

In the Senate of the United States,

September 18, 1996.

Resolved, That the bill from the House of Representatives (H.R. 3539) entitled “An Act to amend title 49, United States Code, to reauthorize programs of the Federal Aviation Administration, and for other purposes”, do pass with the following

AMENDMENT:

Strike out all after the enacting clause and insert:

1 ***SECTION 1. SHORT TITLE; TABLE OF CONTENTS.***

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

4 (b) *TABLE OF CONTENTS.*—

Sec. 1. Short title; table of contents.

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

TITLE I—REAUTHORIZATION OF FAA PROGRAMS

Sec. 101. Federal Aviation Administration operations.

Sec. 102. Air navigation facilities.

Sec. 103. Research and development.

Sec. 104. Airport improvement program.

Sec. 105. Interaccount flexibility.

TITLE II—AIRPORT IMPROVEMENT PROGRAM MODIFICATIONS

Sec. 201. Pavement maintenance program.

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- Sec. 202. Maximum percentages of amount made available for grants to certain primary airports.*
- Sec. 203. Discretionary fund.*
- Sec. 204. Designating current and former military airports.*
- Sec. 205. State block grant program.*
- Sec. 206. Access to airports by intercity buses.*

TITLE III—AVIATION SAFETY AND SECURITY

- Sec. 301. Report including proposed legislation on funding for airport security.*
- Sec. 302. Family advocacy.*
- Sec. 303. Accident and safety data classification; report on effects of publication and automated surveillance targeting systems.*
- Sec. 304. Weapons and explosive detection study.*
- Sec. 305. Requirement for criminal history records checks.*
- Sec. 306. Interim deployment of commercially available explosive detection equipment.*
- Sec. 307. Audit of performance of background checks for certain personnel.*
- Sec. 308. Sense of the Senate on passenger profiling.*
- Sec. 309. Authority to use certain funds for airport security programs and activities.*
- Sec. 310. Development of aviation security liaison agreement.*
- Sec. 311. Regular joint threat assessments.*
- Sec. 312. Baggage match report.*
- Sec. 313. Enhanced security programs.*
- Sec. 314. Report on air cargo.*

TITLE IV—MISCELLANEOUS PROVISIONS

- Sec. 401. Acquisition of housing units.*
- Sec. 402. Protection of voluntarily submitted information.*
- Sec. 403. Application of FAA regulations.*
- Sec. 404. Sense of the Senate regarding the funding of the Federal Aviation Administration.*
- Sec. 405. Authorization for State-specific safety measures.*
- Sec. 406. Sense of the Senate regarding the air ambulance exemption from certain Federal excise taxes.*
- Sec. 407. FAA safety mission.*
- Sec. 408. Carriage of candidates in State and local elections.*
- Sec. 409. Train whistle requirements.*
- Sec. 410. Limitation on authority of States to regulate gambling devices on vessels.*
- Sec. 411. Special flight rules in the vicinity of Grand Canyon National Park.*
- Sec. 412. Increased fees.*
- Sec. 413. Transfer of air traffic control tower; closing of flight service stations.*
- Sec. 414. Sense of the Senate regarding acts of international terrorism.*
- Sec. 415. Reporting for procurement contracts.*
- Sec. 416. Provisions relating to limited scope audit.*
- Sec. 417. Advance electronic transmission of cargo and passenger information.*

TITLE V—COMMERCIAL SPACE LAUNCH ACT AMENDMENTS

- Sec. 501. Commercial space launch amendments.*

*TITLE VI—AIR TRAFFIC MANAGEMENT SYSTEM PERFORMANCE
IMPROVEMENT ACT*

- Sec. 601. Short title.*
Sec. 602. Definitions.
Sec. 603. Effective date.

Subtitle A—General Provisions

- Sec. 621. Findings.*
Sec. 622. Purposes.
*Sec. 623. Regulation of civilian air transportation and related services by the
Federal Aviation Administration and Department of Transportation.*
Sec. 624. Regulations.
Sec. 625. Personnel and services.
Sec. 626. Contracts.
Sec. 627. Facilities.
Sec. 628. Property.
Sec. 629. Transfers of funds from other Federal agencies.
Sec. 630. Management Advisory Council.
Sec. 631. Aircraft engine standards.
Sec. 632. Rural air fare study.

Subtitle B—Federal Aviation Administration Streamlining Programs

- Sec. 651. Review of acquisition management system.*
Sec. 652. Air traffic control modernization reviews.
Sec. 653. Federal Aviation Administration personnel management system.
Sec. 654. Conforming amendment.

*Subtitle C—System To Fund Certain Federal Aviation Administration
Functions*

- Sec. 671. Findings.*
Sec. 672. Purposes.
Sec. 673. User fees for various Federal Aviation Administration services.
*Sec. 674. Independent assessment and task force to review existing and innovative
funding mechanisms.*
Sec. 675. Procedure for consideration of certain funding proposals.
Sec. 676. Administrative provisions.
Sec. 677. Advance appropriations for Airport and Airway Trust Fund activities.
Sec. 678. Rural Air Service Survival Act.

TITLE VII—PILOT RECORDS

- Sec. 701. Short title.*
Sec. 702. Employment investigations of pilot applicants.
Sec. 703. Study of minimum standards for pilot qualifications.

TITLE VIII—ABOLITION OF BOARD OF REVIEW

- Sec. 801. Abolition of Board of Review and related authority.*
Sec. 802. Sense of the Senate.
Sec. 803. Conforming amendments in other law.
Sec. 804. Definitions.
Sec. 805. Increase in number of Presidentially appointed members of Board.
Sec. 806. Reconstituted Board to function without interruption.

Sec. 807. Operational slots at National Airport.

Sec. 808. Airports authority support of Board.

TITLE IX—AIRPORT REVENUE PROTECTION

Sec. 901. Short title.

Sec. 902. Findings; purpose.

Sec. 903. Definitions.

Sec. 904. Restriction on use of airport revenues.

Sec. 905. Regulations; audits and accountability.

Sec. 906. Conforming amendments to the Internal Revenue Code of 1986.

**TITLE X—EXTENSION OF AIRPORT AND AIRWAY TRUST FUND
EXPENDITURE AUTHORITY**

Sec. 1001. Expenditures from airport and airway trust fund.

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

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

7 **TITLE I—REAUTHORIZATION OF**
8 **FAA PROGRAMS**

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

11 *(a) AUTHORIZATION OF APPROPRIATIONS FROM GEN-*
12 *ERAL FUND.—Section 106(k) is amended—*

13 *(1) by striking “and” after “1995,”; and*

14 *(2) by inserting before the period at the end the*
15 *following: “, and \$5,000,000,000 for fiscal year*
16 *1997.”.*

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

1 (1) *in the subsection heading by striking “FOR*
2 *FISCAL YEARS 1993”*; and

3 (2) *by striking the phrase “for fiscal year 1993”*.

4 (c) *CLERICAL AMENDMENT.—Section 48108 is amend-*
5 *ed by striking subsection (c)*.

6 **SEC. 102. AIR NAVIGATION FACILITIES.**

7 Section 48101(a) *is amended by adding at the end the*
8 *following:*

9 “(5) *For the fiscal years ending September 30,*
10 *1991–1997, \$17,929,000,000.”*.

11 **SEC. 103. RESEARCH AND DEVELOPMENT.**

12 Section 48102(a) *is amended by striking “title:” and*
13 *all that follows through the end of the subsection, and insert-*
14 *ing the following: “title, \$206,000,000 for fiscal year 1997.”*.

15 **SEC. 104. AIRPORT IMPROVEMENT PROGRAM.**

16 (a) *AUTHORIZATION OF APPROPRIATIONS.—Section*
17 *48103 is amended—*

18 (1) *by striking “and \$21,958,500,000” and in-*
19 *serting “\$19,200,500,000”*; and

20 (2) *by inserting before the period at the end the*
21 *following: “, \$21,480,500,000 for fiscal years ending*
22 *before October 1, 1997.*

23 (b) *OBLIGATIONAL AUTHORITY.—Section 47104(c) is*
24 *amended by striking “1996” and inserting “1997”*.

1 **SEC. 105. INTERACCOUNT FLEXIBILITY.**

2 *Section 106 is amended by adding at the end the fol-*
3 *lowing new subsection:*

4 *“(l) INTERACCOUNT FLEXIBILITY.—*

5 *“(1) Except as provided in paragraph (2), the*
6 *Administrator may transfer budget authority derived*
7 *from trust funds among appropriations authorized by*
8 *subsection (k) and sections 48101 and 48102, if the*
9 *aggregate estimated outlays in such accounts in the*
10 *fiscal year in which the transfers are made will not*
11 *be increased as a result of such transfer.*

12 *“(2) The transfer of budget authority under*
13 *paragraph (1) may be made only to the extent that*
14 *outlays do not exceed the aggregate estimated outlays.*

15 *“(3) A transfer of budget authority under para-*
16 *graph (1) may not result in a net decrease of more*
17 *than 5 percent, or a net increase of more than 10 per-*
18 *cent, in the budget authority available under any ap-*
19 *propriation involved in that transfer.*

20 *“(4) Any action taken pursuant to this section*
21 *shall be treated as a reprogramming of funds that is*
22 *subject to review by the appropriate committees of the*
23 *Congress.*

24 *“(5) The Administrator may transfer budget au-*
25 *thority pursuant to this section only after—*

1 “(A) submitting a written explanation of
2 the proposed transfer to the Committees on
3 Transportation and Infrastructure and Appro-
4 priations of the House of Representatives and the
5 Committees on Commerce, Science, and Trans-
6 portation and Appropriations of the Senate; and

7 “(B) 30 days have passed after the expla-
8 nation is submitted and none of the committees
9 notifies the Administrator in writing that it ob-
10 jects to the proposed transfer within the 30 day
11 period.”.

12 **TITLE II—AIRPORT IMPROVE-**
13 **MENT PROGRAM MODIFICA-**
14 **TIONS**

15 **SEC. 201. PAVEMENT MAINTENANCE PROGRAM.**

16 (a) *PAVEMENT MAINTENANCE.*—Chapter 471 is
17 amended by adding the following section at the end of sub-
18 chapter I:

19 **“§47132. Pavement maintenance**

20 “(a) *IN GENERAL.*—The Administrator of the Federal
21 Aviation Administration shall issue guidelines to carry out
22 a pavement maintenance pilot project to preserve and ex-
23 tend the useful life of runways, taxiways, and aprons at
24 airports for which apportionments are made under section
25 47114(d). The regulations shall provide that the Adminis-

1 *trator may designate not more than 10 projects. The regula-*
2 *tions shall provide criteria for the Administrator to use in*
3 *choosing the projects. At least 2 such projects must be in*
4 *States without a primary airport that had 0.25 percent or*
5 *more of the total boardings in the United States in the pre-*
6 *ceding calendar year. In designating a project, the Admin-*
7 *istrator shall take into consideration geographical, climato-*
8 *logical, and soil diversity.*

9 “(b) *EFFECTIVE DATE.*—*This section shall be effective*
10 *beginning on the date of enactment of the Federal Aviation*
11 *Reauthorization Act of 1996 and ending on September 30,*
12 *1999.”.*

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

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

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

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

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

23 (A) *by inserting “and” at the end of sub-*
24 *paragraph (D);*

1 (B) by striking “; and” at the end of sub-
2 paragraph (E) and inserting a period; and

3 (C) by striking subparagraph (F).

4 (c) *CONFORMING AMENDMENT.*—The chapter analysis
5 for subchapter I of chapter 471 is amended by inserting
6 after the item relating to section 47131 the following new
7 item:

“47132. Pavement maintenance.”.

8 **SEC. 202. MAXIMUM PERCENTAGES OF AMOUNT MADE**
9 **AVAILABLE FOR GRANTS TO CERTAIN PRI-**
10 **MARY AIRPORTS.**

11 Section 47114 is amended by adding at the end thereof
12 the following:

13 “(g) *SLIDING SCALE.*—

14 “(1) Notwithstanding any other provision of this
15 title, of the amount newly made available under sec-
16 tion 48103 of this title for fiscal year 1997 to make
17 grants, not more than the percentage of such amount
18 newly made available that is specified in paragraph
19 (2) shall be distributed in total in such fiscal year for
20 grants described in paragraph (3).

21 “(2) If the amount newly made available is—

22 “(A) not more than \$1,150,000,000, then the
23 percentage is 47.0;

1 “(B) more than \$1,150,000,000 but not
2 more than \$1,250,000,000, then the percentage is
3 46.0;

4 “(C) more than \$1,250,000,000 but not
5 more than \$1,350,000,000, then the percentage is
6 45.4;

7 “(D) more than \$1,350,000,000 but not
8 more than \$1,450,000,000, then the percentage is
9 44.8; or

10 “(E) more than \$1,450,000,000 but not
11 more than \$1,550,000,000, then the percentage is
12 44.3.

13 “(3) This subsection applies to the aggregate
14 amount of grants in a fiscal year for projects at those
15 primary airports that each have not less than 0.25
16 per centum of the total passenger boardings in the
17 United States in the preceding calendar year.”.

18 **SEC. 203. DISCRETIONARY FUND.**

19 Section 47115 is amended—

20 (1) by striking “and” at the end of subsection
21 (d)(2) and inserting a comma and the following: “,
22 including, in the case of a project at a reliever air-
23 port, the number of operations projected to be diverted
24 from a primary airport to that reliever airport as a
25 result of the project, as well as the cost savings pro-

1 jected to be realized by users of the local airport sys-
2 tem;”;

3 (2) by redesignating paragraph (3) of subsection
4 (d) as paragraph (5), and by inserting after para-
5 graph (2) of that subsection the following:

6 “(3) the airport improvement priorities of the
7 States, and regional offices of the Administration, to
8 the extent such priorities are not in conflict with
9 paragraphs (1) and (2) of this subsection;

10 “(4) any increase in the number of passenger
11 boardings in the preceding 12-month period at the
12 airport at which the project will be carried out, with
13 priority consideration to be given to projects at air-
14 ports at which, during that period, the number of
15 passenger boardings was 20 percent or greater than
16 the number of such boardings during the 12-month
17 period preceding that period; and”;

18 (3) by redesignating the second subsection (f) as
19 subsection (g); and

20 (4) by adding at the end the following:

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

1 **SEC. 204. DESIGNATING CURRENT AND FORMER MILITARY**
2 **AIRPORTS.**

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

5 “(a) *GENERAL REQUIREMENTS.*—The Secretary of
6 Transportation shall designate current or former military
7 airports for which grants may be made under section
8 47117(e)(1)(E) of this title. The maximum number of air-
9 ports bearing such designation at any time is 12. The Sec-
10 retary may only so designate an airport (other than an air-
11 port so designated before August 24, 1994) if—

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

14 “(A) section 2687 of title 10;

15 “(B) section 201 of the Defense Authoriza-
16 tion Amendments and Base Closure and Re-
17 alignment Act (10 U.S.C. 2687 note); or

18 “(C) section 2905 of the Defense Base Clo-
19 sure and Realignment Act of 1990 (10 U.S.C.
20 2687 note); or

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

23 “(A) reduce delays at an airport with more
24 than 20,000 hours of annual delays in commer-
25 cial passenger aircraft takeoffs and landings; or

1 “(B) enhance airport and air traffic control
2 system capacity in a metropolitan area or re-
3 duce current and projected flight delays.”.

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

10 (c) *PARKING LOTS, FUEL FARMS, AND UTILITIES.*—
11 Subsection (f) of section 47118 is amended by striking “the
12 fiscal years ending September 30, 1993–1996,” and insert-
13 ing “for fiscal years beginning after September 30, 1992,”.

14 (d) *ONE-YEAR EXTENSION.*—Section 47117(e)(1)(E)
15 is amended by striking “and 1996,” and inserting “1996,
16 and 1997,”.

17 **SEC. 205. STATE BLOCK GRANT PROGRAM.**

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

20 (1) by striking paragraph (2);

21 (2) by redesignating subparagraphs (A) through
22 (E) of paragraph (1) as paragraphs (1) through (5),
23 respectively; and

24 (3) by striking “(1) A State” and inserting “A
25 State”.

1 (b) *USE OF STATE PRIORITY SYSTEM.*—Section
2 47128(c) is amended by adding at the end the following:
3 “In carrying out this subsection, the Secretary shall permit
4 a State to use the priority system of the State if such system
5 is not inconsistent with the national priority system.”.

6 (c) *CHANGE OF EXPIRATION DATE.*—Section 47128(d)
7 is amended by striking “1996” and inserting “1997”.

8 **SEC. 206. ACCESS TO AIRPORTS BY INTERCITY BUSES.**

9 Section 47107 (a) is amended—

10 (1) by striking “and” at the end of paragraph
11 (18);

12 (2) by striking the period at the end of para-
13 graph (19) and inserting “; and”; and

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

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

1 **TITLE III—AVIATION SAFETY**
2 **AND SECURITY**

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

5 (a) *IN GENERAL.*—Not later than 30 days after the
6 date of enactment of this Act, the Administrator shall con-
7 duct a study and submit to the Congress a report on wheth-
8 er, and if so, how to transfer certain responsibilities of air
9 carriers under Federal law for security activities conducted
10 onsite at airports to airport operators who are subject to
11 section 44903 of title 49, United States Code, or to the Fed-
12 eral Government or providing for shared responsibilities be-
13 tween air carriers and airport operators or the Federal
14 Government.

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

17 (1) *examine potential sources of Federal and*
18 *non-Federal revenue that may be used to fund secu-*
19 *urity activities including but not limited to providing*
20 *grants from funds received as fees collected under a*
21 *fee system established under subpart C of this title*
22 *and the amendments made by that subpart; and*

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

1 (c) *CERTIFICATION OF SCREENING COMPANIES.*—The
2 *Federal Aviation Administrator is directed to certify com-*
3 *panies providing security screening and to improve the*
4 *training and testing of security screeners through develop-*
5 *ment of uniform performance standards for providing secu-*
6 *rity screening services.*

7 **SEC. 302. FAMILY ADVOCACY.**

8 (a) *IN GENERAL.*—Subchapter III of chapter 11 of
9 *title 49, United States Code, is amended by adding at the*
10 *end the following new section:*

11 **“§ 1136. Family advocacy**

12 “(a) *IN GENERAL.*—The *National Transportation*
13 *Safety Board shall establish a program consistent with its*
14 *existing authority to provide family advocacy services for*
15 *aircraft accidents described in subsection (b)(1) and serve*
16 *as the lead agency in coordinating the provision of the serv-*
17 *ices described in subsection (b). The National Transpor-*
18 *tation Safety Board shall, as necessary, in carrying out the*
19 *program, cooperate with the Secretary of Transportation,*
20 *the Administrator of the Federal Aviation Administration,*
21 *and such other public and private organizations as may*
22 *be appropriate.*

23 “(b) *FAMILY ADVOCACY SERVICES.*—

24 “(1) *IN GENERAL.*—The *National Transpor-*
25 *tation Safety Board shall work with an air carrier*

1 *involved in an accident in air commerce and facili-*
2 *tate the procurement by that air carrier of the serv-*
3 *ices of family advocates who are not otherwise em-*
4 *ployed by an air carrier and who are not employed*
5 *by the Federal Aviation Administration to, in the*
6 *event of an accident in air commerce—*

7 *“(A) apply standards of conduct specified*
8 *by the National Transportation Safety Board;*

9 *“(B) to the extent practicable, direct and fa-*
10 *ilitate all communication among air carriers,*
11 *surviving passengers, families of passengers,*
12 *news reporters, the Federal Government, and the*
13 *governments of States and political subdivisions*
14 *thereof;*

15 *“(C) coordinate with a representative of the*
16 *air carrier to jointly direct the notification of the*
17 *next of kin of victims of the accident; and*

18 *“(D) carry out such other related duties as*
19 *the National Transportation Safety Board deter-*
20 *mines to be appropriate.*

21 *“(2) DEFINITIONS.—For purposes of this sub-*
22 *section, the following definitions shall apply:*

23 *“(A) AIR CARRIER.—The term ‘air carrier’*
24 *has the meaning provided that term in section*
25 *40102(a)(2).*

1 “(B) *FAMILY ADVOCATE*.—The term ‘family
2 advocate’ shall have the meaning provided that
3 term by the National Transportation Safety
4 Board by regulation.”.

5 (b) *GUIDELINES*.—Not later than 90 days after the
6 date of enactment of this Act, the National Transportation
7 Safety Board shall issue guidelines for the implementation
8 of the program established by the Board under section 1136
9 of title 49, United States Code, as added by subsection (a).

10 (c) *CONFORMING AMENDMENT*.—The chapter analysis
11 for subchapter III of chapter 11 of title 49, United States
12 Code, is amended by adding at the end the following:

 “1136. *Family advocacy*.”.

