

AIRPORT IMPROVEMENT PROGRAM REAUTHORIZATION  
ACT OF 1998

---

JULY 20, 1998.—Committed to the Committee of the Whole House on the State of  
the Union and ordered to be printed

---

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

R E P O R T

[To accompany H.R. 4057]

[Including cost estimate of the Congressional Budget Office]

The Committee on Transportation and Infrastructure, to whom was referred the bill (H.R. 4057) to amend title 49, United States Code, to reauthorize programs of the Federal Aviation Administration, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

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

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

(a) **SHORT TITLE.**—This Act may be cited as the “Airport Improvement Program Reauthorization Act of 1998”.

(b) **TABLE OF CONTENTS.**—

- Sec. 1. Short title; table of contents.
- Sec. 2. Amendments to title 49, United States Code.
- Sec. 3. Applicability.
- Sec. 4. Administrator defined.

**TITLE I—AIRPORT AND AIRWAY IMPROVEMENTS**

- Sec. 101. Airport improvement program.
- Sec. 102. Airway facilities improvement program.
- Sec. 103. FAA operations.
- Sec. 104. AIP formula changes.
- Sec. 105. Grants from small airport fund.
- Sec. 106. Innovative use of airport grant funds.
- Sec. 107. Airport security program.
- Sec. 108. Matching share for State block grant program.
- Sec. 109. Treatment of certain facilities as airport-related projects.

- Sec. 110. Terminal development costs.
- Sec. 111. Conveyances of surplus property for public airports.
- Sec. 112. Construction of runways.
- Sec. 113. Potomac Metroplex terminal radar approach control facility.
- Sec. 114. General facilities authority.
- Sec. 115. Transportation assistance for Olympic cities.
- Sec. 116. Denial of airport access to certain air carriers.
- Sec. 117. Period of applicability of amendments.
- Sec. 118. Technical amendments.

#### TITLE II—CONTRACT TOWER PROGRAM

- Sec. 201. Contract towers.

#### TITLE III—FAMILY ASSISTANCE

- Sec. 301. Responsibilities of National Transportation Safety Board.
- Sec. 302. Air carrier plans.
- Sec. 303. Foreign air carrier plans.
- Sec. 304. Applicability of Death on the High Seas Act.

#### TITLE IV—WAR RISK INSURANCE PROGRAM

- Sec. 401. Aviation insurance program amendments.

#### TITLE V—SAFETY

- Sec. 501. Cargo collision avoidance systems deadline.
- Sec. 502. Records of employment of pilot applicants.
- Sec. 503. Whistleblower protection for FAA employees.
- Sec. 504. Safety risk mitigation programs.
- Sec. 505. Flight operations quality assurance rules.
- Sec. 506. Small airport certification.
- Sec. 507. Marking of life limited aircraft parts.

#### TITLE VI—WHISTLEBLOWER PROTECTION

- Sec. 601. Protection of employees providing air safety information.
- Sec. 602. Civil penalty.

#### TITLE VII—CENTENNIAL OF FLIGHT COMMISSION

- Sec. 701. Short title.
- Sec. 702. Findings.
- Sec. 703. Establishment.
- Sec. 704. Membership.
- Sec. 705. Duties.
- Sec. 706. Powers.
- Sec. 707. Staff and support services.
- Sec. 708. Contributions.
- Sec. 709. Exclusive right to name, logos, emblems, seals, and marks.
- Sec. 710. Reports.
- Sec. 711. Audit of financial transactions.
- Sec. 712. Advisory Board.
- Sec. 713. Definitions.
- Sec. 714. Termination.
- Sec. 715. Authorization of appropriations.

#### TITLE VIII—MISCELLANEOUS PROVISIONS

- Sec. 801. Clarification of regulatory approval process.
- Sec. 802. Duties and powers of Administrator.
- Sec. 803. Prohibition on release of offeror proposals.
- Sec. 804. Multiyear procurement contracts.
- Sec. 805. Federal Aviation Administration personnel management system.
- Sec. 806. General facilities and personnel authority.
- Sec. 807. Implementation of article 83 bis of the Chicago Convention.
- Sec. 808. Public availability of airmen records.
- Sec. 809. Government and industry consortia.
- Sec. 810. Passenger manifest.
- Sec. 811. Cost recovery for foreign aviation services.
- Sec. 812. Technical corrections to civil penalty provisions.
- Sec. 813. Enhanced vision technologies.
- Sec. 814. Foreign carriers eligible for waiver under Airport Noise and Capacity Act.
- Sec. 815. Typographical errors.
- Sec. 816. Acquisition management system.
- Sec. 817. Independent validation of FAA costs and allocations.
- Sec. 818. Elimination of backlog of equal employment opportunity complaints.
- Sec. 819. Newport News, Virginia.
- Sec. 820. Grant of easement, Los Angeles, California.
- Sec. 821. Regulation of Alaska air guides.

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

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

**SEC. 3. APPLICABILITY.**

(a) **IN GENERAL.**—Except as otherwise specifically provided, this Act and the amendments made by this Act apply only to fiscal years beginning after September 30, 1998.

(b) **LIMITATION ON STATUTORY CONSTRUCTION.**—Nothing in this Act or any amendment made by this Act shall be construed as affecting funds made available for a fiscal year ending before October 1, 1998.

**SEC. 4. ADMINISTRATOR DEFINED.**

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

## **TITLE I—AIRPORT AND AIRWAY IMPROVEMENTS**

**SEC. 101. AIRPORT IMPROVEMENT PROGRAM.**

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

(1) by striking “September 30, 1996” and inserting “September 30, 1998”; and

(2) by striking “\$2,280,000,000” and all that follows through the period at the end and inserting the following: “\$2,347,000,000 for fiscal years ending before October 1, 1999.”.

(b) **OBLIGATIONAL AUTHORITY.**—Section 47104(c) is amended by striking “1998” and inserting “1999”.

**SEC. 102. AIRWAY FACILITIES IMPROVEMENT PROGRAM.**

(a) **GENERAL AUTHORIZATION AND APPROPRIATIONS.**—Section 48101(a) is amended by adding at the end the following:

“(3) \$2,131,000,000 for fiscal year 1999.”.

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

“(d) **UNIVERSAL ACCESS SYSTEMS.**—Of the amounts appropriated under subsection (a) for fiscal year 1999, \$8,000,000 may be used for the voluntary purchase and installation of universal access systems.”.

**SEC. 103. FAA OPERATIONS.**

(a) **AUTHORIZATION OF APPROPRIATIONS FROM GENERAL FUND.**—Section 106(k) is amended—

(1) by inserting “(1) **IN GENERAL.**—” before “There”;

(2) in paragraph (1) (as so designated) by striking “\$5,158,000,000” and all that follows through the period at the end and inserting the following: “\$5,632,000,000 for fiscal year 1999.”;

(3) by adding at the end the following:

“(2) **AUTHORIZED EXPENDITURES.**—Of the amounts appropriated under paragraph (1) for fiscal year 1999—

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

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

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

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

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

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

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

(A) in the subsection heading by striking “FISCAL YEARS 1994–1998” and inserting “FISCAL YEAR 1999”; and

(B) in the matter preceding paragraph (1) by striking “each of fiscal years 1994 through 1998” and inserting “fiscal year 1999”.

(c) LIMITATION ON OBLIGATING OR EXPENDING AMOUNTS.—Section 48108(c) is amended by striking “1998” and inserting “1999”.

**SEC. 104. AIP FORMULA CHANGES.**

(a) DISCRETIONARY FUND.—Section 47115 is amended—

(1) by striking subsection (g);

(2) by redesignating subsection (h) as subsection (g); and

(3) by inserting before the period at the end of subsection (g) (as so redesignated) the following: “with funds made available under this section and, if such funds are not sufficient, with funds made available under sections 47114(c)(1)(A), 47114(c)(2), 47114(d), and 47117(e) on a pro rata basis”.

(b) AMOUNTS APPORTIONED TO SPONSORS.—Section 47114(c)(1) is amended—

(1) in subparagraph (A)(v) by inserting “subject to subparagraph (C),” before “\$.50”; and

(2) by adding at the end the following:

“(C) The amount to be apportioned for a fiscal year for a passenger described in subparagraph (A)(v) shall be reduced to \$.40 if the total amount made available under section 48103 for such fiscal year is less than \$1,350,000,000.”.

(c) ENTITLEMENT FOR GENERAL AVIATION AIRPORTS.—Section 47114(d)(2) is amended—

(1) in the matter preceding subparagraph (A) by striking “18.5 percent” and inserting “20 percent”;

(2) in subparagraph (A) by striking “0.66” and inserting “0.62; and

(3) in each of subparagraphs (B) and (C) by striking “49.67” and inserting “49.69”.

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

“(3) SPECIAL RULE.—An amount apportioned under paragraph (2) of this subsection for airports in Alaska, Puerto Rico, or Hawaii may be made available by the Secretary for any public airport in those respective jurisdictions.”.

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

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

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

(1) in subparagraph (A) by striking “31 percent” each place it appears and inserting “33 percent”; and

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

(g) SUPPLEMENTAL APPORTIONMENT FOR ALASKA.—Section 47114(e) is amended—

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

(2) in paragraph (1)—

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

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

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

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

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

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

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

(i) DESIGNATING CURRENT AND FORMER MILITARY AIRPORTS.—Section 47118 is amended—

(1) in subsection (a) by striking “12” and inserting “15”; and

(2) by adding at the end the following:

“(g) DESIGNATION OF GENERAL AVIATION AIRPORT.—Notwithstanding any other provision of this section, at least 1 of the airports designated under subsection (a) shall be a general aviation airport that is a former military installation closed or realigned under a law described in subsection (a)(1).”.

## (j) ELIGIBILITY OF RUNWAY INCURSION PREVENTION DEVICES.—

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

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

(A) by striking “and” at the end of paragraph (9); and

(B) by striking the period at the end of paragraph (10) and inserting “; and”;

(C) by adding at the end the following:

“(11) runway and taxiway incursion prevention devices, including integrated in-pavement lighting systems for runways and taxiways, in accordance with an applicable runway incursion prevention plan.”.

(3) AIRPORT DEVELOPMENT DEFINED.—Section 47102(3)(B)(ii) is amended by inserting “and including integrated in-pavement lighting systems for runways and taxiways and other runway and taxiway incursion prevention devices” before the semicolon at the end.

**SEC. 105. GRANTS FROM SMALL AIRPORT FUND.**

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

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

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

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

**SEC. 106. INNOVATIVE USE OF AIRPORT GRANT FUNDS.**

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

**“§ 47135. Innovative financing techniques**

“(a) IN GENERAL.—The Secretary of Transportation may approve applications under this subchapter for not more than 20 projects for which grants made under this subchapter may be used to implement innovative financing techniques.

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

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

“(d) INNOVATIVE FINANCING TECHNIQUE DEFINED.—In this section, the term ‘innovative financing technique’ is limited to—

“(1) payment of interest;

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

“(3) flexible non-Federal matching requirements.”.

(b) CONFORMING AMENDMENT.—The analysis for subchapter 1 of chapter 471 is amended by adding at the end the following:

“47135. Innovative financing techniques.”.

**SEC. 107. AIRPORT SECURITY PROGRAM.**

(a) IN GENERAL.—Chapter 471 (as amended by section 106 of this Act) is amended by adding the following new section:

**“§ 47136. Airport security program**

“(a) GENERAL AUTHORITY.—To improve security at public airports in the United States, the Secretary of Transportation shall carry out not less than 1 project to test and evaluate innovative airport security systems and related technology.

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

“(1) evaluates and tests the benefits of innovative airport security systems or related technology, including explosives detection systems, for the purpose of improving airport and aircraft physical security and access control; and

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

“(c) MATCHING SHARE.—Notwithstanding section 47109, the United States Government’s share of allowable project costs for a project under this section is 100 percent.

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

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

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

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

“47136. Airport security program.”.

#### SEC. 108. MATCHING SHARE FOR STATE BLOCK GRANT PROGRAM.

Section 47109(a) is amended—

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

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

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

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

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

#### SEC. 109. TREATMENT OF CERTAIN FACILITIES AS AIRPORT-RELATED PROJECTS.

Section 40117 is amended by adding at the end the following:

“(j) SHELL OF TERMINAL BUILDING AND AIRCRAFT FUELING FACILITIES.—In order to enable additional air service by an air carrier with less than 50 percent of the scheduled passenger traffic at an airport, the Secretary may consider the shell of a terminal building (including heating, ventilation, and air conditioning) and aircraft fueling facilities adjacent to an airport terminal building to be an eligible airport-related project under subsection (a)(3)(E).”.

#### SEC. 110. TERMINAL DEVELOPMENT COSTS.

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

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

(A) by striking “0.05” and inserting “0.25”; and

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

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

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

#### SEC. 111. CONVEYANCES OF SURPLUS PROPERTY FOR PUBLIC AIRPORTS.

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

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

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

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

(2) by adding at the end the following:

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

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

“(c) CONSIDERATIONS.—In deciding whether to waive a term required under section 47152 or add another term, the Secretary shall consider the current and future needs of the users of the airport and the interests of the owner of the property.”.

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

(1) in section 47151—

(A) in subsection (a)—

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

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

(B) in subsection (b)—

(i) by striking “giving” and inserting “conveying”; and

(ii) by striking “gift” and inserting “conveyance”; and

(C) in subsection (c)—

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

(ii) by striking “given” and inserting “conveyed”;

(2) in section 47152—

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

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

(3) in section 47153(a)(1)—

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

(B) by striking “given” and inserting “conveyed”; and

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

“47152. Terms of conveyances.”.

**SEC. 112. CONSTRUCTION OF RUNWAYS.**

Notwithstanding any provision of law that specifically restricts the number of runways at a single international airport, the Secretary of Transportation may obligate funds made available under chapters 471 and 481 of title 49, United States Code, for any project to construct a new runway at such airport, unless this section is expressly repealed.

**SEC. 113. POTOMAC METROPLEX TERMINAL RADAR APPROACH CONTROL FACILITY.**

(a) SITE SELECTION.—The Administrator may not select a site for, or begin construction of, the Potomac Metroplex terminal radar approach control facility in the State of Virginia before the 90th day after the Administrator transmits to Congress a report on the relative costs and benefits of constructing the facility on land already owned by the United States, including land located outside the Washington, D.C., metropolitan area.

(b) CONTENTS OF REPORT.—The report to be transmitted under subsection (a) shall include—

(1) a justification for the current construction plan, including the size and cost of the consolidated facility; and

(2) a complete risk analysis of the possibility that the redesigned airspace may not be completed, or may be only partially completed, including an explanation of whether or not the consolidation will be cost beneficial if the airspace is only partially redesigned.

**SEC. 114. GENERAL FACILITIES AUTHORITY.**

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

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

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

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

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

**SEC. 115. TRANSPORTATION ASSISTANCE FOR OLYMPIC CITIES.**

(a) PURPOSE.—The purpose of this section is to provide assistance and support to State and local efforts on aviation-related transportation issues necessary to obtain the national recognition and economic benefits of participation in the International Olympic movement and the International Paralympic movement by hosting international quadrennial Olympic and Paralympic events in the United States.

(b) AIRPORT DEVELOPMENT PROJECTS.—

(1) AIRPORT DEVELOPMENT DEFINED.—Section 47102(3) is amended by adding at the end the following:

“(H) Developing, in coordination with State and local transportation agencies, intermodal transportation plans necessary for Olympic-related projects at an airport.”.

(2) DISCRETIONARY GRANTS.—Section 47115(d) is amended—

(A) by striking “and” at the end of paragraph (5);

(B) by striking the period at the end of paragraph (6) and inserting “; and”; and

(C) by adding at the end the following:

“(7) the need for the project in order to meet the unique demands of hosting international quadrennial Olympic events.”.

**SEC. 116. DENIAL OF AIRPORT ACCESS TO CERTAIN AIR CARRIERS.**

(a) IN GENERAL.—It shall not be considered unreasonable or unjust discrimination or a violation of section 47107 of title 49, United States Code, for the owner or operator of an airport described in (b) to deny access to any air carrier that is conducting operations as a public charter under part 380 of title 14, Code of Federal Regulations, with aircraft designed to carry more than 9 passengers per flight.

