 years, except that [of the members first appointed under paragraph (2)(E)]—

[(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) 1 member shall be appointed for a term of 5 years.] *the first members of the Board shall be the members of the Air Traffic Services Subcommittee of the Council on the day before the date of enactment of the Flight 100—Century of Aviation Reauthorization Act who shall serve as members of the Board until their respective terms as members of the Subcommittee would have ended under this subparagraph, as in effect on such day.*

(D) REAPPOINTMENT.—An individual may not be appointed [under paragraph (2)(E)] *to the Board* to more than two 5-year terms.

(E) VACANCY.—Any vacancy on the Council or *Board* shall be filled in the same manner as the original appointment, except that any vacancy caused by a member appointed by the President under paragraph (2)(C)(i) shall be filled by the Secretary in accordance with paragraph (2)(C)(ii). 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.

(F) CONTINUATION IN OFFICE.—A member of the Council or Board whose term expires shall continue to serve until the date on which the member's successor takes office.

(G) REMOVAL.—Any member of the Council appointed under paragraph (2)(D) may be removed for cause by the President or Secretary whoever makes the appointment. Any member of the [Council appointed under paragraph (2)(E)] Board may be removed for cause by the Secretary.

(H) CLAIMS AGAINST MEMBERS OF [SUBCOMMITTEE] BOARD.—

(i) IN GENERAL.—A member appointed [under paragraph (2)(E)] to the Board 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 [Air Traffic Services Subcommittee] Board.

* * * * *

(I) ETHICAL CONSIDERATIONS.—

(i) FINANCIAL DISCLOSURE.—During the entire period that an individual [appointed under paragraph (2)(E) is] *is serving as* a member of the [Subcommittee] 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.

(ii) RESTRICTIONS ON POST-EMPLOYMENT.—For purposes of section 207(c) of title 18, an individual [appointed under paragraph (2)(E)] *who is a member of the Board* 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 [Subcommittee] Board; except that subsections (c)(2)(B) and (f) of section 207 of such title shall not apply.

* * * * *

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

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

(7) AIR TRAFFIC SERVICES [SUBCOMMITTEE] BOARD.—

[(A) IN GENERAL.—The Management Advisory Council shall have an air traffic services subcommittee (in this paragraph referred to as the "Subcommittee") composed of the five members appointed under paragraph (2)(E).]

(A) ESTABLISHMENT.—*The Administrator shall establish a board that is independent of the Council by converting*

the Air Traffic Services Subcommittee of the Council, as in effect on the day before the date of enactment of the Flight 100—Century of Aviation Reauthorization Act, into such board. The board shall be known as the Air Traffic Services Board (in this subsection referred to as the “Board”).

(B) MEMBERSHIP AND QUALIFICATIONS.—Subject to paragraph (6)(C), the Board shall consist of 5 members, one of whom shall be the Administrator and shall serve as chairperson. The remaining members shall be appointed by the President with the advice and consent of the Senate and—

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

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

(iii) shall be appointed without regard to political affiliation and solely on the basis of their professional experience and expertise in one or more of the following areas and, in the aggregate, should collectively bring to bear expertise in all 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.

(C) PROHIBITIONS ON MEMBERS OF BOARD.—No member of the Board may—

(i) have a pecuniary interest in, or own stock in or bonds of, an aviation or aeronautical enterprise, except an interest in a diversified mutual fund or an interest that is exempt from the application of section 208 of title 18;

(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.

[(B)] (D) GENERAL RESPONSIBILITIES.—

(i) OVERSIGHT.—The **[(Subcommittee)] Board** shall oversee the administration, management, conduct, direction, and supervision of the air traffic control system.

(ii) CONFIDENTIALITY.—The **[(Subcommittee)] Board** shall ensure that appropriate confidentiality is maintained in the exercise of its duties.

[(C)] (E) SPECIFIC RESPONSIBILITIES.—The **[(Subcommittee)] Board** shall have the following specific responsibilities:

(i) * * *

*** * * * ***

(v) BUDGET.—To—

(I) review and [approve] make recommendations on the budget request of the Administration related to the air traffic control system prepared by the Administrator;

(II) submit such budget **[request]** *recommendations* to the Secretary; and

(III) **[ensure that the budget request supports]** *base such budget recommendations on the annual and long-range strategic plans.*

[The Secretary shall submit the budget request referred to in clause (v)(II) for any fiscal year to the President who shall transmit 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.] *The Secretary shall submit the budget recommendations referred to in clause (v) to the President who shall transmit such recommendations to the Committee on Transportation and Infrastructure and the Committee on Appropriations of the House of Representatives and the Committee on Commerce, Science, and Transportation and the Committee on Appropriations of the Senate together with the annual budget request of the Federal Aviation Administration.*

[(D) SUBCOMMITTEE PERSONNEL MATTERS.—

[(i) COMPENSATION OF MEMBERS.—Each member of the Subcommittee shall be compensated at a rate of \$25,000 per year.

[(ii) COMPENSATION OF CHAIRPERSON.—Notwithstanding clause (i), the chairperson of the Subcommittee shall be compensated at a rate of \$40,000 per year.

[(iii) STAFF.—The chairperson of the Subcommittee may appoint and terminate any personnel that may be necessary to enable the Subcommittee to perform its duties.

[(iv) PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.—The chairperson of the Subcommittee may procure temporary and intermittent services under section 3109(b) of title 5, United States Code.]

(F) BOARD PERSONNEL MATTERS.—*The Board may appoint and terminate any personnel that may be necessary to enable the Board to perform its duties, and may procure temporary and intermittent services under section 40122.*

[(E) (G) ADMINISTRATIVE MATTERS.—

[(i) TERM OF CHAIR.—The members of the Subcommittee shall elect for a 2-year term a chairperson from among the members of the Subcommittee.]

[(ii) (i) POWERS OF CHAIR.—Except as otherwise provided by a majority vote of the **[Subcommittee] Board**, the powers of the chairperson shall include—

(I) * * *

* * * * *

[(iii) (ii) MEETINGS.—The **[Subcommittee] Board** shall meet at least quarterly and at such other times as the chairperson determines appropriate.

[(iv)] (iii) QUORUM.—Three members of the [Subcommittee] Board shall constitute a quorum. A majority of members present and voting shall be required for the Subcommittee to take action.

[(F)] (H) REPORTS.—

(i) ANNUAL.—The [Subcommittee] Board shall each year report with respect to the conduct of its responsibilities under this title to the [Administrator, the Council] Secretary, the Committee on Transportation and Infrastructure of the House of Representatives, and the Committee on Commerce, Science, and Transportation of the Senate.

(ii) ADDITIONAL REPORT.—If a determination by the [Subcommittee] Board under subparagraph [(B)(i)] (D)(i) that the organization and operation of the air traffic control system are not allowing the Administration to carry out its mission, the [Subcommittee] Board shall report such determination to the [Administrator, the Council] Secretary, the Committee on Transportation and Infrastructure of the House of Representatives, and the Committee on Commerce, Science, and Transportation of the Senate.

(iii) ACTION OF ADMINISTRATOR ON REPORT.—Not later than 60 days after the date of a report of the [Subcommittee] Board under this subparagraph, the Administrator shall take action with respect to such report. If the Administrator overturns a recommendation of the [Subcommittee] Board, the Administrator 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.

(iv) COMPTROLLER GENERAL'S REPORT.—Not later than April 30, 2003, 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 [Subcommittee] Board in improving the performance of the air traffic control system.

(I) AUTHORIZATION.—*There are authorized to be appropriated to the Board such sums as may be necessary for the Board to carry out its activities.*

* * * * *

(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 the approval of the [Air Traffic Services Subcommittee of the Aviation Management Advisory Council] Air Traffic Services Board. The Chief Operating Officer shall report directly to the Administrator and shall be subject to the authority of the Administrator.

* * * * *

(2) COMPENSATION.—

(A) IN GENERAL.—The Chief Operating Officer shall be paid at an annual rate of basic pay to be determined by the Administrator, with the approval of the [Air Traffic Services Subcommittee of the Aviation Management Advisory Council] *Air Traffic Services Board*. The annual rate may not exceed the annual compensation paid under section 102 of title 3. The Chief Operating Officer shall be subject to the post-employment provisions of section 207 of title 18 as if the position of Chief Operating Officer were described in section 207(c)(2)(A)(i) of that title.

(B) BONUS.—In addition to the annual rate of basic pay authorized by subparagraph (A), the Chief Operating Officer may receive a bonus for any calendar year not to exceed 30 percent of the annual rate of basic pay, based upon the Administrator’s evaluation of the Chief Operating Officer’s performance in relation to the performance goals set forth in the performance agreement described *in* paragraph (3).

(3) ANNUAL PERFORMANCE AGREEMENT.—The Administrator and the Chief Operating Officer, in consultation with the [Air Traffic Control Subcommittee of the Aviation Management Advisory Committee] *Air Traffic Services 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.

(4) ANNUAL PERFORMANCE REPORT.—The Chief Operating Officer shall prepare and transmit to the Secretary of [Transportation and Congress] *Transportation, the Committee on Transportation and Infrastructure of the House of Representatives, and the Committee on Commerce, Science, and Transportation of the Senate* an annual management report containing such information as may be prescribed by the Secretary.

(5) RESPONSIBILITIES.—The Administrator may delegate to the Chief Operating Officer, or any other authority within the Administration responsibilities, including the following:

(A) STRATEGIC PLANS.—To [develop a] *implement the strategic plan of the Administration for the air traffic control system*[, including the establishment of] *in order to further—*

(i) * * *

* * * * *

(B) OPERATIONS.—To [review the operational functions of the Administration,] *oversee the day-to-day operational functions of the Administration for air traffic control, including—*

(i) * * *

(ii) increasing productivity or implementing cost-saving measures; [and]

(iii) training and education[.]; and

(iv) *the management of cost-reimbursable contracts.*

(C) BUDGET.—To—

(i) develop a budget request of the Administration related to the air traffic control system [prepared by the Administrator];

(ii) submit such budget request to the Administrator [and the Secretary of Transportation] and the Board; and

(iii) ensure that the budget request supports the agency's annual and long-range strategic plans [developed under subparagraph (A) of this subsection.] for air traffic control services.

(s) SMALL BUSINESS OMBUDSMAN.—

(1) ESTABLISHMENT.—There shall be in the Administration a Small Business Ombudsman.

(2) GENERAL DUTIES AND RESPONSIBILITIES.—The Ombudsman shall—

(A) be appointed by the Administrator;

(B) serve as a liaison with small businesses in the aviation industry;

(C) be consulted when the Administrator proposes regulations that may affect small businesses in the aviation industry;

(D) provide assistance to small businesses in resolving disputes with the Administration; and

(E) report directly to the Administrator.

* * * * *

CHAPTER 3—GENERAL DUTIES AND POWERS

* * * * *

SUBCHAPTER II—ADMINISTRATIVE

* * * * *

§ 329. Transportation information

(a) * * *

(b) The Secretary shall—

(1) collect and disseminate information on civil aeronautics (other than that collected and disseminated by the National Transportation Safety Board under chapter 11 of this title) including at a minimum, information on (A) the origin and destination of passengers in interstate air transportation (as that term is used in part A of subtitle VII of this title), and (B) the number of passengers traveling by air between any two points in interstate air transportation; [except that in no case shall the Secretary require an air carrier to provide information on the number of passengers or the amount of cargo on a specific flight if the flight and the flight number under which such flight operates are used solely for interstate air transportation and are not used for providing essential air transportation under subchapter II of chapter 417 of this title;]

* * * * *

(e) INCIDENTS AND COMPLAINTS INVOLVING PASSENGER AND BAGGAGE SECURITY SCREENING.—

(1) PUBLICATION OF DATA.—The Secretary of Transportation shall publish data on incidents and complaints involving passenger and baggage security screening in a manner comparable to other consumer complaint and incident data.

(2) MONTHLY REPORTS FROM SECRETARY OF HOMELAND SECURITY.—To assist the Secretary of Transportation in the publication of data under paragraph (1), the Secretary of Homeland Security shall submit monthly to the Secretary of Transportation a report on the number of complaints about security screening received by the Secretary of Homeland Security.

* * * * *

SUBTITLE VII—AVIATION PROGRAMS

* * * * *

PART A—AIR COMMERCE AND SAFETY

SUBPART I—GENERAL

CHAPTER 401—GENERAL PROVISIONS

Sec.

40101. Policy.

* * * * *

40129. Collaborative decisionmaking pilot program.

* * * * *

§ 40102. Definitions

(a) GENERAL DEFINITIONS.—In this part—

(1) * * *

* * * * *

(29) “large hub airport” means a commercial service airport (as defined in section 47102) that has at least 1.0 percent of the passenger boardings.

[(29)] (30) “mail” means United States mail and foreign transit mail.

(31) “medium hub airport” means a commercial service airport (as defined in section 47102) that has at least 0.25 percent but less than 1.0 percent of the passenger boardings.

[(30)] (32) “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)] (33) “navigate aircraft” and “navigation of aircraft” include piloting aircraft.

(34) “nonhub airport” means a commercial service airport (as defined in section 47102) that has less than 0.05 percent of the passenger boardings.

[(32)] (35) “operate aircraft” and “operation of aircraft” mean using aircraft for the purposes of air navigation, including—

(A) * * *

* * * * *

(36) "passenger boardings"—

(A) means, unless the context indicates otherwise, revenue passenger boardings in the United States in the prior calendar year on an aircraft in service in air commerce, as the Secretary determines under regulations the Secretary prescribes; and

(B) includes passengers who continue on an aircraft in international flight that stops at an airport in the 48 contiguous States, Alaska, or Hawaii for a nontraffic purpose.

[(33)] (37) "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)] (38) "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)] (39) "price" means a rate, fare, or charge.

[(36)] (40) "propeller" includes a part, appurtenance, and accessory of a propeller.

[(37)] (41) "public aircraft" means any of the following:

(A) * * *

* * * * *

(42) "small hub airport" means a commercial service airport (as defined in section 47102) that has at least 0.05 percent but less than 0.25 percent of the passenger boardings.

[(38)] (43) "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)] (44) "State authority" means an authority of a State designated under State law—

(A) * * *

* * * * *

[(40)] (45) "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)] (46) "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.

[(42)] (47) "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) * * *

* * * * *

§ 40104. Promotion of civil aeronautics and safety of air commerce

(a) * * *

* * * * *

(c) AIRPORT CAPACITY ENHANCEMENT PROJECTS AT CONGESTED AIRPORTS.—In carrying out subsection (a), the Administrator shall take action to encourage the construction of airport capacity enhancement projects at congested airports as those terms are defined in section 47178.

* * * * *

§ 40110. General procurement authority

(a) * * *

* * * * *

(c) DUTIES AND POWERS.—When carrying out subsection (a) of this section, the Administrator of the Federal Aviation Administration—

[(1) is the senior procurement executive referred to in section 16(3) of the Office of Federal Procurement Policy Act (41 U.S.C. 414(3)) for approving the justification for using procedures other than competitive procedures, as required under section 303(f)(1)(B)(iii) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253(f)(1)(B)(iii)); and

[(2) may—] *Administration may—*

[(A)] (1) notwithstanding section 1341(a)(1) of title 31, lease an interest in property for not more than 20 years;

[(B)] (2) consider the reasonable probable future use of the underlying land in making an award for a condemnation of an interest in airspace;

[(C)] (3) construct, or acquire an interest in, a public building (as defined in section 3301(a) of title 40) only under a delegation of authority from the Administrator of General Services;

[(D) use procedures other than competitive procedures, as provided under section 303(c) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253(c));]

[(E)] (4) use procedures other than competitive procedures only when the property or services needed by the Administrator of the Federal Aviation Administration are available from only one responsible source or only from a limited number of responsible sources and no other type of property or services will satisfy the needs of the Administrator; and

[(F)] (5) dispose of property under subsection (a)(2) of this section, except for airport and airway property and technical equipment used for the special purposes of the Administration, only under sections 121, 123, and 126 and chapter 5 of title 40.

(d) ACQUISITION MANAGEMENT SYSTEM.—

(1) IN GENERAL.—In consultation with such non-governmental experts in acquisition management systems as the Administrator may employ, and notwithstanding provisions of Federal acquisition law, the Administrator shall develop and implement[, not later than January 1, 1996,] an acquisition management system for the Administration that addresses the unique needs of the agency and, at a minimum, [provides for more timely and cost-effective acquisitions of equipment and materials.] *provides for—*

(A) *more timely and cost-effective acquisitions of equipment, services, property, and materials; and*

(B) the resolution of bid protests and contract disputes related thereto, using consensual alternative dispute resolution techniques to the maximum extent practicable.