13 **SEC. 303. ACCIDENT AND SAFETY DATA CLASSIFICATION;**
14 **REPORT ON EFFECTS OF PUBLICATION AND**
15 **AUTOMATED SURVEILLANCE TARGETING SYS-**
16 **TEMS.**

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

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

21 **“§1119. Accident and safety data classification and**
22 **publication**

23 “(a) *IN GENERAL*.—Not later than 90 days after the
24 date of enactment of this section, the National Transpor-
25 tation Safety Board (hereafter in this section referred to

1 *as the ‘Board’) shall, in consultation and coordination with*
2 *the Administrator of the Federal Aviation Administration*
3 *(hereafter in this section referred to as the ‘Administrator’),*
4 *develop a system for classifying air carrier accident and*
5 *pertinent safety data maintained by the Board.*

6 “(b) *REQUIREMENTS FOR CLASSIFICATION SYSTEM.—*

7 “(1) *IN GENERAL.—The system developed under*
8 *this section shall provide for the classification of acci-*
9 *dent and safety data in a manner that, in compari-*
10 *son to the system in effect on the date of enactment*
11 *of this section, provides for—*

12 “(A) *safety-related categories that provide*
13 *clearer descriptions of the passenger safety effects*
14 *associated with air transportation;*

15 “(B) *clearer descriptions of passenger safety*
16 *concerns associated with air transportation acci-*
17 *dents; and*

18 “(C) *a report to the Congress by the Board*
19 *that describes methods for accurately informing*
20 *the public of the concerns referred to in subpara-*
21 *graph (B) through regular reporting of accident*
22 *and safety data obtained through the system de-*
23 *veloped under this section.*

24 “(2) *PUBLIC COMMENT.—Upon developing a sys-*
25 *tem of classification under paragraph (1), the Board*

1 *shall provide adequate opportunity for public review*
2 *and comment.*

3 “(3) *FINAL CLASSIFICATION.*—*After providing*
4 *for public review and comment, and after consulting*
5 *with the Administrator, the Board shall issue final*
6 *classifications. The Board shall ensure that air travel*
7 *accident and safety data covered under this section is*
8 *classified in accordance with the final classifications*
9 *issued under this section for data for calendar year*
10 *1997, and for each subsequent calendar year.*

11 “(4) *REPORT ON THE EFFECTS ASSOCIATED*
12 *WITH PUBLICATION OF AIR TRANSPORTATION ACCI-*
13 *DENT AND SAFETY INFORMATION.*—

14 “(A) *IN GENERAL.*—*Not later than the date*
15 *specified in subsection (a), the Board shall pre-*
16 *pare and submit to the Congress a report on the*
17 *effects and potential of the publication of air*
18 *transportation accident safety information.*

19 “(B) *CONTENT AND FORM OF REPORT.*—*The*
20 *report prepared under this paragraph shall in-*
21 *clude recommendations concerning the adoption*
22 *or revision of requirements for reporting accident*
23 *and safety data.*

24 “(5) *RECOMMENDATIONS OF THE ADMINIS-*
25 *TRATOR.*—*The Administrator may, from time to time,*

1 *request the Board to consider revisions (including ad-*
 2 *ditions to the classification system developed under*
 3 *this section). The Board shall respond to any request*
 4 *made by the Administrator under this section not*
 5 *later than 90 days after receiving that request.*

6 *“(c) PRESENTATION OF FINAL CLASSIFICATIONS TO*
 7 *THE INTERNATIONAL CIVIL AVIATION ORGANIZATION.—Not*
 8 *later than 90 days after final classifications are issued*
 9 *under subsection (b)(3), the Administrator shall—*

10 *“(1) present to the International Civil Aviation*
 11 *Organization the final classification system developed*
 12 *under this section; and*

13 *“(2) seek the adoption of that system by the*
 14 *International Civil Aviation Organization.”.*

15 *(2) CONFORMING AMENDMENT.—The chapter*
 16 *analysis for subchapter II of chapter 11 of title 49,*
 17 *United States Code, is amended by adding at the end*
 18 *the following new item:*

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

19 *(b) AUTOMATED SURVEILLANCE TARGETING SYS-*
 20 *TEMS.—Section 44713 is amended by adding at the end the*
 21 *following new subsection:*

22 *“(e) AUTOMATED SURVEILLANCE TARGETING SYS-*
 23 *TEMS.—*

24 *“(1) IN GENERAL.—The Administrator shall give*
 25 *high priority to developing and deploying a fully en-*

1 *hanced safety performance analysis system that in-*
2 *cludes automated surveillance to assist the Adminis-*
3 *trator in prioritizing and targeting surveillance and*
4 *inspection activities of the Federal Aviation Adminis-*
5 *tration.*

6 “(2) *DEADLINES FOR DEPLOYMENT.*—

7 “(A) *INITIAL PHASE.*—*The initial phase of*
8 *the operational deployment of the system devel-*
9 *oped under this subsection shall begin not later*
10 *than December 31, 1997.*

11 “(B) *FINAL PHASE.*—*The final phase of*
12 *field deployment of the system developed under*
13 *this subsection shall begin not later than Decem-*
14 *ber 31, 1999. By that date, all principal oper-*
15 *ations and maintenance inspectors of the Admin-*
16 *istration, and appropriate supervisors and ana-*
17 *lysts of the Administration shall have been pro-*
18 *vided access to the necessary information and re-*
19 *sources to carry out the system.*

20 “(3) *INTEGRATION OF INFORMATION.*—*In devel-*
21 *oping the system under this section, the Administra-*
22 *tion shall consider the near-term integration of acci-*
23 *dent and incident data into the safety performance*
24 *analysis system under this subsection.”.*

1 **SEC. 304. WEAPONS AND EXPLOSIVE DETECTION STUDY.**

2 (a) *IN GENERAL.*—*The Administrator of the Federal*
3 *Aviation Administration (hereafter in this section referred*
4 *to as the “Administrator”)* shall enter into an arrangement
5 *with the Director of the National Academy of Sciences (or*
6 *if the National Academy of Sciences is not available, the*
7 *head of another equivalent entity) to conduct a study in*
8 *accordance to this section.*

9 (b) *PANEL OF EXPERTS.*—

10 (1) *IN GENERAL.*—*In carrying out a study*
11 *under this section, the Director of the National Acad-*
12 *emy of Sciences (or the head of another equivalent en-*
13 *tity) shall establish a panel (hereinafter in this sec-*
14 *tion as the “panel”).*

15 (2) *EXPERTISE.*—*Each member of the panel es-*
16 *tablished under this subsection shall have expertise in*
17 *weapons and explosive detection technology, security,*
18 *air carrier and airport operations, or another appro-*
19 *priate area. The Director of the National Academy of*
20 *Sciences (or the head of another equivalent entity)*
21 *shall ensure that the panel has an appropriate num-*
22 *ber of representatives of the areas specified in the pre-*
23 *ceding sentence.*

24 (c) *STUDY.*—*The panel established under subsection*
25 *(b), in consultation with the National Science and Tech-*
26 *nology Council, representatives of appropriate Federal*

1 agencies, and appropriate members of the private sector,
2 shall—

3 (1) assess the weapons and explosive detection
4 technologies that are available at the time of the study
5 that are capable of being effectively deployed in com-
6 mercial aviation;

7 (2) determine how the technologies referred to in
8 paragraph (1) may more effectively be used for pro-
9 motion and improvement of security at airport and
10 aviation facilities and other secured areas; and

11 (3) on the basis of the assessments and deter-
12 minations made under paragraphs (1) and (2), iden-
13 tify the most promising technologies for the improve-
14 ment of the efficiency and cost-effectiveness of weap-
15 ons and explosive detection.

16 (d) COOPERATION.—The National Science and Tech-
17 nology Council shall take such action as may be necessary
18 to facilitate, to the maximum extent practicable and upon
19 request of the Director of the National Academy of Sciences
20 (or the head of another equivalent entity), the cooperation
21 of representatives of appropriate Federal agencies, as pro-
22 vided for in subsection (c), in providing the panel, for the
23 study under this section—

24 (1) expertise; and

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

3 (e) *REPORTS.*—*The Director of the National Academy*
4 *of Sciences (or the head of another equivalent entity) shall,*
5 *pursuant to an arrangement entered into under subsection*
6 *(a), submit to the Administrator such reports as the Admin-*
7 *istrator considers to be appropriate. Upon receipt of a re-*
8 *port under this subsection, the Administrator shall submit*
9 *a copy of the report to the appropriate committees of the*
10 *Congress.*

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

15 **SEC. 305. REQUIREMENT FOR CRIMINAL HISTORY RECORDS**

16 **CHECKS.**

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

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

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

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

23 “(B) *The Administrator shall require by regulation*
24 *that an employment investigation (including a criminal*

1 *history record check in any case described in subparagraph*
2 *(C) be conducted for—*

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

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

8 *“(iii) such other individuals who exercise secu-*
9 *rity functions associated with baggage or cargo, as the*
10 *Administrator determines is necessary to ensure air*
11 *transportation security.*

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

15 *“(i) an employment investigation reveals a gap*
16 *in employment of 12 months or more that the indi-*
17 *vidual who is the subject of the investigation does not*
18 *satisfactorily account for;*

19 *“(ii) that individual is unable to support state-*
20 *ments made on the application of that individual;*

21 *“(iii) there are significant inconsistencies in the*
22 *information provided on the application of that indi-*
23 *vidual; or*

24 *“(iv) information becomes available during the*
25 *employment investigation indicating a possible con-*

1 *viction for one of the crimes listed in subsection*
2 *(b)(1)(B).”.*

3 *(b) APPLICABILITY.—The amendment made by sub-*
4 *section (a)(3) shall apply to individuals hired to perform*
5 *functions described in section 44936(a)(1)(B) of title 49,*
6 *United States Code, after the date of the enactment of this*
7 *Act, except that the Administrator may, as the Adminis-*
8 *trator determines to be appropriate, require such employ-*
9 *ment investigations or criminal history records checks for*
10 *individuals performing those functions on the date of enact-*
11 *ment of this Act. Nothing in section 44936 of title 49, Unit-*
12 *ed States Code, as amended by subsection (a) precludes the*
13 *Administration from permitting the employment of an in-*
14 *dividual on an interim basis while employment or criminal*
15 *history record checks required by that section are being con-*
16 *ducted.*

17 **SEC. 306. INTERIM DEPLOYMENT OF COMMERCIALY AVAIL-**
18 **ABLE EXPLOSIVE DETECTION EQUIPMENT.**

19 *Section 44913(a) is amended—*

20 *(1) by redesignating paragraph (3) as para-*
21 *graph (4); and*

22 *(2) by inserting after paragraph (2) the follow-*
23 *ing:*

24 *“(3) Until such time as the Administrator deter-*
25 *mines that equipment certified under paragraph (1)*

1 *is commercially available and has successfully com-*
2 *pleted operational testing as provided in paragraph*
3 *(1), the Administrator shall facilitate the deployment*
4 *of such approved commercially available explosive de-*
5 *tection devices as the Administrator determines will*
6 *enhance aviation security significantly. The Adminis-*
7 *trator shall require that equipment deployed under*
8 *this paragraph be replaced by equipment certified*
9 *under paragraph (1) when equipment certified under*
10 *paragraph (1) becomes commercially available. The*
11 *Administrator is authorized, based on operational*
12 *considerations at individual airports, to waive the re-*
13 *quired installation of commercially available equip-*
14 *ment under paragraph (1) in the interests of aviation*
15 *security.”.*

16 **SEC. 307. AUDIT OF PERFORMANCE OF BACKGROUND**
17 **CHECKS FOR CERTAIN PERSONNEL.**

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

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

1 **SEC. 308. SENSE OF THE SENATE ON PASSENGER**
2 **PROFILING.**

3 *It is the sense of the Senate that the Administrator*
4 *of the Federal Aviation Administration, in consultation*
5 *with the intelligence and law enforcement communities,*
6 *should continue to assist air carriers in developing com-*
7 *puter-assisted and other appropriate passenger profiling*
8 *programs which should be used in conjunction with other*
9 *security measures and technologies.*

10 **SEC. 309. AUTHORITY TO USE CERTAIN FUNDS FOR AIR-**
11 **PORT SECURITY PROGRAMS AND ACTIVITIES.**

12 *(a) IN GENERAL.—Notwithstanding any other provi-*
13 *sion of law, funds referred to in subsection (b) may be used*
14 *to expand and enhance air transportation security pro-*
15 *grams and other activities (including the improvement of*
16 *facilities and the purchase and deployment of equipment)*
17 *to ensure the safety and security of passengers and other*
18 *persons involved in air travel.*

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

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

23 *(2) Passenger facility fees collected under section*
24 *40117 of title 49, United States Code.*

1 **SEC. 310. DEVELOPMENT OF AVIATION SECURITY LIAISON**
2 **AGREEMENT.**

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

11 **SEC. 311. REGULAR JOINT THREAT ASSESSMENTS.**

12 *The Administrator of the Federal Aviation Adminis-*
13 *tration and the Director of the Federal Bureau of Investiga-*
14 *tion shall carry out joint threat and vulnerability assess-*
15 *ments on security every 3 years, or more frequently, as nec-*
16 *essary, at airports determined to be high risk.*

17 **SEC. 312. BAGGAGE MATCH REPORT.**

18 *Within 30 days after the completion of the passenger*
19 *bag match pilot program recommended by the Vice Presi-*
20 *dent's Commission on Aviation Security, the Administrator*
21 *shall submit a report to Congress on the safety effectiveness*
22 *and operational effectiveness of the pilot program. The re-*
23 *port shall also assess the extent to which implementation*
24 *of baggage match requirements, coupled with the best avail-*
25 *able technologies and methodologies, such as passenger*
26 *profiling, enhance domestic aviation security.*

1 **SEC. 313. ENHANCED SECURITY PROGRAMS.**

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

4 **“§ 44916. Assessments and evaluations**

5 “(a) *IN GENERAL.*—

6 “(1) *PERIODIC ASSESSMENTS.*—The Adminis-
7 trator shall require each air carrier and airport (in-
8 cluding the airport owner or operator in cooperation
9 with the air carriers and vendors serving each air-
10 port) that provides for intrastate, interstate, or for-
11 eign air transportation to conduct periodic vulner-
12 ability assessments of the security systems of that air
13 carrier or airport, respectively. The Administration
14 shall perform periodic audits of the assessments re-
15 ferred to in paragraph (1).

16 “(2) *INVESTIGATIONS.*—The Administrator shall
17 conduct periodic and unannounced inspections of se-
18 curity systems of airports and air carriers to deter-
19 mine the effectiveness and vulnerabilities of such sys-
20 tems. To the extent allowable by law, the Adminis-
21 trator may provide for anonymous tests of those secu-
22 rity systems.”.

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

“44916. Assessments and evaluations.”.

1 **SEC. 314. REPORT ON AIR CARGO.**

2 *Within ——— days after the date of enactment of this*
 3 *Act, the Secretary of Transportation shall prepare a report*
 4 *for the Congress on any changes recommended and imple-*
 5 *mented as a result of the Vice President’s Commission on*
 6 *Aviation Security to enhance and supplement screening*
 7 *and inspection of cargo, mail, and company-shipped mate-*
 8 *rials transported in air commerce. The report shall include*
 9 *an assessment of the effectiveness of such changes, any addi-*
 10 *tional recommendations, and, if necessary, any legislative*
 11 *proposals necessary to carry out additional changes.*

12 **TITLE IV—MISCELLANEOUS**
 13 **PROVISIONS**

14 **SEC. 401. ACQUISITION OF HOUSING UNITS.**

15 *Section 40110 is amended—*

16 (1) *by redesignating subsection (b) as subsection*
 17 *(c); and*

18 (2) *by inserting after subsection (a) the follow-*
 19 *ing:*

20 “(b) **ACQUISITION OF HOUSING UNITS.—**

21 “(1) **AUTHORITY.—***In carrying out this part, the*
 22 *Administrator may acquire interests in housing units*
 23 *outside the contiguous United States.*

24 “(2) **CONTINUING OBLIGATIONS.—***Notwithstand-*
 25 *ing section 1341 of title 31, United States Code, the*
 26 *Administrator may acquire an interest in a housing*

1 *unit under paragraph (1) even if there is an obliga-*
2 *tion thereafter to pay necessary and reasonable fees*
3 *duly assessed upon such unit, including fees related to*
4 *operation, maintenance, taxes, and insurance.*

5 *“(3) CERTIFICATION TO CONGRESS.—The Ad-*
6 *ministrator may acquire an interest in a housing*
7 *unit under paragraph (1) only if the Administrator*
8 *transmits to the Committee on Transportation and*
9 *Infrastructure of the House of Representatives and the*
10 *Committee on Commerce, Science, and Transpor-*
11 *tation of the Senate at least 30 days before completing*
12 *the acquisition a report containing—*

13 *“(A) a description of the housing unit and*
14 *its price; and*

15 *“(B) a certification that acquiring the hous-*
16 *ing unit is the most cost-beneficial means of pro-*
17 *viding necessary accommodations in carrying*
18 *out this part.*

19 *“(4) PAYMENT OF FEES.—The Administrator*
20 *may pay, when due, fees resulting from the acquisi-*
21 *tion of an interest in a housing unit under this sub-*
22 *section from any amounts made available to the Ad-*
23 *ministrator.”.*

1 **SEC. 402. PROTECTION OF VOLUNTARILY SUBMITTED IN-**
2 **FORMATION.**

3 (a) *IN GENERAL.*—Chapter 401 is amended by redesignig-
4 nating section 40120 as section 40121 and by inserting
5 after section 40119 the following:

6 **“§40120. Protection of voluntarily submitted informa-**
7 **tion**

8 “(a) *IN GENERAL.*—Notwithstanding any other provi-
9 sion of law, neither the Administrator of the Federal Avia-
10 tion Administration, nor any agency receiving information
11 from the Administrator, shall disclose voluntarily-provided
12 safety or security related information if the Administrator
13 finds that—

14 “(1) the disclosure of the information would in-
15 hibit the voluntary provision of that type of informa-
16 tion and that the receipt of that type of information
17 aids in fulfilling the Administrator’s safety and secu-
18 rity responsibilities; and

19 “(2) withholding such information from disclo-
20 sure would be consistent with the Administrator’s
21 safety and security responsibilities.

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

24 (b) *CONFORMING AMENDMENT.*—The table of sections
25 at the beginning of chapter 401 is amended by striking the
26 item relating to section 40120 and inserting the following:

“40120. Protection of voluntarily submitted information.

“40121. Relationship to other laws.”.

1 **SEC. 403. APPLICATION OF FAA REGULATIONS.**

2 *In revising title 14, Code of Federal Regulations, in*
3 *a manner affecting intrastate aviation in Alaska, the Ad-*
4 *ministrator of the Federal Aviation Administration shall*
5 *consider the extent to which Alaska is not served by trans-*
6 *portation modes other than aviation, and shall establish*
7 *such regulatory distinctions as the Administrator deems ap-*
8 *propriate.*

9 **SEC. 404. SENSE OF THE SENATE REGARDING THE FUND-**
10 **ING OF THE FEDERAL AVIATION ADMINISTRA-**
11 **TION.**

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

13 *(1) the Congress is responsible for ensuring that*
14 *the financial needs of the Federal Aviation Adminis-*
15 *tration, the agency that performs the critical function*
16 *of overseeing the Nation’s air traffic control system*
17 *and ensuring the safety of air travelers in the United*
18 *States, are met;*

19 *(2) the number of air traffic control equipment*
20 *and power failures is increasing, which could place at*
21 *risk the reliability of our Nation’s air traffic control*
22 *system;*

23 *(3) aviation excise taxes that constitute the Air-*
24 *port and Airway Trust Fund, which provides most of*

1 *the funding for the Federal Aviation Administration,*
2 *have expired;*

3 *(4) the surplus in the Airport and Airway Trust*
4 *Fund will be spent by the Federal Aviation Adminis-*
5 *tration by December 1996;*

6 *(5) the existing system of funding the Federal*
7 *Aviation Administration will not provide the agency*
8 *with sufficient short-term or long-term funding;*

9 *(6) this Act creates a sound process to review*
10 *Federal Aviation Administration funding and develop*
11 *a funding system to meet the Federal Aviation Ad-*
12 *ministration's long-term funding needs; and*

13 *(7) without immediate action by the Congress to*
14 *ensure that the Federal Aviation Administration's fi-*
15 *nancial needs are met, air travelers' confidence in the*
16 *system could be undermined.*

17 *(b) SENSE OF THE SENATE.—It is the sense of the Sen-*
18 *ate that there should be an immediate enactment of an 18-*
19 *month reinstatement of the aviation excise taxes to provide*
20 *short-term funding for the Federal Aviation Administra-*
21 *tion.*

22 **SEC. 405. AUTHORIZATION FOR STATE-SPECIFIC SAFETY**
23 **MEASURES.**

24 *There are authorized to be appropriated to the Federal*
25 *Aviation Administration not more than \$10,000,000 for fis-*

1 *cal year 1997 for the purpose of addressing State-specific*
 2 *aviation safety problems identified by the National Trans-*
 3 *portation Safety Board.*

4 **SEC. 406. SENSE OF THE SENATE REGARDING THE AIR AM-**
 5 **BULANCE EXEMPTION FROM CERTAIN FED-**
 6 **ERAL EXCISE TAXES.**

7 *It is the sense of the Senate that, if the excise taxes*
 8 *imposed by section 4261 or 4271 of the Internal Revenue*
 9 *Code of 1986 are reinstated, the exemption from those taxes*
 10 *provided by section 4261(f) of such Code for air transpor-*
 11 *tation by helicopter for the purpose of providing emergency*
 12 *medical services should be broadened to include air trans-*
 13 *portation by fixed-wing aircraft for that purpose.*

14 **SEC. 407. FAA SAFETY MISSION.**

15 *(a) IN GENERAL.—Section 40104 is amended—*

16 *(1) by inserting “safety of” before “air com-*
 17 *merce” in the section caption;*

18 *(2) by inserting “SAFETY OF” before “AIR COM-*
 19 *MERCE” in the caption of subsection (a); and*

20 *(3) by and inserting “safety of” before “air com-*
 21 *merce” in subsection (a).*

22 *(b) CLERICAL AMENDMENT.—The table of sections for*
 23 *chapter 401 is amended by striking the item relating to sec-*
 24 *tion 40104 and inserting:*

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

1 **SEC. 408. CARRIAGE OF CANDIDATES IN STATE AND LOCAL**
2 **ELECTIONS.**

3 *The Administrator of the Federal Aviation Adminis-*
4 *tration shall revise section 91.321 of the Administration's*
5 *regulations (14 C.F.R. 91.321), relating to the carriage of*
6 *candidates in Federal elections, to make the same or similar*
7 *rules applicable to the carriage of candidates for election*
8 *to public office in State and local government elections.*

9 **SEC. 409. TRAIN WHISTLE REQUIREMENTS.**

10 *The Secretary of Transportation may not implement*
11 *regulations issued under section 20153(b) of title 49, United*
12 *States Code, requiring audible warnings to be sounded by*
13 *a locomotive horn at highway-rail grade crossings, unless—*
14 *(1) in implementing the regulations or providing*
15 *an exception to the regulations under section 20158(c)*
16 *of such title, the Secretary of Transportation takes*
17 *into account, among other criteria—*

18 *(A) the interest of the communities that, as*
19 *of July 30, 1996—*

20 *(i) have in effect restrictions on sound-*
21 *ing of a locomotive horn at highway-rail*
22 *grade crossings; or*

23 *(ii) have not been subject to the routine*
24 *(as the term is defined by the Secretary)*
25 *sounding of a locomotive horn at highway-*
26 *rail grade crossings; and*

1 (B) the past safety record at each grade
2 crossing involved; and

3 (2) whenever the Secretary determines that sup-
4 plementary safety measures (as that term is defined
5 in section 20153(a) of title 49, United States Code)
6 are necessary to provide an exception referred to in
7 paragraph (1), the Secretary—

8 (A) having considered the extent to which
9 local communities have established public aware-
10 ness initiatives and highway-rail crossing traffic
11 law enforcement programs allows for a period of
12 not to exceed 3 years, beginning on the date of
13 that determination, for the installation of those
14 measures; and

15 (B) works in partnership with affected com-
16 munities to provide technical assistance and to
17 develop a reasonable schedule for the installation
18 of those measures.