(b) COVERED AIRPORTS.—This section shall only apply to an airport that—

(1) is designated as a reliever airport by the Administrator;

(2) does not have an operating certificate issued under part 139 of title 14, Code of Federal Regulations; and

(3) is located within 25 miles of an airport that has at least 0.05 percent of the total annual boardings in the United States and has current gate capacity to handle the demands of the public charter operation.

(c) PUBLIC CHARTER DEFINED.—In this section, the term ‘public charter’ means charter air transportation for which the general public is provided in advance a schedule containing the departure location, departure time, and arrival location of the flights.

**SEC. 117. PERIOD OF APPLICABILITY OF AMENDMENTS.**

Effective September 29, 1998, section 125 of the Federal Aviation Reauthorization Act of 1996 (49 U.S.C. 47114 note; 110 Stat. 3220) is repealed.

**SEC. 118. TECHNICAL AMENDMENTS.**

(a) DISCRETIONARY FUND DEFINITION.—

(1) AMOUNTS IN FUND AND AVAILABILITY.—Section 47115 is amended—

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

(B) by striking the second sentence of subsection (b).

(2) SMALL AIRPORT FUND.—Section 47116 is amended—

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

(B) in subsection (b) by striking paragraphs (1) and (2) and inserting the following:

“(1)  $\frac{1}{7}$  for grants for projects at small hub airports (as defined in section 41731 of this title).

“(2) The remaining amounts as follows:

“(A)  $\frac{1}{3}$  for grants to sponsors of public-use airports (except commercial service airports).

“(B)  $\frac{2}{3}$  for grants to sponsors of each commercial service airport that each year has less than .05 percent of the total boardings in the United States in that year.”.

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

“(e) CHANGE IN AIRPORT STATUS.—In the event that the status of a primary airport changes to a nonprimary airport at a time when a terminal development

project under a multiyear agreement under subsection (a) is not yet completed, the project shall remain eligible for funding from discretionary funds under section 47115 at the funding level and under the terms provided by the agreement, subject to the availability of funds.”.

## TITLE II—CONTRACT TOWER PROGRAM

### SEC. 201. CONTRACT TOWERS.

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

“(3) NONQUALIFYING AIR TRAFFIC CONTROL TOWERS.—

“(A) IN GENERAL.—The Secretary shall establish a program to contract for air traffic control services at not more than 20 level I air traffic control towers, as defined by the Administrator of the Federal Aviation Administration, that do not qualify for the program established under subsection (a) and continued under paragraph (1).

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

“(i) Air traffic control towers that are participating in the program continued under paragraph (1) but have been notified that they will be terminated from such program because the Administrator has determined that the benefit-to-cost ratio for their continuation in such program is less than 1.

“(ii) Level I air traffic control towers of the Federal Aviation Administration that are closed as a result of the air traffic controllers strike in 1981.

“(iii) Air traffic control towers that are located at airports that receive air service from an air carrier that is receiving compensation under the essential air service program of subchapter II of chapter 417.

“(iv) Air traffic control towers located at airports that are prepared to assume responsibility for tower construction and maintenance costs.

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

“(C) COSTS EXCEEDING BENEFITS.—If the costs of operating a control tower under the program established under this paragraph exceed the benefits, the airport sponsor or State or local government having jurisdiction over the airport shall pay the portion of the costs that exceed such benefits.

“(D) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated \$6,000,000 per fiscal year to carry out this paragraph.”.

## TITLE III—FAMILY ASSISTANCE

### SEC. 301. RESPONSIBILITIES OF NATIONAL TRANSPORTATION SAFETY BOARD.

(a) PROHIBITION ON UNSOLICITED COMMUNICATIONS.—

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

(A) by inserting after “transportation,” the following: “and in a case involving a foreign air carrier and an accident that occurs within the United States,”;

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

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

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

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

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

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

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

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

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

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

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

**SEC. 302. AIR CARRIER PLANS.**

(a) CONTENTS OF PLANS.—

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

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

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

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

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

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

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

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

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

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

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

**SEC. 303. FOREIGN AIR CARRIER PLANS.**

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

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

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

(c) CONTENTS OF PLANS.—

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

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

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

tation Safety Board an updated plan under section 41313 of such title that meets the requirement of the amendment made by paragraph (1).

**SEC. 304. APPLICABILITY OF DEATH ON THE HIGH SEAS ACT.**

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

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

## **TITLE IV—WAR RISK INSURANCE PROGRAM**

**SEC. 401. AVIATION INSURANCE PROGRAM AMENDMENTS.**

(a) **REIMBURSEMENT OF INSURED PARTY’S SUBROGEE.**—Section 44309(a) is amended to read as follows:

“(a) **LOSSES.**—

“(1) **ACTIONS AGAINST UNITED STATES.**—A person may bring a civil action in a district court of the United States or in the United States Court of Federal Claims against the United States Government when—

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

“(B)(i) the person is subrogated under a contract between the person and a party insured under this chapter (other than section 44305(b)) to the rights of the insured party against the United States Government; and

“(ii) the person has paid to the insured party, with the approval of the Secretary of Transportation, an amount for a physical damage loss that the Secretary has determined is a loss covered by insurance issued under this chapter (other than section 44305(b)).

“(2) **LIMITATION.**—A civil action involving the same matter (except the action authorized by this subsection) may not be brought against an agent, officer, or employee of the Government carrying out this chapter.

“(3) **PROCEDURE.**—To the extent applicable, the procedure in an action brought under section 1346(a)(2) of title 28 applies to an action under this subsection.”

(b) **EXTENSION OF AVIATION INSURANCE PROGRAM.**—Section 44310 of such title is amended by striking “1998” and inserting “2003”.

## **TITLE V—SAFETY**

**SEC. 501. CARGO COLLISION AVOIDANCE SYSTEMS DEADLINE.**

(a) **IN GENERAL.**—The Administrator shall require by regulation that, not later than December 31, 2002, equipment be installed, on each cargo aircraft with a payload capacity of 15,000 kilograms or more, that provides protection from mid-air collisions and resolution advisory capability that is at least as good as is provided by the collision avoidance system known as TCAS–II.

(b) **EXTENSION OF DEADLINE.**—The Administrator may extend the deadline established by subsection (a) by not more than 1 year if the Administrator finds that the extension would promote safety.

**SEC. 502. RECORDS OF EMPLOYMENT OF PILOT APPLICANTS.**

Section 44936 is amended—

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

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

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

**SEC. 503. WHISTLEBLOWER PROTECTION FOR FAA EMPLOYEES.**

Section 347(b)(1) of the Department of Transportation and Related Agencies Appropriations Act, 1996 (49 U.S.C. 106 note; 109 Stat. 460) is amended by inserting

before the semicolon at the end the following: “, including the provisions for investigation and enforcement as provided in chapter 12 of title 5, United States Code”.

**SEC. 504. SAFETY RISK MITIGATION PROGRAMS.**

Section 44701 (as amended by section 805 of this Act) is amended by adding at the end the following:

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

**SEC. 505. FLIGHT OPERATIONS QUALITY ASSURANCE RULES.**

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

**SEC. 506. SMALL AIRPORT CERTIFICATION.**

Not later than 180 days after the date of enactment of this Act, the Administrator shall issue a notice of proposed rulemaking on implementing section 44706(a)(2) of title 49, United States Code, relating to issuance of airport operating certificates for small scheduled passenger air carrier operations. Not later than 1 year after the last day of the period for public comment provided for in the notice of proposed rulemaking, the Administrator shall issue a final rule on implementing such program.

**SEC. 507. MARKING OF LIFE LIMITED AIRCRAFT PARTS.**

(a) MARKING AUTHORITY.—Chapter 447 is amended by adding the following new section:

**“§ 44725. Marking of life limited aircraft parts**

“(a) IN GENERAL.—The Administrator of the Federal Aviation Administration shall conduct a rulemaking proceeding to determine the most effective way to permanently mark all life limited civil aviation parts. In accordance with that determination, the Administrator shall issue a rule to require the mandatory marking of all such parts that exceed their useful life.

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

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

“(2) not later than 120 days after the close of the comment period on the proposed rule, issue a final rule.”.

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

(1) in paragraph (1)(A) by striking “and 44719–44723” and inserting “, 44719–44723, and 44725”; and

(2) in paragraph (3)—

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

(B) in subparagraph (B) by striking the period at the end and inserting “, or”; and

(C) by adding at the end the following:

“(C) the failure to mark life limited aircraft parts in accordance of section 44725.”.

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

“44725. Marking of life limited aircraft parts.”.

## TITLE VI—WHISTLEBLOWER PROTECTION

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

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

**“SUBCHAPTER III—WHISTLEBLOWER PROTECTION PROGRAM**

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

“(a) DISCRIMINATION AGAINST AIRLINE EMPLOYEES.—No air carrier or contractor or subcontractor of an air carrier may discharge an employee or otherwise discriminate against an employee with respect to compensation, terms, conditions, or privi-

leges of employment because the employee (or any person acting pursuant to a request of the employee)—

“(1) provided, caused to be provided, or is about to provide or cause to be provided to the Federal Government information relating to air safety under this subtitle or any other law of the United States;

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

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

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

“(b) DEPARTMENT OF LABOR COMPLAINT PROCEDURE.—

“(1) FILING AND NOTIFICATION.—A person who believes that he or she has been discharged or otherwise discriminated against by a person in violation of subsection (a) may, not later than 180 days after the date on which such violation occurs, file (or have any person file on his or her behalf) a complaint with the Secretary of Labor alleging such discharge or discrimination. Upon receipt of such a complaint, the Secretary of Labor shall notify the person named in the complaint and the Administrator of the Federal Aviation Administration of the filing of the complaint, of the allegations contained in the complaint, of the substance of evidence supporting the complaint, and of the opportunities that will be afforded to such person under paragraph (2).

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

“(3) FINAL ORDER.—

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

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

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

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

“(iii) provide compensatory damages to the complainant.

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

“(C) FRIVOLOUS COMPLAINTS.—If the Secretary of Labor finds that a complaint under paragraph (1) is frivolous or has been brought in bad faith,

the Secretary of Labor may award to the prevailing employer a reasonable attorney's fee not exceeding \$5,000.

“(4) REVIEW.—

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

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

“(5) ENFORCEMENT OF ORDER BY SECRETARY OF LABOR.—Whenever a person has failed to comply with an order issued under paragraph (3), the Secretary of Labor may file a civil action in the United States district court for the district in which the violation was found to occur to enforce such order. In actions brought under this paragraph, the district courts shall have jurisdiction to grant all appropriate relief including, but not limited to, injunctive relief and compensatory damages.

“(6) ENFORCEMENT OF ORDER BY PARTIES.—

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

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

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

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

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

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

“SUBCHAPTER III—WHISTLEBLOWER PROTECTION PROGRAM

“42121. Protection of employees providing air safety information.”

**SEC. 602. CIVIL PENALTY.**

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

## TITLE VII—CENTENNIAL OF FLIGHT COMMISSION

**SEC. 701. SHORT TITLE.**

This title may be cited as the “Centennial of Flight Commemoration Act”.

**SEC. 702. FINDINGS.**

Congress finds that—

(1) December 17, 2003, is the 100th anniversary of the first successful manned, free, controlled, and sustained flight by a power-driven, heavier-than-air machine;

(2) the first flight by Orville and Wilbur Wright represents the fulfillment of the age-old dream of flying;

(3) the airplane has dramatically changed the course of transportation, commerce, communication, and warfare throughout the world;

(4) the achievement by the Wright brothers stands as a triumph of American ingenuity, inventiveness, and diligence in developing new technologies, and remains an inspiration for all Americans;

(5) it is appropriate to remember and renew the legacy of the Wright brothers at a time when the values of creativity and daring represented by the Wright brothers are critical to the future of the Nation; and

(6) as the Nation approaches the 100th anniversary of powered flight, it is appropriate to celebrate and commemorate the centennial year through local, national, and international observances and activities.

**SEC. 703. ESTABLISHMENT.**

There is established a commission to be known as the Centennial of Flight Commission.

**SEC. 704. MEMBERSHIP.**

(a) **NUMBER AND APPOINTMENT.**—The Commission shall be composed of 7 members as follows:

(1) The Administrator of the Federal Aviation Administration (or the designee of the Administrator).

(2) The Director of the National Air and Space Museum (or the designee of the Director).

(3) The Administrator of the National Aeronautics and Space Administration (or the designee of the Administrator).

(4) The chairman of the First Flight Centennial Foundation of North Carolina (or the designee of the chairman).

(5) The chairman of the 2003 Committee of Ohio (or the designee of the chairman).

(6) The president of the American Institute of Aeronautics and Astronautics Foundation of Reston, Virginia (or the designee of the president).

(7) An individual of national stature who shall be selected by the members of the Commission designated under paragraphs (1) through (6).

(b) **VACANCIES.**—Any vacancy in the Commission shall be filled in the same manner in which the original designation was made.

(c) **COMPENSATION.**—

(1) **PROHIBITION OF PAY.**—Except as provided in paragraph (2), members of the Commission shall serve without pay or compensation.

(2) **TRAVEL EXPENSES.**—The Commission may adopt a policy for members of the Commission and related advisory panels to receive travel expenses, including per diem in lieu of subsistence. The policy may not exceed the levels established under sections 5702 and 5703 of title 5, United States Code. Members who are Federal employees shall not receive travel expenses if otherwise reimbursed by the Federal Government.

(d) **QUORUM.**—Three members of the Commission shall constitute a quorum.

(e) **CHAIRPERSON.**—The Commission member selected under subsection (a)(7) shall serve as Chairperson of the Commission. The Chairperson may not vote on matters before the Commission except in the case of a tie vote.

(f) **ORGANIZATION.**—Not later than 90 days after the date of enactment of this Act, the Commission shall meet and select a Chairperson, Vice Chairperson, and Executive Director.

**SEC. 705. DUTIES.**

(a) **IN GENERAL.**—The Commission shall—

(1) represent the United States and take a leadership role with other nations in recognizing the importance of aviation history in general and the centennial of powered flight in particular, and promote participation by the United States in such activities;

(2) encourage and promote national and international participation and sponsorships in commemoration of the centennial of powered flight by persons and entities such as—

(A) aerospace manufacturing companies;

(B) aerospace-related military organizations;

(C) workers employed in aerospace-related industries;

(D) commercial aviation companies;

(E) general aviation owners and pilots;

(F) aerospace researchers, instructors, and enthusiasts;

- (G) elementary, secondary, and higher educational institutions;
- (H) civil, patriotic, educational, sporting, arts, cultural, and historical organizations and technical societies;
- (I) aerospace-related museums; and
- (J) State and local governments;

(3) plan and develop, in coordination with the First Flight Centennial Commission, the First Flight Centennial Foundation of North Carolina, and the 2003 Committee of Ohio, programs and activities that are appropriate to commemorate the 100th anniversary of powered flight;

(4) maintain, publish, and distribute a calendar or register of national and international programs and projects concerning, and provide a central clearinghouse for, information and coordination regarding, dates, events, and places of historical and commemorative significance regarding aviation history in general and the centennial of powered flight in particular;

(5) provide national coordination for celebration dates to take place throughout the United States during the centennial year;

(6) assist in conducting educational, civic, and commemorative activities relating to the centennial of powered flight throughout the United States, especially activities that occur in the States of North Carolina and Ohio and that highlight the activities of the Wright brothers in such States; and

(7) publish popular and scholarly works related to the history of aviation or the anniversary of the centennial of powered flight.

(b) NONDUPLICATION OF ACTIVITIES.—The Commission shall attempt to plan and conduct its activities in such a manner that activities conducted pursuant to this title enhance, but do not duplicate, traditional and established activities of Ohio's 2003 Committee, North Carolina's First Flight Centennial Commission, and the First Flight Centennial Foundation.

#### SEC. 706. POWERS.

(a) ADVISORY COMMITTEES AND TASK FORCES.—

(1) IN GENERAL.—The Commission may appoint any advisory committee or task force that it determines to be necessary to carry out this title.

(2) FEDERAL COOPERATION.—To ensure the overall success of the Commission's efforts, the Commission may call upon various Federal departments and agencies to assist in and give support to programs of the Commission. Where appropriate, all Federal departments and agencies shall provide any assistance possible.