* * * * *

[(4) EFFECTIVE DATE.—This subsection shall take effect on April 1, 1996.]

(4) ADJUDICATION OF CERTAIN BID PROTESTS AND CONTRACT DISPUTES.—A bid protest or contract dispute that is not addressed or resolved through alternative dispute resolution shall be adjudicated by the Administrator through Dispute Resolution Officers or Special Masters of the Federal Aviation Administration Office of Dispute Resolution for Acquisition, acting pursuant to sections 46102, 46104, 46105, 46106 and 46107.

* * * * *

§ 40117. Passenger facility fees

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

(1) * * *

* * * * *

(3) ELIGIBLE AIRPORT-RELATED PROJECT.—The term “eligible airport-related project” means any of the following projects:

(A) * * *

* * * * *

(C) [for costs] A project 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[;].

* * * * *

(G) A project for the acquisition or conversion of ground support equipment or airport-owned vehicles used at a commercial service airport with, or to, low-emission technology (as defined in section 47102) or cleaner burning conventional fuels, or the retrofitting of such equipment or vehicles that are powered by a diesel or gasoline engine with emission control technologies certified or verified by the Environmental Protection Agency to reduce emissions, 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(2)) or a maintenance area referred to in section 175A of such Act (42 U.S.C. 7505a), and if such project will result in an airport receiving appropriate emission credits as described in section 47138.

(4) GROUND SUPPORT EQUIPMENT.—The term “ground support equipment” means service and maintenance equipment used at an airport to support aeronautical operations and related activities.

[(4)] (5) PASSENGER FACILITY FEE.—The term “passenger facility fee” means a fee imposed under this section.

[(5)] (6) PASSENGER FACILITY REVENUE.—The term “passenger facility revenue” means revenue derived from a passenger facility fee.

(b) GENERAL AUTHORITY.—(1) * * *

* * * * *

(5) MAXIMUM COST FOR CERTAIN LOW-EMISSION TECHNOLOGY PROJECTS.—*The maximum cost that may be financed by imposition of a passenger facility fee under this section for a project described in subsection (a)(3)(G) with respect to vehicle or ground support equipment may not exceed the incremental amount of the project cost that is greater than the cost of acquiring a vehicle or equipment that is not low-emission and would be used for the same purpose, or the cost of low-emission retrofitting, as determined by the Secretary.*

(c) APPLICATIONS.—(1) * * *

(2) Before submitting an application, the eligible agency must provide reasonable notice to, and an opportunity for consultation with, air carriers and foreign air carriers operating at the airport. The Secretary shall prescribe regulations that define reasonable notice and contain at least the following requirements:

(A) * * *

* * * * *

(E) *The agency will include in its application or notice submitted under subparagraph (A) copies of all certifications of agreement or disagreement received under subparagraph (D).*

(F) *For the purpose of this section, an eligible agency providing notice and an opportunity for consultation to an air carrier or foreign air carrier is deemed to have satisfied the requirements of this paragraph if the eligible agency limits such notices and consultations to air carriers and foreign air carriers that have a significant business interest at the airport. In the subparagraph, the term “significant business interest” means an air carrier or foreign air carrier that had no less than 1.0 percent of passenger boardings at the airport in the prior calendar year, had at least 25,000 passenger boardings at the airport in the prior calendar year, or provides scheduled service at the airport.*

(3) Before submitting an application, the eligible agency must provide reasonable notice and an opportunity for public comment. The Secretary shall prescribe regulations that define reasonable notice and provide for at least the following under this paragraph:

(A) A requirement that the eligible agency provide public notice of intent to collect a passenger facility fee so as to inform those interested persons and agencies who may be affected, which public notice may include—

- (i) publication in local newspapers of general circulation;
- (ii) publication in other local media; and
- (iii) posting the notice on the agency’s Web site.

(B) A requirement for submission of public comments no sooner than 30 days, and no later than 45 days, after the date of the publication of the notice.

(C) A requirement that the agency include in its application or notice submitted under subparagraph (A) copies of all comments received under subparagraph (B).

[(3)] (4) After receiving an application, the Secretary [shall] *may* provide notice and an opportunity to air carriers, foreign air carriers, and other interested persons to comment on the application. The Secretary shall make a final decision on the application not later than 120 days after receiving it.

* * * * *

(e) LIMITATIONS ON IMPOSING FEES.—(1) * * *

(2) A passenger facility fee may not be collected from a passenger—

(A) * * *

* * * * *

(C) enplaning at an airport if the passenger did not pay for the air transportation which resulted in such enplanement, including any case in which the passenger obtained the ticket for the air transportation with a frequent flier award coupon without monetary payment[.];

(D) on flights, including flight segments, between 2 or more points in Hawaii; [and]

(E) in Alaska aboard an aircraft having a seating capacity of less than 60 passengers[.]; and

(F) *enplaning at an airport if the passenger did not pay for the air transportation which resulted in such enplanement due to charter arrangements and payment by the Department of Defense.*

* * * * *

(1) PILOT PROGRAM FOR PASSENGER FACILITY FEE AUTHORIZATIONS AT NONHUB AIRPORTS.—

(1) *IN GENERAL.*—*The Secretary shall establish a pilot program to test alternative procedures for authorizing eligible agencies for nonhub airports to impose passenger facility fees. An eligible agency may impose in accordance with the provisions of this subsection a passenger facility fee under this section. For purposes of the pilot program, the procedures in this subsection shall apply instead of the procedures otherwise provided in this section.*

(2) *NOTICE AND OPPORTUNITY FOR CONSULTATION.*—*The eligible agency must provide reasonable notice and an opportunity for consultation to air carriers and foreign air carriers in accordance with subsection (c)(2) and must provide reasonable notice and opportunity for public comment in accordance with subsection (c)(3).*

(3) *NOTICE OF INTENTION.*—*The eligible agency must submit to the Secretary a notice of intention to impose a passenger facility fee under this subsection. This shall include—*

(A) *information that the Secretary may require by regulation on each project for which authority to impose a passenger facility fee is sought;*

(B) *the amount of revenue from passenger facility fees that is proposed to be collected for each project; and*

(C) *the level of the passenger facility fee that is proposed.*

(4) *ACKNOWLEDGEMENT OF RECEIPT AND INDICATION OF OBJECTION.*—*The Secretary shall acknowledge receipt of the notice and indicate any objection to the imposition of a passenger fa-*

cility fee under this subsection for any project identified in the notice within 30 days after receipt of the eligible agency's notice.

(5) *AUTHORITY TO IMPOSE FEE.*—Unless the Secretary objects within 30 days after receipt of the eligible agency's notice, the eligible agency is authorized to impose a passenger facility fee in accordance with the terms of its notice under this subsection.

(6) *DEADLINE.*—Not later than 180 days after the date of enactment of this subsection, the Secretary shall propose such regulations as may be necessary to carry out this subsection.

(7) *SUNSET.*—This subsection shall not be in effect 3 years after the date of issuance of regulations to carry out this subsection.

(8) *ACKNOWLEDGEMENT NOT AN ORDER.*—An acknowledgement issued under paragraph (4) shall not be considered an order of the Secretary issued under section 46110.

(m) *FINANCIAL MANAGEMENT OF FEES.*—

(1) *HANDLING OF FEES.*—

(A) *PLACEMENT OF FEES IN ESCROW ACCOUNT.*—Subject to subparagraph (B), passenger facility revenue held by an air carrier or any of its agents shall be segregated from the carrier's cash and other assets and placed in an escrow account for the benefit of the eligible agencies entitled to such revenue.

(B) *ALTERNATIVE METHOD OF COMPLIANCE.*—Instead of placing amounts in an escrow account under subparagraph (A), an air carrier may provide to the eligible agency a letter of credit, bond, or other form of adequate and immediately available security in an amount equal to estimated remittable passenger facility fees for 180 days, to be assessed against later audit, upon which security the eligible agency shall be entitled to draw automatically, without necessity of any further legal or judicial action to effectuate foreclosure.

(2) *TRUST FUND STATUS.*—If an air carrier or its agent commingles passenger facility revenue in violation of the subsection, the trust fund status of such revenue shall not be defeated by an inability of any party to identify and trace the precise funds in the accounts of the air carrier.

(3) *PROHIBITION.*—An air carrier and its agents may not grant to any third party any security or other interest in passenger facility revenue.

(4) *COMPENSATION TO ELIGIBLE ENTITIES.*—An air carrier that fails to comply with any requirement of this subsection, or otherwise unnecessarily causes an eligible entity to expend funds, through litigation or otherwise, to recover or retain payment of passenger facility revenue to which the eligible entity is otherwise entitled shall be required to compensate the eligible agency for the costs so incurred.

(5) *INTEREST ON AMOUNTS.*—An air carrier that collects passenger facility fees is entitled to receive the interest on passenger facility fee accounts, if the accounts are established and maintained in compliance with this subsection.

§ 40118. Government-financed air transportation

(a) * * *

* * * * *

(f) PROHIBITION OF CERTIFICATION OR CONTRACT CLAUSE.—(1)
* * *

(2) In paragraph (1), the term “commercial item” has the meaning given such term in section 4(12) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(12)), *except that it shall not include a contract for the transportation by air of passengers.*

* * * * *

§ 40128. 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 or tribal lands, *as defined by this section*, 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 or tribal lands.

* * * * *

(b) AIR TOUR MANAGEMENT PLANS.—

(1) * * *

* * * * *

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

- (A) may prohibit commercial air tour operations *over a national park* in whole or in part;
- (B) may establish conditions for the conduct of commercial air tour operations *over a national park*, including commercial air tour 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 noise, visual, or other impacts;
- (C) shall apply to all commercial air tour operations *over a national park* within ½ mile outside the boundary of a national park;
- (D) shall include incentives (such as preferred commercial air tour routes and altitudes, relief from caps and curfews) for the adoption of quiet aircraft technology by commercial air tour operators conducting commercial air tour operations [at the park] *over a national park*;
- (E) shall provide for the initial allocation of opportunities to conduct commercial air tour operations *over a national park* if the plan includes a limitation on the number of commercial air tour operations for any time period; and

* * * * *

(c) INTERIM OPERATING AUTHORITY.—

(1) * * *

(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 the commercial air tour operations *over a national park* within the 12-month period prior to the date of the enactment of this section; or

* * * * *

(B) may not provide for an increase in the number of commercial air tour operations *over a national park* 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;

* * * * *

(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 *over a national park*.

* * * * *

(4) COMMERCIAL AIR TOUR OPERATION OVER A NATIONAL PARK.—

(A) IN GENERAL.—The term “[commercial air tour operation] *commercial air tour operation over a national park*” means any flight, conducted for compensation or hire in a powered aircraft where a purpose of the flight is sight-seeing over a national park, within ½ mile outside the boundary of any national [park, or over tribal lands,] *park (except the Grand Canyon National Park), or over tribal lands (except those within or abutting the Grand Canyon National Park)*, during which the aircraft flies—

(i) * * *

* * * * *

(B) FACTORS TO CONSIDER.—In making a determination of whether a flight is a commercial air tour operation *over a national park* for purposes of this section, the Administrator may consider—

(i) * * *

* * * * *

§ 40129. Collaborative decisionmaking pilot program

(a) ESTABLISHMENT.—Not later than 90 days after the date of enactment of this section, the Administrator of the Federal Aviation Administration shall establish a collaborative decisionmaking pilot program in accordance with this section.

(b) DURATION.—Except as provided in subsection (k), the pilot program shall be in effect for a period of 2 years.

(c) GUIDELINES.—

(1) ISSUANCE.—The Administrator shall issue guidelines concerning the pilot program. Such guidelines, at a minimum, shall define the criteria and process for determining when a ca-

capacity reduction event exists that warrants the use of collaborative decisionmaking among carriers at airports participating in the pilot program and that prescribe the methods of communication to be implemented among carriers during such an event.

(2) *VIEWS.*—The Administrator may obtain the views of interested parties in issuing the guidelines.

(d) *EFFECT OF DETERMINATION OF EXISTENCE OF CAPACITY REDUCTION EVENT.*—Upon a determination by the Administrator that a capacity reduction event exists, the Administrator may authorize air carriers and foreign air carriers operating at an airport participating in the pilot program to communicate for a period of time not to exceed 24 hours with each other concerning changes in their respective flight schedules in order to use air traffic capacity most effectively. The Administration shall facilitate and monitor such communication.

(e) *SELECTION OF PARTICIPATING AIRPORTS.*—Not later than 30 days after the date on which the Administrator establishes the pilot program, the Administrator shall select 3 airports to participate in the pilot program from among the most capacity-constrained airports in the country based on the Administration's Airport Capacity Benchmark Report 2001 or more recent data on airport capacity that is available to the Administrator. The Administrator shall select an airport for participation in the pilot program if the Administrator determines that collaborative decisionmaking among air carriers and foreign air carriers would reduce delays at the airport and have beneficial effects on reducing delays in the national airspace system as a whole.

(f) *ELIGIBILITY OF AIR CARRIERS.*—An air carrier or foreign air carrier operating at an airport selected to participate in the pilot program is eligible to participate in the pilot program if the Administrator determines that the carrier has the operational and communications capability to participate in the pilot program.

(g) *MODIFICATION OR TERMINATION OF PILOT PROGRAM AT AN AIRPORT.*—The Administrator may modify or end the pilot program at an airport before the term of the pilot program has expired, or may ban an air carrier or foreign air carrier from participating in the program, if the Administrator determines that the purpose of the pilot program is not being furthered by participation of the airport or air carrier or if the Secretary of Transportation finds that the pilot program or the participation of an air carrier or foreign air carrier in the pilot program has had, or is having, an adverse effect on competition among carriers.

(h) *EVALUATION.*—

(1) *IN GENERAL.*—Before the expiration of the 2-year period for which the pilot program is authorized under subsection (b), the Administrator shall determine whether the pilot program has facilitated more effective use of air traffic capacity and the Secretary shall determine whether the pilot program has had an adverse effect on airline competition or the availability of air services to communities. The Administrator shall also examine whether capacity benefits resulting from the participation in the pilot program of an airport resulted in capacity benefits to other parts of the national airspace system.

(2) *OBTAINING NECESSARY DATA.*—*The Administrator may require participating air carriers and airports to provide data necessary to evaluate the pilot program’s impact.*

(i) *EXTENSION OF PILOT PROGRAM.*—*At the end of the 2-year period for which the pilot program is authorized, the Administrator may continue the pilot program for an additional 2 years and expand participation in the program to up to 7 additional airports if the Administrator determines pursuant to subsection (h) that the pilot program has facilitated more effective use of air traffic capacity and if the Secretary determines that the pilot program has had no adverse effect on airline competition or the availability of air services to communities. The Administrator shall select the additional airports to participate in the extended pilot program in the same manner in which airports were initially selected to participate.*

* * * * *

SUBPART II—ECONOMIC REGULATION

CHAPTER 411—AIR CARRIER CERTIFICATES

* * * * *

§ 41106. Airlift service

(a) * * *

(b) **TRANSPORTATION BETWEEN THE UNITED STATES AND FOREIGN LOCATIONS.**—Except as provided in subsection (d), the transportation of passengers or property by transport category aircraft between a place in the United States and a place outside the United States obtained by the Secretary of Defense or the Secretary of a military department, or by a person that has contracted with the Secretary of Defense or the Secretary of a military department, through a contract for airlift service shall be provided by an air carrier referred to in subsection (a).

* * * * *

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

(a) * * *

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

(1) * * *

* * * * *

(16) An assurance that the air carrier, in the event that the air carrier volunteers assistance to United States citizens within the United States with respect to 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.

(17)(A) *An assurance that, in the case of an accident that results in significant damage to a man-made structure or other property on the ground that is not government-owned, the air carrier will promptly provide notice, in writing, to the extent practicable, directly to the owner of the structure or other prop-*

erty about liability for any property damage and means for obtaining compensation.

(B) At a minimum, the written notice shall advise an owner (i) to contact the insurer of the property as the authoritative source for information about coverage and compensation; (ii) to not rely on unofficial information offered by air carrier representatives about compensation by the air carrier for accident-site property damage; and (iii) to obtain photographic or other detailed evidence of property damage as soon as possible after the accident, consistent with restrictions on access to the accident site.