19 **SEC. 410. LIMITATION ON AUTHORITY OF STATES TO REGU-**
20 **LATE GAMBLING DEVICES ON VESSELS.**

21 Subsection (b)(2) of section 5 of the Act of January
22 2, 1951 (commonly referred to as the “Johnson Act”) (64
23 Stat. 1135, chapter 1194; 15 U.S.C. 1175), is amended by
24 adding at the end the following:

1 “(C) *EXCLUSION OF CERTAIN VOYAGES AND*
2 *SEGMENTS.—Except for a voyage or segment of*
3 *a voyage that occurs within the boundaries of the*
4 *State of Hawaii, a voyage or segment of a voy-*
5 *age is not described in subparagraph (B) if such*
6 *voyage or segment includes or consists of a seg-*
7 *ment—*

8 “(i) *that begins that ends in the same*
9 *State;*

10 “(ii) *that is part of a voyage to an-*
11 *other State or to a foreign country; and*

12 “(iii) *in which the vessel reaches the*
13 *other State or foreign country within 3*
14 *days after leaving the State in which such*
15 *segment begins.”.*

16 **SEC. 411. SPECIAL FLIGHT RULES IN THE VICINITY OF**
17 **GRAND CANYON NATIONAL PARK.**

18 *The Secretary of Transportation, acting through the*
19 *Administrator of the Federal Aviation Administration,*
20 *shall take such action as may be necessary to provide 30*
21 *additional days for comment by interested persons on the*
22 *special flight rules in the vicinity of Grand Canyon Na-*
23 *tional Park described in the notice of proposed rulemaking*
24 *issued on July 31, 1996, at 61 Fed. Reg. 40120 et seq.*

1 **SEC. 412. INCREASED FEES.**

2 *Notwithstanding any other provision of law, the Sur-*
3 *face Transportation Board shall not increase fees for serv-*
4 *ices in connection with rail maximum rate complaints pur-*
5 *suant to 49 CFR part 1002, STB Ex Parte No. 542.*

6 **SEC. 413. TRANSFER OF AIR TRAFFIC CONTROL TOWER;**

7 **CLOSING OF FLIGHT SERVICE STATIONS.**

8 *(a) HICKORY, NORTH CAROLINA TOWER.—*

9 *(1) TRANSFER.—The Administrator of the Fed-*
10 *eral Aviation Administration may transfer any title,*
11 *right, or interest the United States has in the air*
12 *traffic control tower located at the Hickory Regional*
13 *Airport to the City of Hickory, North Carolina, for*
14 *the purpose of enabling the city to provide air traffic*
15 *control services to operators of aircraft.*

16 *(2) STUDY.—The Administrator shall conduct a*
17 *study to determine whether the number of operations*
18 *at Hickory Regional Airport meet the criteria for*
19 *contract towers and shall certify in writing to the*
20 *Committee on Commerce, Science, and Transpor-*
21 *tation of the Senate and the Committee on Commerce*
22 *and Infrastructure of the House of Representatives*
23 *whether that airport meets those criteria.*

24 *(b) NEW BERN—CRAVEN COUNTY STATION.—The Ad-*
25 *ministrator shall not close the New Bern—Craven County*
26 *flight services station or the Hickory Regional Airport flight*

1 *service station unless the Administrator certifies in writing*
2 *to the Committee on Commerce, Science, and Transpor-*
3 *tation of the Senate and the Committee on Transportation*
4 *and Infrastructure of the House of Representatives that such*
5 *closure will not result in a derogation of air safety and*
6 *that it will reduce costs to taxpayers.*

7 **SEC. 414. SENSE OF THE SENATE REGARDING ACTS OF**
8 **INTERNATIONAL TERRORISM.**

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

10 *(1) there has been an intensification in the op-*
11 *pression and disregard for human life among nations*
12 *that are willing to export terrorism;*

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

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

23 *(b) SENSE OF THE SENATE.—It is the sense of the Sen-*
24 *ate that if evidence establishes beyond a clear and reason-*
25 *able doubt that any act of hostility towards any United*

1 *States citizen was an act of international terrorism spon-*
2 *sored, organized, condoned, or directed by any nation, a*
3 *state of war should be considered to exist or to have existed*
4 *between the United States of America and that nation, be-*
5 *ginning as of the moment that the act of aggression occurs.*

6 **SEC. 415. REPORTING FOR PROCUREMENT CONTRACTS.**

7 *Section 47112 is amended by adding at the end the*
8 *following new subsection:*

9 *“(d) REPORTING FOR PROCUREMENT CONTRACTS.—*

10 *(1) The Secretary of Transportation shall promulgate regu-*
11 *lations to require that each grant agreement that includes*
12 *the awarding of any contract that includes Federal funds*
13 *in an amount greater than or equal to \$5,000,000 under*
14 *this subchapter provides for a report to the Secretary that*
15 *states—*

16 *“(A) the number of bids from qualified, respon-*
17 *sive and reasonable bidders that were in amounts*
18 *lower than the amount specified in the bid submitted*
19 *by the bidder awarded the contract;*

20 *“(B) for each bid referred to in subparagraph A*
21 *(other than the bid submitted by the bidder awarded*
22 *the contract) the amount by which the bid submitted*
23 *by the bidder awarded the contract exceeded the lower*
24 *bid.*

1 “(2) *APPLICABILITY.*—*This subsection shall apply to*
2 *grants referred to in this paragraph that are awarded on*
3 *or after the date of enactment of this Act.*”.

4 **SEC. 416. PROVISIONS RELATING TO LIMITED SCOPE**
5 **AUDIT.**

6 (a) *IN GENERAL.*—*Subparagraph (C) of section*
7 *103(a)(3) of the Employee Retirement Income Security Act*
8 *of 1974 (29 U.S.C. 1023(a)(3)(C)) is amended by adding*
9 *at the end the following new clause:*

10 “(i) *If an accountant is offering his opin-*
11 *ion under this section in the case of an employee*
12 *pension benefit plan, the accountant shall, to the*
13 *extent consistent with generally accepted audit-*
14 *ing standards, rely on the work of any independ-*
15 *ent public accountant of any bank or similar in-*
16 *stitution or insurance carrier regulated and su-*
17 *pervised and subject to periodic investigation by*
18 *a State or Federal agency that holds assets or*
19 *processes transactions of the employee pension*
20 *benefit plan.*”.

21 (b) *CONFORMING AMENDMENTS.*—

22 (1) *Section 103(a)(3)(A) of such Act (29 U.S.C.*
23 *1023(a)(3)(A)) is amended by striking “subparagraph*
24 *(C)” and inserting “subparagraph (C)(i)”.*

1 (2) *Section 103(a)(3)(C) of such Act (29 U.S.C.*
2 *1023(a)(3)(C)) is amended by striking “(C) The” and*
3 *inserting “(C)(i) In the case of an employee benefit*
4 *plan other than an employee pension benefit plan,*
5 *the”.*

6 (c) *EFFECTIVE DATE.—The amendments made by this*
7 *section shall apply with respect to opinions required under*
8 *section 103(a)(3)(A) of the Employee Retirement Income*
9 *Security Act of 1974 for plan years beginning on or after*
10 *January 1 of the calendar year following the date of the*
11 *enactment of this Act.*

12 **SEC. 417. ADVANCE ELECTRONIC TRANSMISSION OF CARGO**
13 **AND PASSENGER INFORMATION.**

14 (a) *CARGO INFORMATION.—*

15 (1) *IN GENERAL.—Section 431(b) of the Tariff*
16 *Act of 1930 (19 U.S.C. 1431(b)) is amended—*

17 (A) *by striking “Any manifest” and insert-*
18 *ing “(1) Any manifest”, and*

19 (B) *by adding at the end the following new*
20 *paragraph:*

21 “(2)(A) *Every passenger air carrier required to make*
22 *entry or to obtain clearance under the customs laws of the*
23 *United States (or the authorized agent of such carrier) shall*
24 *provide by electronic transmission cargo manifest informa-*
25 *tion described in subparagraph (B) in advance of such*

1 *entry or clearance in such manner as the Secretary shall*
2 *prescribe.*

3 “(B) *The information described in this subparagraph*
4 *is as follows:*

5 “(i) *The airport of arrival or departure, which-*
6 *ever is appropriate.*

7 “(ii) *The airline prefix code.*

8 “(iii) *The carrier code.*

9 “(iv) *The flight number.*

10 “(v) *The date of scheduled arrival or date of de-*
11 *parture, whichever is appropriate.*

12 “(vi) *The permit to proceed to the destination, if*
13 *applicable.*

14 “(vii) *The master and house air waybill numbers*
15 *and quantities.*

16 “(viii) *The first airport of lading of the cargo.*

17 “(ix) *A description and weight of the cargo.*

18 “(x) *The shipper’s name and address from all*
19 *air waybills.*

20 “(xi) *The consignee name and address from all*
21 *air waybills.*

22 “(xii) *Notice that actual boarded quantities are*
23 *not equal to air waybill quantities.*

24 “(xiii) *Transfer or transit information.*

25 “(xiv) *Warehouse or other location of the cargo.*

1 “(xv) Any other data that the Secretary may by
2 regulation prescribe.”.

3 (2) CONFORMING AMENDMENT.—Subsection
4 (d)(1)(A) of section 431 of such Act is amended by in-
5 serting before the semicolon “or subsection (b)(2)”.

6 (b) PASSENGER INFORMATION.—The Part II of title
7 IV of the Tariff Act of 1930 is amended by inserting after
8 section 431 the following new section:

9 **“SEC. 432. PASSENGER MANIFEST INFORMATION REQUIRED**
10 **FOR AIR CARRIERS.**

11 “(a) IN GENERAL.—Every passenger air carrier re-
12 quired to make entry or obtain clearance under the customs
13 laws of the United States (or the authorized agent of such
14 carrier) shall provide by electronic transmission passenger
15 manifest information described in subsection (b) in advance
16 of such entry or clearance in such manner and form as the
17 Secretary shall prescribe.

18 “(b) INFORMATION DESCRIBED.—The information de-
19 scribed in this subsection is as follows:

20 “(1) Full name of each passenger.

21 “(2) Date of birth and citizenship of each pas-
22 senger.

23 “(3) Passport number and country of issuance of
24 each passenger.

25 “(4) Passenger name record.

1 “(5) Any additional data that the Secretary, by
2 regulation, determines is reasonably necessary to en-
3 sure aviation safety pursuant to the Customs laws of
4 the United States.”.

5 (c) *DEFINITION.*—Section 401 of the Tariff Act of 1930
6 is amended by adding at the end the following new sub-
7 section:

8 “(t) *PASSENGER AIR CARRIER.*—The term ‘passenger
9 air carrier’ means an air carrier (as defined in section
10 40102(a)(2) of title 49, United States Code) or foreign air
11 carrier (as defined in section 40102(a)(21) of such title 49)
12 that provides transportation of passengers to or from any
13 place in the United States.”.

14 (d) *EFFECTIVE DATE.*—The amendments made by this
15 section shall take effect 45 days after the date of the enact-
16 ment of this Act.

17 **TITLE V—COMMERCIAL SPACE**
18 **LAUNCH ACT AMENDMENTS**

19 **SEC. 501. COMMERCIAL SPACE LAUNCH AMENDMENTS.**

20 (a) *AMENDMENTS.*—Chapter 701 of title 49, United
21 States Code, is amended—

22 (1) in the table of sections—

23 (A) by amending the item relating to sec-
24 tion 70104 to read as follows:

“70104. Restrictions on launches, operations, and reentries.”;

1 (B) by amending the item relating to sec-
2 tion 70108 to read as follows:

 “70108. Prohibition, suspension, and end of launches, operation of launch sites
 and reentry sites, and reentries.”;

3 and

4 (C) by amending the item relating to sec-
5 tion 70109 to read as follows:

 “70109. Preemption of scheduled launches or reentries.”;

6 (2) in section 70101—

7 (A) by inserting “microgravity research,”
8 after “information services,” in subsection (a)(3);

9 (B) by inserting “, reentry,” after “launch-
10 ing” both places it appears in subsection (a)(4);

11 (C) by inserting “, reentry vehicles,” after
12 “launch vehicles” in subsection (a)(5);

13 (D) by inserting “and reentry services”
14 after “launch services” in subsection (a)(6);

15 (E) by inserting “, reentries,” after
16 “launches” both places it appears in subsection
17 (a)(7);

18 (F) by inserting “, reentry sites,” after
19 “launch sites” in subsection (a)(8);

20 (G) by inserting “and reentry services”
21 after “launch services” in subsection (a)(8);

22 (H) by inserting “reentry sites,” after
23 “launch sites,” in subsection (a)(9);

1 (I) by inserting “and reentry site” after
2 “launch site” in subsection (a)(9);

3 (J) by inserting “reentry vehicles,” after
4 “launch vehicles” in subsection (b)(2);

5 (K) by striking “launch” in subsection
6 (b)(2)(A);

7 (L) by inserting “and reentry” after “com-
8 mercial launch” in subsection (b)(3);

9 (M) by striking “launch” after “and trans-
10 fer commercial” in subsection (b)(3); and

11 (N) by inserting “and development of re-
12 entry sites,” after “launch-site support facili-
13 ties,” in subsection (b)(4);

14 (3) in section 70102—

15 (A) by striking “and any payload” and in-
16 serting in lieu thereof “or reentry vehicle and
17 any payload from Earth” in paragraph (3);

18 (B) by inserting “or reentry vehicle” after
19 “means of a launch vehicle” in paragraph (8);

20 (C) by redesignating paragraphs (10)
21 through (12) as paragraphs (14) through (16),
22 respectively;

23 (D) by inserting after paragraph (9) the fol-
24 lowing new paragraphs:

1 “(10) ‘reenter’ and ‘reentry’ mean to return or
2 attempt to return, purposefully, a reentry vehicle and
3 its payload, if any, from Earth orbit or from outer
4 space to Earth.

5 “(11) ‘reentry services’ means—

6 “(A) activities involved in the preparation
7 of a reentry vehicle and its payload, if any, for
8 reentry; and

9 “(B) the conduct of a reentry.

10 “(12) ‘reentry site’ means the location on Earth
11 to which a reentry vehicle is intended to return (as
12 defined in a license the Secretary issues or transfers
13 under this chapter).

14 “(13) ‘reentry vehicle’ means a vehicle designed
15 to return from Earth orbit or outer space to Earth,
16 or a reusable launch vehicle designed to return from
17 outer space substantially intact.”; and

18 (E) by inserting “or reentry services” after
19 “launch services” each place it appears in para-
20 graph (15), as so redesignated by subparagraph
21 (C) of this paragraph;

22 (4) in section 70103(b)—

23 (A) by inserting “AND REENTRIES” after
24 “LAUNCHES” in the subsection heading;

1 (B) by inserting “and reentries” after
2 “space launches” in paragraph (1); and

3 (C) by inserting “and reentry” after “space
4 launch” in paragraph (2);

5 (5) in section 70104—

6 (A) by amending the section designation
7 and heading to read as follows:

8 **“§ 70104. Restrictions on launches, operations, and re-**
9 **entries”;**

10 (B) by inserting “or reentry site, or to reen-

11 ter a reentry vehicle,” after “operate a launch

12 site” each place it appears in subsection (a);

13 (C) by inserting “or reentry” after “launch

14 or operation” in subsection (a)(3) and (4);

15 (D) in subsection (b)—

16 (i) by striking “launch license” and

17 inserting in lieu thereof “license”;

18 (ii) by inserting “or reenter” after

19 “may launch”; and

20 (iii) by inserting “or reentering” after

21 “related to launching”; and

22 (E) in subsection (c)—

23 (i) by amending the subsection heading

24 to read as follows: “**PREVENTING LAUNCHES**

25 **AND REENTRIES.—**”;

1 (ii) by inserting “or reentry” after
2 “prevent the launch”; and

3 (iii) by inserting “or reentry” after
4 “decides the launch”;

5 (6) in section 70105—

6 (A) by inserting “or a reentry site, or the
7 reentry of a reentry vehicle,” after “operation of
8 a launch site” in subsection (b)(1); and

9 (B) by striking “or operation” and insert-
10 ing in lieu thereof “, operation, or reentry” in
11 subsection (b)(2)(A);

12 (7) in section 70106(a)—

13 (A) by inserting “or reentry site” after “ob-
14 server at a launch site”;

15 (B) by inserting “or reentry vehicle” after
16 “assemble a launch vehicle”; and

17 (C) by inserting “or reentry vehicle” after
18 “with a launch vehicle”;

19 (8) in section 70108—

20 (A) by amending the section designation
21 and heading to read as follows:

22 **“§ 70108. Prohibition, suspension, and end of**
23 **launches, operation of launch sites and**
24 **reentry sites, and reentries”;**

25 and

1 (B) in subsection (a)—

2 (i) by inserting “or reentry site, or re-
3 entry of a reentry vehicle,” after “operation
4 of a launch site”; and

5 (ii) by inserting “or reentry” after
6 “launch or operation”;

7 (9) in section 70109—

8 (A) by amending the section designation
9 and heading to read as follows:

10 **“§ 70109. Preemption of scheduled launches or reen-**
11 **tries”;**

12 (B) in subsection (a)—

13 (i) by inserting “or reentry” after “en-
14 sure that a launch”;

15 (ii) by inserting “, reentry site,” after
16 “United States Government launch site”;

17 (iii) by inserting “or reentry date com-
18 mitment” after “launch date commitment”;

19 (iv) by inserting “or reentry” after
20 “obtained for a launch”;

21 (v) by inserting “, reentry site,” after
22 “access to a launch site”;

23 (vi) by inserting “, or services related
24 to a reentry,” after “amount for launch
25 services”; and

1 (vii) by inserting “or reentry” after

2 “the scheduled launch”; and

3 (C) in subsection (c), by inserting “or re-

4 entry” after “prompt launching”;

5 (10) in section 70110—

6 (A) by inserting “or reentry” after “prevent

7 the launch” in subsection (a)(2); and

8 (B) by inserting “or reentry site, or reentry

9 of a reentry vehicle,” after “operation of a

10 launch site” in subsection (a)(3)(B);

11 (11) in section 70111—

12 (A) by inserting “or reentry” after

13 “launch” in subsection (a)(1)(A);

14 (B) by inserting “and reentry services”

15 after “launch services” in subsection (a)(1)(B);

16 (C) by inserting “or reentry services” after

17 “or launch services” in subsection (a)(2);

18 (D) by inserting “or reentry” after “com-

19 mercial launch” both places it appears in sub-

20 section (b)(1);

21 (E) by inserting “or reentry services” after

22 “launch services” in subsection (b)(2)(C);

23 (F) by striking “or its payload for launch”

24 in subsection (d) and inserting in lieu thereof

1 *“or reentry vehicle, or the payload of either, for*
2 *launch or reentry”*; and

3 (G) by inserting *“, reentry vehicle,”* after
4 *“manufacturer of the launch vehicle”* in sub-
5 section (d);

6 (12) in section 70112—

7 (A) by inserting *“or reentry”* after *“one*
8 *launch”* in subsection (a)(3);

9 (B) by inserting *“or reentry services”* after
10 *“launch services”* in subsection (a)(4);

11 (C) by inserting *“or reentry services”* after
12 *“launch services”* each place it appears in sub-
13 section (b);

14 (D) by inserting *“applicable”* after *“carried*
15 *out under the”* in paragraphs (1) and (2) of sub-
16 section (b);

17 (E) by striking *“, Space, and Technology”*
18 in subsection (d)(1);

19 (F) by inserting *“OR REENTRIES”* after
20 *“LAUNCHES”* in the heading for subsection (e);
21 and

22 (G) by inserting *“or reentry site or a re-*
23 *entry”* after *“launch site”* in subsection (e);

1 (13) in section 70113(a)(1) and (d)(1) and (2),
2 by inserting “or reentry” after “one launch” each
3 place it appears;

4 (14) in section 70115(b)(1)(D)(i)—

5 (A) by inserting “reentry site,” after
6 “launch site,”; and

7 (B) by inserting “or reentry vehicle” after
8 “launch vehicle” both places it appears; and

9 (15) in section 70117—

10 (A) by inserting “or reentry site, or to reen-
11 ter a reentry vehicle” after “operate a launch
12 site” in subsection (a);

13 (B) by inserting “or reentry” after “ap-
14 proval of a space launch” in subsection (d);

15 (C) by amending subsection (f) to read as
16 follows:

17 “(f) *LAUNCH NOT AN EXPORT; REENTRY NOT AN IM-*
18 *PORT.—A launch vehicle, reentry vehicle, or payload that*
19 *is launched or reentered is not, because of the launch or*
20 *reentry, an export or import, respectively, for purposes of*
21 *a law controlling exports or imports.”; and*

22 (D) in subsection (g)—

23 (i) by striking “operation of a launch
24 vehicle or launch site,” in paragraph (1)
25 and inserting in lieu thereof “reentry, oper-

1 *ation of a launch vehicle or reentry vehicle,*
2 *or operation of a launch site or reentry*
3 *site,”; and*

4 *(ii) by inserting “reentry,” after*
5 *“launch,” in paragraph (2).*

6 *(b) ADDITIONAL AMENDMENTS.—(1) Section 70105 of*
7 *title 49, United States Code, is amended—*

8 *(A) by inserting “(1)” before “A person may*
9 *apply” in subsection (a);*

10 *(B) by striking “receiving an application” both*
11 *places it appears in subsection (a) and inserting in*
12 *lieu thereof “accepting an application in accordance*
13 *with criteria established pursuant to subsection*
14 *(b)(2)(D)”;*

15 *(C) by adding at the end of subsection (a) the*
16 *following new paragraph:*

17 *“(2) In carrying out paragraph (1), the Secretary may*
18 *establish procedures for certification of the safety of a*
19 *launch vehicle, reentry vehicle, or safety system, procedure,*
20 *service, or personnel that may be used in conducting li-*
21 *censed commercial space launch or reentry activities.”;*

22 *(D) by striking “and” at the end of subsection*
23 *(b)(2)(B);*

1 (E) by striking the period at the end of sub-
2 section (b)(2)(C) and inserting in lieu thereof “;
3 and”;

4 (F) by adding at the end of subsection (b)(2) the
5 following new subparagraph:

6 “(D) regulations establishing criteria for accept-
7 ing or rejecting an application for a license under
8 this chapter within 60 days after receipt of such ap-
9 plication.”; and

10 (G) by inserting “, or the requirement to obtain
11 a license,” after “waive a requirement” in subsection
12 (b)(3).