(3) PROHIBITION OF PAY OTHER THAN TRAVEL EXPENSES.—Members of an advisory committee or task force authorized by paragraph (1) shall not receive pay, but may receive travel expenses pursuant to the policy adopted by the Commission under section 704(c)(2).

(b) POWERS OF MEMBERS AND AGENTS.—Any member or agent of the Commission may, if authorized by the Commission, take any action that the Commission is authorized to take under this title.

(c) AUTHORITY TO PROCURE AND TO MAKE LEGAL AGREEMENTS.—

(1) IN GENERAL.—The Commission may procure supplies, services, and property, and make or enter into leases and other legal agreements in order to carry out this title.

(2) RESTRICTION.—A contract, lease, or other legal agreement made or entered into by the Commission may not extend beyond the date of the termination of the Commission.

(3) SUPPLIES AND PROPERTY POSSESSED BY COMMISSION AT TERMINATION.—Any supplies and property, except historically significant items, that are acquired by the Commission under this title and remain in the possession of the Commission on the date of the termination of the Commission shall become the property of the General Services Administration upon the date of termination.

(d) REQUESTS FOR OFFICIAL INFORMATION.—The Commission may request from any Federal department or agency information necessary to enable the Commission to carry out this title. The head of the Federal department or agency shall furnish the information to the Commission unless the release of the information by the department or agency to the public is prohibited by law.

(e) MAILS.—The Commission may use the United States mails in the same manner and under the same conditions as any other Federal agency.

(f) APPLICABILITY OF CERTAIN LAWS.—Except as otherwise expressly provided by this title, laws relating to the general operation and management of Federal agencies shall apply to the Commission only to the extent such laws apply to the Smithsonian Institution.

**SEC. 707. STAFF AND SUPPORT SERVICES.**

(a) EXECUTIVE DIRECTOR.—There shall be an Executive Director appointed by the Commission. The Executive Director may be paid at a rate not to exceed the maximum rate of basic pay payable for the Senior Executive Service.

(b) STAFF.—The Commission may appoint and fix the pay of any additional personnel that it considers appropriate, except that an individual appointed under this subsection may not receive pay in excess of the maximum rate of basic pay payable for GS-14 of the General Schedule.

(c) INAPPLICABILITY OF CERTAIN CIVIL SERVICE LAWS.—The Executive Director and staff of the Commission may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title, relating to classification and General Schedule pay rates, except as provided under subsections (a) and (b).

(d) STAFF OF FEDERAL AGENCIES.—Upon request by the Chairperson of the Commission, the head of any Federal department or agency may detail, on a non-reimbursable basis, any of the personnel of the department or agency to the Commission to assist the Commission to carry out its duties under this title.

(e) EXPERTS AND CONSULTANTS.—The Chairperson of the Commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, at a rate that does not exceed the daily equivalent of the annual rate of basic pay payable under level V of the Executive Schedule under section 5316 of such title.

(f) ADMINISTRATIVE SUPPORT SERVICES.—

(1) REIMBURSABLE SERVICES.—The Secretary of the Smithsonian Institution may provide to the Commission on a reimbursable basis any administrative support services that are necessary to enable the Commission to carry out this title.

(2) NONREIMBURSABLE SERVICES.—The Secretary may provide administrative support services to the Commission on a nonreimbursable basis when, in the opinion of the Secretary, the value of such services is insignificant or not practical to determine.

(g) COOPERATIVE AGREEMENTS.—The Commission may enter into cooperative agreements or grant agreements with other Federal agencies, State and local governments, and private interests and organizations that will contribute to public awareness of and interest in the centennial of powered flight and toward furthering the goals and purposes of this title.

(h) PROGRAM SUPPORT.—The Commission may receive program support from the non-profit sector.

**SEC. 708. CONTRIBUTIONS.**

(a) DONATIONS.—

(1) IN GENERAL.—The Commission may accept donations of money, personal service, and historic materials relating to the implementation of its responsibilities under the provisions of this title.

(2) DONATED FUNDS AND SALES.—Any funds donated to the Commission or revenues from direct sales shall be used by the Commission to carry out this title. Funds donated to and accepted by the Commission under this section shall not be considered to be appropriated funds and shall not be subject to any requirements or restrictions applicable to appropriated funds.

(3) FUNDRAISING.—Any fundraising undertaken by the Commission shall be coordinated with fundraising undertaken at the State level, and coordinated with the First Flight Centennial Commission, the First Flight Centennial Foundation of North Carolina, and the 2003 Committee of Ohio.

(b) VOLUNTEER SERVICES.—Notwithstanding section 1342 of title 31, United States Code, the Commission may accept and use voluntary and uncompensated services as the Commission determines necessary.

(c) REMAINING FUNDS.—Any donated funds remaining with the Commission on the date of the termination of the Commission may be used to ensure proper disposition, as specified in the final report required under section 710(b), of historically significant property which was donated to or acquired by the Commission. Any donated funds remaining after such disposition shall be transferred to the Secretary of the Treasury for deposit into the general fund of the Treasury of the United States.

(d) SENSE OF CONGRESS.—It is the sense of Congress that, in raising or accepting funds from the private sector, the Commission should not compete against fundraising efforts by non-profit organizations that were initiated before the date of enact-

ment of this Act and that are attempting to raise funds for nationally-significant commemorative projects related to the Wright brothers.

**SEC. 709. EXCLUSIVE RIGHT TO NAME, LOGOS, EMBLEMS, SEALS, AND MARKS.**

(a) **IN GENERAL.**—The Commission may devise any logo, emblem, seal, or descriptive or designating mark that is required to carry out its duties or that it determines is appropriate for use in connection with the commemoration of the centennial of powered flight.

(b) **LICENSING.**—The Commission shall have the sole and exclusive right to use, or to allow or refuse the use of, the name “Centennial of Flight Commission” on any logo, emblem, seal, or descriptive or designating mark that the Commission lawfully adopts.

(c) **EFFECT ON OTHER RIGHTS.**—No provision of this section may be construed to conflict or interfere with established or vested rights.

(d) **USE OF FUNDS.**—Funds donated to, or raised by, the Commission under section 708 and licensing royalties received pursuant to section 709 shall be used by the Commission to carry out the duties of the Commission specified by this title. If the Commission determines that such funds are in excess of the amount needed to carry out these duties, funds may be made available to State and local governments and private interests and organizations to contribute to public awareness of and interest in the centennial of powered flight. Funds disbursed under this section shall be required to be disbursed in accordance with a plan adopted unanimously by the voting members of the Commission.

(e) **LIMITATION ON FUNDS COLLECTED.**—Except as approved by a unanimous vote of the voting members of the Commission, funds donated to, or raised by, the Commission under section 708 and licensing royalties received pursuant to section 709 may not exceed \$1,750,000 in a fiscal year.

**SEC. 710. REPORTS.**

(a) **ANNUAL REPORT.**—In each fiscal year in which the Commission is in existence, the Commission shall prepare and submit to Congress a report describing the activities of the Commission during the fiscal year. Each annual report shall also include—

(1) recommendations regarding appropriate activities to commemorate the centennial of powered flight, including—

(A) the production, publication, and distribution of books, pamphlets, films, and other educational materials;

(B) bibliographical and documentary projects and publications;

(C) conferences, convocations, lectures, seminars, and other similar programs;

(D) the development of exhibits for libraries, museums, and other appropriate institutions;

(E) ceremonies and celebrations commemorating specific events that relate to the history of aviation;

(F) programs focusing on the history of aviation and its benefits to the United States and humankind; and

(G) competitions, commissions, and awards regarding historical, scholarly, artistic, literary, musical, and other works, programs, and projects related to the centennial of powered flight;

(2) recommendations to appropriate agencies or advisory bodies regarding the issuance of commemorative coins, medals, and stamps by the United States relating to aviation or the centennial of powered flight;

(3) recommendations for any legislation or administrative action that the Commission determines to be appropriate regarding the commemoration of the centennial of powered flight; and

(4) an accounting of funds received and expended by the Commission in the fiscal year that the report concerns, including a detailed description of the source and amount of any funds donated to the Commission in the fiscal year.

(b) **FINAL REPORT.**—Not later than June 30, 2004, the Commission shall submit to the President and Congress a final report. The final report shall contain—

(1) a summary of the activities of the Commission;

(2) a final accounting of funds received and expended by the Commission;

(3) any findings and conclusions of the Commission; and

(4) specific recommendations concerning the final disposition of any historically significant items acquired by the Commission, including items donated to the Commission under section 708(a)(1).

**SEC. 711. AUDIT OF FINANCIAL TRANSACTIONS.**

(a) **IN GENERAL.**—

(1) **AUDIT.**—The Comptroller General of the United States shall audit the financial transactions of the Commission, including financial transactions involving donated funds, in accordance with generally accepted auditing standards.

(2) **ACCESS.**—In conducting an audit under this section, the Comptroller General—

(A) shall have access to all books, accounts, financial records, reports, files, and other papers, items, or property in use by the Commission, as necessary to facilitate the audit; and

(B) shall be afforded full facilities for verifying the financial transactions of the Commission, including access to any financial records or securities held for the Commission by depositories, fiscal agents, or custodians.

(b) **REPORT.**—Not later than September 30, 2004, the Comptroller General of the United States shall submit to the President and to Congress a report detailing the results of any audit of the financial transactions of the Commission conducted by the Comptroller General.

**SEC. 712. ADVISORY BOARD.**

(a) **ESTABLISHMENT.**—There is established a First Flight Centennial Federal Advisory Board.

(b) **NUMBER AND APPOINTMENT.**—The Board shall be composed of 19 members as follows:

(1) The Secretary of the Interior, or the designee of the Secretary.

(2) The Librarian of Congress, or the designee of the Librarian.

(3) The Secretary of the Air Force, or the designee of the Secretary.

(4) The Secretary of the Navy, or the designee of the Secretary.

(5) The Secretary of Transportation, or the designee of the Secretary.

(6) Six citizens of the United States, appointed by the President, who—

(A) are not officers or employees of any government (except membership on the Board shall not be construed to apply to the limitation under this clause); and

(B) shall be selected based on their experience in the fields of aerospace history, science, or education, or their ability to represent the entities enumerated under section 705(2).

(7) Four citizens of the United States, appointed by the majority leader of the Senate in consultation with the minority leader of the Senate.

(8) Four citizens of the United States, appointed by the Speaker of the House of Representatives in consultation with the minority leader of the House of Representatives. Of the individuals appointed under this subparagraph—

(A) one shall be selected from among individuals recommended by the representative whose district encompasses the Wright Brothers National Memorial; and

(B) one shall be selected from among individuals recommended by the representatives whose districts encompass any part of the Dayton Aviation Heritage National Historical Park.

(c) **VACANCIES.**—Any vacancy in the Advisory Board shall be filled in the same manner in which the original designation was made.

(d) **MEETINGS.**—Seven members of the Advisory Board shall constitute a quorum for a meeting. All meetings shall be open to the public.

(e) **CHAIRPERSON.**—The President shall designate 1 member appointed under subsection (b)(1)(F) as chairperson of the Advisory Board.

(f) **MAILS.**—The Advisory Board may use the United States mails in the same manner and under the same conditions as a Federal agency.

(g) **DUTIES.**—The Advisory Board shall advise the Commission on matters related to this title.

(h) **PROHIBITION OF COMPENSATION OTHER THAN TRAVEL EXPENSES.**—Members of the Advisory Board shall not receive pay, but may receive travel expenses pursuant to the policy adopted by the Commission under section 704(c)(2).

(i) **TERMINATION.**—The Advisory Board shall terminate upon the termination of the Commission.

**SEC. 713. DEFINITIONS.**

In this title, the following definitions apply:

(1) **COMMISSION.**—The term “Commission” means the Centennial of Flight Commission.

(2) **FIRST FLIGHT.**—The term “First Flight” means the first four successful manned, free, controlled, and sustained flights by a power-driven, heavier-than-air machine, which were accomplished by Orville and Wilbur Wright on December 17, 1903.

(3) CENTENNIAL OF POWERED FLIGHT.—The term “centennial of powered flight” means the anniversary year, from December 2002 to December 2003, commemorating the 100-year history of aviation beginning with the First Flight and highlighting the achievements of the Wright brothers in developing the technologies which have led to the development of aviation as it is known today.

(4) ADVISORY BOARD.—The term “Advisory Board” means the Centennial of Flight Federal Advisory Board.

**SEC. 714. TERMINATION.**

The Commission shall terminate not later than 60 days after the submission of the final report required by section 710(b).

**SEC. 715. AUTHORIZATION OF APPROPRIATIONS.**

There is authorized to be appropriated to carry out this title \$250,000 for each of the fiscal years 1999 through 2004.

## TITLE VIII—MISCELLANEOUS PROVISIONS

**SEC. 801. CLARIFICATION OF REGULATORY APPROVAL PROCESS.**

Section 106(f)(3)(B) is amended by adding at the end the following:

“(v) Not later than 10 days after the date of the determination of the Administrator under clause (i), the Administrator shall transmit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a written justification of the reasons for the determination. The justification shall include a citation to the item or items listed in clause (i) that is the authority on which the Administrator is relying for making the determination.”.

**SEC. 802. DUTIES AND POWERS OF ADMINISTRATOR.**

Section 106(g)(1)(A) is amended by striking “40113(a), (c), and (d),” and all that follows through “45302–45304,” and inserting “40113(a), 40113(c), 40113(d), 40113(e), 40114(a), and 40119, chapter 445 (except sections 44501(b), 44502(a)(2), 44502(a)(3), 44502(a)(4), 44503, 44506, 44509, 44510, 44514, and 44515), chapter 447 (except sections 44717, 44718(a), 44718(b), 44719, 44720, 44721(b), 44722, and 44723), chapter 449 (except sections 44903(d), 44904, 44905, 44907–44911, 44913, 44915, and 44931–44934), chapter 451, chapter 453, sections”.

**SEC. 803. PROHIBITION ON RELEASE OF OFFEROR PROPOSALS.**

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

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

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

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

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

**SEC. 804. MULTIYEAR PROCUREMENT CONTRACTS.**

Section 40111 is amended—

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

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

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

**SEC. 805. FEDERAL AVIATION ADMINISTRATION PERSONNEL MANAGEMENT SYSTEM.**

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

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

“(g) **RIGHT TO CONTEST ADVERSE PERSONNEL ACTIONS.**—An employee of the Administration who is the subject of a major adverse personnel action may contest the action either through any contractual grievance procedure that is applicable to the employee as a member of the collective bargaining unit or through the Administration’s internal process relating to review of major adverse personnel actions of the Administration, known as Guaranteed Fair Treatment.”

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

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

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

(3) by adding at the end the following:

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

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

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

(e) **COSTS AND BENEFITS OF MERIT SYSTEMS PROTECTION BOARD PROCEDURE.**—

(1) **STUDY.**—The Inspector General of the Department of Transportation shall conduct a study of the costs and benefits to employees and the Federal Aviation Administration of the procedures of the Merit Systems Protection Board as compared to the guaranteed fair treatment procedures of the Federal Aviation Administration.

(2) **SURVEY.**—In conducting the study, the Inspector General shall conduct a survey of the employees of the Federal Aviation Administration who are not members of the union to determine which procedures such employees prefer.

(3) **REPORT.**—Not later than May 15, 1999, the Inspector General shall transmit to Congress a report on the results of the study conducted under paragraph (1), including the results of a survey conducted under paragraph (2).

**SEC. 806. GENERAL FACILITIES AND PERSONNEL AUTHORITY.**

Section 44502(a) (as amended by section 114 of this Act) is further amended by adding at the end the following:

“(6) **IMPROVEMENTS ON LEASED PROPERTIES.**—The Administrator may make improvements to real property leased for an air navigation facility, regardless of whether the cost of making the improvements exceeds the cost of leasing the real property, if—

“(A) the property is leased for free or nominal rent;

“(B) the improvements primarily benefit the Government;

“(C) the improvements are essential for accomplishment of the mission of the Federal Aviation Administration; and

“(D) the interest of the Government in the improvements is protected.”