(18) An assurance that, in the case of an accident in which the National Transportation Safety Board conducts a public hearing or comparable proceeding at a location greater than 80 miles from the accident site, the air carrier will ensure that the proceeding is made available simultaneously by electronic means at a location open to the public at both the origin city and destination city of the air carrier's flight if that city is located in the United States.

* * * * *

CHAPTER 413—FOREIGN AIR TRANSPORTATION

* * * * *

§ 41313. Plans to address needs of families of passengers involved in foreign air carrier accidents

(a) * * *

* * * * *

(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) * * *

* * * * *

(17) NOTICE CONCERNING LIABILITY FOR MAN-MADE STRUCTURES.—

(A) *IN GENERAL.*—An assurance that, in the case of an accident that results in significant damage to a man-made structure or other property on the ground that is not government-owned, the foreign air carrier will promptly provide notice, in writing, to the extent practicable, directly to the owner of the structure or other property about liability for any property damage and means for obtaining compensation.

(B) *MINIMUM CONTENTS.*—At a minimum, the written notice shall advise an owner (i) to contact the insurer of the property as the authoritative source for information about coverage and compensation; (ii) to not rely on unofficial information offered by foreign air carrier representatives about compensation by the foreign air carrier for accident-site property damage; and (iii) to obtain photographic or other detailed evidence of property damage as soon as possible.

sible after the accident, consistent with restrictions on access to the accident site.

(18) *SIMULTANEOUS ELECTRONIC TRANSMISSION OF NTSB HEARING.—An assurance that, in the case of an accident in which the National Transportation Safety Board conducts a public hearing or comparable proceeding at a location greater than 80 miles from the accident site, the foreign air carrier will ensure that the proceeding is made available simultaneously by electronic means at a location open to the public at both the origin city and destination city of the foreign air carrier's flight if that city is located in the United States.*

* * * * *

CHAPTER 417—OPERATIONS OF CARRIERS

SUBCHAPTER I—REQUIREMENTS

Sec.

41701. Classification of air carriers.

* * * * *

[41721. Reports by carriers on incidents involving animals during air transportation.]

41721. *Reports by carriers on incidents involving animals during air transport.*

41722. *Notice concerning aircraft assembly.*

41723. *Special rule to promote air service to small communities.*

SUBCHAPTER II—SMALL COMMUNITY AIR SERVICE

41731. Definitions.

* * * * *

41745. *Community and regional choice program.*

* * * * *

SUBCHAPTER I—REQUIREMENTS

* * * * *

§ 41718. Special rules for Ronald Reagan Washington National Airport

(a) **BEYOND-PERIMETER EXEMPTIONS.**—The Secretary shall grant, by order, **[12]** 24 exemptions from the application of sections 49104(a)(5), 49109, 49111(e), and 41714 of this title to air carriers to operate limited frequencies and aircraft on select routes between Ronald Reagan Washington National Airport and domestic hub airports and exemptions from the requirements of subparts K and S of part 93, Code of Federal Regulations, if the Secretary finds that the exemptions will—

(1) * * *

* * * * *

(b) **WITHIN-PERIMETER EXEMPTIONS.**—The Secretary shall grant, by order, **[12]** 20 exemptions from the requirements of sections 49104(a)(5), 49111(e), and 41714 of this title and subparts K and S of part 93 of title 14, Code of Federal Regulations, to air carriers for providing air transportation to airports **[that were designated as medium hub or smaller airports]** within the perimeter established for civil aircraft operations at Ronald Reagan Washington National Airport under section 49109. The Secretary shall develop criteria for distributing slot exemptions for flights within the pe-

rimeter to such airports under this paragraph in a manner that promotes air transportation—

(1) * * *

* * * * *

(c) LIMITATIONS.—

(1) * * *

(2) GENERAL EXEMPTIONS.—The exemptions granted under subsections (a) and (b) may not be for operations between the hours of 10:00 p.m. and 7:00 a.m. and may not increase the number of operations at Ronald Reagan Washington National Airport in any 1-hour period during the hours between 7:00 a.m. and 9:59 p.m. by more than **two** 3 operations.

(3) ALLOCATION OF WITHIN-PERIMETER EXEMPTIONS.—Of the exemptions granted under subsection (b)—

(A) **four** six shall be for air transportation to small hub airports and nonhub airports; **and**

(B) **eight** ten shall be for air transportation to medium hub and smaller airports~~].~~; and

(C) four shall be for air transportation to airports without regard to their size.

* * * * *

[(d) APPLICATION PROCESS.—

[(1) DEADLINE FOR SUBMISSION.—All requests for exemptions under this section must be submitted to the Secretary not later than the 30th day following the date of the enactment of this subsection.

[(2) DEADLINE FOR COMMENTS.—All comments with respect to any request for an exemption under this section must be submitted to the Secretary not later than the 45th day following the date of the enactment of this subsection.

[(3) DEADLINE FOR FINAL DECISION.—Not later than the 90th day following the date of the enactment of this Act, the Secretary shall make a decision regarding whether to approve or deny any request that is submitted to the Secretary in accordance with paragraph (1).]

(d) APPLICATION PROCEDURES.—The Secretary shall establish procedures to ensure that all requests for exemptions under this section are granted or denied within 90 days after the date on which the request is made.

* * * * *

§ 41719. Air service termination notice

(a) * * *

* * * * *

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

[(1) NONHUB AIRPORT.—The term “nonhub airport” has the meaning that term has under section 41731(a)(4).]

[(2)] (1) PART 121 AIR CARRIER.—The term “part 121 air carrier” means an air carrier to which part 121 of title 14, Code of Federal Regulations, applies.

[(3)] (2) PART 135 AIR CARRIER.—The term “part 135 air carrier” means an air carrier to which part 135 of title 14, Code of Federal Regulations, applies.

[(4)] (3) REGIONAL/COMMUTER CARRIERS.—The term “regional/commuter carrier” means—

(A) * * *

* * * * *

[(5)] (4) TERMINATION.—The term “termination” means the cessation of all service at an airport by an air carrier.

* * * * *

§ 41722. Notice concerning aircraft assembly

The Secretary of Transportation shall require, beginning after the last day of the 1-year period following the date of enactment of this section, an air carrier using an aircraft to provide scheduled passenger air transportation to display a notice, on an information placard available to each passenger on the aircraft, that informs the passengers of the nation in which the aircraft was finally assembled.

§ 41723. Special rule to promote air service to small communities

In order to promote air service to small communities, the Secretary of Transportation shall permit an operator of a turbine powered or multiengine piston powered aircraft with 10 passenger seats or less (1) to provide air transportation between an airport that is a nonhub airport and another airport or between an airport that is not a commercial service airport and another airport, and (2) to sell individual seats on that aircraft at a negotiated price, if the aircraft is otherwise operated in accordance with parts 119 and 135 of title 14, Code of Federal Regulations, and the air transportation is otherwise provided in accordance with part 298 of such title 14.

SUBCHAPTER II—SMALL COMMUNITY AIR SERVICE

§ 41731. Definitions

(a) GENERAL.—In this subchapter—

(1) * * *

* * * * *

[(3)] “hub airport” means an airport that each year has at least .25 percent of the total annual boardings in the United States.

[(4)] “nonhub airport” means an airport that each year has less than .05 percent of the total annual boardings in the United States.

[(5)] “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.]

* * * * *

§ 41734. Ending, suspending, and reducing basic essential air service

(a) * * *

* * * * *

(i) PROCESS FOR DISCONTINUING CERTAIN SUBSIDIES.—*If the Secretary determines that no subsidy will be provided to a carrier to*

provide essential air service to an eligible place because the eligible place does not meet the requirements of section 332 of the Department of Transportation and Related Agencies Appropriations Act, 2000 (49 U.S.C. 41731 note; 113 Stat. 1022), the Secretary shall notify the affected community that the subsidy will cease but shall continue to provide the subsidy for 90 days after providing the notice to the community.

* * * * *

§ 41737. Compensation guidelines, limitations, and claims

(a) COMPENSATION GUIDELINES.—(1) * * *

(2) Promotional amounts described in paragraph (1)(B) of this subsection shall be a special, segregated element of the compensation provided to a carrier under this subchapter *or may be paid directly to the unit of local government having jurisdiction over the eligible place served by the air carrier.*

(3) PAYMENT OF COST BY LOCAL GOVERNMENT.—

(A) GENERAL REQUIREMENT.—*The guidelines may require a unit of local government having jurisdiction over an eligible place that is less than 170 miles from a medium or large hub or less than 75 miles from a small hub or a State within the boundaries of which the eligible place is located to pay 2.5 percent in fiscal year 2005, 5 percent in fiscal year 2006, 7.5 percent in fiscal year 2007, and 10 percent in fiscal year 2008 of the amount of compensation payable under this subchapter for air transportation with respect to the eligible place to ensure the continuation of that air transportation.*

(B) WAIVER.—*The Secretary may waive the requirement, or reduce the amount, of a payment from a unit of local government under subparagraph (A) if the Secretary finds that—*

(i) the unit of local government lacks the ability to pay; and

(ii) the loss of essential air service to the eligible place would have an adverse effect on the eligible place’s access to the national air transportation system.

(C) DETERMINATION OF MILEAGE.—*In determining the mileage between the eligible place and a hub under this paragraph, the Secretary shall use the most commonly used highway route between the eligible place and the hub.*

* * * * *

(d) AUTHORITY TO MAKE AGREEMENTS AND INCUR OBLIGATIONS.—**[(1)]** The Secretary may make agreements and incur obligations from the Airport and Airway Trust Fund established under section 9502 of the Internal Revenue Code of 1986 (26 U.S.C. 9502) to pay compensation under this subchapter. An agreement by the Secretary under this subsection is a contractual obligation of the Government to pay the Government’s share of the compensation.

[(2)] Not more than \$38,600,000 is available to the Secretary out of the Fund for each of the fiscal years ending September 30, 1993–

1998, to incur obligations under this section. Amounts made available under this section remain available until expended.]

* * * * *

§ 41740. Joint proposals

The Secretary of Transportation shall encourage the submission of joint proposals, *including joint fares*, by 2 or more air carriers for providing air service or air transportation under this subchapter through arrangements that maximize the service or transportation to and from major destinations beyond the hub.

* * * * *

§ 41742. Essential air service authorization

(a) IN GENERAL.—

(1) * * *

(2) ADDITIONAL FUNDS.—In addition to amounts authorized under paragraph (1), there is authorized to be appropriated ~~[\$15,000,000]~~ \$65,000,000 for each fiscal year to carry out the essential air service program under this subchapter.

(3) AUTHORIZATION FOR ADDITIONAL EMPLOYEES.—*In addition to amounts authorized under paragraphs (1) and (2), there are authorized to be appropriated such sums as may be necessary for the Secretary of Transportation to hire and employ 4 additional employees for the office responsible for carrying out the essential air service program.*

* * * * *

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

§ 41743. Airports not receiving sufficient service

(a) SMALL COMMUNITY AIR SERVICE DEVELOPMENT [PILOT] PROGRAM.—The Secretary of Transportation shall establish a [pilot] program that meets the requirements of this section for improving air carrier service to airports not receiving sufficient air carrier service.

* * * * *

(c) CRITERIA FOR PARTICIPATION.—In selecting communities, or consortia of communities, for participation in the program established under subsection (a), the Secretary shall apply the following criteria:

(1) SIZE.—For calendar year 1997, the airport serving the community or consortium was not larger than a small hub airport [(as that term is defined in section 41731(a)(5))], and—

(A) * * *

* * * * *

[(3) STATE LIMIT.—No more than four communities or consortia of communities, or a combination thereof, may be located in the same State.]

[(4)] (3) OVERALL LIMIT.—No more than 40 communities or consortia of communities, or a combination thereof, may be selected to participate in the program in each year for which funds are appropriated for the program.

[(5)] (4) PRIORITIES.—The Secretary shall give priority to communities or consortia of communities where—

(A) * * *

* * * * *

(C) the community or consortium has established, or will establish, a public-private partnership to facilitate air carrier service to the public; [and]

(D) the assistance will provide material benefits to a broad segment of the travelling public, including business, educational institutions, and other enterprises, whose access to the national air transportation system is limited[.]; and

(E) the assistance can be used in the fiscal year in which it is received.

* * * * *

(e) AUTHORITY TO MAKE AGREEMENTS.—

(1) * * *

(2) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary \$20,000,000 for fiscal year 2001 [and], \$27,500,000 for each of fiscal years 2002 and 2003, and \$35,000,000 for each of fiscal years 2004 through 2008 to carry out this section. Such sums shall remain available until expended.

(f) ADDITIONAL ACTION.—Under the [pilot] program established under subsection (a), the Secretary shall work with air carriers providing service to participating communities and major air carriers (as defined in section 41716(a)(2)) serving large hub airports [(as defined in section 41731(a)(3))] to facilitate joint-fare arrangements consistent with normal industry practice.

* * * * *

§ 41744. Preservation of basic essential air service at single carrier dominated hub airports

(a) * * *

(b) ESSENTIAL AIRPORT FACILITY DEFINED.—In this section, the term “essential airport facility” means a large hub airport [(as defined in section 41731)] in the contiguous 48 States at which one air carrier has more than 60 percent of the total annual enplanements at that airport.

§ 41745. Community and regional choice program

(a) ESTABLISHMENT.—The Secretary of Transportation shall establish an alternate essential air service pilot program in accordance with the requirements of this section.

(b) COMPENSATION TO ELIGIBLE PLACES.—In carrying out the program, the Secretary, instead of paying compensation to an air carrier to provide essential air service to an eligible place, may pay compensation directly to a unit of local government having jurisdic-

tion over the eligible place or a State within the boundaries of which the eligible place is located.

(c) *USE OF COMPENSATION.*—A unit of local government or State receiving compensation for an eligible place under the program shall use the compensation for any of the following purposes:

(1) To provide assistance to an air carrier to provide scheduled air service to and from the eligible place, without being subject to the requirements of 41732(b).

(2) To provide assistance to an air carrier to provide on-demand air taxi service to and from the eligible place.

(3) To provide assistance to a person to provide scheduled or on-demand surface transportation to and from the eligible place and an airport in another place.

(4) In combination with other units of local government in the same region, to provide transportation services to and from all the eligible places in that region at an airport or other transportation center that can serve all the eligible places in that region.

(5) To purchase aircraft, or a fractional share in aircraft, to provide transportation to and from the eligible place.

(6) To pay for other transportation or related services that the Secretary may permit.

(d) *FRACTIONALLY OWNED AIRCRAFT.*—Notwithstanding any other provision of law, only those operating rules that relate to an aircraft that is fractionally owned apply when an aircraft described in subsection (c)(5) is used to provide transportation described in subsection (c)(5).

(e) *APPLICATIONS.*—

(1) *IN GENERAL.*—A unit of local government or State seeking to participate in the program for an eligible place shall submit to the Secretary an application in such form and containing such information as the Secretary may require.

(2) *REQUIRED INFORMATION.*—At a minimum, the application shall include—

(A) a statement of the amount of compensation required; and

(B) a description of how the compensation will be used.

(f) *PARTICIPATION REQUIREMENTS.*—

(1) *ELIGIBLE PLACES.*—An eligible place for which compensation is received under the program in a fiscal year shall not be eligible to receive in that fiscal year the essential air service that it would otherwise be entitled to under this subchapter.

(2) *GOVERNMENTAL ENTITIES.*—A unit of local government or State receiving compensation for an eligible place under the program in a fiscal year shall not be required to pay the local share described in 41737(a)(3) in such fiscal year.

(g) *SUBSEQUENT PARTICIPATION.*—A unit of local government participating in the program under this section in a fiscal year shall not be prohibited from participating in the basic essential air service program under this chapter in a subsequent fiscal year if such unit is otherwise eligible to participate in such program.

(h) *FUNDING.*—Amounts appropriated or otherwise made available to carry out the essential air service program under this subchapter shall be available to carry out this section.

SUBCHAPTER III—REGIONAL AIR SERVICE INCENTIVE PROGRAM

* * * * *

§ 41762. Definitions

In this subchapter, the following definitions apply:

(1) * * *

* * * * *

[(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)] (11) 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)] (12) 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)] (13) 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)] (14) UNDERSERVED MARKET.—The term “underserved market” means a passenger air transportation market (as defined by the Secretary) that—

(A) * * *

* * * * *

§ 41766. Funding

Of the amounts appropriated under section 106(k) for each of fiscal years 2001 through [2003] 2007, such sums as may be necessary may be used to carry out this subchapter, including administrative expenses.