13 (2) The amendment made by paragraph (1)(B) shall
14 take effect upon the effective date of final regulations issued
15 pursuant to section 70105(b)(2)(D) of title 49, United
16 States Code, as added by paragraph (1)(F) of this sub-
17 section.

18 (3) Section 70102(5) of title 49, United States Code,
19 is amended—

20 (A) by redesignating subparagraphs (A) and (B)
21 as subparagraphs (B) and (C), respectively; and

22 (B) by inserting before subparagraph (B), as so
23 redesignated by subparagraph (A) of this paragraph,
24 the following new subparagraph:

1 “(A) activities directly related to the prepa-
2 ration of a launch site or payload facility for
3 one or more launches;”.

4 (4) Section 70103(b) of title 49, United States Code,
5 is amended—

6 (A) in the subsection heading, as amended by
7 subsection (a)(4)(A) of this section, by inserting “AND
8 STATE SPONSORED SPACEPORTS” after “AND REEN-
9 TRIES”; and

10 (B) in paragraph (1), by inserting “and State
11 sponsored spaceports” after “private sector”.

12 (5) Section 70105(a)(1) of title 49, United States Code,
13 as amended by subsection (b)(1) of this section, is amended
14 by inserting at the end the following: “The Secretary shall
15 submit to the Committee on Science of the House of Rep-
16 resentatives and the Committee on Commerce, Science, and
17 Transportation of the Senate a written notice not later than
18 7 days after any occurrence when a license is not issued
19 within the deadline established by this subsection.”.

20 (6) Section 70111 of title 49, United States Code, is
21 amended—

22 (A) in subsection (a)(1), by inserting after sub-
23 paragraph (B) the following:

24 “The Secretary shall establish criteria and procedures for
25 determining the priority of competing requests from the pri-

1 *vate sector and State governments for property and services*
 2 *under this section.”;*

3 (B) *by striking “actual costs” in subsection*
 4 *(b)(1) and inserting in lieu thereof “additive costs*
 5 *only”;* and

6 (C) *by inserting after subsection (b)(2) the fol-*
 7 *lowing new paragraph:*

8 “(3) *The Secretary shall ensure the establishment of*
 9 *uniform guidelines for, and consistent implementation of,*
 10 *this section by all Federal agencies.”.*

11 (7) *Section 70112 of title 49, United States Code, is*
 12 *amended—*

13 (A) *in subsection (a)(1), by inserting “launch,*
 14 *reentry, or site operator” after “(1) When a”;*

15 (B) *in subsection (b)(1), by inserting “launch,*
 16 *reentry, or site operator” after “(1)A”;* and

17 (C) *in subsection (f), by inserting “launch, re-*
 18 *entry, or site operator” after “carried out under a”.*

19 (c) *REGULATIONS.—(1) Chapter 701 of title 49, Unit-*
 20 *ed States Code, is amended by adding at the end the follow-*
 21 *ing new section:*

22 **“§ 70120. Regulations**

23 *“The Secretary of Transportation, within 6 months*
 24 *after the date of the enactment of this section, shall issue*
 25 *regulations to carry out this chapter that include—*

1 “(1) guidelines for industry to obtain sufficient
2 insurance coverage for potential damages to third
3 parties;

4 “(2) procedures for requesting and obtaining li-
5 censes to operate a commercial launch vehicle and re-
6 entry vehicle;

7 “(3) procedures for requesting and obtaining op-
8 erator licenses for launch and reentry; and

9 “(4) procedures for the application of govern-
10 ment indemnification.”.

11 (2) The table of sections for such chapter 701 is amend-
12 ed by adding after the item relating to section 70119 the
13 following new item:

 “70120. Regulations.”.

14 **TITLE VI—AIR TRAFFIC MANAGE-**
15 **MENT SYSTEM PERFORMANCE**
16 **IMPROVEMENT ACT**

17 **SEC. 601. SHORT TITLE.**

18 This title may be cited as the “Air Traffic Manage-
19 ment System Performance Improvement Act of 1996”.

20 **SEC. 602. DEFINITIONS.**

21 For the purposes of this title, the following definitions
22 shall apply:

23 (1) **ADMINISTRATION.**—The term “Administra-
24 tion” means the Federal Aviation Administration.

1 (2) *ADMINISTRATOR.*—*The term “Adminis-*
2 *trator” means the Administrator of the Federal Avia-*
3 *tion Administration.*

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

6 **SEC. 603. EFFECTIVE DATE.**

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

10 ***Subtitle A—General Provisions***

11 **SEC. 621. FINDINGS.**

12 *The Congress finds the following:*

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

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

1 (3) *The Administration must become a more effi-*
2 *cient, effective, and different organization to meet fu-*
3 *ture challenges.*

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

8 (5) *Congress must keep its commitment to the*
9 *users of the national air transportation system by*
10 *seeking to spend all moneys collected from them each*
11 *year and deposited into the Airport and Airway*
12 *Trust Fund. Existing surpluses representing past re-*
13 *ceipts must also be spent for the purposes for which*
14 *such funds were collected.*

15 (6) *The aviation community and the employees*
16 *of the Administration must come together to improve*
17 *the system. The Administration must continue to rec-*
18 *ognize who its customers are and what their needs*
19 *are, and to design and redesign the system to make*
20 *safety improvements and increase productivity.*

21 (7) *The Administration projects that commercial*
22 *operations will increase by 18 percent and passenger*
23 *traffic by 35 percent by the year 2002. Without effec-*
24 *tive airport expansion and system modernization,*
25 *these needs cannot be met.*

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

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

5 (10) *There is widespread agreement within gov-*
6 *ernment and the aviation industry that reform of the*
7 *Administration is essential to safely and efficiently*
8 *accommodate the projected growth of aviation within*
9 *the next decade.*

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

17 (12) *Prior to the imposition of any new charges*
18 *or user fees on segments of the industry, an independ-*
19 *ent review must be performed to assess the funding*
20 *needs and assumptions for operations, capital spend-*
21 *ing, and airport infrastructure.*

22 (13) *An independent, thorough, and complete*
23 *study and assessment must be performed of the costs*
24 *to the Administration and the costs driven by each*
25 *segment of the aviation system for safety and oper-*

1 *ational services, including the use of the air traffic*
2 *control system and the Nation's airports.*

3 *(14) Because the Administration is a unique*
4 *Federal entity in that it is a participant in the daily*
5 *operations of an industry, and because the national*
6 *air transportation system faces significant problems*
7 *without significant changes, the Administration has*
8 *been authorized to change the Federal procurement*
9 *and personnel systems to ensure that the Administra-*
10 *tion has the ability to keep pace with new technology*
11 *and is able to match resources with the real personnel*
12 *needs of the Administration.*

13 *(15) The existing budget system does not allow*
14 *for long-term planning or timely acquisition of tech-*
15 *nology by the Administration.*

16 *(16) Without reforms in the areas of procure-*
17 *ment, personnel, funding, and governance, the Admin-*
18 *istration will continue to experience delays and cost*
19 *overruns in its major modernization programs and*
20 *needed improvements in the performance of the air*
21 *traffic management system will not occur.*

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

1 **SEC. 622. PURPOSES.**

2 *The purposes of this title are—*

3 *(1) to ensure that final action shall be taken on*
4 *all notices of proposed rulemaking of the Administra-*
5 *tion within 18 months after the date of their publica-*
6 *tion;*

7 *(2) to permit the Administration, with Congres-*
8 *sional review, to establish a program to improve air*
9 *traffic management system performance and to estab-*
10 *lish appropriate levels of cost accountability for air*
11 *traffic management services provided by the Adminis-*
12 *tration;*

13 *(3) to establish a more autonomous and account-*
14 *able Administration within the Department of Trans-*
15 *portation; and*

16 *(4) to make the Administration a more efficient*
17 *and effective organization, able to meet the needs of*
18 *a dynamic, growing industry, and to ensure the safe-*
19 *ty of the traveling public.*

20 **SEC. 623. REGULATION OF CIVILIAN AIR TRANSPORTATION**
21 **AND RELATED SERVICES BY THE FEDERAL**
22 **AVIATION ADMINISTRATION AND DEPART-**
23 **MENT OF TRANSPORTATION.**

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

25 *(1) by striking “The Administrator” in the fifth*
26 *sentence of subsection (b) and inserting “Except as*

1 *provided in subsection (f) of this section or in other*
2 *provisions of law, the Administrator”;* and

3 *(2) by striking subsection (f) and inserting the*
4 *following:*

5 “(f) *AUTHORITY OF THE SECRETARY AND THE ADMIN-*
6 *ISTRATOR.—*

7 “(1) *AUTHORITY OF THE SECRETARY.—Except*
8 *as provided in paragraph (2), the Secretary of Trans-*
9 *portation shall carry out the duties and powers of the*
10 *Administration.*

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

13 “(A) *is the final authority for carrying out*
14 *all functions, powers, and duties of the Adminis-*
15 *tration relating to—*

16 “(i) *except as otherwise provided in*
17 *paragraph (3), the promulgation of regula-*
18 *tions, rules, orders, circulars, bulletins, and*
19 *other official publications of the Adminis-*
20 *tration; and*

21 “(ii) *any obligation imposed on the*
22 *Administrator, or power conferred on the*
23 *Administrator, by the Air Traffic Manage-*
24 *ment System Performance Improvement Act*

1 of 1996 (or any amendment made by that
2 Act);

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

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

13 “(D) except as otherwise provided for in
14 this title, and notwithstanding any other provi-
15 sion of law to the contrary, shall not be required
16 to coordinate, submit for approval or concur-
17 rence, or seek the advice or views of the Secretary
18 or any other officer or employee of the Depart-
19 ment of Transportation on any matter with re-
20 spect to which the Administrator is the final au-
21 thority.

22 “(3) *DEFINITION OF POLITICAL APPOINTEE.*—
23 For purposes of this subsection, the term ‘political ap-
24 pointee’ means any individual who—

1 “(A) is employed in a position on the Exec-
2 utive Schedule under sections 5312 through 5316
3 of title 5;

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

9 “(C) is employed in a position in the execu-
10 tive branch of the Government of a confidential
11 or policy-determining character under Schedule
12 C of subpart C of part 213 of title 5 of the Code
13 of Federal Regulations.”.

14 (b) *PRESERVATION OF EXISTING AUTHORITY.*—*Noth-*
15 *ing in this title or the amendments made by this title limits*
16 *any authority granted to the Administrator by statute or*
17 *by delegation that was in effect on the day before the date*
18 *of enactment of this Act.*

19 **SEC. 624. REGULATIONS.**

20 Section 106(f), as amended by section 623, is further
21 amended—

22 (1) by redesignating paragraph (3) as para-
23 graph (4); and

24 (2) by inserting after paragraph (2) the follow-
25 ing:

1 “(3) *REGULATIONS.*—

2 “(A) *IN GENERAL.*—*In the performance of*
3 *the functions of the Administrator and the Ad-*
4 *ministration, the Administrator is authorized to*
5 *issue, rescind, and revise such regulations as are*
6 *necessary to carry out those functions. The issu-*
7 *ance of such regulations shall be governed by the*
8 *provisions of chapter 5 of title 5. The Adminis-*
9 *trator shall act upon all petitions for rulemaking*
10 *no later than 6 months after the date such peti-*
11 *tions are filed by dismissing such petitions, by*
12 *informing the petitioner of an intention to dis-*
13 *miss, or by issuing a notice of proposed rule-*
14 *making or advanced notice of proposed rule-*
15 *making. The Administrator shall issue a final*
16 *regulation, or take other final action, not later*
17 *than 18 months after the date of publication in*
18 *the Federal Register of a notice of proposed rule-*
19 *making or, in the case of an advanced notice of*
20 *proposed rulemaking, if issued, not later than 24*
21 *months after that date.*

22 “(B) *APPROVAL OF SECRETARY OF TRANS-*
23 *PORTATION.*—

24 “(i) *The Administrator may not issue*
25 *a proposed regulation or final regulation*

1 that is likely to result in the expenditure by
2 State, local, and tribal governments in the
3 aggregate, or by the private sector, of
4 \$50,000,000 or more (adjusted annually for
5 inflation beginning with the year following
6 the date of enactment of the Air Traffic
7 Management System Performance Improve-
8 ment Act of 1996) in any 1 year, or any
9 regulation which is significant, unless the
10 Secretary of Transportation approves the
11 issuance of the regulation in advance. For
12 purposes of this paragraph, a regulation is
13 significant if it is likely to—

14 “(I) have an annual effect on the
15 economy of \$100,000,000 or more or
16 adversely affect in a material way the
17 economy, a sector of the economy, pro-
18 ductivity, competition, jobs, the envi-
19 ronment, public health or safety, or
20 State, local, or tribal governments or
21 communities;

22 “(II) create a serious inconsis-
23 tency or otherwise interfere with an ac-
24 tion taken or planned by another agen-
25 cy;

1 “(III) materially alter the budg-
2 etary impact of entitlements, grants,
3 user fees, or loan programs or the
4 rights and obligations of recipients
5 thereof; or

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

8 “(ii) In an emergency, the Adminis-
9 trator may issue a regulation described in
10 clause (i) without prior approval by the
11 Secretary, but any such emergency regula-
12 tion is subject to ratification by the Sec-
13 retary after it is issued and shall be re-
14 scinded by the Administrator within 5 days
15 (excluding Saturdays, Sundays, and legal
16 public holidays) after issuance if the Sec-
17 retary fails to ratify its issuance.

18 “(iii) Any regulation that does not
19 meet the criteria of clause (i), and any reg-
20 ulation or other action that is a routine or
21 frequent action or a procedural action, may
22 be issued by the Administrator without re-
23 view or approval by the Secretary.

24 “(iv) The Administrator shall submit a
25 copy of any regulation requiring approval

1 by the Secretary under clause (i) to the Sec-
2 retary, who shall either approve it or return
3 it to the Administrator with comments
4 within 45 days after receiving it.

5 “(C) PERIODIC REVIEW.—(i) Beginning on
6 the date which is 3 years after the date of enact-
7 ment of the Air Traffic Management System Per-
8 formance Improvement Act of 1996, the Admin-
9 istrator shall review any unusually burdensome
10 regulation issued by the Administrator after the
11 date of enactment of the Air Traffic Management
12 System Performance Improvement Act of 1996
13 beginning not later than 3 years after the effec-
14 tive date of the regulation to determine if the cost
15 assumptions were accurate, the benefit of the reg-
16 ulations, and the need to continue such regula-
17 tions in force in their present form.

18 “(ii) The Administrator may identify for
19 review under the criteria set forth in clause (i)
20 unusually burdensome regulations that were is-
21 sued before the date of enactment of the Air Traf-
22 fic Management System Performance Improve-
23 ment Act of 1996 and that have been in force for
24 more than 3 years.

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

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

14 **SEC. 625. PERSONNEL AND SERVICES.**

15 Section 106 is amended by adding at the end the fol-
16 lowing new subsection:

17 “(l) **PERSONNEL AND SERVICES.**—

18 “(1) **OFFICERS AND EMPLOYEES.**—*Except as*
19 *provided in section 40121(a) of this title and section*
20 *347 of Public Law 104–50, the Administrator is au-*
21 *thorized, in the performance of the functions of the*
22 *Administrator, to appoint, transfer, and fix the com-*
23 *ensation of such officers and employees, including*
24 *attorneys, as may be necessary to carry out the func-*
25 *tions of the Administrator and the Administration.*

1 *In fixing compensation and benefits of officers and*
2 *employees, the Administrator shall not engage in any*
3 *type of bargaining, except to the extent provided for*
4 *in section 40121(a), nor shall the Administrator be*
5 *bound by any requirement to establish such com-*
6 *penetration or benefits at particular levels.*

7 “(2) *EXPERTS AND CONSULTANTS.—The Admin-*
8 *istrator is authorized to obtain the services of experts*
9 *and consultants in accordance with section 3109 of*
10 *title 5.*

11 “(3) *TRANSPORTATION AND PER DIEM EX-*
12 *PENSES.—The Administrator is authorized to pay*
13 *transportation expenses, and per diem in lieu of sub-*
14 *sistence expenses, in accordance with chapter 57 of*
15 *title 5.*

16 “(4) *USE OF PERSONNEL FROM OTHER AGEN-*
17 *CIES.—The Administrator is authorized to utilize the*
18 *services of personnel of any other Federal agency (as*
19 *such term is defined under section 551(1) of title 5).*

20 “(5) *VOLUNTARY SERVICES.—*

21 “(A) *IN GENERAL.—(i) In exercising the*
22 *authority to accept gifts and voluntary services*
23 *under section 326 of this title, and without re-*
24 *gard to section 1342 of title 31, the Adminis-*
25 *trator may not accept voluntary and uncompen-*

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

4 “(ii) *The Administrator is authorized to*
5 *provide for incidental expenses, including trans-*
6 *portation, lodging, and subsistence for volunteers*
7 *who provide voluntary services under this sub-*
8 *section.*

9 “(iii) *An individual who provides vol-*
10 *untary services under this subsection shall not be*
11 *considered a Federal employee for any purpose*
12 *other than for purposes of chapter 81 of title 5,*
13 *relating to compensation for work injuries, and*
14 *chapter 171 of title 28, relating to tort claims.”.*

15 **SEC. 626. CONTRACTS.**

16 *Section 106(l), as added by section 625 of this title,*
17 *is amended by adding at the end the following new para-*
18 *graph:*

19 “(6) **CONTRACTS.**—*The Administrator is author-*
20 *ized to enter into and perform such contracts, leases,*
21 *cooperative agreements, or other transactions as may*
22 *be necessary to carry out the functions of the Admin-*
23 *istrator and the Administration. The Administrator*
24 *may enter into such contracts, leases, cooperative*
25 *agreements, and other transactions with any Federal*

1 agency (as such term is defined in section 551(1) of
2 title 5) or any instrumentality of the United States,
3 any State, territory, or possession, or political sub-
4 division thereof, any other governmental entity, or
5 any person, firm, association, corporation, or edu-
6 cational institution, on such terms and conditions as
7 the Administrator may consider appropriate.”.