**SEC. 807. IMPLEMENTATION OF ARTICLE 83 BIS OF THE CHICAGO CONVENTION.**

Section 44701 is amended by—

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

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

“(e) **BILATERAL EXCHANGES OF SAFETY OVERSIGHT RESPONSIBILITIES.**—

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

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

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

“(4) REGISTERED AIRCRAFT DEFINED.—In this subsection, the term ‘registered aircraft’ means—

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

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

**SEC. 808. PUBLIC AVAILABILITY OF AIRMEN RECORDS.**

Section 44703 is amended—

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

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

“(c) PUBLIC INFORMATION.—

“(1) IN GENERAL.—Subject to paragraph (2) and notwithstanding any other provision of law, the records of the contents (as prescribed in subsection (b)) of any airman certificate issued under this section shall be made available to the public after the 60th day following the date of enactment of the Airport Improvement Program Reauthorization Act of 1998.

“(2) ADDRESSES OF AIRMEN.—Before making the address of an airman available to the public under paragraph (1), the airman shall be given an opportunity to elect that the airman’s address not be made available to the public.

“(3) DEVELOPMENT AND IMPLEMENTATION OF PROGRAM.—Not later than 30 days after the date of enactment of the Airport Improvement Program Reauthorization Act of 1998, the Administrator shall develop and implement, in cooperation with representatives of the aviation industry, a one-time written notification to airmen to set forth the implications of making the address of an airman available to the public under paragraph (1) and to carry out paragraph (2).”.

**SEC. 809. GOVERNMENT AND INDUSTRY CONSORTIA.**

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

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

**SEC. 810. PASSENGER MANIFEST.**

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

**SEC. 811. COST RECOVERY FOR FOREIGN AVIATION SERVICES.**

Section 45301 is amended—

(1) in subsection (a)(2) by inserting before the period “or to any entity obtaining inspection, testing, authorization, permit, rating, approval, review, or certification services outside the United States”; and

(2) in subsection (b)(1)(B) by moving the sentence beginning “Services” down 1 line and flush 2 ems to the left.

**SEC. 812. TECHNICAL CORRECTIONS TO CIVIL PENALTY PROVISIONS.**

Section 46301 is amended—

- (1) in subsection (a)(1)(A) by striking “46302, 46303, or”;
- (2) in subsection (d)(7)(A) by striking “an individual” the first place it appears and inserting “a person”; and
- (3) in subsection (g) by inserting “or the Administrator” after “Secretary”.

**SEC. 813. ENHANCED VISION TECHNOLOGIES.**

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

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

(c) **INCLUSION OF INSTALLATION AS AIRPORT DEVELOPMENT.**—Section 47102 of title 49, United States Code, is amended—

(1) in paragraph (3)(B)—

(A) by striking “and” at the end of clause (v);

(B) by striking the period at the end of clause (vi) and inserting “; and”;

and

(C) by inserting after clause (vi) the following:

“(vii) enhanced visual technologies to replace or enhance conventional landing light systems.”; and

(2) by adding at the end the following:

“(21) **ENHANCED VISION TECHNOLOGIES.**—The term ‘enhanced vision technologies’ means laser guidance, ultraviolet guidance, infrared, and cold cathode technologies.”.

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

**SEC. 814. FOREIGN CARRIERS ELIGIBLE FOR WAIVER UNDER AIRPORT NOISE AND CAPACITY ACT.**

Section 47528(b)(1) is amended in the first sentence by inserting “or foreign air carrier” after “air carrier”.

**SEC. 815. TYPOGRAPHICAL ERRORS.**

(a) **IN TITLE 49.**—Title 49 is amended—

(1) in section 5108(f) by striking “section 552(f)” and inserting “section 552(b)”.

(2) in section 15904(c)(1) by inserting “section” before “15901(b)”.

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

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

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

(6) in section 49111(b) by striking “retention of” and inserting “retention by”.

(b) **CODIFICATION REPEAL TABLE.**—The Schedule of Laws Repealed in section 5(b) the Act of November 20, 1997 (Public Law 105–102; 111 Stat. 2217), is amended by striking “1996” the first place it appears and inserting “1986”.

(c) **CODIFICATION REFERENCES.**—Effective October 11, 1996, section 5(45)(A) of the Act of October 11, 1996 (Public Law 104–287, 110 Stat. 3393), is amended by striking “ENFORCEMENT;” and inserting “ENFORCEMENT.”.

**SEC. 816. ACQUISITION MANAGEMENT SYSTEM.**

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

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

**SEC. 817. INDEPENDENT VALIDATION OF FAA COSTS AND ALLOCATIONS.**

(a) **INDEPENDENT ASSESSMENT.**—

(1) **INITIATION.**—Not later than 90 days after the date of enactment of this Act, the Inspector General of the Department of Transportation shall initiate

the analyses described in paragraph (2). In conducting the analyses, the Inspector General shall ensure that the analyses are carried out by 1 or more entities that are independent of the Federal Aviation Administration. Except as provided by paragraph (2)(A)(iv), the Inspector General may use the staff and resources of the Inspector General or may contract with independent entities to conduct the analyses.

(2) ASSESSMENT OF ADEQUACY AND ACCURACY OF FAA COST DATA AND ATTRIBUTIONS.—To ensure that the method for calculating overall costs of the Federal Aviation Administration and attributing such costs to specific users is appropriate, reasonable, and understandable to the users, the Inspector General shall conduct an assessment that includes the following:

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

(ii) An assessment of the reliability of the Federal Aviation Administration's system for tracking assets.

(iii) An assessment of the reasonableness of the Federal Aviation Administration's bases for establishing asset values and depreciation rates.

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

(B) A review and validation (including the opportunity for public and user comments) of the Federal Aviation Administration's definition of the services to which the Federal Aviation Administration ultimately attributes its costs.

(C) An assessment and validation of the cost pools used by the Federal Aviation Administration, including the rationale for and reliability of the bases on which the Federal Aviation Administration proposes to allocate costs of services to users and the integrity of the cost pools as well as any other factors considered important by the Inspector General. Appropriate statistical tests shall be performed to assess relationships between costs in the various cost pools and activities and services to which the costs are attributed by the Federal Aviation Administration.

(D) For costs that cannot reliably be attributed to specific Federal Aviation Administration services or activities (called "common and fixed costs" in the Federal Aviation Administration Cost Allocation Study), the Inspector General shall contract with an entity that is independent of the Federal Aviation Administration to apply and show the results from at least 3 generally accepted methodologies for allocating such costs.

(3) COST EFFECTIVENESS.—To assist the Administrator, Congress, and users in evaluating and improving the cost effectiveness of the Federal Aviation Administration in providing and delivering its services to the public, the Inspector General shall contract with an entity independent of the Federal Aviation Administration to assess or benchmark the Federal Aviation Administration's efficiency and effectiveness based on certain internal and external comparisons. The assessment shall include the following:

(A) INTERNAL BENCHMARKING STUDIES.—Detailed, activity-based studies of work process throughout the Federal Aviation Administration to assess the most efficient and effective units, to identify the reasons for superior performance or "best practices", and to consider how such practices can be used by other units of the Federal Aviation Administration to improve their performance and efficiency.

(B) EXTERNAL BENCHMARKING STUDIES.—An evaluation of the efficiency of the Federal Aviation Administration in comparison to at least 3 other providers of air traffic control services in terms of their efficiency and effectiveness in the key activities and functions required to provide air traffic control services. The Inspector General shall identify the activities and functions to be included in such analysis. There shall also be conducted an assessment of the cost effectiveness of the Federal Aviation Administration in the procurement and management of critical functions and activities, including telecommunications, real estate, maintenance, and other areas to be specified by the Inspector General based on comparisons of how these functions are handled by other large, complex organizations in the public and private sectors.

(b) DEADLINE.—The independent analyses described in this section shall be completed not later than 270 days after the contracts are awarded to the outside independent contractors. The Inspector General shall submit a final report combining the analyses done by its staff with those of the outside independent contractors to

the Secretary of Transportation, the Administrator, the Committee on Commerce, Science, and Transportation of the Senate, and the Committee on Transportation and Infrastructure of the House of Representatives. The final report shall be submitted by the Inspector General not later than 300 days after the award of contracts. Until the final report is completed and submitted, the Federal Aviation Administration shall not implement a user fee structure, except for the overflight fees authorized by section 45301 of title 49, United States Code.

**SEC. 818. ELIMINATION OF BACKLOG OF EQUAL EMPLOYMENT OPPORTUNITY COMPLAINTS.**

(a) **HIRING OF ADDITIONAL PERSONNEL.**—For fiscal year 1999, the Secretary of Transportation may hire or contract for such additional personnel as may be necessary to eliminate the backlog of pending equal employment opportunity complaints to the Department of Transportation and to ensure that investigations of complaints are completed not later than 180 days after the date of initiation of the investigation.

(b) **AUTHORIZATION OF APPROPRIATIONS.**—There is authorized to be appropriated to carry out this section \$2,000,000 for fiscal year 1999. Such sums shall remain available until expended.

**SEC. 819. NEWPORT NEWS, VIRGINIA.**

(a) **AUTHORITY TO GRANT WAIVERS.**—Notwithstanding section 16 of the Federal Airport Act (as in effect on May 14, 1947), the Secretary shall, subject to section 47153 of title 49, United States Code (as in effect on June 1, 1998), and subsection (b) of this section, waive with respect to airport property parcels that, according to the airport layout plan for Newport News/Williamsburg International Airport, are no longer required for airport purposes from any term contained in the deed of conveyance dated May 14, 1947, under which the United States conveyed such property to the Peninsula Airport Commission for airport purposes of the Commission.

(b) **CONDITIONS.**—Any waiver granted by the Secretary under subsection (a) shall be subject to the following conditions:

(1) The Peninsula Airport Commission shall agree that, in leasing or conveying any interest in the property with respect to which waivers are granted under subsection (a), the Commission will receive an amount that is equal to the fair lease value or the fair market value, as the case may be (as determined pursuant to regulations issued by the Secretary).

(2) Peninsula Airport Commission shall use any amount so received only for the development, improvement, operation, or maintenance of Newport News/Williamsburg International Airport.

**SEC. 820. GRANT OF EASEMENT, LOS ANGELES, CALIFORNIA.**

The City of Los Angeles Department of Airports may grant an easement to the California Department of Transportation to lands required to provide sufficient right-of-way to facilitate the construction of the California State Route 138 bypass, as proposed by the California Department of Transportation.

**SEC. 821. REGULATION OF ALASKA AIR GUIDES.**

The Administrator shall reissue the notice to operators originally published in the Federal Register on January 2, 1998, which advised Alaska guide pilots of the applicability of part 135 of title 14, Code of Federal Regulations, to guide pilot operations. In reissuing the notice, the Administrator shall provide for not less than 60 days of public comment on the Federal Aviation Administration action. If, notwithstanding the public comments, the Administrator decides to proceed with the action, the Administrator shall publish in the Federal Register a notice justifying the Administrator's decision and providing at least 90 days for compliance.

## INTRODUCTION

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

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

- 9% passenger ticket tax (decreasing to 7.5% by 2000);
- \$1 passenger flight segment fee (increasing to \$3 by 2002)
- 6.25% freight waybill tax;

\$12 international departure and arrival taxes;  
 Frequent flyer award tax; and  
 Aviation fuel taxes as follows:

4.3 cents on commercial aviation;  
 19.3 cents on general aviation gasoline; and  
 21.8 cents on general aviation jet fuel.

For rural airports (those with less than 100,000 passengers) the passenger ticket tax is 7.5% and there is no passenger flight segment fee.

According to the FAA, these taxes are expected to raise more than \$10 billion in fiscal year 1999 in the following amounts:

\$5.9 billion from the passenger ticket taxes;  
 \$1.3 billion from the passenger flight segment fee;  
 \$532 million from the freight waybill tax;  
 \$955 million from the various aviation fuel taxes;  
 \$1.2 billion from the international departure and arrival taxes; and  
 \$138 million from frequent flyer award tax.

The Aviation Trust Fund continues to earn interest on its cash balance which will be \$9.2 billion at the beginning of fiscal year 1999. Interest revenue in 1999 is expected to be about \$595 million.

In addition to AIP, the Trust Fund also fully funds the Federal Aviation Administration's air traffic control facilities & equipment (F&E) modernization program and its aviation research program. The Fund partially pays for the salaries, expenses, and operations of the FAA. In 1998, these programs will receive the following amounts from the Trust Fund:

Airport Improvement Program—\$1.7 billion.  
 Facilities and Equipment—\$1.875 billion.  
 Research and Development—\$199 million.  
 FAA Operations—\$1.9 billion from the Trust Fund (of the \$5.3 billion —appropriated for FAA operations).

Total obligations from the Trust Fund will therefore be about \$5.7 billion. This represents 100% of FAA's capital budget, 36% of FAA's operating budget, and about 63% of FAA's total budget of \$9.1 billion.

As should be obvious, the more than \$10 billion that the Trust Fund is expected to take in greatly exceeds the \$5.7 billion that it is paying out. If this trend continues, the uncommitted balance in the Trust Fund will balloon to almost \$48 billion in 10 years. The Congressional Budget Office projects even higher balances.

The following spread sheet shows how the Trust Fund balance increases over the next 10 years.



The Committee remains very concerned that users are paying increasing levels of taxes into the Trust Fund but that available money is not being used for the needed upgrades and expansion of our airport and air traffic control infrastructure. The Committee is committed to fixing this problem next year.

Total AIP spending has begun to trend upward recently after several years of decline. In 1982, \$450 million was authorized and appropriated for AIP. AIP spending peaked at \$1.9 billion in 1992. For 1998, \$2.347 billion was authorized as contract authority but the obligation ceiling in the Appropriations Act limited AIP spending to \$1.7 billion. Nevertheless, this was an increase from the \$1.46 billion that was permitted in 1997. The Administration has requested \$1.7 billion again for 1999.

There are more than 18,000 airports in the U.S. but only 3,304 are eligible for Federal funding under the Airport Improvement Program (AIP).

Unlike some of the Committee's other programs, the AIP has not traditionally included special earmarks. Instead, the money is distributed by formulas that are set forth in the law. These formulas are described below.

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

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

If a public airport has commercial air service with at least 10,000 passenger boardings per year, it is considered a primary airport. These airports are entitled to receive AIP money each year in accordance with the following formula:

- \$7.80 for each of the first 50,000 passengers boarded;
- \$5.20 for each of the next 50,000 passengers boarded there;
- \$2.60 for each of the next 400,000 passengers boarded; and
- 50 cents for each additional passenger boarded.

Regardless of the number of passengers boarded, the minimum entitlement is \$500,000 per year and no primary airport is entitled to more than \$22 million per year. Large and medium hub airports that choose to collect a passenger facility charge (PFC) receive only half their entitlement.

To receive the money, an airport must have a project, such as a runway, terminal, or noise abatement project, that is eligible for AIP funding under the law. A hub airport can retain the right to receive its entitlement money for 2 years and a non-hub can keep it for 3 years. Entitlement money deferred to a later year is referred to as carryover entitlements.

Cargo service airports are airports that are served by cargo-only (freighter) aircraft which all together weigh more than 100 million tons and other airports that DOT finds will be served primarily by freighter aircraft. These airports are entitled to share in a pot of money that equals 2.5% of total AIP funds. A cargo service airport shares in this pot in the proportion to which the total weight of cargo-only aircraft landing there is to the total weight of such air-

craft at all other airports. No airport may receive more than 8% of this 2.5%.

The States, territories, and possessions share in a pot of money that is equal to 18.5% of total AIP funds. Each State's share of this pot is based on a formula that takes into account the population and land area of the State. Money from this entitlement goes to general aviation airports (airports used by private planes) and to airports with less than 10,000 passengers per year.

General aviation airports that are seeking AIP money from this entitlement usually apply directly to the FAA. Some States require their airports to channel their AIP applications through the State aviation agency. The FAA then decides which airports will get the money. Nine States (Illinois, Michigan, Missouri, New Jersey, North Carolina, Pennsylvania, Tennessee, Texas, and Wisconsin) participate in the State Block Grant program. Under this program, the FAA gives the State aviation agency responsibility to manage its AIP allocation and the State, not the FAA, decides which general aviation airports will receive it.

By law, Alaskan airports are entitled to receive at least the same amount of money that they received in 1980. This year, they will receive about \$10.5 million. The \$10.5 million is in addition to whatever those airports will receive under the above entitlements.

Any money left over after the above entitlements are funded can be spent by the FAA at its own discretion. However, this discretionary fund is subject to two set-asides.