* * * * *

SUBPART III—SAFETY

* * * * *

CHAPTER 443—INSURANCE

Sec.

44301. Definitions.

* * * * *

[44310. Ending effective date.]

44310. Vendors, agents, subcontractors, and manufacturers.

44311. Termination date.

* * * * *

§ 44302. General authority

(a) * * *

* * * * *

(f) EXTENSION OF POLICIES.—

(1) IN GENERAL.—The Secretary shall extend through August 31, 2004, and may extend ~~through December 31, 2004,~~ *thereafter* the termination date of any insurance policy that the Department of Transportation issued to an air carrier under subsection (a) and that is in effect on the date of enactment of this subsection on no less favorable terms to the air carrier than existed on June 19, 2002; except that the Secretary shall amend the insurance policy, subject to such terms and conditions as the Secretary may prescribe, to add coverage for losses or injuries to aircraft hulls, passengers, and crew at the limits carried by air carriers for such losses and injuries as of such date of enactment and at an additional premium comparable to the premium charged for third-party casualty coverage under such policy.

* * * * *

§ 44303. Coverage

(a) * * *

(b) AIR CARRIER LIABILITY FOR THIRD PARTY CLAIMS ARISING OUT OF ACTS OF TERRORISM.—For acts of terrorism committed on or to an air carrier during the period beginning on September 22, 2001, and ending on December 31, 2004, the Secretary may certify that the air carrier was a victim of an act of terrorism and in the Secretary’s judgment, based on the Secretary’s analysis and conclusions regarding the facts and circumstances of each case, shall not be responsible for losses suffered by third parties (as referred to in section 205.5(b)(1) of title 14, Code of Federal Regulations) that exceed \$100,000,000, in the aggregate, for all claims by such parties arising out of such act. If the Secretary so certifies, the air carrier shall not be liable for an amount that exceeds \$100,000,000, in the aggregate, for all claims by such parties arising out of such act, and the Government shall be responsible for any liability above such amount. No punitive damages may be awarded against an air carrier (or the Government taking responsibility for an air carrier under this subsection) under a cause of action arising out of such act. *The Secretary may extend the provisions of this subsection to the United States manufacturer (as defined in section 44310) of the aircraft of the air carrier involved.*

* * * * *

§ 44310. Ending effective date

【The authority of the Secretary of Transportation to provide insurance and reinsurance under this chapter is not effective after December 31, 2004.】

§ 44310. Vendors, agents, subcontractors, and manufacturers

(a) IN GENERAL.—*The Secretary of Transportation may extend the application of any provision of this chapter to a loss by a vendor, agent, and subcontractor of an air carrier and a United States man-*

ufacturer of an aircraft used by an air carrier but only to the extent that the loss involved an aircraft of an air carrier.

(b) *UNITED STATES MANUFACTURER DEFINED.*—In this section, the term “United States manufacturer” means a manufacturer incorporated under the laws of a State of the United States and having its principal place of business in the United States.

§ 44311. Termination date

Effective December 31, 2007, the authority of the Secretary of Transportation to provide insurance and reinsurance under this chapter shall be limited to—

- (1) the operation of an aircraft by an air carrier or foreign air carrier in foreign air commerce or between at least 2 points, all of which are outside the United States; and
- (2) insurance obtained by a department, agency, or instrumentality of the United States under section 44305.

* * * * *

CHAPTER 447—SAFETY REGULATION

Sec.	
44701.	General requirements.
	* * * * *
[44704.	Type certificates, production certificates, and airworthiness certificates.]
44704.	<i>Type certificates, production certificates, airworthiness certificates, and design organization certificates.</i>
	* * * * *
44727.	<i>Runway safety areas.</i>
44728.	<i>Availability of maintenance information.</i>
44729.	<i>Flight attendant certification.</i>
	* * * * *

§ 44702. Issuance of certificates

(a) *GENERAL AUTHORITY AND APPLICATIONS.*—The Administrator of the Federal Aviation Administration may issue airman certificates, *design organization certificates*, type certificates, production certificates, airworthiness certificates, air carrier operating certificates, airport operating certificates, air agency certificates, and air navigation facility certificates under this chapter. An application for a certificate must—

- (1) * * *
- * * * * *

[§ 44704. Type certificates, production certificates, and airworthiness certificates]

§ 44704. Type certificates, production certificates, airworthiness certificates, and design organization certificates

- (a) *TYPE CERTIFICATES.*—(1) * * *
- * * * * *

(3) *If the holder of a type certificate agrees to permit another person to use the certificate to manufacture a new aircraft, aircraft engine, propeller, or appliance, the holder shall provide the other person with written evidence, in a form acceptable to the Adminis-*

trator, of that agreement. A person may manufacture a new aircraft, aircraft engine, propeller, or appliance based on a type certificate only if the person is the holder of the type certificate or has permission from the holder.

* * * * *

(e) *CERTIFICATION OF PRODUCTS MANUFACTURED IN FOREIGN NATIONS.*—In order to ensure safety, the Administrator shall spend at least the same amount of time and perform a no-less-thorough review in certifying, or validating the certification of, an aircraft, aircraft engine, propeller, or appliance manufactured in a foreign nation as the regulatory authorities of that nation employ when the authorities certify, or validate the certification of, an aircraft, aircraft engine, propeller, or appliance manufactured in the United States.

(f) *DESIGN ORGANIZATION CERTIFICATES.*—

(1) *ISSUANCE.*—Beginning 7 years after the date of enactment of this subsection, the Administrator may issue a design organization certificate to a design organization to authorize the organization to certify compliance with the requirements and minimum standards prescribed under section 44701(a) for the type certification of aircraft, aircraft engines, propellers, or appliances.

(2) *APPLICATIONS.*—On receiving an application for a design organization certificate, the Administrator shall examine and rate the design organization submitting the application, in accordance with regulations to be prescribed by the Administrator, to determine whether the design organization has adequate engineering, design, and testing capabilities, standards, and safeguards to ensure that the product being certificated is properly designed and manufactured, performs properly, and meets the regulations and minimum standards prescribed under section 44701(a).

(3) *ISSUANCE OF TYPE CERTIFICATES BASED ON DESIGN ORGANIZATION CERTIFICATION.*—On receiving an application for a type certificate under subsection (a) that is accompanied by a certification of compliance by a design organization certificated under this subsection, instead of conducting an independent investigation under subsection (a), the Administrator may issue the type certificate based on the certification of compliance.

(4) *PUBLIC SAFETY.*—The Administrator shall include in a design organization certificate issued under this subsection terms required in the interest of safety.

* * * * *

§ 44709. Amendments, modifications, suspensions, and revocations of certificates

(a) *REINSPECTION AND REEXAMINATION.*—The Administrator of the Federal Aviation Administration may reinspect at any time a civil aircraft, aircraft engine, propeller, appliance, *design organization, production certificate holder, air navigation facility, or air agency, or reexamine an airman holding a certificate issued under section 44703 of this title.*

* * * * *

§ 44711. Prohibitions and exemption

(a) PROHIBITIONS.—A person may not—

(1) * * *

* * * * *

(7) violate a term of an air **[agency]** *agency, design organization certificate*, or production certificate or a regulation prescribed or order issued under section 44701(a) or (b) or any of sections 44702–44716 of this title related to the holder of the certificate;

* * * * *

§ 44726. Denial and revocation of certificate for counterfeit parts violations

(a) DENIAL OF CERTIFICATE.—

(1) IN GENERAL.—Except as provided in paragraph (2) of this subsection and subsection (e)(2), the Administrator of the Federal Aviation Administration may not issue a certificate under this chapter to any person—

(A) convicted in a court of law of a violation of a law of the United States relating to the installation, production, repair, or sale of a counterfeit or fraudulently-represented aviation part or material; **[or]**

(B) *whose certificate is revoked under subsection (b); or*

[(B)] (C) subject to a controlling or ownership interest of an individual **[convicted of such a violation.]** *described in subparagraph (A) or (B).*

* * * * *

§ 44727. Runway safety areas

An airport owner or operator shall not be required to reduce the length of a runway or declare the length of a runway to be less than the actual pavement length in order to meet standards of the Federal Aviation Administration applicable to runway safety areas.

§ 44728. Availability of maintenance information

(a) IN GENERAL.—*The Administrator of the Federal Aviation Administration shall continue in effect the requirement of section 21.50(b) of title 14, Code of Federal Regulations, that the holder of a design approval—*

(1) *shall prepare and furnish at least one set of complete instructions for continued airworthiness as prescribed in such section to the owner of each type of aircraft, aircraft engine, or propeller upon its delivery or upon the issuance of the first standard airworthiness certificate for the affected aircraft, whichever occurs later; and*

(2) *thereafter shall make the instructions, and any changes thereto, available to any other person required by parts 1 through 199 of title 14, Code of Federal Regulations, to comply with any of the terms of the instructions.*

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

(1) MAKE AVAILABLE.—*The term “make available” means providing at a cost not to exceed the cost of preparation and distribution.*

(2) *DESIGN APPROVAL.*—The term “design approval” means a type certificate, supplemental type certificate, amended type certificate, parts manufacturer approval, technical standard order authorization, and any other action as determined by the Administrator pursuant to subsection (c)(2).

(3) *INSTRUCTIONS FOR CONTINUED AIRWORTHINESS.*—The term “instructions for continued airworthiness” means any information (and any changes to such information) considered essential to continued airworthiness that sets forth the methods, techniques, and practices for performing maintenance and alteration on civil aircraft, aircraft engines, propellers, appliances or any part installed thereon. Such information may include maintenance, repair, and overhaul manuals, standard practice manuals, service bulletins, service letters, or similar documents issued by a design approval holder.

(c) *RULEMAKING.*—The Administrator shall conduct a rulemaking proceeding for the following purposes:

(1) To determine the meaning of the phrase “essential to continued airworthiness” of the applicable aircraft, aircraft engine, and propeller as that term is used in parts 23 through 35 of title 14, Code of Federal Regulations.

(2) To determine if a design approval should include, in addition to those approvals specified in subsection (b)(2), any other activity in which persons are required to have technical data approved by the Administrator.

(3) To revise existing rules to reflect the definition of design approval holder in subsections (b)(2) and (c)(2).

(4) To determine if design approval holders that prepared instructions for continued airworthiness or maintenance manuals before January 29, 1981, should be required to make the manuals available (including any changes thereto) to any person required by parts 1 through 199 of title 14, Code of Federal Regulations, to comply with any of the terms of those manuals.

(5) To require design approval holders that—

(A) are operating an ongoing business concern;

(B) were required to produce maintenance manuals or instructions for continued airworthiness under section 21.50(b) of title 14, Code of Federal Regulations; and

(C) have not done so,

to prepare those documents and make them available as required by this section not later than 1 year after date on which the regulations are published.

(6) To revise its rules to reflect the changes made by this section.

(d) *LIMITATION ON STATUTORY CONSTRUCTION.*—Nothing in this section shall be construed as requiring the holder of a design approval to make available proprietary information unless it is deemed essential to continued airworthiness.

§44729. Flight attendant certification

(a) *CERTIFICATE REQUIRED.*—

(1) *IN GENERAL.*—No person may serve as a flight attendant aboard an aircraft of an air carrier unless that person holds a certificate of demonstrated proficiency from the Administrator of the Federal Aviation Administration. Upon the request of the

Administrator or an authorized representative of the National Transportation Safety Board or another Federal agency, a person who holds such a certificate shall present the certificate for inspection within a reasonable period of time after the date of the request.

(2) *SPECIAL RULE FOR CURRENT FLIGHT ATTENDANTS.*—An individual serving as a flight attendant on the effective date of this section may continue to serve aboard an aircraft as a flight attendant until completion by that individual of the required recurrent or requalification training and subsequent certification under this section.

(3) *TREATMENT OF FLIGHT ATTENDANT AFTER NOTIFICATION.*—On the date that the Administrator is notified by an air carrier that an individual has the demonstrated proficiency to be a flight attendant, the individual shall be treated for purposes of this section as holding a certificate issued under the section.

(b) *ISSUANCE OF CERTIFICATE.*—The Administrator shall issue a certificate of demonstrated proficiency under this section to an individual after the Administrator is notified by the air carrier that the individual has successfully completed all the training requirements for flight attendants approved by the Administrator.

(c) *DESIGNATION OF PERSON TO DETERMINE SUCCESSFUL COMPLETION OF TRAINING.*—In accordance with part 183 of chapter 14, Code of Federal Regulation, the director of operations of an air carrier is designated to determine that an individual has successfully completed the training requirements approved by the Administrator for such individual to serve as a flight attendant.

(d) *SPECIFICATIONS RELATING TO CERTIFICATES.*—Each certificate issued under this section shall—

- (1) be numbered and recorded by the Administrator;
- (2) contain the name, address, and description of the individual to whom the certificate is issued;
- (3) contain the name of the air carrier that employs or will employ the certificate holder on the date that the certificate is issued;
- (4) is similar in size and appearance to certificates issued to airmen;
- (5) contain the airplane group for which the certificate is issued; and
- (6) be issued not later than 30 days after the Administrator receives notification from the air carrier of demonstrated proficiency and, in the case of an individual serving as flight attendant on the effective date of this section, not later than 1 year after such effective date.

(e) *APPROVAL OF TRAINING PROGRAMS.*—Air carrier flight attendant training programs shall be subject to approval by the Administrator. All flight attendant training programs approved by the Administrator in the 1-year period ending on the date of enactment of this section shall be treated as providing a demonstrated proficiency for purposes of meeting the certification requirements of this section.

(f) *FLIGHT ATTENDANT DEFINED.*—In this section, the term “flight attendant” means an individual working as a flight attendant in the cabin of an aircraft that has 20 or more seats and is being used by an air carrier to provide air transportation.

SUBPART IV—ENFORCEMENT AND PENALTIES

CHAPTER 461—INVESTIGATIONS AND PROCEEDINGS

Sec.	
46101.	Complaints and investigations.
	* * * * *
46111.	<i>Certificate actions in response to a security threat.</i>
	* * * * *

§46111. Certificate actions in response to a security threat

(a) *ORDERS.*—The Administrator of Federal Aviation Administration shall issue an order amending, modifying, suspending, or revoking any part of a certificate issued under this title if the Administrator is notified by the Under Secretary for Border and Transportation Security of the Department of Homeland Security that the holder of the certificate poses, or is suspected of posing, a risk of air piracy or terrorism or a threat to airline or passenger safety. If requested by the Under Secretary, the order shall be effective immediately.

(b) *HEARINGS FOR CITIZENS.*—An individual who is a citizen of the United States who is adversely affected by an order of the Administrator under subsection (a) is entitled to a hearing on the record.

(c) *HEARINGS.*—When conducting a hearing under this section, the administrative law judge shall not be bound by findings of fact or interpretations of laws and regulations of the Administrator or the Under Secretary.

(d) *APPEALS.*—An appeal from a decision of an administrative law judge as the result of a hearing under subsection (b) shall be made to the Transportation Security Oversight Board established by section 115. The Board shall establish a panel to review the decision. The members of this panel (1) shall not be employees of the Transportation Security Administration, (2) shall have the level of security clearance needed to review the determination made under this section, and (3) shall be given access to all relevant documents that support that determination. The panel may affirm, modify, or reverse the decision.

(e) *REVIEW.*—A person substantially affected by an action of a panel under subsection (d), or the Under Secretary when the Under Secretary decides that the action of the panel under this section will have a significant adverse impact on carrying out this part, may obtain review of the order under section 46110. The Under Secretary and the Administrator shall be made a party to the review proceedings. Findings of fact of the panel are conclusive if supported by substantial evidence.

(f) *EXPLANATION OF DECISIONS.*—An individual who commences an appeal under this section shall receive a written explanation of the basis for the determination or decision and all relevant documents that support that determination to the maximum extent that the national security interests of the United States and other applicable laws permit.

(g) *CLASSIFIED EVIDENCE.*—

(1) *IN GENERAL.*—The Under Secretary, in consultation with the Administrator, shall issue regulations to establish proce-

dures by which the Under Secretary, as part of a hearing conducting under this section, may substitute an unclassified summary of classified evidence upon the approval of the administrative law judge.