8 **SEC. 627. FACILITIES.**

9 Section 106, as amended by section 625 of this title,
10 is further amended by adding at the end the following new
11 subsection:

12 “(m) *COOPERATION BY ADMINISTRATOR.*—With the
13 consent of appropriate officials, the Administrator may,
14 with or without reimbursement, use or accept the services,
15 equipment, personnel, and facilities of any other Federal
16 agency (as such term is defined in section 551(1) of title
17 5) and any other public or private entity. The Adminis-
18 trator may also cooperate with appropriate officials of other
19 public and private agencies and instrumentalities concern-
20 ing the use of services, equipment, personnel, and facilities.
21 The head of each Federal agency shall cooperate with the
22 Administrator in making the services, equipment, person-
23 nel, and facilities of the Federal agency available to the Ad-
24 ministrato. The head of a Federal agency is authorized,
25 notwithstanding any other provision of law, to transfer to

1 *or to receive from the Administration, without reimburse-*
2 *ment, supplies and equipment other than administrative*
3 *supplies or equipment.”.*

4 **SEC. 628. PROPERTY.**

5 *Section 106, as amended by section 627 of this title,*
6 *is further amended by adding at the end the following new*
7 *subsection:*

8 *“(n) ACQUISITION.—*

9 *“(1) IN GENERAL.—The Administrator is au-*
10 *thorized—*

11 *“(A) to acquire (by purchase, lease, con-*
12 *demnation, or otherwise), construct, improve, re-*
13 *pair, operate, and maintain—*

14 *“(i) air traffic control facilities and*
15 *equipment;*

16 *“(ii) research and testing sites and fa-*
17 *cilities; and*

18 *“(iii) such other real and personal*
19 *property (including office space and pat-*
20 *ents), or any interest therein, within and*
21 *outside the continental United States as the*
22 *Administrator considers necessary;*

23 *“(B) to lease to others such real and per-*
24 *sonal property; and*

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

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

10 **SEC. 629. TRANSFERS OF FUNDS FROM OTHER FEDERAL**
11 **AGENCIES.**

12 Section 106, as amended by section 628 of this title,
13 is further amended by adding at the end the following new
14 subsection:

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

1 **SEC. 630. MANAGEMENT ADVISORY COUNCIL.**

2 *Section 106, as amended by section 629 of this title,*
3 *is further amended by adding at the end the following new*
4 *subsection:*

5 “(p) *MANAGEMENT ADVISORY COUNCIL.—*

6 *“(1) ESTABLISHMENT.—Within 3 months after*
7 *the date of enactment of the Air Traffic Management*
8 *System Performance Improvement Act of 1996, the*
9 *Administrator shall establish an advisory council*
10 *which shall be known as the Federal Aviation Man-*
11 *agement Advisory Council (in this subsection referred*
12 *to as the ‘Council’). With respect to Administration*
13 *management, policy, spending, funding, and regu-*
14 *latory matters affecting the aviation industry, the*
15 *Council may submit comments, recommended modi-*
16 *fications, and dissenting views to the Administrator.*
17 *The Administrator shall include in any submission to*
18 *Congress, the Secretary, or the general public, and in*
19 *any submission for publication in the Federal Reg-*
20 *ister, a description of the comments, recommended*
21 *modifications, and dissenting views received from the*
22 *Council, together with the reasons for any differences*
23 *between the views of the Council and the views or ac-*
24 *tions of the Administrator.*

25 *“(2) MEMBERSHIP.—The Council shall consist of*
26 *15 members, who shall consist of—*

1 “(A) a designee of the Secretary of Trans-
2 portation;

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

5 “(C) 13 members representing aviation in-
6 terests, appointed by the President by and with
7 the advice and consent of the Senate.

8 “(3) QUALIFICATIONS.—No member appointed
9 under paragraph (2)(C) may serve as an officer or
10 employee of the United States Government while serv-
11 ing as a member of the Council.

12 “(4) FUNCTIONS.—

13 “(A) IN GENERAL.—(i) The Council shall
14 provide advice and counsel to the Administrator
15 on issues which affect or are affected by the oper-
16 ations of the Administrator. The Council shall
17 function as an oversight resource for manage-
18 ment, policy, spending, and regulatory matters
19 under the jurisdiction of the Administration.

20 “(ii) The Council shall review the rule-
21 making cost-benefit analysis process and develop
22 recommendations to improve the analysis and
23 ensure that the public interest is fully protected.

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

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

7 “(C) *ACCESS TO DOCUMENTS AND STAFF.—*
8 *The Administration may give the Council appro-*
9 *priate access to relevant documents and person-*
10 *nel of the Administration, and the Administrator*
11 *shall make available, consistent with the author-*
12 *ity to withhold commercial and other propri-*
13 *etary information under section 552 of title 5*
14 *(commonly known as the ‘Freedom of Informa-*
15 *tion Act’), cost data associated with the acquisi-*
16 *tion and operation of air traffic service systems.*
17 *Any member of the Council who receives com-*
18 *mercial or other proprietary data from the Ad-*
19 *ministrator shall be subject to the provisions of*
20 *section 1905 of title 18, pertaining to unauthor-*
21 *ized disclosure of such information.*

22 “(5) *FEDERAL ADVISORY COMMITTEE ACT NOT*
23 *TO APPLY.—The Federal Advisory Committee Act (5*
24 *U.S.C. App.) does not apply to the Council or such*

1 *aviation rulemaking committees as the Administrator*
2 *shall designate.*

3 “(6) *ADMINISTRATIVE MATTERS.*—

4 “(A) *TERMS OF MEMBERS.*—(i) *Except as*
5 *provided in subparagraph (B), members of the*
6 *Council appointed by the President under para-*
7 *graph (2)(C) shall be appointed for a term of 3*
8 *years.*

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

11 “(I) *4 shall be appointed for terms of*
12 *1 year;*

13 “(II) *5 shall be appointed for terms of*
14 *2 years; and*

15 “(III) *4 shall be appointed for terms of*
16 *3 years.*

17 “(iii) *An individual chosen to fill a va-*
18 *cancy shall be appointed for the unexpired term*
19 *of the member replaced.*

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

23 “(B) *CHAIRMAN; VICE CHAIRMAN.*—*The*
24 *Council shall elect a chair and a vice chair from*
25 *among the members appointed under paragraph*

1 (2)(C), each of whom shall serve for a term of 1
2 year. The vice chair shall perform the duties of
3 the chairman in the absence of the chairman.

4 “(C) TRAVEL AND PER DIEM.—Each mem-
5 ber of the Council shall be paid actual travel ex-
6 penses, and per diem in lieu of subsistence ex-
7 penses when away from his or her usual place of
8 residence, in accordance with section 5703 of
9 title 5.

10 “(D) DETAIL OF PERSONNEL FROM THE AD-
11 MINISTRATION.—The Administrator shall make
12 available to the Council such staff, information,
13 and administrative services and assistance as
14 may reasonably be required to enable the Council
15 to carry out its responsibilities under this sub-
16 section.

17 “(7) REPORT TO CONGRESS.—The Council, in
18 conjunction with the Administration, shall undertake
19 a review of the overall condition of aviation safety in
20 the United States and emerging trends in the safety
21 of particular sections of the aviation industry. This
22 shall include an examination of—

23 “(A) the extent to which the dual mission of
24 the Administration to promote and regulate civil
25 aviation may affect aviation safety and provide

1 *recommendations to Congress for any necessary*
2 *changes the Council, in conjunction with Admin-*
3 *istration, deems appropriate; and*

4 *“(B) the adequacy of staffing and training*
5 *resources for safety personnel of the Administra-*
6 *tion, including safety inspectors.*

7 *The Council shall report to Congress within 180 days*
8 *after the date of enactment of this Act on its findings*
9 *and recommendations under this paragraph.*

10 **SEC. 631. AIRCRAFT ENGINE STANDARDS.**

11 *Subsection (a)(1) of section 44715 is amended to read*
12 *as follows:*

13 *“(a) STANDARDS AND REGULATIONS.—(1) To relieve*
14 *and protect the public health and welfare from aircraft*
15 *noise, sonic boom, the Administrator of the Federal Avia-*
16 *tion Administration, as he deems necessary, shall pre-*
17 *scribe—*

18 *“(A) standards to measure aircraft noise and*
19 *sonic boom;*

20 *“(B) regulations to control and abate aircraft*
21 *noise and sonic boom; and*

22 *“(C)(i) the Environmental Protection Agency*
23 *shall consult with the Federal Aviation Administra-*
24 *tion on aircraft engine emission standards;*

1 “(ii) the Environmental Protection Agency shall
2 not change the aircraft engine emission standards if
3 such change would significantly increase noise and
4 adversely affect safety;

5 “(iii) the Administrator, as the Administrator
6 deems appropriate, shall provide for the participation
7 of a representative of the Environmental Protection
8 Agency on such advisory committees or associated
9 working groups that advise the Administrator on
10 matters related to the environmental effects of aircraft
11 and aircraft engines.”.

12 **SEC. 632. RURAL AIR FARE STUDY.**

13 (a) *IN GENERAL.*—The Secretary shall conduct a
14 study to—

15 (1) compare air fares paid (calculated as both
16 actual and adjusted air fares) for air transportation
17 on flights conducted by commercial air carriers—

18 (A) between—

19 (i) nonhub airports located in small
20 communities; and

21 (ii) large hub airports; and

22 (B) between large hub airports;

23 (2) analyze—

1 (A) *the extent to which passenger service*
2 *that is provided from nonhub airports is pro-*
3 *vided on—*

4 (i) *regional commuter commercial air*
5 *carriers; or*

6 (ii) *major air carriers;*

7 (B) *the type of aircraft employed in provid-*
8 *ing passenger service at nonhub airports; and*

9 (C) *whether there is competition among*
10 *commercial air carriers with respect to the pro-*
11 *vision of air service to passengers from nonhub*
12 *airports.*

13 (b) *FINDINGS.—The Secretary shall include in the re-*
14 *port of the study conducted under subsection (a) findings*
15 *concerning—*

16 (1) *whether passengers who use commercial air*
17 *carriers to and from rural areas (as defined by the*
18 *Secretary) pay a disproportionately greater price for*
19 *that transportation than passengers who use commer-*
20 *cial air carriers between urban areas (as defined by*
21 *the Secretary);*

22 (2) *the nature of competition, if any, in rural*
23 *markets (as defined by the Secretary) for commercial*
24 *air carriers;*

1 (3) *whether a relationship exists between higher*
2 *air fares and competition among commercial air car-*
3 *riers for passengers traveling on jet aircraft from*
4 *small communities (as defined by the Secretary) and,*
5 *if such a relation exists, the nature of that relation-*
6 *ship;*

7 (4) *the number of small communities that have*
8 *lost air service as a result of the deregulation of com-*
9 *mercial air carriers with respect to air fares;*

10 (5) *the number of small communities served by*
11 *airports with respect to which, after commercial air*
12 *carrier fares were deregulated, jet aircraft service was*
13 *replaced by turboprop aircraft service; and*

14 (6) *where such replacement occurred, any cor-*
15 *responding decreases in available seat capacity for*
16 *consumers at the airports referred to in that subpara-*
17 *graph.*

18 (c) *REPORT.*—*Not later than 60 days after the date*
19 *of enactment of this Act, the Secretary shall submit a final*
20 *report on the study carried out under subsection (a) to the*
21 *Committee on Commerce, Science, and Transportation of*
22 *the Senate.*

23 (d) *DEFINITIONS.*—*For purposes of this section, the*
24 *following definitions shall apply:*

1 (1) *ADJUSTED AIR FARE.*—The term “adjusted
2 air fare” means an actual air fare that is adjusted
3 for distance traveled by a passenger.

4 (2) *AIR CARRIER.*—The term “air carrier” is de-
5 fined in section 40102(a)(2) of title 49, United States
6 Code.

7 (3) *AIRPORT.*—The term “airport” is defined in
8 section 40102(9) of such title.

9 (4) *COMMERCIAL AIR CARRIER.*—The term “com-
10 mercial air carrier” means an air carrier that pro-
11 vides air transportation for commercial purposes (as
12 determined by the Secretary).

13 (5) *HUB AIRPORT.*—The term “hub airport” is
14 defined in section 41731(a)(2) of such title.

15 (6) *LARGE HUB AIRPORT.*—The term “large hub
16 airport” shall be defined by the Secretary but the def-
17 inition may not include a small hub airport, as that
18 term is defined in section 41731(a)(5) of such title.

19 (7) *MAJOR AIR CARRIER.*—The term “major air
20 carrier” shall be defined by the Secretary.

21 (8) *NONHUB AIRPORT.*—The term “nonhub air-
22 port” is defined in section 41731(a)(4) of such title.

23 (9) *REGIONAL COMMUTER AIR CARRIER.*—The
24 term “regional commuter air carrier” shall be defined
25 by the Secretary.

1 **Subtitle B—Federal Aviation Ad-**
2 **ministration Streamlining Pro-**
3 **grams**

4 **SEC. 651. REVIEW OF ACQUISITION MANAGEMENT SYSTEM.**

5 *Not later than April 1, 1999, the Administration shall*
6 *employ outside experts to provide an independent evalua-*
7 *tion of the effectiveness of its acquisition management sys-*
8 *tem within 3 months after such date. The Administrator*
9 *shall transmit a copy of the evaluation to the Committee*
10 *on Commerce, Science, and Transportation of the Senate,*
11 *and the Committee on Transportation and Infrastructure*
12 *of the House of Representatives.*

13 **SEC. 652. AIR TRAFFIC CONTROL MODERNIZATION RE-**
14 **VIEWS.**

15 *Chapter 401, as amended by section 402 of this Act,*
16 *is amended by redesignating section 40121 as 40123, and*
17 *by inserting after section 40120 the following new section:*

18 **“§40121. Air traffic control modernization reviews**

19 *“(a) REQUIRED TERMINATIONS OF ACQUISITIONS.—*
20 *The Administrator of the Federal Aviation Administration*
21 *(hereafter referred to in this section as the ‘Administrator’)*
22 *shall terminate any program initiated after the date of en-*
23 *actment of the Air Traffic Management System Perform-*
24 *ance Improvement Act of 1996 and funded under the Facili-*
25 *ties and Equipment account that—*

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

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

5 “(3) is more than 50 percent behind schedule as
6 determined in accordance with the schedule goal es-
7 tablished for the program.

8 “(b) *AUTHORIZED TERMINATIONS OF ACQUI-*
9 *TIONS.—The Administrator shall consider terminating,*
10 *under the authority of subsection (a), any substantial ac-*
11 *quisition that—*

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

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

16 “(3) is more than 10 percent behind schedule as
17 determined in accordance with the schedule goal es-
18 tablished for the program.

19 “(c) *EXCEPTIONS AND REPORT.—*

20 “(1) *CONTINUANCE OF PROGRAM, ETC.—Not-*
21 *withstanding subsection (a), the Administrator may*
22 *continue an acquisitions program required to be ter-*
23 *minated under subsection (a) if the Administrator de-*
24 *termines that termination would be inconsistent with*

1 *the development or operation of the national air*
2 *transportation system in a safe and efficient manner.*

3 “(2) *DEPARTMENT OF DEFENSE.*—*The Depart-*
4 *ment of Defense shall have the same exemptions from*
5 *acquisition laws as are waived by the Administrator*
6 *under section 348(b) of Public Law 104–50 when en-*
7 *gaged in joint actions to improve or replenish the na-*
8 *tional air traffic control system. The Administration*
9 *may acquire real property, goods, and services*
10 *through the Department of Defense, or other appro-*
11 *priate agencies, but is bound by the acquisition laws*
12 *and regulations governing those cases.*

13 “(3) *REPORT.*—*If the Administrator makes a de-*
14 *termination under paragraph (1), the Administrator*
15 *shall transmit a copy of the determination, together*
16 *with a statement of the basis for the determination,*
17 *to the Committees on Appropriations of the Senate*
18 *and the House of Representatives, the Committee on*
19 *Commerce, Science, and Transportation of the Senate,*
20 *and the Committee on Transportation and Infrastruc-*
21 *ture of the House of Representatives.”.*

1 **SEC. 653. FEDERAL AVIATION ADMINISTRATION PERSON-**
2 **NEL MANAGEMENT SYSTEM.**

3 *Chapter 401, as amended by section 652, is further*
4 *amended by inserting after section 40121 the following new*
5 *section:*

6 **“§40122. Federal Aviation Administration personnel**
7 ***management system***

8 *“(a) IN GENERAL.—*

9 *“(1) CONSULTATION AND NEGOTIATION.—In de-*
10 *veloping and making changes to the personnel man-*
11 *agement system initially implemented by the Admin-*
12 *istrator on April 1, 1996, the Administrator shall ne-*
13 *gotiate with the exclusive bargaining representatives*
14 *of employees of the Administration certified under*
15 *section 7111 of title 5 and consult with other employ-*
16 *ees of the Administration.*

17 *“(2) MEDIATION.—If the Administrator does not*
18 *reach an agreement under paragraph (1) with the ex-*
19 *clusive bargaining representatives, the services of the*
20 *Federal Mediation and Conciliation Service shall be*
21 *used to attempt to reach such agreement. If the serv-*
22 *ices of the Federal Mediation and Conciliation Serv-*
23 *ice do not lead to an agreement, the Administrator’s*
24 *proposed change to the personnel management system*
25 *shall not take effect until 60 days have elapsed after*
26 *the Administrator has transmitted the proposed*

1 *change, along with the objections of the exclusive bar-*
2 *gaining representatives to the change, and the reasons*
3 *for such objections, to the Congress.*

4 *“(3) COST SAVINGS AND PRODUCTIVITY GOALS.—*
5 *The Administration and the exclusive bargaining rep-*
6 *resentatives of the employees shall use every reason-*
7 *able effort to find cost savings and to increase produc-*
8 *tivity within each of the affected bargaining units.*

9 *“(4) ANNUAL BUDGET DISCUSSIONS.—The Ad-*
10 *ministration and the exclusive bargaining representa-*
11 *tives of the employees shall meet annually for the pur-*
12 *pose of finding additional cost savings within the Ad-*
13 *ministration’s annual budget as it applies to each of*
14 *the affected bargaining units and throughout the*
15 *agency.*

16 *“(b) EXPERT EVALUATION.—On the date that is 3*
17 *years after the personnel management system is imple-*
18 *mented, the Administration shall employ outside experts to*
19 *provide an independent evaluation of the effectiveness of the*
20 *system within 3 months after such date. For this purpose,*
21 *the Administrator may utilize the services of experts and*
22 *consultants under section 3109 of title 5 without regard to*
23 *the limitation imposed by the last sentence of section*
24 *3109(b) of such title, and may contract on a sole source*

1 *basis, notwithstanding any other provision of law to the*
2 *contrary.*

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

7 “(d) *ETHICS.*—*The Administration shall be subject to*
8 *Executive Order No. 12674 and regulations and opinions*
9 *promulgated by the Office of Government Ethics, including*
10 *those set forth in section 2635 of title 5 of the Code of Fed-*
11 *eral Regulations.*

12 “(e) *EMPLOYEE PROTECTIONS.*—*Until July 1, 1999,*
13 *basic wages (including locality pay) and operational dif-*
14 *ferential pay provided employees of the Administration*
15 *shall not be involuntarily adversely affected by reason of*
16 *the enactment of this section, except for unacceptable per-*
17 *formance or by reason of a reduction in force or reorganiza-*
18 *tion or by agreement between the Administration and the*
19 *affected employees’ exclusive bargaining representative.*

20 “(f) *LABOR-MANAGEMENT AGREEMENTS.*—*Except as*
21 *otherwise provided by this title, all labor-management*
22 *agreements covering employees of the Administration that*
23 *are in effect on the effective date of the Air Traffic Manage-*
24 *ment System Performance Improvement Act of 1996 shall*
25 *remain in effect until their normal expiration date, unless*

1 *the Administrator and the exclusive bargaining representa-*
 2 *tive agree to the contrary.”.*

3 **SEC. 654. CONFORMING AMENDMENT.**

4 *The chapter analysis for chapter 401, as amended by*
 5 *section 403(b) of this Act, is amended by striking the item*
 6 *relating to section 40120 and inserting the following new*
 7 *items:*

“40121. Air traffic control modernization reviews.

“40122. Federal Aviation Administration personnel management system.

“40123. Relationship to other laws.”.

8 ***Subtitle C—System To Fund Cer-***
 9 ***tain Federal Aviation Adminis-***
 10 ***tration Functions***

11 **SEC. 671. FINDINGS.**

12 *The Congress finds the following:*

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

15 *(2) The Administration certifies aircraft, en-*
 16 *gines, propellers, and other manufactured parts.*

17 *(3) The Administration certifies more than 650*
 18 *training schools for pilots and nonpilots, more than*
 19 *4,858 repair stations, and more than 193 mainte-*
 20 *nance schools.*

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

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

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

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

11 (8) *The Administration issues more than*
12 *655,000 pilot's licenses and more than 560,000 non-*
13 *pilot's licenses (including mechanics).*

14 (9) *The Administration's certification means*
15 *that the product meets worldwide recognized stand-*
16 *ards of safety and reliability.*

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

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

1 (12) *The Administration's certification may con-*
2 *stitute a valuable license, franchise, privilege or bene-*
3 *fits for the holders.*

4 (13) *The Administration also is a major pur-*
5 *chaser of computers, radars, and other systems needed*
6 *to run the air traffic control system. The Administra-*
7 *tion's design, acceptance, commissioning, or certifi-*
8 *cation of such equipment enables the private sector to*
9 *market those products around the world, and as such*
10 *confers a benefit on the manufacturer.*

11 (14) *The Administration provides extensive serv-*
12 *ices to public use aircraft.*

13 **SEC. 672. PURPOSES.**

14 *The purposes of this title are—*

15 (1) *to provide a financial structure for the Ad-*
16 *ministration so that it will be able to support the fu-*
17 *ture growth in the national aviation and airport sys-*
18 *tem;*

19 (2) *to review existing and alternative funding*
20 *options, including incentive-based fees for services,*
21 *and establish a program to improve air traffic man-*
22 *agement system performance and to establish appro-*
23 *priate levels of cost accountability for air traffic man-*
24 *agement services provided by the Administration;*

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

3 (4) to authorize the Administration to recover
4 the costs of its services from those who benefit from,
5 but do not contribute to, the national aviation system
6 and the services provided by the Administration;

7 (5) to consider a fee system based on the cost or
8 value of the services provided and other funding alter-
9 natives;

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

14 (7) to achieve a more efficient and effective Ad-
15 ministration for the benefit of the aviation transpor-
16 tation industry.