Current law sets aside 31% of this discretionary fund for noise projects. These could include such things as buying property for a noise buffer or sound-proofing buildings.

Under the military airport program, FAA selects 12 current or former military airports to share in a set-aside which is equal to 4% of the discretionary fund. The purpose of this program is to increase overall system capacity by promoting joint civilian-military use of military airports or by converting former military airports to civilian use.

After the entitlements and set-asides are funded, the remaining money can be spent as the FAA sees fit. This is often referred to as pure discretionary AIP money. Even here, however, there are restrictions. The law requires that 75% of this discretionary money be spent on airport projects that will enhance capacity, safety, or security, or reduce noise.

Until recently, total AIP funding had been declining. At the same time, FAA had been issuing letters of intent (LOIs) to several airports. An LOI is a commitment to pay a certain amount of AIP money to an airport over a specified number of years in order to fund an important project. These commitments are predominantly funded from the discretionary portion of AIP.

In the past, as the overall AIP program declined, much of the money was allocated to the entitlements and set-asides. This left little discretionary money and prompted concerns that the FAA would be unable to meet its LOI commitments or fund other important projects from the discretionary fund.

As a result, the law imposes a floor on the discretionary fund of \$148 million per year plus the amount needed to fund outstanding letters of intent issued before January 1, 1996. If the above-de-

scribed entitlement and set-aside formulas would not leave at least that amount in the discretionary fund, all entitlements and set-asides must be cut by a proportionate amount. In the past, this has resulted in across-the-board cuts in entitlements and set asides of as much as 23% to ensure the required minimum discretionary fund.

As a corollary to the minimum discretionary fund, the law sets a cap on the discretionary fund as well. This mandates that if total AIP funding is high enough so that the discretionary fund ended up being more than the statutory minimum, any amount in that fund above the minimum would be divided  $\frac{1}{3}$  to general aviation airports,  $\frac{1}{3}$  to military airports, and  $\frac{1}{3}$  to noise abatement programs.—

In 1998, total AIP money was high enough so that the discretionary fund's statutory minimum was exceeded. However, the Appropriations Act limited the additional money for military airports and noise abatement programs. However, it did allow an additional \$29.9 million to be spent on general aviation airports.

As a general rule, the Federal share of an AIP project cost is 90%. However, at medium and large hub airports (defined as airports that enplane .25% of the total annual enplanements in the U.S.) the Federal share is 75%. In the case of a project involving an airport terminal building, the Federal share is 85% at non-hubs (defined as airports with .05% or less of the total annual enplanements in the U.S.) and 75% at hubs.

In 1990, the Committee became concerned that the AIP program would not be able to meet the future infrastructure needs of U.S. airports. Consequently, the 1990 AIP reauthorization law permitted an airport to assess a fee on passengers. This is known as the passenger facility charge (PFC). PFCs are collected by the airlines and paid directly to the airport without going through the Federal treasury. They are intended to supplement AIP by providing more money for runways, taxiways, terminals, gates, and other airport improvements.

No airport may charge a PFC of more than \$3 per passenger and no passenger has to pay more than \$12 in PFCs per round-trip regardless of the number of airports through which the passenger connects. No airport can charge a PFC until it is approved by FAA.

At the beginning of this year, FAA had approved PFCs at 287 airports and 268 were actually collecting money. The total approved collections are over \$17 billion. Last year \$1.15 billion was collected and this year \$1.22 billion is expected to be collected.

If a medium or large hub airport charges a PFC, it must turn back up to 50% of its AIP entitlement. The foregone entitlements are distributed as follows:

- 50% to non-hub airports;
- 25% to general aviation airports;
- 12.5% to small hub airports; and
- 12.5% to the discretionary fund.

From the standpoint of the type of project, according to the FAA, during the fiscal years between 1982 and 1996, the AIP money was spent as follows:

- 52.76% for runways; taxiways; and aprons;
- 11.2% on noise control projects;

7.82% for land purchases;  
 6.03% on safety and security;  
 5.2% on buildings;  
 4.78% on airport roads; and  
 the remainder on miscellaneous projects such as lighting and  
 planning.

From the standpoint of airport size, according to the General Accounting Office (GAO), in 1997, AIP money was distributed as follows:

25% to the 2,764 general aviation airports;  
 24% to the 29 large hub airports;  
 17% to the 42 medium hub airports;  
 16% to the 70 small hub airports; and  
 19% to the 272 nonhub airports.

The FAA data is similar except it shows that large hubs got 25%, non-hubs got 20%, and general aviation airports got 21%. It should be noted that the reference to hubs here and elsewhere refers to the number of passengers at that airport, not to whether an airline uses the airport as a connecting complex.

In the course of the 1996 reauthorization process, a dispute arose between the airports and the airlines over how much money the airports really needed. The airports claimed that they needed \$10 billion per year. The airlines countered that airport needs were closer to \$4 billion per year.

In order to help resolve this discrepancy, the Committee asked GAO to examine the competing assessments of airport needs. GAO found that the difference was explained by the fact that (1) airports looked at the needs of all 3,300 airports eligible for Federal funding while airlines looked at the needs of only those 421 primary airports that they served and (2) airports counted both those projects that were eligible for AIP grants as well as those that were not while airlines counted only those projects that were eligible for AIP grants, thereby excluding many terminal, parking, and roadway projects.

GAO did its own assessment of airport needs in which it provided a range of estimates depending on how those needs were defined. It found that airport needs were—

\$1.41 billion per year if one counts only those projects needed to maintain the current infrastructure and meet safety, security, and environmental needs;

\$2.78 billion per year if one adds high priority projects such as those that would increase airport capacity;

\$6.1 billion per year if one counts all projects that were eligible for AIP funding; and

\$10.1 billion per year (the amount claimed by the airports) if one counts all projects at airports including those not eligible for AIP funding such as some roads, terminal buildings, and parking lots.

In addition to AIP, airports have other funding sources to meet their capital needs. According to GAO, AIP represents only about 20% of airport capital funding. The remainder comes from tax-exempt bonds (58%), PFCs (16%), state and local contributions (4%), and airport landing fees, airport leases, and airport concession rev-

enue (2%). All together, AIP, PFCs, bonds, and the other funding sources provide the airports about \$7 billion per year.

Accordingly, if one accepts the airport estimate that they need \$10 billion per year, there is about a \$3 billion gap (30%) between airport needs and airport funding sources. However, the impact of this gap is not evenly distributed among the different sizes of airports. For example, according to GAO—

Large hub airports have enough money to pay for all their AIP eligible projects but they fall about \$1.5 billion short (29% gap) in their ability to pay for all their AIP ineligible projects;

Medium hubs have enough money to fund all their planned development;

Small hubs do not even have enough money to fund all their AIP eligible projects and suffer a funding gap of just under \$300 million (38% gap);

Non-hub airports only have enough money to maintain infrastructure, meet safety, security, and environmental mandates, fund high priority projects, and pay for a few other AIP eligible projects leaving none for ineligible projects and a funding gap of about \$250 million (44% gap); and

General aviation airports can pay for about half of their AIP eligible projects and none of their ineligible ones and suffer a funding gap of about \$860 million (53% gap).

As can be seen, the funding shortfall tends to be greater in dollar terms at the larger airports but greater in percentage terms at the smaller airports. Also the larger airports are usually able to pay for their AIP eligible projects while the smaller ones often are not. The AIP eligible projects tend to be the important airside items such as runways, taxiways, and noise abatement. Airports usually pay for ineligible projects with bonds, local grants or internally-generated funds to the extent available.

The most significant controversy in this reauthorization involves the PFC. It is currently capped at \$3 per passenger per airport. Airports want to increase it and airlines oppose the increase.

Airports cited the increase in passenger traffic and the loss of purchasing power as a result of inflation as justifying an increase in the PFC. According to the FAA, total U.S. passenger traffic has grown from 486 million in 1991 to 639 million in 1997 and is expected to grow to 995 million in 2008. Airports also cited the \$3 billion funding gap described above as justifying an increase.

Airlines, as noted above, questioned the existence of a funding gap and claimed that any increased need can be met by raising airline landing fees and lease payments. They said they would agree to such higher payments for important safety, security, or capacity-enhancing airport projects. However, airlines claimed that most of the PFC money goes to “lower priority” projects such as roads and terminal buildings. According to the FAA, in 1996, the \$1.1 billion in PFC funds were authorized, as follows:

35% for airside projects such as runways, taxiways and safety related projects;

30% for landside projects, primarily terminal buildings;

17% to pay interest on bonds;

11% for noise abatement projects; and

6% for roads.

The Committee generally is supportive of the PFC. However, it has decided not to increase it at this time because the Committee wants to take a comprehensive, rather than piecemeal, look at all aviation financing issues next year. This issue will be revisited next year in the context of the Committee's effort to unlock the Trust Fund.

#### AIRPORT AND AIRWAY IMPROVEMENTS

*Authorized funding levels.* The reported bill reauthorizes AIP, F&E, and FAA operations for one year. Although longer authorizations are more typical, a short-term reauthorization is needed in this case so that the Committee will have an opportunity to fix the Trust Fund problem described above. Authorized levels in the reported bill are as follows:

\$2.347 billion for the Airport Improvement Program

\$2.131 billion for Facilities and Equipment

\$5.6 billion for FAA operations of which the portion from the Trust Fund is determined by the formula in 49 U.S.C. 48104(c).

The reported bill also includes specific authorizations for universal access security systems at airports, wildlife hazard mitigation measures, an office dedicated to infrastructure development for both general and helicopter aviation, and the development of air traffic control infrastructure for the new tilt-rotor aircraft. Specific authorizations are included for these items to demonstrate the Committee's interest in these issues. They are discussed further below.

*Universal access systems (UAS).* Two million dollars was appropriated in 1993 for the development of a Universal Access System "to cover the initial costs for implementing a standardized [airport access control] computer-based system." The impetus for this expenditure came as a result of increased security requirements and problems associated with implementation of airport automated access control under Part 107.14 of FAA rules. One of these problems, identified in a 1995 GAO report, is that of ensuring that future access control system installations are standardized to realize greater efficiency. FAA initially estimated that access control system costs would total \$211 million from 1989–1998. The industry, utilizing AIP and other funds, actually spent about \$654 million, more than three times the FAA's estimate.

Another problem pertains to transient airline employees, such as flight crews, who are not issued access control cards at each airport to which they travel, thereby necessitating that they either go through screening or utilize other methods of reaching secured areas to which they have authorization.

A joint industry task force was created under the guidance of the Aviation Security Advisory Committee (ASAC) to develop and test a UAS prototype at three airports with three participant air carriers. The test was successfully conducted in 1996. UAS technical documents have been approved by the FAA, which is publishing them for use by the aviation industry.

In order to create the standardized access control system that is needed, the reported bill authorizes \$8 million for the purchase, set up, operation and maintenance costs associated with the UAS Cen-

tral Data Base, plus installation of the necessary equipment at large airports, including UAS portals for employees at each airport, performance of necessary engineering work and providing software upgrades.

*Wildlife hazard mitigation.* Since 1995, 74 people have been killed in collisions worldwide between aircraft and birds and four larger aircraft have been destroyed. One of these accidents resulted from a USAF AWACs E-3 (modified B707) striking a flock of geese in Elmendorf Air Force Base in Alaska in September 1995 which resulted in the loss of 24 lives. By the FAA's estimate, over \$250 million a year is lost to U.S. aviation due to conflicts with wildlife.

Resident/non-migratory goose populations tripled from 1985-1995. Goose collisions with aircraft have doubled since 1990. From 1992-1996, commercial aviation accounted for 75% of the 1,727 strikes. Experts have determined that there is a 25% chance of a hull loss by the year 2006 due to a bird strike.

Federal Aviation Regulations require certificated airports to conduct ecological studies when air carriers experience multiple bird strikes, have damaging collisions with wildlife, or observe wildlife in size or numbers that could cause collisions. When such an event occurs, the FAA requires action but does not have ample wildlife management staff expertise to assist the airports. Therefore, FAA often refers airports to the U.S. Department of Agriculture's Wildlife Services biologists who have the expertise, but are not funded, to provide these services. USDA has developed wildlife hazard evaluations and management plans, and implemented these plans for some airports with the costs being fully reimbursed by the airports. As a result, wildlife-aircraft strikes have been reduced significantly at specific locations. For example, at John F. Kennedy International Airport, bird and deer strikes have been reduced by 70 and 100 percent, respectively. However, many airports have ongoing wildlife problems which have not been addressed in such a proactive manner.

To address this problem, the reported bill authorizes \$450,000 for wildlife hazard mitigation measures and management of the agency's wildlife strike data base.

*General aviation and helicopter program office.* Recently, the Committee has been told that the FAA proposes to eliminate funding for its General Aviation and Vertical Flight Program Office. This office is dedicated to infrastructure systems development, which includes both rotorcraft IFR operations and advance avionics. Although the amount is modest, the investment significantly enhances safety of flight by insuring that rotorcraft operations are addressed appropriately in the development of the national airspace system. The Committee endorses these activities as well as related FAA rotorcraft R&D initiatives, and requests that FAA reconsider its plans in this area.

Emergency Medical Service (EMS) helicopters are responsible for saving thousands of lives annually by transporting patients to trauma centers for emergency care. It is often imperative that the patient arrive within one hour to provide a high probability of survival. In good weather conditions, this is usually not a problem. The difficulty arises when the weather is poor. Due to the absence of adequate IFR helicopter infrastructure to and from trauma cen-

ters, patient transport must be to airports with subsequent ground transport. This process often exceeds an hour, thereby reducing the chances of patient survival. Therefore the Committee urges the FAA to look into establishing a prototype helicopter infrastructure to support all-weather EMS for trauma patients. This could use current technologies such as the Global Positioning System (GPS). The FAA could also consider using private companies that are capable of developing the approach plates.

*Tilt-rotor.* The Federal Aviation Administration has begun the process of revising its policies and procedures to make effective use of the capabilities of rotorcraft. The Committee is hopeful that the Air Traffic Control (ATC) System will in the future be able to provide dispatch reliability, or instrument flight rules (IFR) capability, for both helicopters and the newest rotorcraft technology—tiltrotor aircraft.

The military tiltrotor, the V-22 Osprey, is now in production, and the first civil tiltrotor, the BB609, is in development, with orders for 67 aircraft already received from U.S. and international customers. Both V-22 and the BB609 will be in service in 2001 and other tiltrotor variants will follow. Given the growing importance of rotorcraft in the U.S. air transport system, the Committee recommends that the FAA proceed with much-needed procedural and infrastructure improvements in a timely fashion and allocate the financial, administrative, and personnel resources necessary to implement and oversee these actions. The Committee requests that the FAA report to Congress by April 30, 1999 on measures taken to implement these recommendations.

*AIP formula.* Only minor changes to the AIP distribution formula are made by the reported bill. Both the floor and the cap on the discretionary fund are removed except that letters of intent are protected. To free up some money for the discretionary fund if overall AIP spending is low, the passenger entitlement for airports with more than one million passengers is reduced slightly if less than \$1.35 billion is available for AIP.

The elimination of the cap on the discretionary fund means that the additional money that could have gone to general aviation and noise abatement will not be available. To make up for this, the State entitlement is increased from 18.5% to 20% and the noise set-aside is increased from 31% to 33%.

The cap on the number of airports that can be included in the military airport program is increased from 12 to 15, one of which must be a general aviation airport.

The reported bill (section 105) sets aside some money from the small airport fund to help non-hub airports meet the requirements of the new certification rules that will be imposed on them. Another section of the reported bill (section 506) establishes a deadline for the FAA to issue those requirements.

The Committee has become concerned that many small airports seem to believe that money in the small airport fund is not being distributed to them as intended. The FAA insists that grants are being made to small airports from this fund in accordance with the law. In order to help resolve this discrepancy, the reported bill requires FAA to notify the recipient of a grant of the source of that grant when the source is the small airport fund.

In making grants, the FAA should encourage the use of alternative technologies when building, constructing, repairing, or expanding, new or existing facilities, including access roads and supporting structures which are eligible for Federal funding. These technologies should demonstrate an ability to streamline construction, mitigate disruption to operations, enhance safety considerations during construction, and reduce construction costs.

The following spread sheet shows how the AIP money will be distributed among the various entitlements and set asides at various funding levels and with the changes described above to the formula in the reported bill.