(2) APPROVAL AND DISAPPROVAL OF SUMMARIES.—Under the procedures, an administrative law judge shall—

(A) approve a summary if the judge finds that it is sufficient to enable the certificate holder to appeal an order issued under subsection (a); or

(B) disapprove a summary if the judge finds that it is not sufficient to enable the certificate holder to appeal such an order.

(3) MODIFICATIONS.—If an administrative law judge disapproves a summary under paragraph (2)(B), the judge shall direct the Under Secretary to modify the summary and resubmit the summary for approval.

(4) INSUFFICIENT MODIFICATIONS.—If an administrative law judge is unable to approve a modified summary, the order issued under subsection (a) that is the subject of the hearing shall be set aside unless the judge finds that such a result—

(A) would likely cause serious and irreparable harm to the national security; or

(B) would likely cause death or serious bodily injury to any person.

(5) SPECIAL PROCEDURES.—If an administrative law judge makes a finding under subparagraph (A) or (B) of paragraph (4), the hearing shall proceed without an unclassified summary provided to the certificate holder. In such a case, subject to procedures established by regulation by the Under Secretary in consultation with the Administrator, the administrative law judge shall appoint a special attorney to assist the accused by—

(A) reviewing in camera the classified evidence; and

(B) challenging, through an in camera proceeding, the veracity of the evidence contained in the classified information.

CHAPTER 463—PENALTIES

Sec.						
46301.	Civil penalties.	*	*	*	*	*
46319.	Closure of an airport without providing sufficient notice.	*	*	*	*	*

§46319. Closure of an airport without providing sufficient notice

(a) PROHIBITION.—A public agency (as defined in section 47102) may not close an airport listed in the national plan of integrated airport systems under section 47103 without providing written notice to the Administrator of the Federal Aviation Administration at least 30 days before the date of the closure.

(b) PUBLICATION OF NOTICE.—The Administrator shall publish each notice received under subsection (a) in the Federal Register.

(c) CIVIL PENALTY.—A public agency violating subsection (a) shall be liable for a civil penalty of \$10,000 for each day that the airport

remains closed without having given the notice required by this section.

* * * * *

PART B—AIRPORT DEVELOPMENT AND NOISE

CHAPTER 471—AIRPORT DEVELOPMENT

SUBCHAPTER I—AIRPORT IMPROVEMENT

Sec.

47101. Policies.

* * * * *

47138. *Emission credits for air quality projects.*

47139. *Airport ground support equipment emissions retrofit pilot program.*

47140. *Compatible land use planning and projects by State and local governments.*

47141. *Prohibition on rent-free space requirements for Federal Aviation Administration.*

* * * * *

SUBCHAPTER III—AIRPORT PROJECT STREAMLINING

47171. *DOT as lead agency.*

47172. *Categorical exclusions.*

47173. *Access restrictions to ease construction.*

47174. *Airport revenue to pay for mitigation.*

47175. *Airport funding of FAA staff.*

47176. *Authorization of appropriations.*

47177. *Designation of aviation safety and aviation security projects for priority environmental review.*

47178. *Definitions.*

SUBCHAPTER I—AIRPORT IMPROVEMENT

* * * * *

§ 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) * * *

* * * * *

(x) replacement of baggage conveyor systems, and reconfiguration of terminal baggage areas, that the Secretary determines are necessary to install bulk explosive detection devices~~[(.)]~~; *except that such activities shall be eligible for funding under this subchapter only using amounts apportioned under section 47114.*

* * * * *

~~[(J)]~~ in fiscal year 2002, any additional security related activity required by law or by the Secretary after September 11, 2001, and before October 1, 2002.

[(K) in fiscal year 2002 with respect to funds apportioned under section 47114 in fiscal years 2001 and 2002, any activity, including operational activities, of an airport that is not a primary airport if that airport is located within the confines of enhanced class B airspace, as defined by Notice to Airmen FDC 1/0618 issued by the Federal Aviation Administration and the activity was carried out when any restriction in the Notice is in effect.

[(L) in fiscal year 2002, payments for debt service on indebtedness incurred to carry out a project at an airport owned or controlled by the sponsor or at a privately owned or operated airport passenger terminal financed by indebtedness incurred by the sponsor if the Secretary determines that such payments are necessary to prevent a default on the indebtedness.]

(J) in the case of a nonhub airport or an airport that is not a primary airport in fiscal year 2004, direct costs associated with new, additional, or revised security requirements imposed on airport operators by law, regulation, or order on or after September 11, 2001, if the Government's share is paid only from amounts apportioned to a sponsor under section 47114(c) or 47114(d)(3)(A).

(K) work necessary to construct or modify airport facilities to provide low-emission fuel systems, gate electrification, and other related air quality improvements at a commercial service airport if the airport is located in an air quality nonattainment or maintenance area (as defined in sections 171(2) and 175A of the Clean Air Act (42 U.S.C. 7501(2), 7505a) and if such project will result in an airport receiving appropriate emission credits, as described in section 47138.

(L) converting vehicles and ground support equipment owned by a commercial service airport to low-emission technology or acquiring for use at a commercial service airport vehicles and ground support equipment that include low-emission technology 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(2)) or a maintenance area referred to in section 175A of such Act (42 U.S.C. 7505a) and if such project will result in an airport receiving appropriate emission credits as described in section 47138.

* * * * *

[(6) "amount made available under section 48103 of this title" means the amount authorized for grants under section 48103 of this title as reduced by any law enacted after September 3, 1982.]

(6) "amount made available under section 48103" or "amount newly made available" means the amount authorized for grants under section 48103 as that amount may be limited in that year by a subsequent law, but as determined without regard to grant obligation recoveries made in that year or amounts covered by section 47107(f).

* * * * *

(10) “large hub airport” means a commercial service airport that has at least 1.0 percent of the passenger boardings.

(11) “low-emission technology” means technology for vehicles and equipment whose emission performance is the best achievable under emission standards established by the Environmental Protection Agency and that relies exclusively on alternative fuels that are substantially non-petroleum based, as defined by the Department of Energy, but not excluding hybrid systems or natural gas powered vehicles.

(12) “medium hub airport” means a commercial service airport that has at least 0.25 percent but less than 1.0 percent of the passenger boardings.

(13) “nonhub airport” means a commercial service airport that has less than 0.05 percent of the passenger boardings.

[(10)] (14) “passenger boardings”—

[(A)] means revenue passenger boardings on an aircraft in service in air commerce as the Secretary determines under regulations the Secretary prescribes; and

[(B)] includes passengers who continue on an aircraft in international flight that stops at an airport in the 48 contiguous States, Alaska, or Hawaii for a nontraffic purpose.]

(A) means, unless the context indicates otherwise, revenue passenger boardings in the United States in the prior calendar year on an aircraft in service in air commerce, as the Secretary determines under regulations the Secretary prescribes; and

(B) includes passengers who continue on an aircraft in international flight that stops at an airport in the 48 contiguous States, Alaska, or Hawaii for a nontraffic purpose.

[(11)] (15) “primary airport” means a commercial service airport the Secretary determines to have more than 10,000 passenger boardings each year.

[(12)] (16) “project” means a project, separate projects included in one project grant application, or all projects to be undertaken at an airport in a fiscal year, to achieve airport development or airport planning.

[(13)] (17) “project cost” means a cost involved in carrying out a project.

[(14)] (18) “project grant” means a grant of money the Secretary makes to a sponsor to carry out at least one project.

[(15)] (19) “public agency” means—

(A) * * *

* * * * *

[(16)] (20) “public airport” means an airport used or intended to be used for public purposes—

(A) * * *

* * * * *

[(17)] (21) “public-use airport” means—

(A) * * *

* * * * *

[(18)] (22) “reliever airport” means an airport the Secretary designates to relieve congestion at a commercial service airport

and to provide more general aviation access to the overall community.

(23) “small hub airport” means a commercial service airport that has at least 0.05 percent but less than 0.25 percent of the passenger boardings.

[(19)] (24) “sponsor” means—
(A) * * *

* * * * *

[(20)] (25) “State” means a State of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, American Samoa, the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and Guam.

* * * * *

§ 47104. Project grant authority

(a) * * *

* * * * *

(c) EXPIRATION OF AUTHORITY.—After September 30, [2003] 2007, 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) * * *

* * * * *

(c) ENVIRONMENTAL REQUIREMENTS.—(1) The Secretary may approve an application under this subchapter for an airport development project involving the location of an airport or runway or a major runway extension—

(A) only if the sponsor certifies to the Secretary that—

(i) * * *

(ii) the airport management board has voting representation from the communities in which the project is located or has advised the communities that they have the right to petition the Secretary about a proposed project; and

[(B)] only if the chief executive officer of the State in which the project will be located certifies in writing to the Secretary that there is reasonable assurance that the project will be located, designed, constructed, and operated in compliance with applicable air and water quality standards, except that the Administrator of the Environmental Protection Agency shall make the certification instead of the chief executive officer if—

[(i)] the State has not approved any applicable State or local standards; and

[(ii)] the Administrator has prescribed applicable standards; and

[(C)] (B) if the application is found to have a significant adverse effect on natural resources, including fish and wildlife, natural, scenic, and recreation assets, water and air quality, or another factor affecting the environment, only after finding

that no possible and prudent alternative to the project exists and that every reasonable step has been taken to minimize the adverse effect.

(2) The Secretary may approve an application under this subchapter for an airport development project that does not involve the location of an airport or runway, or a major runway extension, at an existing airport without requiring an environmental impact statement related to noise for the project if—

(A) completing the project would allow operations at the airport involving aircraft complying with the noise standards prescribed for “[stage 2] stage 3” aircraft in section 36.1 of title 14, Code of Federal Regulations, to replace existing operations involving aircraft that do not comply with those standards; and

* * * * *

[(4)(A) Notice of certification or of refusal to certify under paragraph (1)(B) of this subsection shall be provided to the Secretary not later than 60 days after the Secretary receives the application.

[(B) The Secretary shall condition approval of the application on compliance with the applicable standards during construction and operation.]

[(5)] (4) The Secretary may make a finding under paragraph (1)(C) of this subsection only after completely reviewing the matter. The review and finding must be a matter of public record.

(d) WITHHOLDING APPROVAL.—(1) The Secretary may withhold approval of an application under this subchapter for amounts apportioned under [section 47114(c) and (e) of this title] subsections (c), (d), and (e) of section 47114 for violating an assurance or requirement of this subchapter only if—

(A) * * *

* * * * *

(4) *If the Secretary withholds a grant to an airport from the discretionary fund under section 47115 or from the small airport fund under section 47116 on the grounds that the sponsor has violated an assurance or requirement of this subchapter, the Secretary shall follow the procedures of this subsection.*

* * * * *

(h) *RUNWAY SAFETY AREAS.—The Secretary may approve an application under this chapter for a project grant to construct, reconstruct, repair, or improve a runway only if the Secretary receives written assurances, satisfactory to the Secretary, that the sponsor will undertake, to the maximum extent practical, improvement of the runway’s safety area to meet the standards of the Federal Aviation Administration.*

§ 47107. Project grant application approval conditioned on assurances about airport operations

(a) GENERAL WRITTEN ASSURANCES.—The Secretary of Transportation may approve a project grant application under this subchapter for an airport development project only if the Secretary receives written assurances, satisfactory to the Secretary, that—

(1) * * *

* * * * *

(19) the airport owner or operator will submit to the Secretary and make available to the public an annual report listing in detail—

(A) * * *

(B) all services and property provided to other units of government and the amount of compensation received for provision of each such service and property; **[and]**

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

(21) *if the airport owner or operator and a person who owns an aircraft agree that a hangar is to be constructed at the airport for the aircraft at the aircraft owner's expense, the airport owner or operator will grant to the aircraft owner for the hangar a long-term lease (of not less than 50 years) that is subject to such terms and conditions on the hangar as the airport owner or operator may impose.*

* * * * *

(c) WRITTEN ASSURANCES ON ACQUIRING LAND.—(1) * * *

* * * * *

(4) Notwithstanding paragraph (2)(A)(iii), an airport owner or operator may retain all or any portion of the proceeds from a land disposition described in that paragraph if the Secretary finds that the use of the land will be compatible with airport purposes and the proceeds retained will be used for airport development or to carry out a noise compatibility program under section 47504(c).

* * * * *

(1) POLICIES AND PROCEDURES TO ENSURE ENFORCEMENT AGAINST ILLEGAL DIVERSION OF AIRPORT REVENUE.—

(1) * * *

* * * * *

(5) STATUTE OF LIMITATIONS.—In addition to the statute of limitations specified in subsection (n)(7), with respect to project grants made under this chapter—

(A) any request by a sponsor or *any other governmental entity* to any airport for additional payments for services conducted off of the airport or for reimbursement for capital contributions or operating expenses shall be filed not later than 6 years after the date on which the expense is incurred; and

* * * * *

(m) AUDIT CERTIFICATION.—

(1) IN GENERAL.—The Secretary of Transportation, acting through the Administrator of the Federal Aviation Administration, shall **[promulgate regulations that]** *include a provision in the compliance supplement provisions to require a recipient of a project grant (or any other recipient of Federal financial assistance that is provided for an airport) to include as part of an annual audit conducted under sections 7501 through 7505*

of title 31, a review [and opinion of the review] concerning the funding activities with respect to an airport that is the subject of the project grant (or other Federal financial assistance) and the sponsors, owners, or operators (or other recipients) involved.

* * * * *

[(3) REQUIREMENTS FOR AUDIT REPORT.—The report submitted to the Secretary under this subsection shall include a specific determination and opinion regarding the appropriateness of the disposition of airport funds paid or transferred to a sponsor.]

* * * * *

§ 47108. Project grant agreements

(a) OFFER AND ACCEPTANCE.—On approving a project grant application under this subchapter, the Secretary of Transportation shall offer the sponsor a grant to pay the United States Government’s share of the project costs allowable under section 47110 of this title. The Secretary may impose terms on the offer that the Secretary considers necessary to carry out this subchapter and regulations prescribed under this subchapter. An offer shall state the obligations to be assumed by the sponsor and the maximum amount the Government will pay for the project from the amounts authorized under chapter 481 of this title (except sections 48102(e), 48106, 48107, and 48110). At the request of the sponsor, an offer of a grant for a project that will not be completed in one fiscal year shall provide for the obligation of amounts apportioned or to be apportioned to a sponsor under section 47114(c) or 47114(d)(3)(A) of this title for the fiscal years necessary to pay the Government’s share of the cost of the project. An offer that is accepted in writing by the sponsor is an agreement binding on the Government and the sponsor. The Government may pay or be obligated to pay a project cost only after a grant agreement for the project is signed.

* * * * *

§ 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) * * *

* * * * *

(3) 90 percent for a project at any other airport; and

[(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)] (4) for fiscal year 2002, 100 percent for a project described in section 47102(3)(J), 47102(3)(K), or 47102(3)(L).

* * * * *

§ 47110. Allowable project costs

(a) * * *

(b) ALLOWABLE COST STANDARDS.—A project cost is allowable—

(1) if the cost necessarily is incurred in carrying out the project in compliance with the grant agreement made for the project under this subchapter, including any cost a sponsor incurs related to an audit the Secretary requires under section 47121(b) or (d) of this title *and any cost of moving a Federal facility impeding the project if the rebuilt facility is of an equivalent size and type;*

(2)(A) * * *

* * * * *

(C) if the Government's share is paid only with amounts apportioned under paragraphs (1) and (2) of section 47114(c) **[of this title]** *or section 47114(d)(3)(A)* and if the cost is incurred—

(i) * * *

* * * * *

(D) if the cost is incurred after September 11, 2001, for a project described in section 47102(3)(J) **[, 47102(3)(K), or 47102(3)(L)]** and shall not depend upon the date of execution of a grant agreement made under this subchapter;

* * * * *

(4) if the cost is not incurred in a project for airport development or airport planning for which other Government assistance has been granted; **[and]**

(5) if the total costs allowed for the project are not more than the amount stated in the grant agreement as the maximum the Government will pay (except as provided in section 47108(b) of this title) **[.]; and**

(6) in the case of a project for acquiring for use at a commercial service airport vehicles and ground support equipment owned by an airport that is not described in section 47102(3) and that include low-emission technology, if the total costs allowed for the project are not more than the incremental cost of equipping such vehicles or equipment with low-emission technology, as determined by the Secretary.