17 **SEC. 673. USER FEES FOR VARIOUS FEDERAL AVIATION AD-**
18 **MINISTRATION SERVICES.**

19 (a) *IN GENERAL.*—Chapter 453 is amended by strik-
20 ing section 45301 and inserting the following new section:

21 **“§ 45301. General provisions**

22 “(a) *SCHEDULE OF FEES.*—The Administrator shall
23 establish a schedule of new fees, and a collection process for
24 such fees, for the following services provided by the Admin-
25 istration:

1 “(1) *Air traffic control and related services pro-*
2 *vided to aircraft other than military and civilian air-*
3 *craft of the United States government or of a foreign*
4 *government that neither take off from, nor land in,*
5 *the United States.*

6 “(2) *Services (other than air traffic control serv-*
7 *ices) provided to a foreign government.*

8 “(b) *LIMITATIONS.—*

9 “(1) *AUTHORIZATION AND IMPACT CONSIDER-*
10 *ATIONS.—In establishing fees under subsection (a), the*
11 *Administrator—*

12 “(A) *is authorized to recover in fiscal year*
13 *1997 \$100,000,000; and*

14 “(B) *shall ensure that each of the fees re-*
15 *quired by subsection (a) is directly related to the*
16 *Administration’s costs of providing the service*
17 *rendered. Services for which costs may be recov-*
18 *ered include the costs of air traffic control, navi-*
19 *gation, weather services, training and emergency*
20 *services which are available to facilitate safe*
21 *transportation over the United States, and other*
22 *services provided by the Administrator or by*
23 *programs financed by the Administrator to*
24 *flights that neither take off nor land in the Unit-*
25 *ed States.*

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

6 “(c) *USE OF EXPERTS AND CONSULTANTS.*—*In devel-*
7 *oping the system, the Administrator may consult with such*
8 *nongovernmental experts as the Administrator may employ*
9 *and the Administrator may utilize the services of experts*
10 *and consultants under section 3109 of title 5 without regard*
11 *to the limitation imposed by the last sentence of section*
12 *3109(b) of such title, and may contract on a sole source*
13 *basis, notwithstanding any other provision of law to the*
14 *contrary. Notwithstanding any other provision of law to the*
15 *contrary, the Administrator may retain such experts under*
16 *a contract awarded on a basis other than a competitive*
17 *basis and without regard to any such provisions requiring*
18 *competitive bidding or precluding sole source contract au-*
19 *thority.”.*

20 “(b) *CONFORMING AMENDMENT.*—*The chapter analysis*
21 *for chapter 453 is amended by striking the item relating*
22 *to section 45301 and inserting the following new item:*

 “45301. *General provisions.*”.

23 “(c) *REPEAL.*—

24 “(1) *IN GENERAL.*—*Section 70118 is repealed.*

1 (2) *CONFORMING AMENDMENT.*—*The chapter*
2 *analysis for chapter 701 is amended by striking the*
3 *item relating to section 70118.*

4 **SEC. 674. INDEPENDENT ASSESSMENT AND TASK FORCE TO**
5 **REVIEW EXISTING AND INNOVATIVE FUND-**
6 **ING MECHANISMS.**

7 (a) *INDEPENDENT ASSESSMENT.*—

8 (1) *INITIATION.*—*As soon as all members of the*
9 *task force are appointed under subsection (b) of this*
10 *section, the Administrator shall contract with an en-*
11 *tity independent of the Administration and the De-*
12 *partment of Transportation to conduct a complete*
13 *independent assessment of the financial requirements*
14 *of the Administration through the year 2002.*

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

23 (3) *CERTAIN FACTORS TO BE TAKEN INTO AC-*
24 *COUNT.*—*The independent assessment shall take into*
25 *account all relevant factors, including—*

- 1 (A) *anticipated air traffic forecasts;*
2 (B) *other workload measures;*
3 (C) *estimated productivity gains, if any,*
4 *which contribute to budgetary requirements;*
5 (D) *the need for programs; and*
6 (E) *the need to provide for continued im-*
7 *provements in all facets of aviation safety, along*
8 *with operational improvements in air traffic*
9 *control.*

10 (4) *COST ALLOCATION.*—*The independent assess-*
11 *ment shall also assess the costs to the Administration*
12 *occasioned by the provision of services to each segment*
13 *of the aviation system.*

14 (5) *DEADLINE.*—*The independent assessment*
15 *shall be completed no later than 90 days after the*
16 *contract is awarded, and shall be submitted to the*
17 *task force, the Secretary, the Secretary of the Treas-*
18 *ury, the Committee on Commerce, Science, and*
19 *Transportation and the Committee on Finance of the*
20 *Senate, and the Committee on Transportation and*
21 *Infrastructure and the Committee on Ways and*
22 *Means of the House of Representatives.*

23 (b) *TASK FORCE.*—

24 (1) *ESTABLISHMENT.*—*Not later than 30 days*
25 *after the date of enactment of this Act, the Secretary,*

1 *in consultation with the Secretary of the Treasury,*
2 *shall establish an 11-member task force, independent*
3 *of the Administration and the Department of Trans-*
4 *portation.*

5 (2) *MEMBERSHIP.*—*The members of the task*
6 *force shall be selected from among individuals who*
7 *have expertise in the aviation industry and who are*
8 *able, collectively, to represent a balanced view of the*
9 *issues important to general aviation, major air car-*
10 *riers, air cargo carriers, regional air carriers, busi-*
11 *ness aviation, airports, aircraft manufacturers, the fi-*
12 *nancial community, aviation industry workers, and*
13 *airline passengers. At least one member of the task*
14 *force shall have detailed knowledge of the congres-*
15 *sional budgetary process.*

16 (3) *HEARINGS AND CONSULTATION.*—

17 (A) *HEARINGS.*—*The task force shall take*
18 *such testimony and solicit and receive such com-*
19 *ments from the public and other interested par-*
20 *ties as it considers appropriate, shall conduct 2*
21 *public hearings after affording adequate notice to*
22 *the public thereof, and is authorized to conduct*
23 *such additional hearings as may be necessary.*

24 (B) *CONSULTATION.*—*The task force shall*
25 *consult on a regular and frequent basis with the*

1 *Secretary of Transportation, the Secretary of the*
2 *Treasury, the Committee on Commerce, Science,*
3 *and Transportation and the Committee on Fi-*
4 *nance of the Senate, and the Committee on*
5 *Transportation and Infrastructure and the Com-*
6 *mittee on Ways and Means of the House of Rep-*
7 *resentatives.*

8 (C) *FACA NOT TO APPLY.—The task force*
9 *shall not be considered an advisory committee for*
10 *purposes of the Federal Advisory Committee Act*
11 *(5 U.S.C. App.).*

12 (4) *DUTIES.—*

13 (A) *REPORT TO SECRETARY.—*

14 (i) *IN GENERAL.—The task force shall*
15 *submit a report setting forth a comprehen-*
16 *sive analysis of the Administration’s budg-*
17 *etary requirements through fiscal year 2002,*
18 *based upon the independent assessment*
19 *under subsection (a), that analyzes alter-*
20 *native financing and funding means for*
21 *meeting the needs of the aviation system*
22 *through the year 2002. The task force shall*
23 *submit a preliminary report of that analy-*
24 *sis to the Secretary not later than 6 months*
25 *after the independent assessment is com-*

1 *pleted under subsection (a). The Secretary*
2 *shall provide comments on the preliminary*
3 *report to the task force within 30 days after*
4 *receiving it. The task force shall issue a*
5 *final report of such comprehensive analysis*
6 *within 30 days after receiving the Sec-*
7 *retary's comments on its preliminary re-*
8 *port.*

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

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

13 *(II) shall consider estimated cost*
14 *savings, if any, resulting from the pro-*
15 *curement and personnel reforms in-*
16 *cluded in this Act or in sections 347*
17 *and 348 of Public Law 104–50, and*
18 *additional financial initiatives;*

19 *(III) shall include specific rec-*
20 *ommendations to the Congress on how*
21 *the Administration can reduce costs,*
22 *raise additional revenue for the sup-*
23 *port of agency operations, and acceler-*
24 *ate modernization efforts; and*

1 (IV) shall include a draft bill con-
2 taining the changes in law necessary to
3 implement its recommendations.

4 (B) *RECOMMENDATIONS.*—The task force
5 shall make such recommendations under sub-
6 paragraph (A)(III) as the task force deems ap-
7 propriate. Those recommendations may in-
8 clude—

9 (i) alternative financing and funding
10 proposals, including linked financing pro-
11 posals;

12 (ii) modifications to existing levels of
13 Airport and Airways Trust Fund receipts
14 and taxes for each type of tax;

15 (iii) establishment of a cost-based user
16 fee system based on, but not limited to, cri-
17 teria under subparagraph (F) and methods
18 to ensure that costs are borne by users on a
19 fair and equitable basis;

20 (iv) methods to ensure that funds col-
21 lected from the aviation community are able
22 to meet the needs of the agency;

23 (v) methods to ensure that funds col-
24 lected from the aviation community and

1 *passengers are used to support the aviation*
2 *system;*

3 *(vi) means of meeting the airport in-*
4 *frastructure needs for large, medium, and*
5 *small airports; and*

6 *(vii) any other matter the task force*
7 *deems appropriate to address the funding*
8 *and needs of the Administration and the*
9 *aviation system.*

10 *(C) ADDITIONAL RECOMMENDATIONS.—The*
11 *task force report may also make recommenda-*
12 *tions concerning—*

13 *(i) means of improving productivity by*
14 *expanding and accelerating the use of auto-*
15 *mation and other technology;*

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

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

22 *(iv) the elimination of unneeded pro-*
23 *grams; and*

24 *(v) a limited innovative program based*
25 *on funding mechanisms such as loan guar-*

1 *antees, financial partnerships with for-prof-*
2 *it private sector entities, government-spon-*
3 *sored enterprises, and revolving loan funds,*
4 *as a means of funding specific facilities and*
5 *equipment projects, and to provide limited*
6 *additional funding alternatives for airport*
7 *capacity development.*

8 *(D) IMPACT ASSESSMENT FOR REC-*
9 *COMMENDATIONS.—For each recommendation con-*
10 *tained in the task force’s report, the report shall*
11 *include a full analysis and assessment of the im-*
12 *port implementation of the recommendation*
13 *would have on—*

14 *(i) safety;*

15 *(ii) administrative costs;*

16 *(iii) the congressional budget process;*

17 *(iv) the economics of the industry (in-*
18 *cluding the proportionate share of all users);*

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

21 *(vi) the funding needs of the Adminis-*
22 *tration.*

23 *(E) TRUST FUND TAX RECOMMENDA-*
24 *TIONS.—If the task force’s report includes a rec-*
25 *ommendation that the existing Airport and Air-*

1 ways Trust Fund tax structure be modified, the
2 report shall—

3 (i) state the specific rates for each
4 group affected by the proposed modifica-
5 tions;

6 (ii) consider the impact such modifica-
7 tions shall have on specific users and the
8 public (including passengers); and

9 (iii) state the basis for the rec-
10 ommendations.

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

16 (i) the impact such a recommendation
17 would have on passengers, air fares (includ-
18 ing low-fare, high frequency service), serv-
19 ice, and competition;

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

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

3 (iv) the unique circumstances associ-
4 ated with interisland air carrier service in
5 Hawaii and rural air service in Alaska;

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

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

11 (vii) alternative methodologies for cal-
12 culating fees so as to achieve a fair and rea-
13 sonable distribution of costs of service
14 among users;

15 (viii) the usefulness of phased-in ap-
16 proaches to implementing such a financing
17 system;

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

22 (x) the provision of incentives to en-
23 courage greater efficiency in the provision
24 of air traffic services by the Administration

1 *and greater efficiency in the use of air traf-*
2 *fic services by aircraft operators.*

3 (G) *ACCESS TO DOCUMENTS AND STAFF.*—

4 *The Administration may give the task force ap-*
5 *propriate access to relevant documents and per-*
6 *sonnel of the Administration, and the Adminis-*
7 *trator shall make available, consistent with the*
8 *authority to withhold commercial and other pro-*
9 *prietary information under section 552 of title 5,*
10 *United States Code (commonly known as the*
11 *‘Freedom of Information Act’) cost data associ-*
12 *ated with the acquisition and operation of air*
13 *traffic service systems. Any member of the task*
14 *force who receives commercial or other propri-*
15 *etary data from the Administrator shall be sub-*
16 *ject to the provisions of section 1905 of title 18,*
17 *United States Code, pertaining to unauthorized*
18 *disclosure of such information.*

19 (H) *TRAVEL AND PER DIEM.*—*Each member*
20 *of the task force shall be paid actual travel ex-*
21 *penditures, and per diem in lieu of subsistence ex-*
22 *penditures when away from his or her usual place of*
23 *residence, in accordance with section 5703 of*
24 *title 5, United States Code.*

1 (I) *DETAIL OF PERSONNEL FROM THE AD-*
2 *MINISTRATION.—The Administrator shall make*
3 *available to the task force such staff, informa-*
4 *tion, and administrative services and assistance*
5 *as may reasonably be required to enable the task*
6 *force to carry out its responsibilities under this*
7 *subsection.*

8 (5) *AUTHORIZATION OF APPROPRIATIONS.—*
9 *There are hereby authorized to be appropriated such*
10 *sums as may be necessary to carry out the provisions*
11 *of this subsection.*

12 (c) *REPORT BY SECRETARY TO CONGRESS.—*

13 (1) *CONSIDERATION OF TASK FORCE’S PRELIMI-*
14 *NARY REPORT.—Within 30 days after receiving the*
15 *preliminary report of the task force under subsection*
16 *(b), the Secretary, in consultation with the Secretary*
17 *of the Treasury, shall furnish comments on that re-*
18 *port to the task force.*

19 (2) *SECRETARY’S REPORT TO CONGRESS.—With-*
20 *in 30 days after receiving the final report of the task*
21 *force and in no event more than 1 year after the date*
22 *of enactment of this Act, the Secretary, after consult-*
23 *ing the Secretary of the Treasury, shall submit a re-*
24 *port, based upon the final report of the task force,*
25 *containing the Secretary’s recommendations for fund-*

1 *ing the needs of the aviation system through the year*
2 *2002 to the Committee on Commerce, Science, and*
3 *Transportation and the Committee on Finance of the*
4 *Senate and the Committee on Transportation and In-*
5 *frastructure and the Committee on Ways and means*
6 *of the House of Representatives.*

7 (3) *CONTENTS.—The Secretary shall include in*
8 *his report to the Congress under paragraph (2)—*

9 (A) *a copy of the final report of the task*
10 *force; and*

11 (B) *a draft bill containing the changes in*
12 *law necessary to implement the Secretary’s rec-*
13 *ommendations.*

14 (4) *PUBLICATION.—The Secretary shall cause a*
15 *copy of the reports to be printed in the Federal Reg-*
16 *ister upon their submission to Congress.*

17 (d) *GAO AUDIT OF COST ALLOCATION.—The Comp-*
18 *troller General shall conduct an assessment of the manner*
19 *in which costs for air traffic control services are allocated*
20 *between the Administration and the Department of Defense.*
21 *The Comptroller General shall report the results of the as-*
22 *essment, together with any recommendations the Comptrol-*
23 *ler General may have for reallocation of costs and for oppor-*
24 *tunities to increase the efficiency of air traffic control serv-*
25 *ices provided by the Administration and by the Department*

1 of Defense, to the task force, the Administrator, the Sec-
2 retary of Defense, the Committee on Transportation and
3 Infrastructure of the House of Representatives, and the
4 Committee on Commerce, Science, and Transportation of
5 the Senate not later than 120 days after the date of enact-
6 ment of this Act.

7 **SEC. 675. PROCEDURE FOR CONSIDERATION OF CERTAIN**
8 **FUNDING PROPOSALS.**

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

11 **“§48111. Funding proposals**

12 “(a) *INTRODUCTION AND REFERRAL.*—Within 15 days
13 (not counting any day on which either House is not in ses-
14 sion) after a funding proposal is submitted to the House
15 of Representatives and the Senate by the Secretary of
16 Transportation under section 674(c) of the Air Traffic
17 Management System Performance Improvement Act of
18 1996, an implementing bill with respect to such funding
19 proposal shall be introduced in the House by the Majority
20 Leader of the House, for himself and the Minority Leader
21 of the House, or by Members of the House designated by
22 the Majority Leader and Minority Leader of the House; and
23 shall be introduced in the Senate by the Majority Leader
24 of the Senate, for himself and the Minority Leader of the
25 Senate, or by Members of the Senate designated by the Ma-

1 *majority Leader and Minority Leader of the Senate. The im-*
2 *plementing bill shall be referred by the Presiding Officers*
3 *of the respective Houses to the appropriate committee, or,*
4 *in the case of a bill containing provisions within the juris-*
5 *isdiction of two or more committees, jointly to such commit-*
6 *tees for consideration of those provisions within their re-*
7 *spective jurisdictions.*

8 “(b) *CONSIDERATION IN THE HOUSE OF REPRESENTA-*
9 *TIVES.—*

10 “(1) *REFERRAL AND REPORTING.—Any commit-*
11 *tee of the House of Representatives to which an imple-*
12 *menting bill is referred shall report it, with or with-*
13 *out recommendation, not later than the 45th calendar*
14 *day of session after the date of its introduction. If*
15 *any committee fails to report the bill within that pe-*
16 *riod, it is in order to move that the House discharge*
17 *the committee from further consideration of the bill.*
18 *A motion to discharge may be made only by a Mem-*
19 *ber favoring the bill (but only at a time or place des-*
20 *ignated by the Speaker in the legislative schedule of*
21 *the day after the calendar day on which the Member*
22 *offering the motion announces to the House his inten-*
23 *tion to do so and the form of the motion). The motion*
24 *is highly privileged. Debate thereon shall be limited to*
25 *not more than one hour, the time to be divided in the*

1 *House equally between a proponent and an opponent.*
2 *The previous question shall be considered as ordered*
3 *on the motion to its adoption without intervening mo-*
4 *tion. A motion to reconsider the vote by which the*
5 *motion is agreed to or disagreed to shall not be in*
6 *order.*

7 “(2) *CONSIDERATION OF IMPLEMENTING BILL.—*
8 *After an implementing bill is reported or a committee*
9 *has been discharged from further consideration, it is*
10 *in order to move that the House resolve into the Com-*
11 *mittee of the Whole House on the State of the Union*
12 *for consideration of the bill. If reported and the report*
13 *has been available for at least one calendar day, all*
14 *points of order against the bill and against consider-*
15 *ation of the bill are waived. If discharged, all points*
16 *of order against the bill and against consideration of*
17 *the bill are waived. The motion is highly privileged.*
18 *A motion to reconsider the vote by which the motion*
19 *is agreed to or disagreed to shall not be in order. Dur-*
20 *ing consideration of the bill in the Committee of the*
21 *Whole, the first reading of the bill shall be dispensed*
22 *with. General debate shall proceed, shall be confined*
23 *to the bill, and shall not exceed one hour equally di-*
24 *vided and controlled by a proponent and an opponent*
25 *of the bill. The bill shall be considered as read for*

1 *amendment under the five-minute rule. Only one mo-*
2 *tion to rise shall be in order, except if offered by the*
3 *manager. No amendment to the bill is in order except*
4 *an amendment that is relevant to aviation funding*
5 *and the Federal Aviation Administration. Consider-*
6 *ation of the bill for amendment shall not exceed one*
7 *hour excluding time for recorded votes and quorum*
8 *calls. No amendment shall be subject to further*
9 *amendment, except pro forma amendments for the*
10 *purposes of debate only. At the conclusion of the con-*
11 *sideration of the bill for amendment, the Committee*
12 *shall rise and report the bill to the House with such*
13 *amendments as may have been adopted. The previous*
14 *question shall be considered as ordered on the bill and*
15 *amendments thereto to final passage without interven-*
16 *ing motion. A motion to reconsider the vote on pas-*
17 *sage of the bill shall not be in order.*

18 “(3) *APPEALS OF RULINGS.*—*Appeals from deci-*
19 *sion of the Chair regarding application of the rules*
20 *of the House of Representatives to the procedure relat-*
21 *ing to an implementing bill shall be decided without*
22 *debate.*

23 “(4) *CONSIDERATION OF MORE THAN ONE IM-*
24 *PLEMENTING BILL.*—*It shall not be in order to con-*
25 *sider under this subsection more than one implement-*

1 *ing bill under this section, except for consideration of*
2 *a similar Senate bill (unless the House has already*
3 *rejected an implementing bill) or more than one mo-*
4 *tion to discharge described in paragraph (1) with re-*
5 *spect to an implementing bill.*

6 *“(c) CONSIDERATION IN THE SENATE.—An imple-*
7 *menting bill introduced in the Senate shall be referred to*
8 *the Committee on Commerce, Science, and Transportation.*
9 *The Committee on Commerce, Science, and Transportation*
10 *shall report the bill with its recommendations within 60*
11 *days following the date of introduction of that bill. Upon*
12 *the reporting of the bill by the Committee on Commerce,*
13 *Science, and Transportation, the reported bill shall be re-*
14 *ferred sequentially to the Committee on Finance for a pe-*
15 *riod of 60 legislative days.*

16 *“(d) CONSIDERATION IN CONFERENCE.—*

17 *“(1) CONVENING OF CONFERENCE.—In the case*
18 *of disagreement between the two Houses of Congress*
19 *with respect to an implementing bill passed by both*
20 *Houses, conferees should be promptly appointed and*
21 *a conference promptly convened, if necessary.*

22 *“(2) HOUSE CONSIDERATION.—Notwithstanding*
23 *any other rule of the House of Representatives, it*
24 *shall be in order to consider the report of a committee*
25 *of conference relating to an implementing bill if such*

1 *report has been available for one calendar day (ex-*
2 *cluding Saturdays, Sundays, and legal holidays, un-*
3 *less the House is in session on such a day) and the*
4 *accompanying statement shall have been filed in the*
5 *House.*

6 “(e) *DEFINITIONS.—For purposes of this section—*

7 *“(1) IMPLEMENTING BILL.—The term ‘imple-*
8 *menting bill’ means only a bill of either House of*
9 *Congress which is introduced as provided in sub-*
10 *section (a) with respect to one or more Federal Avia-*
11 *tion Administration funding proposals which contain*
12 *changes in existing laws or new statutory authority*
13 *required to implement such funding proposal or pro-*
14 *posals.*

15 *“(2) FUNDING PROPOSAL.—The term ‘funding*
16 *proposal’ means a proposal to provide interim or per-*
17 *manent funding for operations of the Federal Avia-*
18 *tion Administration.*

19 “(f) *RULES OF HOUSE OF REPRESENTATIVES AND*
20 *SENATE.—This section is enacted by the Congress—*

21 *“(1) as an exercise of the rulemaking power of*
22 *the House of Representatives and the Senate, respec-*
23 *tively, and as such they are deemed a part of the rules*
24 *of each House, respectively, but applicable only with*
25 *respect to the procedure to be followed in that House*

1 *in the case of implementing bills described in sub-*
2 *section (d); and they supersede other rules only to the*
3 *extent that they are inconsistent therewith; and*

4 “(2) *with full recognition of the constitutional*
5 *right of either House to change the rules (so far as re-*
6 *lating to the procedure of that House) at any time,*
7 *in the same manner and to the same extent as in the*
8 *case of any other rule of that House.”.*

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

 “48111. *Funding proposals.*”.