Est. AIP Funding for Fiscal Year 1999	House		7/13/98
Appropriation Limitation			\$1,300,000,000
Primary Airports	\$498,343,337		
Cargo (2.5%)	\$32,500,000		
Alaska Supplemental States (20%)	\$10,872,557		
Carryover Entitlement	\$260,000,000		
	\$100,000,000		
Subtotal Entitlements		\$899,515,894	
Small Airport Fund			
Non Hub Airports	\$86,087,089		
Set Aside for Safety		\$13,217,418	
Remaining Nonhub		\$52,869,671	
Non Commercial Svc	\$33,043,544		
Small Hubs	\$16,521,772	\$115,652,406	
Subtotal Non Discretionary			\$1,015,168,300
Noise (33% of disc)	\$93,994,461		
MAP (4% of Disc)	\$11,393,268		
Security	\$5,000,000		
Subtotal Disc Set-asides		\$110,387,729	
C/S/S/N	\$130,832,978		
Remaining Discretionary	\$43,610,993		
Subtotal Other Discretionary		\$174,443,971	
Subtotal Discretionary			\$284,831,700
GRAND TOTAL			\$1,300,000,000
Notes:	Minimum discretionary equals amount of LOI payments State increased to 20% New Security set-aside Noise increased to 33% No cap on discretionary Small Hub moved to Small Airport Fund New set-aside for safety Change to \$0.40 over 1 million passengers if less than \$1,350,000,000		

Est. AIP Funding for Fiscal Year 1999	House	7/13/98
Appropriation Limitation		\$1,700,000,000
Primary Airports	\$527,895,964	
Cargo (2.5%)	\$42,500,000	
Alaska Supplemental States (20%)	\$10,672,557	
Carryover Entitlement	\$340,000,000	
	\$100,000,000	
<b>Subtotal Entitlements</b>		<b>\$1,021,068,521</b>
<b>Small Airport Fund</b>		
Non Hub Airports	\$75,845,200	
Set Aside for Safety		\$15,000,000
Remaining Nonhub		\$60,845,200
Non Commercial Svc	\$37,922,600	
Small Hubs	\$18,981,300	\$132,729,100
<b>Subtotal Non Discretionary</b>		<b>\$1,153,797,621</b>
Noise (33% of disc)	\$180,246,785	
MAP (4% of Disc)	\$21,848,095	
Security	\$5,000,000	
<b>Subtotal Disc Set-asides</b>		<b>\$207,094,880</b>
C/S/S/N	\$254,330,624	
Remaining Discretionary	\$84,776,875	
<b>Subtotal Other Discretionary</b>		<b>\$339,107,499</b>
<b>Subtotal Discretionary</b>		<b>\$546,202,379</b>
<b>GRAND TOTAL</b>		<b>\$1,700,000,000</b>
<b>Notes:</b>		
State increased to 20%	Minimum discretionary equals amount of LOI payments	
New Security set-aside	Noise increased to 33%	
No cap on discretionary	Small Hub moved to Small Airport Fund	
New set-aside for safety	Change to \$0.40 over 1 million passengers if less than \$1,350,000,000	

Est. AIP Funding for Fiscal Year 1999	7/13/98	
Appropriation Limitation	House	\$2,000,000,000
Primary Airports	\$527,895,964	
Cargo (2.5%)	\$50,000,000	
Alaska Supplemental States (20%)	\$10,672,557	
Carryover Entitlement	\$400,000,000	
	\$100,000,000	
<b>Subtotal Entitlements</b>		<b>\$1,088,568,521</b>
<b>Small Airport Fund</b>		
Non Hub Airports	\$75,845,200	
Set Aside for Safety		\$15,000,000
Remaining Nonhub		\$60,845,200
Non Commercial Svc	\$37,922,600	
Small Hubs	\$18,961,300	\$132,729,100
<b>Subtotal Non Discretionary</b>		<b>\$1,221,297,621</b>
Noise (33% of disc)	\$256,971,785	
MAP (4% of Disc)	\$31,148,085	
Security	\$5,000,000	
<b>Subtotal Disc Set-asides</b>		<b>\$293,119,880</b>
C/S/S/N	\$364,186,874	
Remaining Discretionary	\$121,395,625	
<b>Subtotal Other Discretionary</b>		<b>\$485,582,499</b>
<b>Subtotal Discretionary</b>		<b>\$778,702,379</b>
<b>GRAND TOTAL</b>		<b>\$2,000,000,000</b>
<b>Notes:</b>	<b>Minimum discretionary equals amount of LOI payments</b> <b>Noise increased to 33%</b> <b>Small Hub moved to Small Airport Fund</b> <b>Change to \$0.40 over 1 million passengers if less than</b> <b>\$1,350,000,000</b>	
State increased to 20%		
New Security set-aside		
No cap on discretionary		
New set-aside for safety		

Est. AIP Funding for Fiscal Year 1999	House		7/13/98
Appropriation Limitation			\$2,347,000,000
Primary Airports	\$527,895,964		
Cargo (2.5%)	\$58,675,000		
Alaska Supplemental States (20%)	\$10,672,557		
Carryover Entitlement	\$469,400,000		
	\$100,000,000		
Subtotal Entitlements		\$1,166,643,521	
Small Airport Fund			
Non Hub Airports	\$75,845,200		
Set Aside for Safety		\$15,000,000	
Remaining Nonhub		\$60,845,200	
Non Commercial Svc	\$37,922,600		
Small Hubs	\$18,961,300	\$132,729,100	
Subtotal Non Discretionary			\$1,299,372,621
Noise (33% of disc)	\$345,717,035		
MAP (4% of Disc)	\$41,905,095		
Security	\$5,000,000		
Subtotal Disc Set-asides		\$392,622,130	
C/S/S/N	\$491,253,936		
Remaining Discretionary	\$163,751,312		
Subtotal Other Discretionary		\$655,005,249	
Subtotal Discretionary			\$1,047,627,379
GRAND TOTAL			\$2,347,000,000
Notes:	Minimum discretionary equals amount of LOI payments Noise increased to 33% Small Hub moved to Small Airport Fund Change to \$0.40 over 1 million passengers if less than \$1,350,000,000		
State increased to 20%			
New Security set-aside			
No cap on discretionary			
New set-aside for safety			

*Runway incursions.* Runway incursions have increased during the last few years. Therefore, the reported bill specifically makes runway incursion prevention devices eligible for AIP funding.

At its hearing last November 13th, the Aviation Subcommittee became concerned that FAA's efforts to install sophisticated runway incursion prevention devices could experience delays. This was happening at the same time that the number of runway incursions was increasing. Yet relatively low-tech, inexpensive devices were discussed at that hearing which have been deployed successfully and could be used to help address this problem. The Committee urges the FAA to use the eligibility provided here to fund these devices at airports that will not receive ASDE or AMASS or to supplement those systems at the airports that will receive them.

The reported bill section 104(j)) encourages FAA to give higher priority to installation of integrated in-pavement lighting systems, and other runway and taxiway incursion prevention devices, in allocating discretionary grants. Section 104(j)(1) makes it a national policy to address the risk of runway collisions. Section (j)(2) and (j)(3) lists integrated in-pavement lighting systems, and other runway and taxiway incursion prevention devices, among the types of safety facilities of which airports are encouraged to make maximum use.

In addition, FAA is directed to classify proposals for the installation of integrated ("smart") in-pavement lighting systems for runways and taxiways, and other runway and taxiway incursion prevention devices, using components meeting FAA specifications as Safety/Security for determining Purpose Points and as Runway/Taxiway signs for determining Type Points in the general provisions formula published in 62 Fed. Reg. 45007-45010 (August 25, 1997).

*PFC eligibility.* When the PFC program was enacted in 1990, one of the purposes was to build facilities, including gates, to help enhance competition at airports. However, in many cases, additional gates cannot be built unless a terminal structure is built first. Section 109 of the reported bill addresses this problem by making the underlying structure of the building, minus tenant finish-out, eligible to be built with PFC funds when that will enable new service by a carrier that is not the dominant carrier at the airport. The gates are already PFC eligible.

The provision is also designed to permit "aircraft fueling facilities adjacent to an airport terminal building" to be eligible for funding under the PFC program. This provides flexibility for airports in determining what type of fueling facility/line/hydrant is used but does not make the construction of fuel farms eligible.

*Disposal of airport property.* As a general matter, the Committee is concerned about the threat to general aviation airports. Accordingly, the reported bill includes a provision to ensure that there is more careful consideration before an airport is closed or some of its property sold. The provision (section 111) requires an airport to notify the public before disposing of airport land. FAA must consider the current and future needs of airport users before permitting such a property sale. This should help preserve general aviation airports.

In this connection, the Committee has heard that there are numerous instances of revenue diversions and lack of timely payback of funds when grant releases are approved. If accurate, this warrants changes to the FAA's grant assurance enforcement program.

Therefore, in addition to the legislative language in section 111 described above, the Committee requests the General Accounting Office (GAO) to review FAA's grant assurance enforcement program giving particular attention to: (1) the FAA's policy and procedures for ensuring compliance with grant assurances, (2) the nature and scope of FAA's enforcement actions and whether they are applied evenly among the FAA regions, (3) the relationship between personnel resources and enforcement actions, including any limitations in enforcement efforts that may result from resource levels, and (4) the type, scope and range of existing penalties, the extent to which each has been used, and alternative punitive measures. The Committee asks GAO to transmit this report by April 1, 1999 so that it can be considered during the FY 2000 reauthorization process.

*Potomac TRACON.* The Committee is concerned about FAA's recent decision to move forward on a plan to consolidate the four Washington, DC area Terminal Radar Approach Control Facilities (TRACONs).

The largest beneficiary of the proposed \$95 million consolidation should be the aviation users. The Potomac TRACON would not only consolidate the four facilities, it would also redesign the airspace to provide more efficient air routes. The more efficient air routes would produce user benefits such as fuel savings.

There are three areas of concern to the Committee about the Potomac TRACON:

(1) *The Location:* The FAA reviewed 43 sites in Virginia and Maryland. Currently, the FAA has rejected all but 4 sites. The 4 remaining sites are in Virginia and at least 3 are not owned by the Federal government. FAA estimates the cost to purchase the site at \$3 million plus \$3.4 million in related land costs. In addition, FAA limited its search of sites to the immediate Washington, DC area. There is no technical reason why the Potomac TRACON needs to be located in the high cost area surrounding Washington, DC.

(2) *The Facility Size:* In a February 1997 cost-benefit report for the Potomac TRACON, the proposal was for a 65,000 square foot facility to accommodate the four consolidated TRACONs. Now the proposal is for a 97,000 square foot facility. It is not clear what caused this 49% increase in space requirements. In addition, the construction cost is estimated at \$25 million, which is \$258 per square foot. GSA estimates that this type of facility usually costs about \$138 per square foot. The size of the building and the cost of construction should be reviewed and properly justified.

(3) *The Lack Of A Risk Assessment:* The redesign of the airspace could be very controversial because of its effect on the level of aircraft noise over certain areas. In 1987 the FAA redesigned the airspace over New York and New Jersey (often called the Expanded East Coast Plan) and the communities are still bitterly complaining about it. There is a risk that even

with proper community involvement the opposition would be too great for FAA to implement a redesigned airspace plan for the Potomac area. None of the FAA's benefit-cost analysis includes a risk assessment on the likelihood that only part or none of the airspace will be redesigned. Since the majority of the benefits of a consolidated Potomac TRACON are derived from the redesigned airspace, a risk analysis should be done. The project may not be cost beneficial if the FAA cannot accomplish the airspace redesign.

As a result of these concerns, the reported bill prohibits the FAA from selecting a site for or beginning construction of the Potomac Metroplex until it completes a report that does the following:

Justifies the need for a 97,000 square foot facility and the \$258 per square foot cost; and

Completes a risk analysis of the possibility that the redesigned airspace may not be completed or only partially completed, and the resulting benefit-cost ratio.

*Chicago.* The Committee is aware of the growing concerns in the suburbs near O'Hare about the health and environmental impacts associated with the number of flights at that airport and of the differing perspectives in the region on how additional flights should be accommodated. The Committee is reluctant to interject itself into this controversy and would prefer that it be resolved at the State level. Accordingly, the Committee urges the parties involved to re-double their efforts to achieve a consensus on this issue.

#### CONTRACT TOWER PROGRAM

Since 1982, the FAA has provided air traffic control (ATC) services at many low activity Level I visual flight rule (VFR) airports by contracting with ATC companies in the private sector. This contract tower program has provided significant cost savings and enhanced aviation safety. By the end of this fiscal year, it is expected that more than 180 airports will participate in the contract tower program.

Participating airports and aviation users have generally expressed strong support for the program. Indeed, without this program, many of these airports would be without air traffic control services since FAA does not have the financial resources to staff these towers with its own personnel.

The average contract tower costs about \$250,000 per year, about half of what it would cost FAA to operate the tower itself.

In deciding which airports to contract for air traffic control services, the FAA does a cost-benefit analysis. If the analysis results in a ratio of benefits to costs of less than 1, FAA will not contract for ATC services there.

There are some airports whose ratio is slightly less than 1 or that are in danger of dropping below 1. These airports will not have the safety and service benefits of the contract tower program.

In order to improve safety at these airports, the reported bill authorizes \$6 million to fund contract tower services at airports that fall just below the cost benefit threshold and at other similar airports that have a legitimate need for this service as specified in Title II of the reported bill.

However, the reported bill does require these airports to share in the cost of the program. The local share would be in proportion to the amount that the airport's ratio falls below 1. So, for example, if the airport had a benefit to cost ratio of 0.85, it would have to absorb 15% of the cost.

#### FAMILY ASSISTANCE

In 1996, after the ValuJet and TWA crashes, the Committee approved (H. Rept. 104-793), and, on September 18, 1996, the House passed 401 to 4, the Aviation Disaster Family Assistance Act (H.R. 3923). With only minor changes, this bill was enacted as Title VII of the Federal Aviation Reauthorization Act of 1996 (P.L. 104-264, 110 Stat. 3264). Last year the legislation was extended to cover foreign airlines (P.L. 105-148).

The law, at 49 U.S.C. 1136 and 41113, requires the National Transportation Safety Board (NTSB) and individual airlines to take actions to address the needs of families of passengers involved in aircraft accidents in which there is a major loss of life. The law requires airlines to submit plans to DOT and NTSB on how they will address the needs of the families in the event of an aviation disaster involving one of their aircraft.

Since the passage of this law, there have been three more accidents—a United Express accident in Illinois, a Comair crash in Michigan, and a Korean Airlines crash in Guam.

With the help of the NTSB, the families of the two U.S. airline accidents were contacted to learn of their experiences under the new law. The limited response received indicate that the legislation is working well. For example, the in-laws of the Comair flight attendant wrote that "the NTSB, in our opinion, was extremely informative, kind and considerate in their dealings with our family. The Aviation Disaster Family Assistance Act that was signed into law in 1996 was instrumental in making sure that the family was informed."

Also, the daughter of a victim of the United Express accident wrote that "if there is anything I can do to show my support of this law or how it has affected my life, I would be more than happy to do so. I feel that this Act should have been passed a long time ago in order for the family member to effectively cope with the tragedy. I personally thank you, the Congress, and the President for passing this Act before my father passed away in an aviation accident. Thank you from the bottom of my heart."

Section 704 of the 1996 legislation called for the creation of a Task Force to address some of the more difficult issues. These included questions of family privacy, out-of-state mental health workers, and ways to improve the notification of families.

On October 29, 1997, the task force issued its report. Many of its recommendations do not require legislative changes. However, Title III of the reported bill addresses those that do as well as related issues that have arisen as a result of experience under this new law. These include lengthening the moratorium on lawyer solicitation, permitting out-of-state Red Cross mental health workers to assist at the accident scene, upgrading airline disaster assistance plans to improve employee training, requiring airlines, upon request, to inform the family as to whether their loved one had a res-

ervation on the flight, and limiting the liability of airlines who provide this information.

The Committee recognizes that flight reservation information is not always accurate. In many cases, a person with a reservation will not have boarded the flight while a person without a reservation may actually be on the flight. However, as the Task Force noted, at page 12, "provision of preliminary and limited, but accurate information, i.e., that a family member had a reservation on the flight, is better than no information in terms of helping the family to cope with the news of the disaster." In providing this information, the airline would be free to explain the limits to the accuracy of the initial passenger manifest. In recognition of these limits, the bill limits the liability of the airline for providing inaccurate information on the basis of the initial reservation list.