* * * * *

(e) LETTERS OF INTENT.—(1) * * *

* * * * *

(6) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this section shall be construed to prohibit the obligation of amounts pursuant to a letter of intent under this subsection in the same fiscal year as the letter of intent is issued.

(f) NONALLOWABLE COSTS.—Except as provided in **[subsection (d)]** *subsections (d) and (h)* of this section and section 47118(f) of this title, a cost is not an allowable airport development project cost if it is for—

(1) * * *

* * * * *

(g) USE OF DISCRETIONARY FUNDS.—A project for which cost reimbursement is provided under subsection (b)(2)(C) shall not receive priority consideration with respect to the use of discretionary funds made available under section 47115 of this title even if the amounts made available under paragraphs (1) and (2) of section

47114(c) or section 47114(d)(3)(A) are not sufficient to cover the Government's share of the cost **[of project]** of the project.

(h) *CONSTRUCTION OR MODIFICATION OF PUBLIC PARKING FACILITIES FOR SECURITY PURPOSES.*—Notwithstanding subsection (f)(1), a cost of constructing or modifying a public parking facility for passenger automobiles to comply with a regulation or directive of the Department of Homeland Security shall be treated as an allowable airport development project cost.

(i) *DEBT FINANCING.*—In the case of an airport that is not a medium hub airport or large hub airport, the Secretary may determine that allowable airport development project costs include payments of interest, commercial bond insurance, and other credit enhancement costs associated with a bond issue to finance the project.

(j) *NONPRIMARY AIRPORTS.*—The Secretary may decide that the costs of revenue producing aeronautical support facilities, including fuel farms and hangars, are allowable for an airport development project at a nonprimary airport if the Government's share of such costs is paid only with funds apportioned to the airport sponsor under section 47114(d)(3)(A) and if the Secretary determines that the sponsor has made adequate provision for financing airside needs of the airport.

* * * * *

§ 47114. Apportionments

(a) * * *

* * * * *

(c) **AMOUNTS APPORTIONED TO SPONSORS.**—

(1) **PRIMARY AIRPORTS.**—

(A) **APPORTIONMENT.**—The Secretary shall apportion to the sponsor of each primary airport for each fiscal year an amount equal to—

(i) * * *

* * * * *

[(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.]

(iv) \$.65 for each of the next 500,000 passenger boardings at the airport during the prior calendar year;

(v) \$.50 cents for each of the next 2,500,000 passenger boardings at the airport during the prior calendar year; and

(vi) \$.45 cents for each additional passenger boarding at the airport during the prior calendar year.

* * * * *

(F) **SPECIAL RULE FOR FISCAL YEARS 2004 AND 2005.**—Notwithstanding subparagraph (A) and the absence of scheduled passenger aircraft service at an airport, the Secretary may apportion in fiscal years 2004 and 2005 to the sponsor of the airport an amount equal to the amount apportioned

to that sponsor in fiscal year 2002 or 2003, whichever amount is greater, if the Secretary finds that—

(i) the passenger boardings at the airport were below 10,000 in calendar year 2002;

(ii) the airport had at least 10,000 passenger boardings and scheduled passenger aircraft service in either calendar year 2000 or 2001; and

(iii) the reason that passenger boardings described in clause (i) were below 10,000 was the decrease in passengers following the terrorist attacks of September 11, 2001.

(2) CARGO [ONLY] AIRPORTS.—

(A) APPORTIONMENT.—Subject to subparagraph (D), the Secretary shall apportion an amount equal to [3 percent] 3.5 percent of the amount subject to apportionment each fiscal year to the sponsors of airports served by aircraft providing air transportation of only cargo with a total annual landed weight of more than 100,000,000 pounds.

* * * * *

§ 47115. Discretionary fund

(a) * * *

* * * * *

[(d) CONSIDERATIONS.—In selecting a project for a grant to preserve and enhance capacity as described in subsection (c)(1) of this section, the Secretary shall consider—

[(1) the effect the project will have on the overall national air transportation system capacity;

[(2) the project benefit and cost, including, in the case of a project at a reliever airport, the number of operations projected to be diverted from a primary airport to the reliever airport as a result of the project, as well as the cost savings projected to be realized by users of the local airport system;

[(3) the financial commitment from non-United States Government sources to preserve or enhance airport capacity;

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

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

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

(d) CONSIDERATIONS.—

(1) FOR CAPACITY ENHANCEMENT PROJECTS.—In selecting a project for a grant to preserve and improve capacity funded in whole or in part from the fund, the Secretary shall consider—

(A) the effect that the project will have on overall national transportation system capacity;

(B) the benefit and cost of the project, including, in the case of a project at a reliever airport, the number of operations projected to be diverted from a primary airport to the reliever airport as a result of the project, as well as the cost savings projected to be realized by users of the local airport system;

(C) the financial commitment from non-United States Government sources to preserve or improve airport capacity;

(D) the airport improvement priorities of the States to the extent such priorities are not in conflict with subparagraphs (A) and (B); and

(E) the projected growth in the number of passengers or aircraft that will be using the airport at which the project will be carried out.

(2) FOR ALL PROJECTS.—In selecting a project for a grant described in paragraph (1), the Secretary shall consider whether—

(A) funding has been provided for all other projects qualifying for funding during the fiscal year under this chapter that have attained a higher score under the numerical priority system employed by the Secretary in administering the fund; and

(B) the sponsor will be able to commence the work identified in the project application in the fiscal year in which the grant is made or within 6 months after the grant is made, whichever is later.

* * * * *

§ 47116. Small airport fund

(a) * * *

(b) DISTRIBUTION OF AMOUNTS.—The Secretary may distribute amounts in the fund in each fiscal year for any purpose for which amounts are made available under section 48103 of this title as follows:

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

* * * * *

§ 47117. Use of apportioned amounts

(a) * * *

* * * * *

[(c) PRIMARY AIRPORTS.—(1) An amount apportioned to a sponsor of a primary airport under section 47114(c)(1) of this title is available for grants for any public-use airport of the sponsor included in the national plan of integrated airport systems.

[(2) A sponsor of a primary airport may make an agreement with the Secretary of Transportation waiving any part of the amount apportioned for the airport under section 47114(c)(1) of this title if the Secretary makes the waived amount available for a grant for another public-use airport in the same State or geographical area as the primary airport.]

(c) USE OF SPONSOR'S APPORTIONED AMOUNTS AT PUBLIC USE AIRPORTS.—

(1) *OF SPONSOR.*—An amount apportioned to a sponsor of an airport under section 47114(c) or 47114(d)(3)(A) is available for grants for any public-use airport of the sponsor included in the national plan of integrated airport systems.

(2) *IN SAME STATE OR AREA.*—A sponsor of an airport may make an agreement with the Secretary of Transportation waiving the sponsor's claim to any part of the amount apportioned for the airport under section 47114(c) or 47114(d)(3)(A) if the Secretary agrees to make the waived amount available for a grant for another public-use airport in the same State or geographical area as the airport, as determined by the Secretary.

* * * * *

(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 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], for noise mitigation projects approved in an environmental record of decision for an airport development project under this title, for compatible land use planning and projects carried out by State and local governments under section 47140, and for airport development described in section 47102(3)(F) or 47102(3)(K) to comply with the Clean Air Act (42 U.S.C. 7401 et seq.). 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 34 percent requirement is being met in that fiscal year.

* * * * *

[(C) In any fiscal year in which the total amount made available under section 48103 is \$3,200,000,000 or more, at least two-thirds of 1 percent for grants to sponsors of reliever airports which have—

- [(i) more than 75,000 annual operations;
- [(ii) a runway with a minimum usable landing distance of 5,000 feet;
- [(iii) a precision instrument landing procedure;
- [(iv) a minimum number of aircraft, to be determined by the Secretary, based at the airport; and
- [(v) been designated by the Secretary as a reliever airport to an airport with 20,000 hours of annual delays in commercial passenger aircraft takeoffs and landings.]

* * * * *

(h) *TREATMENT OF CANCELED OR REDUCED GRANT OBLIGATIONS.*—For the purpose of determining compliance with a limitation, enacted in an appropriations Act, on the amount of grant obligations of funds made available by section 48103 that may be incurred in a fiscal year, an amount that is recovered by canceling or reducing a grant obligation of funds made available by section 48103 shall be treated as a negative obligation that is to be netted against the obligation limitation as enacted and thus may permit the obligation limitation to be exceeded by an equal amount.

§ 47118. Designating current and former military airports

(a) * * *

* * * * *

(e) **TERMINAL BUILDING FACILITIES.**—Not more than **[\$7,000,000]** *\$10,000,000* 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) * * *

* * * * *

(f) **PARKING LOTS, FUEL FARMS, UTILITIES, HANGARS AND AIR CARGO TERMINALS.**—Not more than a total of **[\$7,000,000]** *\$10,000,000* 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.

* * * * *

§ 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 percent of the total enplanements in the United States, between January 1, 1992, 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; and

[(C) amounts available for airport development under this subchapter will not be used for additional terminal development projects at the airport for at least 3 years beginning on the date the grant is used to repay the borrowed money; and

[(2) subject to the limitations in subsection (b)(1) and (2) of this section.]

(a) REPAYING BORROWED MONEY.—

(1) *TERMINAL DEVELOPMENT COSTS INCURRED AFTER JUNE 30, 1970, AND BEFORE JULY 12, 1976.*—An amount apportioned under section 47114 and made available to the sponsor of a commercial service airport at which terminal development was carried out after June 30, 1970, and before July 12, 1976, is available to repay immediately money borrowed and used to pay the costs for such terminal development if those costs would be allowable project costs under section 47110(d) if they had been incurred after September 3, 1982.

(2) *TERMINAL DEVELOPMENT COSTS INCURRED BETWEEN JANUARY 1, 1992, AND OCTOBER 31, 1992.*—An amount apportioned under section 47114 and made available to the sponsor of a nonhub airport at which terminal development was carried out between January 1, 1992, and October 31, 1992, is available to repay immediately money borrowed and to pay the costs for such terminal development if those costs would be allowable project costs under section 47110(d).

(3) *TERMINAL DEVELOPMENT COSTS AT PRIMARY AIRPORTS.*—An amount apportioned under section 47114 or available under subsection (b)(3) to a primary airport—

(A) that was a nonhub airport in the most recent year used to calculate apportionments under section 47114;

(B) that is a designated airport under section 47118 in fiscal year 2003; and

(C) at which terminal development is carried out between January 2003 and August 2004,
is available to repay immediately money borrowed and used to pay the costs for such terminal development if those costs would be allowable project costs under section 47110(d).

(4) *CONDITIONS FOR GRANT.*—An amount is available for a grant under this subsection only if—

(A) the sponsor submits the certification required under section 47110(d);

(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; and

(C) amounts available for airport development under this subchapter will not be used for additional terminal development projects at the airport for at least 3 years beginning on the date the grant is used to repay the borrowed money.

(5) *APPLICABILITY OF CERTAIN LIMITATIONS.*—A grant under this subsection shall be subject to the limitations in subsection (b)(1) and (2).

(b) *AVAILABILITY OF AMOUNTS.*—In a fiscal year, the Secretary may make available—

(1) * * *

* * * * *

(3) for use by a primary airport that each year does not have more than .05 percent of the total boardings in the United States, any part of amounts that may be distributed for the fiscal year from the discretionary fund and small airport fund to pay project costs allowable under section 47110(d) of this title; **[or]**

(4) not more than \$25,000,000 to pay project costs allowable for the fiscal year under section 47110(d) of this title for projects at commercial service airports that were not eligible for assistance for terminal development during the fiscal year ending September 30, 1980, under section 20(b) of the Airport and Airway Development Act of 1970[.]; or

(5) to a sponsor of a nonprimary airport, any part of amounts apportioned to the sponsor for the fiscal year under section 47114(d)(3)(A) for project costs allowable under section 47110(d).

* * * * *

§ 47124. Agreements for State and local operation of airport facilities

(a) * * *

(b) AIR TRAFFIC CONTROL CONTRACT PROGRAM.—(1) The Secretary shall continue the low activity (Visual Flight Rules) level I air traffic control tower contract program established under subsection (a) of this section for towers existing [on December 30, 1987,] on date of enactment of the *Flight 100—Century of Aviation Reauthorization Act* and extend the program to other towers as practicable.

* * * * *

(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 non-approach control towers, as defined by the Secretary, that do not qualify for the contract tower program established under subsection (a) and continued under paragraph (1) (in this paragraph referred to as the “Contract Tower Program”).

(B) PROGRAM COMPONENTS.—In carrying out the [pilot] program, the Secretary shall—

(i) * * *

* * * * *

(C) PRIORITY.—In selecting facilities to participate in the [pilot] program, the Secretary shall give priority to the following facilities:

(i) * * *

* * * * *

(D) COSTS EXCEEDING BENEFITS.—If the costs of operating an air traffic tower under the [pilot] program exceed the benefits, the airport sponsor or State or 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 more than [\$6,000,000 per fiscal year] \$6,500,000 for fiscal year 2004, \$7,000,000 for fiscal year 2005, \$7,500,000 for fiscal year 2006, and \$8,000,000 for fiscal year 2007 may be used to carry out this paragraph.

(4) CONSTRUCTION OF AIR TRAFFIC CONTROL TOWERS.—

(A) * * *

(B) ELIGIBILITY.—An airport sponsor shall be eligible for a grant under this paragraph only if—

(i)(I) the sponsor is a participant in the Federal Aviation Administration contract tower program established under subsection (a) and continued under paragraph (1) or the [pilot] program established under paragraph (3); or

* * * * *

(C) LIMITATION ON FEDERAL SHARE.—The Federal share of the cost of construction of a nonapproach control tower under this paragraph may not exceed [\$1,100,000] \$1,500,000.

* * * * *

§ 47130. Airport safety data collection

[Notwithstanding any other provision of law, the Administrator of the Federal Aviation Administration may contract, using sole source or limited source authority, for the collection of airport safety data.]

§ 47130. Airport safety data collection

Notwithstanding any other provision of law, the Administrator of the Federal Aviation Administration may award a contract, using sole source or limited source authority, or enter into a cooperative agreement with, or provide a grant from amounts made available under section 48103 to, a private company or entity for the collection of airport safety data. In the event that a grant is provided under this section, the United States Government's share of the cost of the data collection shall be 100 percent.

* * * * *

§ 47134. Pilot program on private ownership of airports

(a) * * *

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

(1) USE OF REVENUES.—

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

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

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

(i) in the case of a primary airport, by at least 65 percent of the scheduled air carriers serving the airport

and by scheduled and nonscheduled air carriers whose aircraft landing at the airport during the preceding calendar year, had a total landed weight during the preceding calendar year of at least 65 percent of the total landed weight of all aircraft landing at the airport during such year; or

(ii) by the Secretary at any nonprimary airport after the airport has consulted with at least 65 percent of the owners of aircraft based at that airport, as determined by the Secretary.

(B) OBJECTION TO EXEMPTION.—*An air carrier shall be deemed to have approved a sponsor’s application for an exemption under subparagraph (A) unless the air carrier has submitted an objection, in writing, to the sponsor within 60 days of the filing of the sponsor’s application with the Secretary, or within 60 days of the service of the application upon that air carrier, whichever is later.*

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

* * * * *

§47135. Innovative financing techniques

(a) IN GENERAL.—*The Secretary of Transportation may approve after the date of enactment of the Flight 100—Century of Aviation Reauthorization Act applications for not more than [20] 10 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 in the most recent calendar year for which data is available.] Such projects shall be located at airports that are not medium or large hub airports.*

* * * * *

(c) LIMITATIONS.—

(1) * * *

(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;*

[(C)] *(A) flexible non-Federal matching requirements; and*

[(D)] *(B) use of funds apportioned under section 47114 for the payment of principal and interest of terminal development for costs incurred before the date of the enactment of this section.*

* * * * *

§47137. Airport security program

(a) * * *

* * * * *

(e) *ADMINISTRATION.*—*The Secretary, in cooperation with the Secretary of Homeland Security, shall administer the program authorized by this section.*

[(e)] (f) *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)] (g) *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.*

§ 47138. Emission credits for air quality projects

(a) *IN GENERAL.*—*The Secretary of Transportation and the Administrator of the Environmental Protection Agency shall jointly agree on how to assure that airport sponsors receive appropriate emission credits for carrying out projects described in sections 40117(a)(3)(G), 47102(3)(K), and 47102(3)(L). Such agreement must include, at a minimum, the following conditions:*

(1) *The provision of credits is consistent with the Clean Air Act (42 U.S.C. 7402 et seq.).*

(2) *Credits generated by the emissions reductions are kept by the airport sponsor and may only be used for purposes of any current or future general conformity determination under the Clean Air Act or as offsets under the Environmental Protection Agency’s new source review program for projects on the airport or associated with the airport.*

(3) *Credits are calculated and provided to airports on a consistent basis nationwide.*

(4) *Credits are provided to airport sponsors in a timely manner.*

(5) *The establishment of a method to assure the Secretary that, for any specific airport project for which funding is being requested, the appropriate credits will be granted.*

(b) *ASSURANCE OF RECEIPT OF CREDITS.*—

(1) *IN GENERAL.*—*As a condition for making a grant for a project described in section 47102(3)(K), 47102(3)(L), or 47139 or as a condition for granting approval to collect or use a passenger facility fee for a project described in section 40117(a)(3)(G), 47102(3)(K), 47102(3)(L), or 47139, the Secretary must receive assurance from the State in which the project is located, or from the Administrator of the Environmental Protection Agency where there is a Federal implementation plan, that the airport sponsor will receive appropriate emission credits in accordance with the conditions of this section.*

(2) *AGREEMENT ON PREVIOUSLY APPROVED PROJECTS.*—*The Secretary and the Administrator of the Environmental Protection Agency shall jointly agree on how to provide emission cred-*

its to airport projects previously approved under section 47136 under terms consistent with the conditions enumerated in this section.