12 **SEC. 676. ADMINISTRATIVE PROVISIONS.**

13 **(a) IN GENERAL.**—*Chapter 453, as amended by sec-*
14 *tion 654 of this title, is further amended by—*

15 (1) *redesignating section 45303 as section 45304;*
16 *and*

17 (2) *by inserting after section 45302 the follow-*
18 *ing:*

19 **“§ 45303. Administrative provisions**

20 **“(a) IN GENERAL.**—

21 “(1) **FEEES PAYABLE TO ADMINISTRATOR.**—*All*
22 *fees imposed and amounts collected under this chapter*
23 *for services performed, or materials furnished, by the*
24 *Federal Aviation Administration (hereafter in this*

1 *section referred to as the ‘Administration’) are pay-*
2 *able to the Administrator.*

3 “(2) *REFUNDS.—The Administrator may refund*
4 *any fee paid by mistake or any amount paid in ex-*
5 *cess of that required.*

6 “(3) *RECEIPTS CREDITED TO ACCOUNT.—Not-*
7 *withstanding section 3302 of title 31 all fees and*
8 *amounts collected by the Administration, except in-*
9 *surance premiums and other fees charged for the pro-*
10 *vision of insurance and deposited in the Aviation In-*
11 *surance Revolving Fund and interest earned on in-*
12 *vestments of such Fund, and except amounts which on*
13 *the date of enactment of the Air Traffic Management*
14 *System Performance Improvement Act of 1996 are re-*
15 *quired to be credited to the general fund of the Treas-*
16 *ury (whether imposed under this section or not)—*

17 “(A) *shall be credited to a separate account*
18 *established in the Treasury and made available*
19 *for Administration activities;*

20 “(B) *shall be available immediately for ex-*
21 *penditure but only for congressionally authorized*
22 *and intended purposes; and*

23 “(C) *shall remain available until expended.*

24 “(4) *ANNUAL BUDGET REPORT BY ADMINIS-*
25 *TRATOR.—The Administrator shall, on the same day*

1 *each year as the President submits the annual budget*
2 *to the Congress, provide to the Committee on Com-*
3 *merce, Science, and Transportation of the Senate and*
4 *the Committee on Transportation and Infrastructure*
5 *of the House of Representatives—*

6 *“(A) a list of fee collections by the Adminis-*
7 *tration during the preceding fiscal year;*

8 *“(B) a list of activities by the Administra-*
9 *tion during the preceding fiscal year that were*
10 *supported by fee expenditures and appropria-*
11 *tions;*

12 *“(C) budget plans for significant programs,*
13 *projects, and activities of the Administration, in-*
14 *cluding out-year funding estimates;*

15 *“(D) any proposed disposition of surplus*
16 *fees by the Administration; and*

17 *“(E) such other information as those com-*
18 *mittees consider necessary.*

19 *“(5) DEVELOPMENT OF COST ACCOUNTING SYS-*
20 *TEM.—The Administration shall develop a cost ac-*
21 *counting system that adequately and accurately re-*
22 *fects the investments, operating and overhead costs,*
23 *revenues, and other financial measurement and re-*
24 *porting aspects of its operations.*

1 “(6) *COMPENSATION TO CARRIERS FOR ACTING*
2 *AS COLLECTION AGENTS.*—*The Administration shall*
3 *prescribe regulations to ensure that any air carrier*
4 *required, pursuant to the Air Traffic Management*
5 *System Performance Improvement Act of 1996 or any*
6 *amendments made by that Act, to collect a fee im-*
7 *posed on another party by the Administrator may*
8 *collect from such other party an additional uniform*
9 *amount that the Administrator determines reflects the*
10 *necessary and reasonable expenses (net of interest ac-*
11 *curring to the carrier after collection and before remit-*
12 *tance) incurred in collecting and handling the fee.*

13 “(7) *COST REDUCTION AND EFFICIENCY RE-*
14 *PORT.*—*Prior to the submission of any proposal for*
15 *establishment, implementation, or expansion of any*
16 *fees or taxes imposed on the aviation industry, the*
17 *Administrator shall prepare a report for submission*
18 *to the Congress which includes—*

19 “(A) *a justification of the need for the pro-*
20 *posed fees or taxes;*

21 “(B) *a statement of steps taken by the Ad-*
22 *ministrator to reduce costs and improve effi-*
23 *ciency within the Administration;*

1 “(C) an analysis of the impact of any fee
2 or tax increase on each sector of the aviation
3 transportation industry; and

4 “(D) a comparative analysis of any de-
5 crease in tax amounts equal to the receipts from
6 which are credited to the Airport and Airway
7 Trust Fund established under section 9502 of the
8 Internal Revenue Code of 1986.”.

9 (b) *CONFORMING AMENDMENT.*—The chapter analysis
10 for chapter 453 is amended by striking the item relating
11 to section 45303 and inserting the following:

 “45303. *Administrative provisions.*

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

12 **SEC. 677. ADVANCE APPROPRIATIONS FOR AIRPORT AND**
13 **AIRWAY TRUST FUND ACTIVITIES.**

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

16 **“CHAPTER 482—ADVANCE APPROPRIA-**
17 **TIONS FOR AIRPORT AND AIRWAY**
18 **TRUST FACILITIES**

 “Sec.

 “48201. *Advance appropriations.*

19 **“§48201. Advance appropriations**

20 “(a) *MULTIYEAR AUTHORIZATIONS.*—Beginning with
21 fiscal year 1998, any authorization of appropriations for
22 an activity for which amounts are to be appropriated from
23 the Airport and Airway Trust Fund established under sec-

1 *tion 9502 of the Internal Revenue Code of 1986 shall pro-*
 2 *vide funds for a period of not less than 3 fiscal years unless*
 3 *the activity for which appropriations are authorized is to*
 4 *be concluded before the end of that period.*

5 “(b) *MULTIYEAR APPROPRIATIONS.*—*Beginning with*
 6 *fiscal year 1998, amounts appropriated from the Airport*
 7 *and Airway Trust Fund shall be appropriated for periods*
 8 *of 3 fiscal years rather than annually.”*

9 (b) *CONFORMING AMENDMENT.*—*The analysis for sub-*
 10 *title VIII is amended by adding at the end the following*
 11 *new item:*

**“482. Advance appropriations for airport and airway
 trust facilities48201.”**

12 **SEC. 678. RURAL AIR SERVICE SURVIVAL ACT.**

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

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

16 (1) *air service in rural areas is essential to a*
 17 *national transportation network;*

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

20 (3) *rural air service creates economic benefits for*
 21 *all air carriers by making the national aviation sys-*
 22 *tem available to passengers from rural areas;*

23 (4) *rural air service has suffered since deregula-*
 24 *tion;*

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

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

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

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

10 (D) *has endured serious funding cuts in re-*
11 *cent years; and*

12 (6) *a reliable source of funding must be estab-*
13 *lished to maintain air service in rural areas and the*
14 *essential air service program.*

15 (c) *ESSENTIAL AIR SERVICE AUTHORIZATION.—Sec-*
16 *tion 41742 is amended to read as follows:*

17 **“§41742. Essential air service authorization**

18 “(a) *IN GENERAL.—Out of the amounts received by*
19 *the Administration credited to the account established*
20 *under section 45303(a)(3) or otherwise provided to the Ad-*
21 *ministration, the sum of \$50,000,000 is authorized and*
22 *shall be made available immediately for obligation and ex-*
23 *penditure to carry out the essential air service program*
24 *under this subchapter for each fiscal year.*

1 “(b) *FUNDING FOR SMALL COMMUNITY AIR SERV-*
2 *ICE.*—Notwithstanding any other provision of law, moneys
3 *credited to the account established under section 45303(a),*
4 *including the funds derived from fees imposed under the au-*
5 *thority contained in section 45301(a), shall be used to carry*
6 *out the essential air service program under this subchapter.*
7 *Notwithstanding section 47114(g) of this title, any amounts*
8 *from those fees that are not obligated or expended at the*
9 *end of the fiscal year for the purpose of funding the essential*
10 *air service program under this subchapter shall be made*
11 *available to the Administration for use in improving rural*
12 *air safety under subchapter I of chapter 471 of this title*
13 *and shall be used exclusively for projects at rural airports*
14 *under this subchapter.”.*

15 (d) *CONFORMING AMENDMENT.*—The chapter analysis
16 *for chapter 417 is amended by striking the item relating*
17 *to section 41742 and inserting the following:*

 “41742. *Essential air service authorization.*”.

18 (e) *SECRETARY MAY REQUIRE MATCHING LOCAL*
19 *FUNDS.*—Section 41737 is amended by adding at the end
20 *thereof the following:*

21 “(e) *MATCHING FUNDS.*—No earlier than 2 years after
22 *the effective date of section 679 of the Air Traffic Manage-*
23 *ment System Performance Improvement Act of 1996, the*
24 *Secretary may require an eligible agency, as defined in sec-*
25 *tion 40117(a)(2) of this title, to provide matching funds of*

1 up to 10 percent for any payments it receives under this
2 subchapter.”.

3 (f) *TRANSFER OF ESSENTIAL AIR SERVICE PROGRAM*
4 *TO FAA.*—The responsibility for administration of sub-
5 chapter II of chapter 417 is transferred from the Secretary
6 of Transportation to the Administrator.

7 **TITLE VII—PILOT RECORDS**

8 **SEC. 701. SHORT TITLE.**

9 This title may be cited as the “Pilot Records Improve-
10 ment Act of 1996”.

11 **SEC. 702. EMPLOYMENT INVESTIGATIONS OF PILOT APPLI-** 12 **CANTS.**

13 (a) *IN GENERAL.*—Section 44936 is amended by add-
14 ing at the end the following new subsection:

15 “(f) *RECORDS OF EMPLOYMENT OF PILOT APPLI-*
16 *CANTS.*—

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

20 “(A) *FAA RECORDS.*—From the Adminis-
21 trator of the Federal Aviation Administration
22 (hereafter in this subsection referred to as the
23 ‘Administrator’), records pertaining to the indi-
24 vidual that are maintained by the Administrator
25 concerning—

1 “(i) current airman certificates (in-
2 cluding airman medical certificates) and
3 associated type ratings, including any limi-
4 tations to those certificates and ratings; and

5 “(ii) summaries of legal enforcement
6 actions resulting in a finding by the Ad-
7 ministrators of a violation of this title or a
8 regulation prescribed or order issued under
9 this title that was not subsequently over-
10 turned.

11 “(B) AIR CARRIER AND OTHER RECORDS.—

12 *From any air carrier or other person that has*
13 *employed the individual at any time during the*
14 *5-year period preceding the date of the employ-*
15 *ment application of the individual, or from the*
16 *trustee in bankruptcy for such air carrier or per-*
17 *son—*

18 “(i) records pertaining to the individ-
19 ual that are maintained by an air carrier
20 under regulations set forth in—

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

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

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

3 “(IV) section 125.401 of such title;
4 and

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

7 “(ii) other records pertaining to the in-
8 dividual that are maintained by the air
9 carrier or person concerning—

10 “(I) the training, qualifications,
11 proficiency, or professional competence
12 of the individual, including comments
13 and evaluations made by a check air-
14 man designated in accordance with
15 section 121.411, 125.295, or 135.337 of
16 such title;

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

21 “(III) any release from employ-
22 ment or resignation, termination, or
23 disqualification with respect to em-
24 ployment.

1 “(C) NATIONAL DRIVER REGISTER
2 RECORDS.—In accordance with section
3 30305(b)(7), from the chief driver licensing offi-
4 cial of a State, information concerning the motor
5 vehicle driving record of the individual.

6 “(2) WRITTEN CONSENT; RELEASE FROM LIABIL-
7 ITY.—An air carrier making a request for records
8 under paragraph (1)—

9 “(A) shall be required to obtain written con-
10 sent to the release of those records from the indi-
11 vidual that is the subject of the records requested;
12 and

13 “(B) may, notwithstanding any other pro-
14 vision of law or agreement to the contrary, re-
15 quire the individual who is the subject of the
16 records to request to execute a release from liabil-
17 ity for any claim arising from the furnishing of
18 such records to or the use of such records by such
19 air carrier (other than a claim arising from fur-
20 nishing information known to be false and
21 maintained in violation of a criminal statute).

22 “(3) 5-YEAR REPORTING PERIOD.—A person
23 shall not furnish a record in response to a request
24 made under paragraph (1) if the record was entered
25 more than 5 years before the date of the request, un-

1 *less the information concerns a revocation or suspen-*
2 *sion of an airman certificate or motor vehicle license*
3 *that is in effect on the date of the request.*

4 “(4) *REQUIREMENT TO MAINTAIN RECORDS.—*
5 *The Administrator shall maintain pilot records de-*
6 *scribed in paragraph (1)(A) for a period of at least*
7 *5 years.*

8 “(5) *RECEIPT OF CONSENT; PROVISION OF IN-*
9 *FORMATION.—A person shall not furnish a record in*
10 *response to a request made under paragraph (1) with-*
11 *out first obtaining a copy of the written consent of the*
12 *individual who is the subject of the records requested.*
13 *A person who receives a request for records under this*
14 *paragraph shall furnish a copy of all of such re-*
15 *quested records maintained by the person not later*
16 *than 30 days after receiving the request.*

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

21 “(A) *written notice of the request and of the*
22 *right of that individual to receive a copy of such*
23 *records; and*

24 “(B) *a copy of such records, if requested by*
25 *the individual.*

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

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

9 “(A) *standard forms that may be used by*
10 *an air carrier to request records under para-*
11 *graph (1); and*

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

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

17 “(ii) *inform the individual of—*

18 “(I) *the request; and*

19 “(II) *the individual right of that*
20 *individual to receive a copy of any*
21 *records furnished in response to the re-*
22 *quest.*

23 “(9) *RIGHT TO CORRECT INACCURACIES.*—*An*
24 *air carrier that maintains or requests and receives*
25 *the records of an individual under paragraph (1)*

1 *shall provide the individual with a reasonable oppor-*
2 *tunity to submit written comments to correct any in-*
3 *accuracies contained in the records before making a*
4 *final hiring decision with respect to the individual.*

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

13 *“(11) PRIVACY PROTECTIONS.—An air carrier*
14 *that receives the records of an individual under para-*
15 *graph (1) may use such records only to assess the*
16 *qualifications of the individual in deciding whether*
17 *or not to hire the individual as a pilot. The air car-*
18 *rier shall take such actions as may be necessary to*
19 *protect the privacy of the pilot and the confidentiality*
20 *of the records, including ensuring that information*
21 *contained in the records is not divulged to any indi-*
22 *vidual that is not directly involved in the hiring deci-*
23 *sion.*

24 *“(12) PERIODIC REVIEW.—Not later than 18*
25 *months after the date of enactment of the Pilot*

1 *Records Improvement Act of 1996, and at least once*
2 *every 3 years thereafter, the Administrator shall*
3 *transmit to the Congress a statement that contains,*
4 *taking into account recent developments in the avia-*
5 *tion industry—*

6 *“(A) recommendations by the Administrator*
7 *concerning proposed changes to Federal Aviation*
8 *Administration records, air carrier records, and*
9 *other records required to be furnished under sub-*
10 *paragraphs (A) and (B) of paragraph (1); or*

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

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

16 *“(A) to protect—*

17 *“(i) the personal privacy of any indi-*
18 *vidual whose records are requested under*
19 *paragraph (1); and*

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

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

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

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

5 “(1) *LIMITATION ON LIABILITY.*—No action or
6 proceeding may be brought by or on behalf of an indi-
7 vidual who has applied for or is seeking a position
8 with an air carrier as a pilot and who has signed a
9 release from liability, as provided for under para-
10 graph (2), against—

11 “(A) the air carrier requesting the records
12 of that individual under subsection (a)(1);

13 “(B) a person who has complied with such
14 request; or

15 “(C) an agent or employee of a person de-
16 scribed in subparagraph (A) or (B);

17 in the nature of an action for defamation, invasion
18 of privacy, negligence, interference with contract, or
19 otherwise, or under any Federal or State law with re-
20 spect to the furnishing or use of such records in ac-
21 cordance with subsection (a).