Title III also includes the text of H.R. 2005 which passed the House on July 28, 1997. This provision makes clear that the Death on the High Seas Act does not apply to aviation accidents even if the plane crashes into the ocean. See House Report 105-201 for a full explanation of this provision.

#### WAR RISK INSURANCE

Commercial insurance companies will usually not insure commercial airline flights to high risk areas such as countries at war or on the verge of war. In many cases, these flights are required to further the foreign policy or national security of the United States. For example, in Operation Desert Shield and Desert Storm, commercial airlines were needed to ferry troops and equipment to the Middle East.

To ensure that flights to high risk areas can operate when needed, Chapter 443 of Title 49 of the U.S. Code authorizes the Secretary of Transportation to provide insurance and reinsurance to commercial airlines.

Before such insurance can be issued, two tests must be satisfied. First, the Secretary must find that the airline cannot acquire the insurance from a commercial insurance company on reasonable terms (Section 44302(a)(2)). Secondly, the President must find that providing the war-risk insurance is necessary to carry out the Nation's foreign policy (44302(b)). The insurance may be provided for only 60 days unless the President determines that an extension is needed (Section 44306(b)). FAA rules governing this program can be found at 14 CFR Part 198.

This insurance program, commonly known as the war risk insurance program, offers both a premium and a nonpremium policy. Under the premium policy, insurance is provided to U.S. or foreign airlines for commercial scheduled or charter service. It can be used only for international flights. A premium is paid by the airline to the Federal Aviation Administration (FAA) for the coverage just as in a normal insurance arrangement.

The non-premium policy is issued to airlines operating under contract to a government agency, usually either the State or Defense Department. It can cover either domestic or international flights. Although no premium is paid by the airline under this policy, airlines must pay a one-time binder fee of \$575 per aircraft. In the event of a loss, the contracting government agency (usually

either State or Defense) would have to indemnify the FAA for any claims it had to pay to the airline.

Both premium and non-premium insurance will cover both hull loss (the destruction of the aircraft) and liability (injury, death, or damage to property). According to the FAA, it has paid \$151,000 in claims under the non-premium insurance program. It has never paid a claim under the premium insurance program.

Premiums paid for coverage, the binder fee, and any sums appropriated support a fund which is used to defray the cost of operating the war risk program. This fund had a balance at the beginning of this fiscal year of \$67,785,000 and with the accumulation of interest is expected to have a balance at the end of this year of \$71,500,000. The cost of administering the program varies but was about \$345,000 last year.

The war risk insurance program was first authorized in 1951. Insurance was provided under this program in the early 1970s in the aftermath of attacks by Palestinian terrorists, and also during the final days of the Vietnam war. Since 1975, non-premium war risk insurance has been activated over 5,000 times including in the following cases.

<i>Period and place of activation-</i>	<i>Number of flights</i>
1983-1984, to Honduras .....	50
August 17, 1990 to May 24, 1991, to the Middle East (Operation Desert Shield/Storm) .....	over 5,000
January 11, 1991, Department of State flight from Oman to Frankfurt .....	1
January 11 to April 14, 1993, to Kuwait (Operation Desert Caravan) .....	20
December 8, 1992 to early 1994, to Mogadishu and Kisimayo, Somalia (Operation Restore Hope) .....	155
February 28, March 2, and April 7, 1994, to Tbilisi, Georgia .....	3
September to October 1994, to Haiti (Operation Uphold Democracy) .....	32
April 15 to September 30, 1996, to Tuzla Bosnia (Operation Joint Endeavor) .....	111

The program has been reauthorized 11 times and is now scheduled to expire on December 31 of this year. In the past, the reauthorization of the war risk program has been relatively routine and was often accomplished without any changes or even the need for holding a hearing. However, as a result of the experience gained during the Persian Gulf War, new issues were raised that needed to be addressed.

When the program was reauthorized in 1992 (Title IV of P.L. 102-581, 106 Stat. 4897), the insurance coverage was expanded to cover certain domestic flights and also flights being operated pursuant to an agreement between the U.S. government and a foreign government. In addition, the legislation directed GAO to review the administration of the war risk insurance program during the Persian Gulf war to determine whether its efficiency could be improved. GAO submitted its report in July 1994 and made the following recommendations to Congress:

Provide a mechanism to ensure that there are sufficient funds available to reimburse airlines for losses that exceed the amount in FAA's insurance fund.

Clarify whether a presidential determination is needed before non-premium insurance can be issued and for each subsequent 60-day extension.

Congress partially addressed GAO's concerns in P.L. 105-137 and in Section 9514 of Title 10 of the U.S. Code, that was added by the Defense Department Reauthorization Act (P.L. 104-201).

Section 9514 provides a mechanism to reimburse airlines in most cases. It directed the Secretary of Defense to indemnify the FAA for any claims paid by the war risk insurance fund within 30 days of DOT's determination that it owes an airline money for damage to an aircraft.

This ensures that airlines will receive prompt payment for losses when they conduct flights on behalf of the Defense Department. These constitute the bulk of the flights covered by the war risk insurance program. However, in those limited cases where flights are conducted for the State Department, under the premium insurance program, or for some other purpose, the airlines still have no assurance they will be paid in a timely fashion. This can pose significant problems for a relatively small airline with few planes in its fleet where the unreimbursed loss of even one aircraft can have a significant adverse effect on its business. This seems unfair when the flight is authorized and insured by the U.S. government.

Last year, the Committee attempted to address this "prompt payment" problem in H.R. 2036, H. Rept. 105-244. This bill would have addressed the problem by permitting FAA to borrow money from the Federal treasury in order to reimburse airlines for their loss. FAA could then seek a supplemental appropriation in order to pay off the debt or replenish the fund. Under this approach, the airline would not have to endure an unreimbursed loss while the supplemental appropriation made its way through Congress.

However, the Administration objected to this provision in a July 22, 1997 letter from the General Counsel of the Department of Transportation (DOT). As a result, the borrowing authority was removed from the bill before it passed the House and the legislation enacted (P.L. 105-137) was silent on this issue. However, in urging the elimination of the borrowing authority, DOT did agree to help develop an alternative.

On April 20, 1998, the Secretary of Transportation did submit a legislative proposal that included a number of legislative initiatives including one addressing war risk insurance and the prompt payment problem. In submitting his proposal, the Secretary described his solution as follows:

SEC. 209. Subsection (a) proposes an amendment that would avert a potential problem in the aviation insurance program by helping ensure prompt payment in the event of a loss. It is possible that an air carrier who has obtained aviation insurance from the FAA under chapter 443 may sustain a physical damage loss that is covered by that insurance but exceeds the amount available for repayment in the aviation insurance revolving fund. In such event, FAA's full payment of the carrier's claim would need to await congressional action to appropriate a sufficient amount into the revolving fund. Because of the possibility of delays in the appropriations process, the carrier may wish to obtain "prompt payment" insurance from a commercial insurer, to ensure that the carrier receives payment in a timeframe commensurate with its financial obli-

gations. The “prompt payment” insurance contract between the carrier and the commercial insurer would, in that case, provide that the commercial insurer would be subrogated to the air carrier’s rights against the U.S. Government under the chapter 443 insurance. After the necessary funds have been appropriated to the revolving fund, FAA would reimburse the commercial insurer for its payment to the carrier, provided that the payment was for a loss covered by the chapter 443 insurance and that the payment had been approved by the FAA.

It is not clear under current law that the commercial insurer has a right of action against the Government to recover an approved payment for a covered loss, when an appropriation to the Revolving Fund is delayed. The amendment made by this section would clarify that right. This amendment will make it easier for air carriers to obtain “prompt payment” insurance.

The reported bill (Title IV) adopts the solution suggested by the Secretary. While not an ideal solution, the Committee recognizes that it is probably the best that can be achieved under the constraints of current budget rules. It would address the prompt payment problem by making it easier for an airline to obtain “prompt payment” insurance from a commercial insurance company. Such insurance would allow an airline to obtain reimbursement for its loss from a commercial insurance company quickly even if the FAA’s insurance fund was insufficient and Congress failed to replenish it quickly. The commercial insurer would be subrogated to the air carrier’s rights against the U.S. government so that when money was appropriated to replenish the FAA’s fund, the commercial insurer could recover the money it paid to the airline. Having suggested this approach, DOT should now work with the insurance companies and airlines affected in order to ensure that prompt payment insurance will be available in practice at a reasonable cost.

The reported bill would also reauthorize the program for 5 years. This has been the typical reauthorization period in the past.

#### SAFETY

The reported bill addresses several safety issues that the Aviation Subcommittee has considered in hearings and other forums. Some of them are discussed below.

*Cargo TCAS.* As far back as the 1950s, government and airlines began searching for a viable collision avoidance system for aircraft. Several systems were developed but until 1981 none were considered acceptable. In 1981, FAA finally announced that it had decided to proceed with the development and implementation of the Traffic Alert and Collision Avoidance System (TCAS).

There are basically three versions of TCAS. TCAS I is intended for small aircraft. It warns the pilot of an impending collision but does not give instructions on how to avoid that collision. TCAS II is intended for large commercial aircraft. It not only warns the pilot of an impending collision but also advises the pilot to go either up or down to avoid that collision. TCAS III was originally intended to add to the capabilities of TCAS II by advising pilots to

go left or right, if appropriate, to avoid a collision. In 1993, FAA decided that TCAS III contained substantial systematic errors and that it could not determine, in many scenarios, which direction to turn to prevent a collision. Therefore, work on TCAS III was halted.

Although FAA had committed to TCAS in 1981, progress in actually implementing the system was slow. A 1986 midair collision over Cerritos, California, finally prompted Congressional action. Section 203 of the 1987 Airport and Airways Capacity Expansion and Improvement Act, Public Law 100-223, 101 Stat. 1518, established deadlines for completing the development and installation of TCAS II. As enacted, the legislation required the FAA to implement a schedule for the certification of TCAS II that would result in that system being certified by June 30, 1989. The legislation further directed the FAA to require the installation of TCAS II on all passenger aircraft of more than 30 seats within 30 months of the date that system was certified. That meant that if the system was certified on June 30 as scheduled, airlines would have to equip their fleet by December 30, 1991.

On December 15, 1989, Public Law 101-236 amended the TCAS directive to authorize the Administrator of the FAA to extend the original compliance deadline for installing TCAS II by two years, to December 30, 1993, if the Administrator determined that such an extension was necessary.

On April 9, 1990, FAA published a final rule containing the schedule for implementation of TCAS II in aircraft with more than 30 passenger seats. In this final rule, the FAA required that these aircraft phase in the implementation of TCAS II with compliance by at least 20 percent of all covered airplanes by December 30, 1990, 50 percent by December 30, 1991, and 100 percent by December 30, 1993.

The required implementation of TCAS II was essentially completed by the end of 1993. Since then, TCAS II has demonstrated the ability to reduce the potential for collisions and is now providing important safety benefits.

Until recently, no thought had been given to requiring TCAS on cargo aircraft. On September 3, 1996, the Independent Pilots Association (IPA) filed a petition for rulemaking with the FAA, requesting that it amend its regulation to require TCAS II on cargo aircraft in addition to passenger aircraft. Hearings were held on this issue on February 26, 1997 (Committee document 105-5).

There are approximately 1,000 cargo aircraft operating domestically in the same airspace as passenger aircraft. These cargo aircraft are not required to have collision avoidance systems at this time.

The petition for rulemaking filed by IPA requests the FAA to require TCAS II on cargo aircraft. IPA favors a requirement for 50 percent of cargo aircraft to be equipped with TCAS II by July 31, 1998, and the balance of the cargo fleet to be equipped by December 30, 1998.

Cargo airline representatives agree that cargo aircraft need the safety benefit of a collision avoidance system. However, they believe that TCAS is an outmoded system and favor a system known as ADS-B instead. Automatic dependent surveillance-broadcast

(ADS-B), is being developed for use with global positioning satellite systems (GPS) and “free flight.” When ADS-B becomes available it is expected to permit aircraft to transmit additional data such as heading, next waypoint, and vertical speed and to work on the runway where TCAS is not currently effective.

The Committee agrees that cargo aircraft should be equipped with collision avoidance systems. However, the Committee believes that the FAA and the airlines are better equipped with the technical knowledge to choose between TCAS and ADS-B. Accordingly, the reported bill sets a deadline for the installation of collision avoidance systems on cargo aircraft without specifying which system should be installed although the system must provide protection from mid-air collisions and provide resolution advisory capability that is at least as good as is provided by TCAS-II.

*Pilot record sharing.* Between 1987 and 1994, there were reportedly at least 7 fatal accidents involving scheduled airlines and pilot error where the pilot had demonstrated problems at a previous airline but the airline involved in the crash was not required to check the pilot’s records before making the hiring decision. –

The National Transportation Safety Board (NTSB) investigated each of these accidents and in 4 of the cases recommended that airlines be required to check a pilot’s previous performance before hiring that pilot. However, the Federal Aviation Administration (FAA) took no action to require such record checks.

One year after an American Eagle crash, the Subcommittee held a hearing on this issue (“Aviation Safety: Should Airlines Be Required to Share Pilot Performance Records? Hearings before the Subcommittee on Aviation of the House Committee on Transportation and Infrastructure, Committee print 104-40, 104th Congress, 1st Session, (December 13 and 14, 1995)). Most witnesses supported legislative action. The NTSB, referring to the four accidents in which it had made recommendations in this area, testified, at p. 78, that “[c]ommercial aircraft accidents are so rare that to have four in seven years attributable, even in part, to a single cause should be—for everyone—conclusive evidence of a serious problem.”

In response, the Committee approved (H. Rept. 104-684) and, on July 22, 1996 the House passed 401 to 0, the Airline Pilot Hiring and Safety Act (H.R. 3536). This was combined with a similar Senate bill, the Pilot Records Improvement Act, and incorporated into the Federal Aviation Reauthorization Act of 1996 as Title V (P.L. 104-264, 110 Stat. 3263 et seq., 49 U.S.C. 44936(f)).

This Act required airlines, before hiring a pilot, to request the records of that pilot from the FAA, the National Driver Register, and the pilot’s previous employer. This was designed to ensure that airlines would be able to make informed hiring decisions.

Last year, in response to certain implementation problems that had developed, the Committee approved (H. Rept. 105-372) legislation making some improvements in the Act. This legislation was ultimately enacted (Public Law 105-142, 111 Stat. 2650, December 5, 1997).

The reported bill (section 502) includes some additional fine tuning to the Act that was suggested by FAA. One change involves exactly which records must be requested, received, and maintained by

air carriers. Section 44936(f)(1)(B) of current law requires the transfer of records involving a pilot's proficiency and route checks, airplane and route qualifications, training, required physical examinations, actions taken concerning release from employment or physical or professional disqualification, alcohol and drug test results, check airman evaluations, and any disciplinary action that was not subsequently overturned.

All of these requirements are directed toward the competency of the individual as a pilot. Indeed, the whole thrust of the 1996 Act was to ensure that the airline would have the information needed to determine whether the applicant was capable of flying the plane safely. While other information, such as how the pilot interacts with customers, may be important, it was not the focus of that legislation. Therefore, the reported bill amends section 44936(f)(1)(B)(ii) to clarify that while airlines are free to request and receive other information not directly related to the competency of the individual as a pilot, they would not be required to do so by the Pilot Records Improvement Act.

In addition the reported bill makes clear that the military is not required to release pilot records and airlines cannot be penalized for failure to get records from a foreign entity if they made a good faith effort to do so.

*NTSB recommendations.* The Committee is aware of on-going concerns about the level of responsiveness of the FAA to important safety recommendations made by the National Transportation Safety Board. The Committee intends to examine this further in the context of NTSB reauthorization legislation next year.

#### WHISTLEBLOWER PROTECTION FOR AIRLINE EMPLOYEES

Private sector employees who make disclosures concerning health and safety matters pertaining to the workplace are protected against retaliatory action by over a dozen Federal laws. These employees have become known as "whistleblowers." There are currently over a dozen Federal laws protecting whistleblowers including laws protecting nuclear plant workers, miners, truckers, and farm laborers when acting as whistleblowers. For example, section 2305 of the Surface Transportation Assistance Act of 1978, 49 U.S.C. 2305, prohibits retaliation for filing a complaint or instituting any proceeding relating to violations of motor vehicle safety rules or refusing to operate an unsafe vehicle. There are no laws specifically designed to protect airline employee whistleblowers.