§47139. Airport ground support equipment emissions retrofit pilot program

(a) *IN GENERAL.*—The Secretary of Transportation shall carry out a pilot program at not more than 10 commercial service airports under which the sponsors of such airports may use an amount made available under section 48103 to retrofit existing eligible airport ground support equipment that burns conventional fuels to achieve lower emissions utilizing emission control technologies certified or verified by the Environmental Protection Agency.

(b) *LOCATION IN AIR QUALITY NONATTAINMENT OR MAINTENANCE AREAS.*—A commercial service 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(2)) or a maintenance area referred to in section 175A of such Act (42 U.S.C. 7505a).

(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) *MAXIMUM AMOUNT.*—Not more than \$500,000 may be expended under the pilot program at any single commercial service airport.

(e) *GUIDELINES.*—The Secretary, in consultation with the Administrator of the Environmental Protection Agency, shall establish guidelines regarding the types of retrofit projects eligible under the pilot program by considering remaining equipment useful life, amounts of emission reduction in relation to the cost of projects, and other factors necessary to carry out this section. The Secretary may give priority to ground support equipment owned by the airport and used for airport purposes.

(f) *ELIGIBLE EQUIPMENT DEFINED.*—In this section, the term “eligible equipment” means ground service or maintenance equipment that is located at the airport, is used to support aeronautical and related activities at the airport, and will remain in operation at the airport for the life or useful life of the equipment, whichever is earlier.

§47140. Compatible land use planning and projects by State and local governments

(a) *IN GENERAL.*—The Secretary of Transportation may make grants from amounts set aside under section 47117(e)(1)(A) to States and units of local government for land use compatibility plans or projects resulting from those plans for the purposes of making the use of land areas around large hub airports and medium hub airports compatible with aircraft operations if—

(1) the airport operator has not submitted a noise compatibility program to the Secretary under section 47504 or has not updated such program within the past 10 years; and

(2) *the land use plan meets the requirements of this section and any project resulting from the plan meets such requirements.*

(b) *ELIGIBILITY.—In order to receive a grant under this section, a State or unit of local government must—*

(1) *have the authority to plan and adopt land use control measures, including zoning, in the planning area in and around a large or medium hub airport;*

(2) *provide written assurance to the Secretary that it will work with the affected airport to identify and adopt such measures; and*

(3) *provide written assurance to the Secretary that it will achieve, to the maximum extent possible, compatible land uses consistent with Federal land use compatibility criteria under section 47502(3) and that those compatible land uses will be maintained.*

(c) *ASSURANCES.—The Secretary shall require a State or unit of local government to which a grant may be awarded under this section for a land use plan or a project resulting from such a plan to provide—*

(1) *assurances satisfactory to the Secretary that the plan—*

(A) *is reasonably consistent with the goal of reducing existing noncompatible land uses and preventing the introduction of additional noncompatible land uses;*

(B) *addresses ways to achieve and maintain compatible land uses, including zoning, building codes, and any other projects under section 47504(a)(2) that are within the authority of the State or unit of local government to implement;*

(C) *uses noise contours provided by the airport operator that are consistent with the airport operation and planning, including any noise abatement measures adopted by the airport operator as part of its own noise mitigation efforts;*

(D) *does not duplicate, and is not inconsistent with, the airport operator's noise compatibility measures for the same area; and*

(E) *has received concurrence by the airport operator prior to adoption by the State or unit of local government; and*

(2) *such other assurances as the Secretary determines to be necessary to carry out this section.*

(d) *GUIDELINES.—The Secretary shall establish guidelines to administer this section in accordance with the purposes and conditions described in this section. The Secretary may require the State or unit of local government to which a grant may be awarded under this section to provide progress reports and other information as the Secretary determines to be necessary to carry out this section.*

(e) *ELIGIBLE PROJECTS.—The Secretary may approve a grant under this section to a State or unit of local government for a land use compatibility project only if the Secretary is satisfied that the project is consistent with the guidelines established by the Secretary under this section, that the State or unit of local government has provided the assurances required by this section, that the Secretary has received evidence that the State or unit of local government has implemented (or has made provision to implement) those elements*

of the plan that are not eligible for Federal financial assistance, and that the project is not inconsistent with Federal standards.

(f) SUNSET.—This section shall not be in effect after September 30, 2007.

§ 47141. Prohibition on rent-free space requirements for Federal Aviation Administration

(a) IN GENERAL.—The Secretary of Transportation may not require an airport sponsor to provide to the Federal Aviation Administration, without compensation, space in a building owned by the sponsor and costs associated with such space for building construction, maintenance, utilities, and other expenses.

(b) NEGOTIATED AGREEMENTS.—Subsection (a) does not prohibit—

(1) the negotiation of agreements between the Secretary and an airport sponsor to provide building construction, maintenance, utilities and expenses, or space in airport sponsor-owned buildings to the Federal Aviation Administration without cost or at below-market rates; or

(2) the Secretary of Transportation from requiring airport sponsors to provide land without cost to the Federal Aviation Administration for air traffic control facilities.

* * * * *

SUBCHAPTER III—AIRPORT PROJECT STREAMLINING

§ 47171. DOT as lead agency

(a) AIRPORT PROJECT REVIEW PROCESS.—The Secretary of Transportation shall develop and implement a coordinated review process for airport capacity enhancement projects at congested airports.

(b) COORDINATED REVIEWS.—

(1) IN GENERAL.—The coordinated review process under this section shall provide that all environmental reviews, analyses, opinions, permits, licenses, and approvals that must be issued or made by a Federal agency or airport sponsor for an airport capacity enhancement project at a congested airport will be conducted concurrently, to the maximum extent practicable, and completed within a time period established by the Secretary, in cooperation with the agencies identified under subsection (c) with respect to the project.

(2) AGENCY PARTICIPATION.—Each Federal agency identified under subsection (c) shall formulate and implement administrative, policy, and procedural mechanisms to enable the agency to ensure completion of environmental reviews, analyses, opinions, permits, licenses, and approvals described in paragraph (1) in a timely and environmentally responsible manner.

(c) IDENTIFICATION OF JURISDICTIONAL AGENCIES.—With respect to each airport capacity enhancement project at a congested airport, the Secretary shall identify, as soon as practicable, all Federal and State agencies that may have jurisdiction over environmental-related matters that may be affected by the project or may be required by law to conduct an environmental-related review or analysis of the project or determine whether to issue an environmental-related permit, license, or approval for the project.

(d) *STATE AUTHORITY.*—If a coordinated review process is being implemented under this section by the Secretary with respect to a project at an airport within the boundaries of a State, the State, consistent with State law, may choose to participate in such process and provide that all State agencies that have jurisdiction over environmental-related matters that may be affected by the project or may be required by law to conduct an environmental-related review or analysis of the project or determine whether to issue an environmental-related permit, license, or approval for the project, be subject to the process.

(e) *MEMORANDUM OF UNDERSTANDING.*—The coordinated review process developed under this section may be incorporated into a memorandum of understanding for a project between the Secretary and the heads of other Federal and State agencies identified under subsection (c) with respect to the project and the airport sponsor.

(f) *EFFECT OF FAILURE TO MEET DEADLINE.*—

(1) *NOTIFICATION OF CONGRESS AND CEQ.*—If the Secretary determines that a Federal agency, State agency, or airport sponsor that is participating in a coordinated review process under this section with respect to a project has not met a deadline established under subsection (b) for the project, the Secretary shall notify, within 30 days of the date of such determination, the Committee on Transportation and Infrastructure of the House of Representatives, the Committee on Commerce, Science, and Transportation of the Senate, the Council on Environmental Quality, and the agency or sponsor involved about the failure to meet the deadline.

(2) *AGENCY REPORT.*—Not later than 30 days after date of receipt of a notice under paragraph (1), the agency or sponsor involved shall submit a report to the Secretary, the Committee on Transportation and Infrastructure of the House of Representatives, the Committee on Commerce, Science, and Transportation of the Senate, and the Council on Environmental Quality explaining why the agency or sponsor did not meet the deadline and what actions it intends to take to complete or issue the required review, analysis, opinion, permit, license, or approval.

(g) *PURPOSE AND NEED.*—For any environmental review, analysis, opinion, permit, license, or approval that must be issued or made by a Federal or State agency that is participating in a coordinated review process under this section with respect to an airport capacity enhancement project at a congested airport and that requires an analysis of purpose and need for the project, the agency, notwithstanding any other provision of law, shall be bound by the project purpose and need as defined by the Secretary.

(h) *ALTERNATIVES ANALYSIS.*—The Secretary shall determine the reasonable alternatives to an airport capacity enhancement project at a congested airport. Any other Federal or State agency that is participating in a coordinated review process under this section with respect to the project shall consider only those alternatives to the project that the Secretary has determined are reasonable.

(i) *SOLICITATION AND CONSIDERATION OF COMMENTS.*—In applying subsections (g) and (h), the Secretary shall solicit and consider comments from interested persons and governmental entities.

(j) *MONITORING BY TASK FORCE.*—The Transportation Infrastructure Streamlining Task Force, established by Executive Order 13274

(67 Fed. Reg. 59449; relating to environmental stewardship and transportation infrastructure project reviews), may monitor airport projects that are subject to the coordinated review process under this section.

§47172. Categorical exclusions

Not later than 120 days after the date of enactment of this section, the Secretary of Transportation shall develop and publish a list of categorical exclusions from the requirement that an environmental assessment or an environmental impact statement be prepared under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) for projects at airports.

§47173. Access restrictions to ease construction

At the request of an airport sponsor for a congested airport, the Secretary of Transportation may approve a restriction on use of a runway to be constructed at the airport to minimize potentially significant adverse noise impacts from the runway only if the Secretary determines that imposition of the restriction—

(1) is necessary to mitigate those impacts and expedite construction of the runway;

(2) is the most appropriate and a cost-effective measure to mitigate those impacts, taking into consideration any environmental tradeoffs associated with the restriction; and

(3) would not adversely affect service to small communities, adversely affect safety or efficiency of the national airspace system, unjustly discriminate against any class of user of the airport, or impose an undue burden on interstate or foreign commerce.

§47174. Airport revenue to pay for mitigation

(a) *IN GENERAL.*—Notwithstanding section 47107(b), section 47133, or any other provision of this title, the Secretary of Transportation may allow an airport sponsor carrying out an airport capacity enhancement project at a congested airport to make payments, out of revenues generated at the airport (including local taxes on aviation fuel), for measures to mitigate the environmental impacts of the project if the Secretary finds that—

(1) the mitigation measures are included as part of, or support, the preferred alternative for the project in the documentation prepared pursuant to the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.);

(2) the use of such revenues will provide a significant incentive for, or remove an impediment to, approval of the project by a State or local government; and

(3) the cost of the mitigation measures is reasonable in relation to the mitigation that will be achieved.

(b) *MITIGATION OF AIRCRAFT NOISE.*—Mitigation measures described in subsection (a) may include the insulation of residential buildings and buildings used primarily for educational or medical purposes to mitigate the effects of aircraft noise and the improvement of such buildings as required for the insulation of the buildings under local building codes.

§47175. Airport funding of FAA staff

(a) *ACCEPTANCE OF SPONSOR-PROVIDED FUNDS.*—Notwithstanding any other provision of law, the Administrator of the Federal Aviation Administration may accept funds from an airport sponsor, including funds provided to the sponsor under section 47114(c), to hire additional staff or obtain the services of consultants in order to facilitate the timely processing, review, and completion of environmental activities associated with an airport development project.

(b) *ADMINISTRATIVE PROVISION.*—Instead of payment from an airport sponsor from funds apportioned to the sponsor under section 47114, the Administrator, with agreement of the sponsor, may transfer funds that would otherwise be apportioned to the sponsor under section 47114 to the account used by the Administrator for activities described in subsection (a).

(c) *RECEIPTS CREDITED AS OFFSETTING COLLECTIONS.*—Notwithstanding section 3302 of title 31, any funds accepted under this section, except funds transferred pursuant to subsection (b)—

(1) shall be credited as offsetting collections to the account that finances the activities and services for which the funds are accepted;

(2) shall be available for expenditure only to pay the costs of activities and services for which the funds are accepted; and

(3) shall remain available until expended.

(d) *MAINTENANCE OF EFFORT.*—No funds may be accepted pursuant to subsection (a), or transferred pursuant to subsection (b), in any fiscal year in which the Federal Aviation Administration does not allocate at least the amount it expended in fiscal year 2002, excluding amounts accepted pursuant to section 337 of the Department of Transportation and Related Agencies Appropriations Act, 2002 (115 Stat. 862), for the activities described in subsection (a).

§47176. Authorization of appropriations

In addition to the amounts authorized to be appropriated under section 106(k), there is authorized to 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), \$4,200,000 for fiscal year 2004 and for each fiscal year thereafter to facilitate the timely processing, review, and completion of environmental activities associated with airport capacity enhancement projects at congested airports.

§47177. Designation of aviation safety and aviation security projects for priority environmental review

(a) *IN GENERAL.*—The Administrator of the Federal Aviation Administration may designate an aviation safety or aviation security project for priority environmental review. The Administrator may not delegate this designation authority.

(b) *PROJECT DESIGNATION CRITERIA.*—The Administrator shall establish guidelines for the designation of an aviation safety or aviation security project for priority environmental review. Such guidelines shall include consideration of—

(1) the importance or urgency of the project;

(2) *the potential for undertaking the environmental review under existing emergency procedures under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.);*

(3) *the need for cooperation and concurrent reviews by other Federal or State agencies; and*

(4) *the prospect for undue delay if the project is not designated for priority review.*

(c) **COORDINATED ENVIRONMENTAL REVIEWS.—**

(1) **TIMELINES AND HIGH PRIORITY FOR COORDINATED ENVIRONMENTAL REVIEWS.—***The Administrator, in consultation with the heads of affected agencies, shall establish specific timelines for the coordinated environmental review of an aviation safety or aviation security project designated under subsection (a). Such timelines shall be consistent with the timelines established in existing laws and regulations. Each Federal agency with responsibility for project environmental reviews, analyses, opinions, permits, licenses, and approvals shall accord any such review a high priority and shall conduct the review expeditiously and, to the maximum extent possible, concurrently with other such reviews.*

(2) **AGENCY PARTICIPATION.—***Each Federal agency identified under subsection (c) shall formulate and implement administrative, policy, and procedural mechanisms to enable the agency to ensure completion of environmental reviews, analyses, opinions, permits, licenses, and approvals described in paragraph (1) in a timely and environmentally responsible manner.*

(d) **STATE PARTICIPATION.—**

(1) **INVITATION TO PARTICIPATE.—***If a priority environmental review process is being implemented under this section with respect to a project within the boundaries of a State with applicable State environmental requirements and approvals, the Administrator shall invite the State to participate in the process.*

(2) **STATE CHOICE.—***A State invited to participate in a priority environmental review process, consistent with State law, may choose to participate in such process and direct that all State agencies, which have jurisdiction by law to conduct an environmental review or analysis of the project to determine whether to issue an environmentally related permit, license, or approval for the project, be subject to the process.*

(e) **FAILURE TO GIVE PRIORITY REVIEW.—**

(1) **NOTICE.—***If the Secretary of Transportation determines that a Federal agency or a participating State is not complying with the requirements of this section and that such noncompliance is undermining the environmental review process, the Secretary shall notify, within 30 days of such determination, the head of the Federal agency or, with respect to a State agency, the Governor of the State.*

(2) **REPORT TO SECRETARY.—***A Federal agency that receives a copy of a notification relating to that agency made by the Secretary under paragraph (1) shall submit, within 30 days after receiving such copy, a written report to the Secretary explaining the reasons for the situation described in the notification and what remedial actions the agency intends to take.*

(3) **NOTIFICATION OF CEQ AND COMMITTEES.—***If the Secretary determines that a Federal agency has not satisfactorily ad-*

dressed the problems within a reasonable period of time following a notification under paragraph (1), the Secretary shall notify the Committee on Transportation and Infrastructure of the House of Representatives, the Committee on Commerce, Science and Transportation of the Senate, and the Council on Environmental Quality.