22 “(2) *PREEMPTION.*—No State or political sub-
23 division thereof may enact, prescribe, issue, continue
24 in effect, or enforce any law (including any regula-
25 tion, standard, or other provision having the force

1 *and effect of law) that prohibits, penalizes, or imposes*
2 *liability for furnishing or using records in accordance*
3 *with subsection (a).*

4 “(3) *PROVISION OF KNOWINGLY FALSE INFORMA-*
5 *TION.—Paragraphs (1) and (2) shall not apply with*
6 *respect to a person who furnishes information in re-*
7 *sponse to a request made under subsection (f)(1),*
8 *that—*

9 “(A) *the person knows is false; and*

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

12 (b) *CONFORMING AMENDMENT.—Section 30305(b) is*
13 *amended—*

14 (1) *by redesignating paragraph (7) as para-*
15 *graph (8); and*

16 (2) *by inserting after paragraph (6) the follow-*
17 *ing:*

18 “(7) *An individual who is seeking employment*
19 *by an air carrier as a pilot may request the chief*
20 *driver licensing official of a State to provide informa-*
21 *tion about the individual under paragraph (2) to the*
22 *prospective employer of the individual or to the Sec-*
23 *retary of Transportation. Information may not be ob-*
24 *tained from the National Driver Register under this*
25 *subsection if the information was entered in the Reg-*

1 *ister more than 5 years before the request unless the*
2 *information is about a revocation or suspension still*
3 *in effect on the date of the request.”.*

4 *(c) APPLICABILITY.—The amendments made by this*
5 *section shall apply to any air carrier hiring an individual*
6 *as a pilot whose application was first received by the car-*
7 *rier on or after the 120th day after the date of enactment*
8 *of this Act.*

9 **SEC. 703. STUDY OF MINIMUM STANDARDS FOR PILOT**
10 **QUALIFICATIONS.**

11 *The Administrator shall appoint a task force consist-*
12 *ing of appropriate representatives of the aviation industry*
13 *to conduct a study directed toward the development of—*

14 *(1) standards and criteria for preemployment*
15 *screening tests measuring the psychomotor coordina-*
16 *tion, general intellectual capacity, instrument and*
17 *mechanical comprehension, and physical and mental*
18 *fitness of an applicant for employment as a pilot by*
19 *an air carrier; and*

20 *(2) standards and criteria for pilot training fa-*
21 *ilities to be licensed by the Administrator and which*
22 *will assure that pilots trained at such facilities meet*
23 *the preemployment screening standards and criteria*
24 *described in paragraph (1).*

1 **TITLE VIII—ABOLITION OF**
2 **BOARD OF REVIEW**

3 **SEC. 801. ABOLITION OF BOARD OF REVIEW AND RELATED**
4 **AUTHORITY.**

5 *(a) ABOLITION OF BOARD OF REVIEW.—Section 6007*
6 *of the Metropolitan Washington Airports Act of 1986 (for-*
7 *merly 49 U.S.C. App. 2456) is amended—*

8 *(1) by striking subsections (f) and (h);*

9 *(2) by redesignating subsection (g) as subsection*
10 *(f); and*

11 *(3) by redesignating subsection (i) as subsection*
12 *(g).*

13 *(b) CONFORMING AMENDMENTS.—*

14 *(1) RELATIONSHIP TO AND EFFECT OF OTHER*
15 *LAWS.—Section 6009(b) of the Metropolitan Washing-*
16 *ton Airports Act of 1986 (formerly 49 U.S.C. App.*
17 *2458(b)) is amended by striking “or by reason of the*
18 *authority” and all that follows through the end of the*
19 *subsection and inserting a period.*

20 *(2) SEPARABILITY.—Section 6011 of the Metro-*
21 *politan Washington Airports Act of 1986 (formerly 49*
22 *U.S.C. App. 2460) is amended by striking “Except as*
23 *provided in section 6007(h), if” and inserting “If”.*

24 *(c) PROTECTION OF CERTAIN ACTIONS.—Any action*
25 *taken by the Airports Authority and submitted to the Board*

1 *of Review pursuant to section 6007(f)(4) of the Metropolitan*
2 *Washington Airports Act of 1986 before April 1, 1995, shall*
3 *remain in effect and shall not be set aside solely by reason*
4 *of a judicial order invalidating certain functions of the*
5 *Board.*

6 **SEC. 802. SENSE OF THE SENATE.**

7 *It is the sense of the Senate that the Airports Author-*
8 *ity—*

9 *(1) should not provide any reserved parking*
10 *areas free of charge to Members of Congress, other*
11 *Government officials, or diplomats at Washington Na-*
12 *tional Airport or Washington Dulles International*
13 *Airport; and*

14 *(2) should establish a parking policy for such*
15 *airports that provides equal access to the public, and*
16 *does not provide preferential parking privileges to*
17 *Members of Congress, other Government officials, or*
18 *diplomats.*

19 **SEC. 803. CONFORMING AMENDMENTS IN OTHER LAW.**

20 *Any reference in any Federal law, Executive order,*
21 *rule, regulation, or delegation of authority to the Board of*
22 *Review or the provisions of law repealed under this title*
23 *is hereby repealed.*

24 **SEC. 804. DEFINITIONS.**

25 *For purposes of this title—*

1 (1) *the terms “Airports Authority”, “Washington*
2 *National Airport”, and “Washington Dulles Inter-*
3 *national Airport” have the same meanings as in sec-*
4 *tion 6004 of the Metropolitan Washington Airports*
5 *Act of 1986; and*

6 (2) *the term “Board of Review” means the Board*
7 *of Review of the Airports Authority.*

8 **SEC. 805. INCREASE IN NUMBER OF PRESIDENTIALLY AP-**
9 **POINTED MEMBERS OF BOARD.**

10 (a) *IN GENERAL.*—*Section 6007(e) of the Metropolitan*
11 *Washington Airports Act of 1986 (formerly 49 U.S.C.*
12 *2456(e)) is amended—*

13 (1) *by striking “11 members,” in paragraph (1)*
14 *and inserting “13 members,”;*

15 (2) *by striking “one member” in paragraph*
16 *(1)(D) and inserting “3 members”; and*

17 (3) *by striking “Seven” in paragraph (5) and*
18 *inserting “Eight”.*

19 (b) *STAGGERING TERMS FOR PRESIDENTIAL AP-*
20 *POINTEES.*—*Of the members first appointed by the Presi-*
21 *dent after the date of enactment of this Act—*

22 (1) *one shall be appointed for a term that expires*
23 *simultaneously with the term of the member of the*
24 *Metropolitan Washington Airports Authority board of*
25 *directors serving on that date (or, if there is a va-*

1 *cancy in that office, the member appointed to fill the*
2 *existing vacancy and the member to whom this para-*
3 *graph applies shall be appointed for 2 years);*

4 *(2) one shall be appointed for a term ending 2*
5 *years after the term of the member (or members) to*
6 *whom paragraph (1) applies expires; and*

7 *(3) one shall be appointed for a term ending 4*
8 *years after the term of the member (or members) to*
9 *whom paragraph (1) applies expires.*

10 **SEC. 806. RECONSTITUTED BOARD TO FUNCTION WITHOUT**
11 **INTERRUPTION.**

12 *Notwithstanding any provision of State law, including*
13 *those provisions establishing, providing for the establish-*
14 *ment of, or recognizing the Metropolitan Washington Air-*
15 *ports Authority, and based upon the Federal interest in the*
16 *continued functions of the Metropolitan Washington Air-*
17 *ports (as defined in section 6004(4) of the Metropolitan*
18 *Washington Airports Authority Act of 1986 (formerly 49*
19 *U.S.C. 2451(4)), the board of directors of such Authority,*
20 *including any members appointed under the amendments*
21 *made by section 805, shall continue to meet and act after*
22 *the date of enactment of this Act until such time as nec-*
23 *essary conforming changes in State law are made in the*
24 *same manner as if those conforming changes had been en-*
25 *acted on the date of enactment of this Act.*

1 **SEC. 807. OPERATIONAL SLOTS AT NATIONAL AIRPORT.**

2 *Nothing in this title shall affect the number or dis-*
 3 *tribution of operational slots at National Airport.*

4 **SEC. 808. AIRPORTS AUTHORITY SUPPORT OF BOARD.**

5 *Section 6005 of the Metropolitan Washington Airports*
 6 *Authority Act of 1986 (formerly 49 U.S.C. 2454) is amend-*
 7 *ed by adding at the end thereof the following:*

8 *“(f) FEDERAL AGENCY OVERSIGHT.—The Airports*
 9 *Authority shall not be required—*

10 *“(1) to pay any person;*

11 *“(2) to provide office space or administrative*
 12 *support; or*

13 *“(3) to reimburse the Secretary of Transpor-*
 14 *tation for expenses incurred,*

15 *for carrying out any Federal agency oversight responsibil-*
 16 *ities under this Act. Nothing in this subsection precludes*
 17 *the Airport Authority from providing services or expenses*
 18 *to any member of the Board of Directors.”.*

19 **TITLE IX—AIRPORT REVENUE**
 20 **PROTECTION**

21 **SEC. 901. SHORT TITLE.**

22 *This title may be cited as the “Airport Revenue Protec-*
 23 *tion Act of 1996”.*

24 **SEC. 902. FINDINGS; PURPOSE.**

25 *(a) IN GENERAL.—The Congress finds that—*

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

5 (2) *a grant recipient that uses airport revenue*
6 *for purposes that are not airport related in a manner*
7 *inconsistent with chapter 471 of title 49, United*
8 *States Code, illegally diverts airport revenues;*

9 (3) *any diversion of airport revenues in viola-*
10 *tion of the condition referred to in paragraph (1) un-*
11 *dermines the interest of the United States in promot-*
12 *ing a strong national air transportation system that*
13 *is responsive to the needs of airport users;*

14 (4) *the Secretary and the Administrator have*
15 *not enforced airport revenue diversion rules ade-*
16 *quately and must have additional regulatory tools to*
17 *increase enforcement efforts; and*

18 (5) *sponsors who have been found to have ille-*
19 *gally diverted airport revenues—*

20 (A) *have not reimbursed or made restitution*

21 *to airports in a timely manner; and*

22 (B) *must be encouraged to do so.*

23 (b) *PURPOSE.—The purpose of this title is to ensure*
24 *that airport users are not burdened with hidden taxation*
25 *for unrelated municipal services and activities by—*

1 (1) *eliminating the ability of any State or politi-*
2 *cal subdivision thereof that is a recipient of a project*
3 *grant to divert airport revenues for purposes that are*
4 *not related to an airport, in violation of section*
5 *47107 of title 49, United States Code;*

6 (2) *imposing financial reporting requirements*
7 *that are designed to identify instances of illegal diver-*
8 *sions referred to in paragraph (1);*

9 (3) *establishing a statute of limitations for air-*
10 *port revenue diversion actions;*

11 (4) *clarifying limitations on revenue diversion*
12 *that are permitted under chapter 471 of title 49,*
13 *United States Code; and*

14 (5) *establishing clear penalties and enforcement*
15 *mechanisms for identifying and prosecuting airport*
16 *revenue diversion.*

17 **SEC. 903. DEFINITIONS.**

18 *For purposes of this title, the following definitions*
19 *shall apply:*

20 (1) *ADMINISTRATOR.*—*The term “Adminis-*
21 *trator” means the Administrator of the Federal Avia-*
22 *tion Administration.*

23 (2) *AIRPORT.*—*The term “airport” has the*
24 *meaning provided that term in section 47102(2) of*
25 *title 49, United States Code.*

1 (3) *PROJECT GRANT.*—The term “project grant”
2 has the meaning provided that term in section
3 47102(14) of title 49, United States Code.

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

6 (5) *SPONSOR.*—The term “sponsor” has the
7 meaning provided that term in section 47102(19) of
8 title 49, United States Code.

9 **SEC. 904. RESTRICTION ON USE OF AIRPORT REVENUES.**

10 (a) *IN GENERAL.*—Subchapter I of chapter 471, as
11 amended by section 201(a) of this Act, is further amended
12 by adding at the end of subchapter I the following new sec-
13 tion:

14 **“§47133. Restriction on use of revenues**

15 “(a) *PROHIBITION.*—Local taxes on aviation fuel (ex-
16 cept taxes in effect on December 30, 1987) or the revenues
17 generated by an airport that is the subject of Federal assist-
18 ance may not be expended for any purpose other than the
19 capital or operating costs of—

20 “(1) the airport;

21 “(2) the local airport system; or

22 “(3) any other local facility that is owned or op-
23 erated by the person or entity that owns or operates
24 the airport that is directly and substantially related
25 to the air transportation of passengers or property.

1 “(b) *EXCEPTIONS.*—Subsection (a) shall not apply if
 2 a provision enacted not later than September 2, 1982, in
 3 a law controlling financing by the airport owner or opera-
 4 tor, or a covenant or assurance in a debt obligation issued
 5 not later than September 2, 1982, by the owner or operator,
 6 provides that the revenues, including local taxes on aviation
 7 fuel at public airports, from any of the facilities of the
 8 owner or operator, including the airport, be used to support
 9 not only the airport but also the general debt obligations
 10 or other facilities of the owner or operator.

11 “(c) *RULE OF CONSTRUCTION.*—Nothing in this sec-
 12 tion may be construed to prevent the use of a State tax
 13 on aviation fuel to support a State aviation program or
 14 the use of airport revenue on or off the airport for a noise
 15 mitigation purpose.”.

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

“47133. Restriction on use of revenues.”.

19 **SEC. 905. REGULATIONS; AUDITS AND ACCOUNTABILITY.**

20 (a) *IN GENERAL.*—Section 47107 is amended by add-
 21 ing at the end the following new subsections:

22 “(m) *AUDIT CERTIFICATION.*—

23 “(1) *IN GENERAL.*—The Secretary of Transpor-
 24 tation (hereafter in this section referred to as the ‘Sec-
 25 retary’), acting through the Administrator of the Fed-

1 *eral Aviation Administration (hereafter in this sec-*
2 *tion referred to as the ‘Administrator’), shall promul-*
3 *gate regulations that require a recipient of a project*
4 *grant (or any other recipient of Federal financial as-*
5 *sistance that is provided for an airport) to include as*
6 *part of an annual audit conducted under sections*
7 *7501 through 7505 of title 31, a review and opinion*
8 *of the review concerning the funding activities with*
9 *respect to an airport that is the subject of the project*
10 *grant (or other Federal financial assistance) and the*
11 *sponsors, owners, or operators (or other recipients) in-*
12 *involved.*

13 *“(2) CONTENT OF REVIEW.—A review conducted*
14 *under paragraph (1) shall provide reasonable assur-*
15 *ances that funds paid or transferred to sponsors are*
16 *paid or transferred in a manner consistent with the*
17 *applicable requirements of this chapter and any other*
18 *applicable provision of law (including regulations*
19 *promulgated by the Secretary or the Administrator).*

20 *“(3) REQUIREMENTS FOR AUDIT REPORT.—The*
21 *report submitted to the Secretary under this sub-*
22 *section shall include a specific determination and*
23 *opinion regarding the appropriateness of the disposi-*
24 *tion of airport funds paid or transferred to a sponsor.*

25 *“(n) RECOVERY OF ILLEGALLY DIVERTED FUNDS.—*

1 “(1) *IN GENERAL.*—Not later than 180 days
2 after the issuance of an audit or any other report that
3 identifies an illegal diversion of airport revenues (as
4 determined under subsections (b) and (l) and section
5 47133), the Secretary, acting through the Adminis-
6 trator, shall—

7 “(A) review the audit or report;

8 “(B) perform appropriate factfinding; and

9 “(C) conduct a hearing and render a final
10 determination concerning whether the illegal di-
11 version of airport revenues asserted in the audit
12 or report occurred.

13 “(2) *NOTIFICATION.*—Upon making such a find-
14 ing, the Secretary, acting through the Administrator,
15 shall provide written notification to the sponsor and
16 the airport of—

17 “(A) the finding; and

18 “(B) the obligations of the sponsor to reim-
19 burse the airport involved under this paragraph.

20 “(3) *ADMINISTRATIVE ACTION.*—The Secretary
21 may withhold any amount from funds that would
22 otherwise be made available to the sponsor, including
23 funds that would otherwise be made available to a
24 State, municipality, or political subdivision thereof
25 (including any multimodal transportation agency or

1 *transit authority of which the sponsor is a member*
2 *entity) as part of an apportionment or grant made*
3 *available pursuant to this title, if the sponsor—*

4 *“(A) receives notification that the sponsor is*
5 *required to reimburse an airport; and*

6 *“(B) has had an opportunity to reimburse*
7 *the airport, but has failed to do so.*

8 *“(4) CIVIL ACTION.—If a sponsor fails to pay an*
9 *amount specified under paragraph (3) during the*
10 *180-day period beginning on the date of notification*
11 *and the Secretary is unable to withhold a sufficient*
12 *amount under paragraph (3), the Secretary, acting*
13 *through the Administrator, may initiate a civil ac-*
14 *tion under which the sponsor shall be liable for civil*
15 *penalty in an amount equal to the illegal diversion*
16 *in question plus interest (as determined under sub-*
17 *section (o)).*

18 *“(5) DISPOSITION OF PENALTIES.—*

19 *“(A) AMOUNTS WITHHELD.—The Secretary*
20 *or the Administrator shall transfer any amounts*
21 *withheld under paragraph (3) to the Airport and*
22 *Airway Trust Fund.*

23 *“(B) CIVIL PENALTIES.—With respect to*
24 *any amount collected by a court in a civil action*
25 *under paragraph (4), the court shall cause to be*

1 *transferred to the Airport and Airway Trust*
2 *Fund any amount collected as a civil penalty*
3 *under paragraph (4).*

4 “(6) *REIMBURSEMENT.*—*The Secretary, acting*
5 *through the Administrator, shall, as soon as prac-*
6 *ticable after any amount is collected from a sponsor*
7 *under paragraph (4), cause to be transferred from the*
8 *Airport and Airway Trust Fund to an airport af-*
9 *ected by a diversion that is the subject of a civil ac-*
10 *tion under paragraph (4), reimbursement in an*
11 *amount equal to the amount that has been collected*
12 *from the sponsor under paragraph (4) (including any*
13 *amount of interest calculated under subsection (o)).*

14 “(7) *STATUTE OF LIMITATIONS.*—*No person may*
15 *bring an action for the recovery of funds illegally di-*
16 *verted in violation of this section (as determined*
17 *under subsections (b) and (l)) or section 47133 after*
18 *the date that is 6 years after the date on which the*
19 *diversion occurred.*

20 “(o) *INTEREST.*—

21 “(1) *IN GENERAL.*—*Except as provided in para-*
22 *graph (2), the Secretary, acting through the Adminis-*
23 *trator, shall charge a minimum annual rate of inter-*
24 *est on the amount of any illegal diversion of revenues*
25 *referred to in subsection (n) in an amount equal to*

1 *the average investment interest rate for tax and loan*
2 *accounts of the Department of the Treasury (as deter-*
3 *mined by the Secretary of the Treasury) for the appli-*
4 *cable calendar year, rounded to the nearest whole per-*
5 *centage point.*

6 “(2) *ADJUSTMENT OF INTEREST RATES.—If,*
7 *with respect to a calendar quarter, the average invest-*
8 *ment interest rate for tax and loan accounts of the*
9 *Department of the Treasury exceeds the average in-*
10 *vestment interest rate for the immediately preceding*
11 *calendar quarter, rounded to the nearest whole per-*
12 *centage point, the Secretary of the Treasury may ad-*
13 *just the interest rate charged under this subsection in*
14 *a manner that reflects that change.*

15 “(3) *ACCRUAL.—Interest assessed under sub-*
16 *section (n) shall accrue from the date of the actual il-*
17 *legal diversion of revenues referred to in subsection*
18 *(n).*

19 “(4) *DETERMINATION OF APPLICABLE RATE.—*
20 *The applicable rate of interest charged under para-*
21 *graph (1) shall—*

22 “(A) *be the rate in effect on the date on*
23 *which interest begins to accrue under paragraph*
24 *(3); and*

1 “(B) remain at a rate fixed under subpara-
2 graph (A) during the duration of the indebted-
3 ness.

4 “(p) PAYMENT BY AIRPORT TO SPONSOR.—If, in the
5 course of an audit or other review conducted under this sec-
6 tion, the Secretary or the Administrator determines that an
7 airport owes a sponsor funds as a result of activities con-
8 ducted by the sponsor or expenditures by the sponsor for
9 the benefit of the airport, interest on that amount shall be
10 determined in the same manner as provided in paragraphs
11 (1) through (4) of subsection (o), except that the amount
12 of any interest assessed under this subsection shall be deter-
13 mined from the date on which the Secretary or the Adminis-
14 trator makes that determination.”.

15 (b) REVISION OF POLICIES AND PROCEDURES; DEAD-
16 LINES.—

17 (1) IN GENERAL.—Not later than 90 days after
18 the date of enactment of this Act, the Secretary, act-
19 ing through the Administrator, shall revise the poli-
20 cies and procedures established under section 47107(l)
21 of title 49, United States Code, to take into account
22 the amendments made to that section by this title.

23 (2) STATUTE OF LIMITATIONS.—Section 47107(l)
24 is amended by adding at the end the following new
25 paragraph:

1 “(5) *STATUTE OF LIMITATIONS.*—*In addition to*
2 *the statute of limitations specified in subsection*
3 *(n)(7), with respect to project grants made under this*
4 *chapter—*

5 “(A) *any request by a sponsor to any air-*
6 *port for additional payments for services con-*
7 *ducted off of the airport or for reimbursement for*
8 *capital contributions or operating expenses shall*
9 *be filed not later than 6 years after the date on*
10 *which the expense is incurred; and*

11 “(B) *any amount of airport funds that are*
12 *used to make a payment or reimbursement as de-*
13 *scribed in subparagraph (A) after the date speci-*
14 *fied in that subparagraph shall be considered to*
15 *be an illegal diversion of airport revenues that is*
16 *subject to subsection (n).”.*

17 **SEC. 906. CONFORMING AMENDMENTS TO THE INTERNAL**
18 **REVENUE CODE OF 1986.**

19 *Section 9502 of the Internal Revenue Code of 1986 is*
20 *amended—*

21 (1) *by striking “and” at the end of subsection*
22 *(b)(3);*

23 (2) *by striking the period at the end of sub-*
24 *section (b)(4) and inserting “, and”; and*

1 (3) by adding at the end of subsection (b) the fol-
2 lowing:

3 “(5) amounts determined by the Secretary of the
4 Treasury to be equivalent to the amounts of civil pen-
5 alties collected under section 47107(n) of title 49,
6 United States Code.”; and

7 (4) in subsection (d), by adding at the end of
8 subsection (d) the following:

9 “(4) *TRANSFERS FROM THE AIRPORT AND AIR-*
10 *WAY TRUST FUND ON ACCOUNT OF CERTAIN AIR-*
11 *PORTS.—The Secretary of the Treasury may transfer*
12 *from the Airport and Airway Trust Fund to the Sec-*
13 *retary of Transportation or the Administrator of the*
14 *Federal Aviation Administration an amount to make*
15 *a payment to an airport affected by a diversion that*
16 *is the subject of an administrative action under para-*
17 *graph (3) or a civil action under paragraph (4) of*
18 *section 47107(n) of title 49, United States Code.”.*

1 **TITLE X—EXTENSION OF AIR-**
2 **PORT AND AIRWAY TRUST**
3 **FUND EXPENDITURE AU-**
4 **THORITY**

5 **SEC. 1001. EXPENDITURES FROM AIRPORT AND AIRWAY**
6 **TRUST FUND.**

7 *Section 9502(d)(1) of the Internal Revenue Code of*
8 *1986 (relating to expenditures from Airport and Airway*
9 *Trust Fund) is amended by—*

- 10 *(1) striking “1996” and inserting “1997”; and*
11 *(2) inserting “or the Federal Aviation Reauthor-*
12 *ization Act of 1996” after “Administration Author-*
13 *ization Act of 1994”.*

Attest:

Secretary.

104TH CONGRESS
2^D SESSION

H. R. 3539

AMENDMENT

HR 3539 EASIS—2
HR 3539 EASIS—3
HR 3539 EASIS—4
HR 3539 EASIS—5
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