(f) PROCEDURAL PROVISIONS.—The procedures set forth in subsections (c), (e), (g), (h), and (i) of section 47171 shall apply with respect to an aviation safety or aviation security project under this section in the same manner and to the same extent as such procedures apply to an airport capacity enhancement project at a congested airport under section 47171.

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

(1) AVIATION SAFETY PROJECT.—The term “aviation safety project” means an aviation project that—

(A) has as its primary purpose reducing the risk of injury to persons or damage to aircraft and property, as determined by the Administrator; and

(B)(i) is needed to respond to a recommendation from the National Transportation Safety Board; or

(ii) is necessary for an airport to comply with part 139 of title 14, Code of Federal Regulations (relating to airport certification).

(2) AVIATION SECURITY PROJECT.—The term “aviation security project” means a security project at an airport required by the Department of Homeland Security.

(3) FEDERAL AGENCY.—The term “Federal agency” means a department or agency of the United States Government.

§ 47178. Definitions

In this subchapter, the following definitions apply:

(1) AIRPORT SPONSOR.—The term “airport sponsor” has the meaning given the term “sponsor” under section 47102.

(2) CONGESTED AIRPORT.—The term “congested airport” means an airport that accounted for at least 1 percent of all delayed aircraft operations in the United States in the most recent year for which such data is available and an airport listed in table 1 of the Federal Aviation Administration’s Airport Capacity Benchmark Report 2001.

(3) AIRPORT CAPACITY ENHANCEMENT PROJECT.—The term “airport capacity enhancement project” means—

(A) a project for construction or extension of a runway, including any land acquisition, taxiway, or safety area associated with the runway or runway extension; and

(B) such other airport development projects as the Secretary may designate as facilitating a reduction in air traffic congestion and delays.

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CHAPTER 475—NOISE

* * * * *

SUBCHAPTER I—NOISE ABATEMENT

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§ 47503. Noise exposure maps

(a) SUBMISSION AND PREPARATION.—An airport operator may submit to the Secretary of Transportation a noise exposure map showing the noncompatible uses in each area of the map on the date the map is submitted, a description of estimated aircraft operations during ~~1985,~~ *a forecast period that is at least 5 years in the future* and how those operations will affect the map. The map shall—

(1) * * *
* * * * *

[(b) REVISED MAPS.—If a change in the operation of an airport will establish a substantial new noncompatible use in an area surrounding the airport, the airport operator shall submit a revised noise exposure map to the Secretary showing the new noncompatible use.]

(b) REVISED MAPS.—If, in an area surrounding an airport, a change in the operation of the airport would establish a substantial new noncompatible use, or would significantly reduce noise over existing noncompatible uses, that is not reflected in either the existing conditions map or forecast map currently on file with the Federal Aviation Administration, the airport operator shall submit a revised noise exposure map to the Secretary showing the new noncompatible use or noise reduction.

§ 47504. Noise compatibility programs

(a) * * *
* * * * *

(c) GRANTS.—(1) * * *
(2) SOUNDPROOFING AND ACQUISITION OF CERTAIN RESIDENTIAL BUILDINGS AND PROPERTIES.—The Secretary may incur obligations to make grants from amounts made available under section 48103 of this title—

(A) * * *
* * * * *

(C) to an airport operator and unit of local government referred to in paragraph (1)(A) or (1)(B) of this subsection to carry out any part of a program developed before February 18, 1980, or before implementing regulations were prescribed, if the Secretary decides the program is substantially consistent with reducing existing noncompatible uses and preventing the introduction of additional noncompatible uses and the purposes of this chapter will be furthered by promptly carrying out the program; **[and]**

(D) to an airport operator and unit of local government referred to in paragraph (1)(A) or (1)(B) of this subsection to soundproof a building in the noise impact area surrounding the airport that is used primarily for educational or medical purposes and that the Secretary decides is adversely affected by airport noise~~;~~ *and*

(E) to an airport operator of a congested airport (as defined in section 47178) and a unit of local government referred to in paragraph (1)(B) of this subsection to carry out a project to mitigate noise in the area surrounding the air-

port if the project is included as a commitment in a record of decision of the Federal Aviation Administration for an airport capacity enhancement project (as defined in section 47178) even if that airport has not met the requirements of part 150 of title 14, Code of Federal Regulations.

* * * * *

PART C—FINANCING

CHAPTER 481—AIRPORT AND AIRWAY TRUST FUND AUTHORIZATIONS

Sec.

48101. Air navigation facilities and equipment.

* * * * *

48114. *Funding to the Secretary of Interior for Midway Island Airport.*

§ 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) \$2,131,000,000 for fiscal year 1999.
- [(2) \$2,689,000,000 for fiscal year 2000.
- [(3) \$2,656,765,000 for fiscal year 2001.
- [(4) \$2,914,000,000 for fiscal year 2002.
- [(5) \$2,981,022,000 for fiscal year 2003.]
- (1) \$3,138,000,000 for fiscal year 2004;
- (2) \$2,993,000,000 for fiscal year 2005;
- (3) \$3,053,000,000 for fiscal year 2006; and
- (4) \$3,110,000,000 for fiscal year 2007.

[(b) MAJOR AIRWAY CAPITAL INVESTMENT PLAN CHANGES.—If the Secretary decides that it is necessary to augment or substantially modify elements of the Airway Capital Investment Plan referred to in section 44501(b) of this title (including a decision that it is necessary to establish more than 23 area control facilities), not more than \$100,000,000 may be appropriated to the Secretary out of the Fund for the fiscal year ending September 30, 1994, to carry out the augmentation or modification.]

[(c)] (b) AVAILABILITY OF AMOUNTS.—Amounts appropriated under this section remain available until expended.

[(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.

[(e) ALASKA NATIONAL AIR SPACE COMMUNICATIONS SYSTEM.—Of the amounts appropriated under subsection (a) for fiscal year 2001, \$7,200,000 may be used by the Administrator of the Federal Aviation Administration for the Alaska National Air Space Interfacility Communications System if the Administrator issues a report supporting the use of such funds for the System.]

(c) ENHANCED SAFETY AND SECURITY FOR AIRCRAFT OPERATIONS IN THE GULF OF MEXICO.—Of amounts appropriated under sub-

section (a), such sums as may be necessary for fiscal years 2004 through 2007 may be used to expand and improve the safety, efficiency, and security of air traffic control, navigation, low altitude communications and surveillance, and weather services in the Gulf of Mexico.

(d) OPERATIONAL BENEFITS OF WAKE VORTEX ADVISORY SYSTEM.—Of amounts appropriated under subsection (a), \$20,000,000 for each of fiscal years 2004 through 2007 may be used to document and demonstrate the operational benefits of a wake vortex advisory system.

(e) GROUND-BASED PRECISION NAVIGATIONAL AIDS.—Of amounts appropriated under subsection (a), \$20,000,000 for each of fiscal years 2004 to 2007 may be used to establish a program for the installation, operation, and maintenance of a closed-loop precision approach aid designed to improve aircraft accessibility at mountainous airports with limited land if the approach aid is able to provide curved and segmented approach guidance for noise abatement purposes and has been certified or approved by the Administrator.

(f) AUTOMATED SURFACE OBSERVATION SYSTEM/AUTOMATED WEATHER OBSERVING SYSTEM UPGRADE.—Of the amounts appropriated under subsection (a) [for fiscal years beginning after September 30, 2000], such sums as may be necessary may be used for the implementation and use of upgrades to the current automated surface observation system/automated weather observing system, if the upgrade is successfully demonstrated.

* * * * *

§ 48103. Airport planning and development and noise compatibility planning and programs

The total amounts which shall be available after September 30, [1998] 2003, 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—

- [(1) \$2,410,000,000 for fiscal year 1999;
- [(2) \$2,475,000,000 for fiscal year 2000;
- [(3) \$3,200,000,000 for fiscal year 2001;
- [(4) \$3,300,000,000 for fiscal year 2002; and
- [(5) \$3,400,000,000 for fiscal year 2003.]
- (1) \$3,400,000,000 for fiscal year 2004;
- (2) \$3,600,000,000 for fiscal year 2005;
- (3) \$3,800,000,000 for fiscal year 2006; and
- (4) \$4,000,000,000 for fiscal year 2007.

Such sums shall remain available until expended.

* * * * *

§ 48114. Funding to the Secretary of Interior for Midway Island Airport

The following amounts shall be available (and shall remain available until expended) to the Secretary of Interior, out of the Air-

port and Airway Trust Fund established under section 9502 of the Internal Revenue Code of 1986 (26 U.S.C. 9502), for airport capital projects at the Midway Island Airport:

- (1) \$750,000 for fiscal year 2004.
- (2) \$2,500,000 for fiscal year 2005.
- (3) \$1,000,000 for fiscal year 2006.
- (4) \$1,000,000 for fiscal year 2007.

* * * * *

PART D—PUBLIC AIRPORTS

CHAPTER 491—METROPOLITAN WASHINGTON AIRPORTS

* * * * *

§ 49108. Limitations

After October 1, [2004] 2007, the Secretary of Transportation may not approve an application of the Metropolitan Washington Airports Authority—

- (1) * * *
- * * * * *

WENDELL H. FORD AVIATION INVESTMENT AND REFORM ACT FOR THE 21ST CENTURY

* * * * *

TITLE I—AIRPORT AND AIRWAY IMPROVEMENTS

Subtitle A—Funding

* * * * *

SEC. 106. FUNDING FOR AVIATION PROGRAMS.

(a) AUTHORIZATION OF APPROPRIATIONS.—

(1) AIRPORT AND AIRWAY TRUST FUND GUARANTEE.—

(A) IN GENERAL.—The total budget resources made available from the Airport and Airway Trust Fund each fiscal year through fiscal year [2003] 2007 pursuant to sections 48101, 48102, 48103, and 106(k) of title 49, United States Code, shall be equal to the level of receipts plus interest credited to the Airport and Airway Trust Fund for that fiscal year. Such amounts may be used only for aviation investment programs listed in subsection (b).

* * * * *

(2) ADDITIONAL AUTHORIZATIONS OF APPROPRIATIONS FROM THE GENERAL FUND.—In any fiscal year through fiscal year [2003] 2007, if the amount described in paragraph (1) is appropriated, there is further authorized to be appropriated from the general fund of the Treasury such sums as may be nec-

essary for the Federal Aviation Administration Operations account.

* * * * *

(c) ENFORCEMENT OF GUARANTEES.—

(1) * * *

(2) CAPITAL PRIORITY.—It shall not be in order in the House of Representatives or the Senate to consider any bill, joint resolution, amendment, motion, or conference report that provides an appropriation (or any amendment thereto) for any fiscal year through fiscal year **2003** 2007 for Research and Development or Operations if the sum of the obligation limitation for Grants-in-Aid for Airports and the appropriation for Facilities and Equipment for such fiscal year is below the sum of the authorized levels for Grants-in-Aid for Airports and for Facilities and Equipment for such fiscal year.

* * * * *

Subtitle B—Airport Development

* * * * *

SEC. 139. DESIGN-BUILD CONTRACTING.

(a) * * *

* * * * *

(e) EXPIRATION OF AUTHORITY.—The authority of the Administrator to carry out the pilot program under this section shall expire on September 30, **2003** 2007.

AVIATION AND TRANSPORTATION SECURITY ACT

* * * * *

TITLE I—AVIATION SECURITY

* * * * *

SEC. 124. TECHNICAL CORRECTIONS.

(a) * * *

(b) INSURANCE AND REINSURANCE OF AIRCRAFT.—Section 44306(c) (as redesignated by section 201(d) of such Act) is amended by inserting “in the interest of air commerce or national security or” before “**to carry out foreign policy**” *to carry out the foreign policy*”.

* * * * *

SEC. 145. AIR CARRIERS REQUIRED TO HONOR TICKETS FOR SUSPENDED SERVICE.

(a) * * *

* * * * *

(c) SUNSET.—This section does not apply to air transportation the suspension, interruption, or discontinuance of which occurs **more**

than 18 months after] *more than 36 months after* the date of enactment of this Act.

* * * * *

TITLE 5, UNITED STATES CODE

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PART III—EMPLOYEES

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Subpart G—Insurance and Annuities

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CHAPTER 83—RETIREMENT

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SUBCHAPTER III—CIVIL SERVICE RETIREMENT

§ 8331. Definitions

For the purpose of this subchapter—

(1) * * *

* * * * *

(27) “Nuclear materials courier”—

(A) * * *

(B) includes an employee who is transferred directly to a supervisory or administrative position within the same Department of Energy organization, after performing duties referred to in subparagraph (A) for at least 3 years; **[and]**

(28) “Government physician” has the meaning given that term under section 5948[.]; *and*

(29) “air traffic controller” or “controller” means—

(A) a controller within the meaning of section 2109(1); *and*

(B) a civilian employee of the Department of Transportation or the Department of Defense holding a supervisory, managerial, executive, technical, semiprofessional, or professional position for which experience as a controller (within the meaning of section 2109(1)) is a prerequisite.

* * * * *

§ 8335. Mandatory separation

(a) An air traffic controller shall be separated from the service on the last day of the month in which he becomes 56 years of age or completes the age and service requirements for an annuity under section 8336(e), whichever occurs later. The Secretary, under such regulations as he may prescribe, may exempt a controller having exceptional skills and experience as a controller from the automatic separation provisions of this subsection until that controller becomes 61 years of age. The Secretary shall notify the controller

in writing of the date of separation at least 60 days before that date. Action to separate the controller is not effective, without the consent of the controller, until the last day of the month in which the 60-day notice expires. *For purposes of this subsection, the term “air traffic controller” or “controller” has the meaning given to it under section 8331(29)(A).*

* * * * *

CHAPTER 84—FEDERAL EMPLOYEES’ RETIREMENT SYSTEM

* * * * *

SUBCHAPTER I—GENERAL PROVISIONS

§ 8401. Definitions

For the purpose of this chapter—

(1) * * *

* * * * *

(33) “Nuclear materials courier” has the meaning given that term in section 8331(27); **[and]**

(34) the term “Government physician” has the meaning given such term under section 5948**[.]**; *and*

(35) “air traffic controller” or “controller” means—

(A) a controller within the meaning of section 2109(1); *and*

(B) a civilian employee of the Department of Transportation or the Department of Defense holding a supervisory, managerial, executive, technical, semiprofessional, or professional position for which experience as a controller (with in the meaning of section 2109(1)) is a prerequisite.

* * * * *

SUBCHAPTER II—BASIC ANNUITY

* * * * *

§ 8425. Mandatory separation

(a) An air traffic controller who is otherwise eligible for immediate retirement under section 8412(e) shall be separated from the service on the last day of the month in which that air traffic controller becomes 56 years of age or completes 20 years of service if then over that age. The Secretary, under such regulations as the Secretary may prescribe, may exempt a controller having exceptional skills and experience as a controller from the automatic separation provisions of this subsection until that controller becomes 61 years of age. The Secretary shall notify the controller in writing of the date of separation at least 60 days before that date. Action to separate the controller is not effective, without the consent of the controller, until the last day of the month in which the 60-day notice expires. *For purposes of this subsection, the term “air traffic controller” or “controller” has the meaning given to it under section 8401(35)(A).*

* * * * *