The Committee previously considered legislation to protect airline employee whistleblowers in 1988. Hearings were held on April 27, 1988 and H.R. 5073 passed the House on September 13, 1988. The Senate never acted so the bill died. More recently, hearings were held on this issue on July 10, 1996 (Committee document 104-57).

Title VI of the reported bill would provide protection for airline employee whistleblowers by prohibiting the discharge or other discrimination against an employee who provides information to the Federal government about air safety or files or participates in a proceeding relating to air safety. To ensure that this protection is not abused, the provision provides penalties for the filing of frivolous complaints.

## CENTENNIAL OF FLIGHT COMMISSION

December 17, 2003 will be the 100th anniversary of the first successful manned flight by a power-driven, heavier-than-air aircraft. This first flight by Orville and Wilbur Wright has led to dramatic changes not only in transportation and commerce but in the American way of life. The achievement of the Wright brothers represents a triumph of American ingenuity, inventiveness, and diligence in developing new technologies. It is certainly an inspiration for all Americans. Therefore it is appropriate to remember and celebrate the achievement of the Wright brothers.

Title VII of the reported bill would ensure that this is done by establishing a commission known as the Centennial of Flight Commission. This seven member commission would help to plan and develop programs and activities to commemorate the 100th anniversary of powered flight.

## MISCELLANEOUS ISSUES

Title VIII of the reported bill includes several other issues that have been brought to the Committee's attention. Some of them are discussed below.

*Regulatory approval process.* In 1996, the Committee approved (H. Rept. 104-475) and the House passed legislation to make the FAA an independent agency. This legislation was not enacted. However, the Federal Aviation Reauthorization Act of 1996 was enacted later that year. It did include provisions giving FAA more autonomy from DOT. One of those provisions (section 224 of P.L. 104-264, 110 Stat. 3231) limited to four situations the instances where FAA would be required to submit a regulation to DOT for review. These are situations where the rule would (1) have an annual effect on the economy of more than \$100 million, (2) create a serious inconsistency with the action of another agency, (3) alter the budgetary impact of programs or the rights of grant recipients, or (4) raise novel legal or policy issues.

Despite this limitation on DOT review, it is the Committee's understanding that the FAA is continuing to submit all its rules to DOT for review. It is not clear to the Committee how all FAA rules could fall within the categories summarized above. Therefore in order to enable proper oversight of this provision, section 801 of the reported bill would require FAA, within 10 days of submitting a rule to DOT for review, to notify the Committee of the category or categories described above under which it was required to submit its rule for review.

*Improvements to leased properties.* A line of Comptroller General decisions generally prohibit an agency from making improvements to leased property unless there is specific authority to do so (See 65 Comp. Gen. 722 (1986)). However, the Comptroller General has allowed such improvements if (1) the cost of the improvements are in reasonable proportion to the overall cost of the lease, (2) the improvements will be used for the principal benefit of the government, (3) the proposed improvements are incidental to and essential for the accomplishment of the agency's mission, and (4) the interest of the government in the improvements is protected.

A problem arises in the case of the FAA because it will often lease property for its air traffic facilities for free or for low or nominal rent. As a result, it may be unable to satisfy the first condition that the cost of the improvements be in reasonable proportion to the overall cost of the lease.

Section 806 of the reported bill addresses this problem by allowing the FAA, in cases where the property is leased for free or nominal rent, to make improvements to that property even if the cost of the improvements are more than the cost of the lease as long as the other three prongs of the Comptroller General's test are satisfied. By nominal rent, the Committee does not necessarily mean rent of \$1 or less but rather rent that is significantly below fair market value. This section should not be construed as changing the basic prohibition against making improvements to leased property without specific authority to do so.

*Public availability of pilot records.* Section 808 of the reported bill allows the FAA to continue its long-standing practice of making available to the public lists of airmen certificates. These lists allow for the dissemination of important aviation information to pilots and to the flying public. Currently, pilots have the opportunity to remove their names from such lists but FAA has done little to make pilots aware of that option. This provision requires that, before an airman's address is released, the airman be given an opportunity to advise the FAA not to release the address. The Committee directs the FAA to recommence making the list available to the public subject to the required notification. The Committee further directs the FAA to work with the aviation industry to develop a more effective program to publicize the "opt-out" opportunity in conformity with most direct mail practices. Such efforts must include, within 30 days of enactment, a one-time written notification to airmen of the advantages and disadvantages of having their address released and the opportunity to elect that their address not be released.

*Cost accounting study.* Regardless of whether the FAA's activities are funded by aviation-related taxes, user fees, general revenues or some combination thereof, the Committee believes that the prospects for adequate funding for the FAA will be enhanced if users and the Congress are convinced (1) that the costs of operating the FAA are reasonable and (2) that these costs have been accurately measured and fairly attributed to FAA's services and users.

The Committee recognizes that the FAA has lacked the internal cost data necessary both to improve its efficiency and to assign costs accurately to services and/or users. Moreover, because the FAA has a legal monopoly on the provision of air traffic control and safety regulatory services—services whose consumption is also mandated by law—it is not generally possible for users to reduce their consumption of the services provided by the FAA. As a result, the FAA lacks many of the normal market place incentives to operate efficiently. Under these circumstances, the Committee believes that the availability of accurate and reliable cost and performance data will make it far easier to identify and fix the FAA's funding, management and operational problems.

Section 817 of the reported bill calls for the completion of independent assessments to test, validate, and thus help assure the

Congress, the Administrator and users that the FAA's costs are comprehensively captured, accurately measured and fairly attributed to specific services and, ultimately, to specific users. In addition, the legislation calls for an independent comparison of FAA costs against certain internal and external benchmarks in order to help the Congress, the Administrator, and users identify those areas where the efficiency and cost effectiveness of the FAA could be improved.

*Alaska guide pilots.* In Alaska, there are people who earn a living by guiding tourists on hunting or fishing trips. Since air travel is often the only way to get to one's destination in Alaska, the guide will usually fly the customers to the hunting or fishing spot.

For many years these guide pilots were regulated under 14 CFR Part 91 by the FAA. However, on January 2, 1998, the FAA published a notice in the Federal Register that, in the future, these pilots would be regulated under the more stringent requirements of 14 CFR Part 135. This could have a serious adverse impact on these guides and could put many out of business.

The Committee is concerned that such a dramatic reversal of long-standing practice could be taken by an agency without giving the affected people an opportunity to comment. Accordingly, section 821 of the reported bill requires FAA to rescind its earlier notice and reissue it as an opportunity for public comment. If after receiving these comments, the FAA decides to proceed with the change, it must publish in the Federal Register the reasons for its decision and provide enough time for the guides to comply but not less than 90 days.

*Free flight.* The Committee believes that the present air traffic control system results in significant operational inefficiencies and that by enhancing Communications, Navigation, Surveillance/Air Traffic Management systems (CNS/ATM), significant benefits can be realized.

First, enhancing CNS/ATM allows for the expansion of airspace capacity to accommodate the growing demand for air services. Airspace capacity constraints under current air traffic control procedures threaten the long-term viability of the air transport industry. In fact, the National Civil Aviation Review Commission found that without prompt action, "the United States' aviation system is headed toward gridlock shortly after the turn of the century". The Commission also predicted that if the anticipated growth occurs, there will be a large airliner accident somewhere in the world every 7-10 days by the year 2010.

Second, modernization of CNS/ATM would free the system of unnecessary operating constraints, saving airlines, passengers, and shippers the time and resources wasted by an outdated air traffic system. The Air Transport Association of America (ATA) has estimated that the cost of air traffic control delays to its U.S. members alone exceeds \$3 billion a year.

Third, improving CNS/ATM would decrease unnecessary fuel burn and emissions released into the atmosphere resulting from air traffic control delay and other operational constraints. The potential fuel savings from improving CNS/ATM are enormous, saving airlines, passengers, and shippers billions of dollars annually.

The environmental benefits of enhancing CNS/ATM often seem to be overlooked. A recent FAA assessment found significant environmental benefits from “free flight” capabilities and modernized air traffic management measures. Specifically, the assessment found that, based on planned CNS/ATM enhancements, the amount of fuel burned by aircraft in U.S. airspace could be reduced by 10 billion pounds per year by 2015, which represents a savings of 6 percent. In short, improving air traffic management measures will result in decreased fuel consumption and, therefore, decreased air carrier emissions.

*Aviation repair stations.* For several years, the FAA has been in the process of rewriting the Federal Aviation Regulation Part 145, the repair station rule. The major area of concern has been the safety and oversight of repair stations providing maintenance to air carriers. The Committee recommends that in developing any final rule issued by the FAA to modify the requirements applicable to the maintenance, repair, alteration, or overhaul of aircraft by repair stations, as currently codified in 14 C.F.R. Part 145, the Administrator should consider the creation of a distinct Federal Aviation Regulation to regulate repair stations that perform maintenance, repair, alteration or overhaul of aircraft under 14 C.F.R. Part 121 separate from the rule for smaller or general aviation aircraft.

*Noise.* Congress recognizes the airspace over New York and New Jersey has some of the densest airline traffic in the country, and as such the residents of New York and New Jersey suffer from some of the worst aircraft noise in the United States.

Congress is concerned about the Federal Aviation Administration’s (FAA) failure to alleviate aircraft noise over New York and New Jersey and provide substantial relief to the residents of the states of New York and New Jersey.

The FAA should provide real and substantial air noise relief to the residents of New York and New Jersey. The FAA is further directed to work with local officials, citizens advocacy groups, and the Port Authority of New York and New Jersey to develop and take appropriate steps to reduce aircraft noise over New York and New Jersey as soon as possible.

*Weather.* The Committee has been informed that the FAA and the National Weather Service plan to terminate their joint program for installing and maintaining equipment providing automatic weather observations, known as ASOS, no later than the end of FY 1998. During this program’s life, numerous problems have been identified by users and by the General Accounting Office, many of which remain unresolved. Yet, the Committee is concerned that the FAA still does not have formal plans to meet existing and future weather reporting requirements, especially at smaller airports, with commercial technologies. Given the importance to aviation safety of timely and accurate weather reporting, the Committee requests that the FAA report no later than March 31, 1999 with a detailed plan leading to a competitive procurement of commercial, off-the-shelf automated weather observing systems incorporating current technology or a detailed explanation as to why such a plan would not be appropriate.

*Chief Information Officer.* The Committee notes that the General Accounting Office (GAO) has made several recommendations to the FAA regarding its management of the air traffic control modernization effort, including the placement of a Chief Information Officer (CIO) within that structure. The modernization of the nation's air traffic control system is important for the aviation industry and the flying public, and delay of this modernization for any reason potentially jeopardizes the economy and public safety. Therefore, the Committee urges FAA to seriously consider adopting the GAO recommendations as they pertain to the CIO position and the FAA management structure in keeping with the spirit of the Clinger-Cohen Act for Department-level agencies.

*Software procurements.* The Committee recommends that the FAA assess the prior work of the Office of Information Technology and identify processes and guidelines to help the FAA address the shortcomings noted in software dependent procurements. The Committee encourages the FAA to conduct an in-depth analysis of the processes within the FAA which are affected by commercial off the shelf technologies, identify new methods to test and validate safety critical systems that are not dependent on source code analysis, and investigate ways to reduce cost and time to establish high confidence in a system.

*Security screening.* The Committee had had a long-standing concern about the performance of airport screeners, and it is pleased that the FAA has recently entered into a contract to purchase and deploy computer based training (CBT) systems that will help standardize and upgrade the quality of screener performance as well as monitor their performance as they undergo training.

The Committee is concerned, however, about the length of time that it will take the FAA, according to recent plans, to initiate rulemaking concerning the certification of screening companies. This certification is mandated by section 302 of the Federal Aviation Reauthorization Act of 1996. The Committee urges the FAA to address this rulemaking expeditiously and to assure that the rule takes into account the training and monitoring benefits that are now available through sophisticated computer based training systems. As a more immediate step, the FAA should proceed quickly to ensure the full and prompt deployment of the CBT systems that it has available to it under contract.

#### SECTION-BY-SECTION SUMMARY

##### *Section 1.—Short title; table of contents*

This section provides that the Act may be cited as the "Airport Improvement Program Reauthorization Act of 1998."

##### *Section 2.—Amendments to title 49, United States Code*

This section states that the amendments in this bill are to Title 49 of the U.S. code.

##### *Section 3.—Applicability*

States that the amendments made by this bill do not take effect until fiscal year 1999.

*Section 4.—Administrator defined*

States that the term “Administrator” means the FAA Administrator.

## TITLE I.—AIRPORT AND AIRWAY IMPROVEMENTS

*Section 101. Airport Improvement Program*

Authorizes \$2.347 billion for the Airport Improvement Program (AIP) in fiscal year 1999.

*Section 102. Airway facilities improvement program*

Authorizes \$2.131 billion for FAA’s Facilities & Equipment program in fiscal year 1999. Of this amount, \$8 million may be used to purchase and install universal access systems at airports. Nothing in this section shall be construed as requiring airports generally to purchase and install such systems although the Committee believes it would be desirable if they do so voluntarily.

*Section 103. FAA Operations*

Subsection (a) authorizes \$5.632 billion for FAA Operations in fiscal year 1999. Of this amount, \$450 thousand may be used for wildlife hazard mitigation measures and such sums as may be necessary may be used to fund an office in FAA that is dedicated to supporting infrastructure development for the general aviation and the helicopter industry and to modify existing air traffic control procedures to accommodate the tilt-rotor aircraft.

Subsection (b) allows money to continue to be spent out of the Trust Fund for FAA operations in accordance with the formula in existing law.

*Section 104. AIP formula changes*

Subsection (a) eliminates the current cap and floor on the AIP discretionary fund but ensures that all letters of intent are funded. If there is not enough money in the discretionary fund to cover the letters of intent, then the difference would be made up by pro rata reductions in the entitlements and set-asides.

Subsection (b) reduces an airport’s entitlement for each passenger over one million from 50 cents to 40 cents per passenger in any year in which the obligation limitation on AIP is less than \$1.35 billion.

Subsection (c) increases the State entitlement for general aviation airports from 18.5% to 20% and makes corresponding changes to the portion that goes to the territories to ensure that they do not receive a windfall from this change.

Subsection (d) permits money received by Alaska, Hawaii, or Puerto Rico under the State entitlement to be used for any public airport in those states.

Subsection (e) permits State entitlement money to be used for system planning.

Subsection (f) increases the noise set-aside from 31% of the discretionary fund to 33% of that fund and makes a non-substantive technical change in the set-aside for the military airport program.

Subsections (g) and (h) make technical changes with respect to Alaska.

Subsection (i) increases the number of airports in the Military Airport Program (MAP) from 12 to 15 and requires that at least one of them be a general aviation airport.

Subsection (j) makes runway incursion prevention devices, such as integrated in-pavement lighting systems, eligible for AIP grants and directs that they be considered safety devices for the purposes of FAA's priority system.

*Section 105. Grants from small airport fund*

Subsection (a) sets aside \$15 million or 20%, whichever is less, of the amounts in the small airport fund dedicated to non-hub airports for projects that will help bring these airports into compliance with the standards of the new small airport certification rules. This set-aside would begin in the first fiscal year after these new rules take effect. It would end 4 years later or when the FAA publishes a notice stating that all small airports meet the new standards, whichever occurs first.

Subsection (b) states that when FAA makes a grant from the Small Airport Fund, it must inform the airport receiving the grant that the money is coming from that fund.

*Section 106. Innovative financing techniques*

Subsection (a) permits 20 AIP grants using innovative financing techniques.

Subsection (b) states that the purpose would be to provide information on the use of innovative financing techniques for airport development.

Subsection (c) prohibits this section from being used to guarantee bonds.

Subsection (d) lists the types of innovative financing techniques that can be used. They are—

- (1) payment of interest;
- (2) commercial bond insurance and other credit enhancements associated with airport bonds; and
- (3) paying a higher local share of the grant.

*Section 107. Airport security program*

Subsection (a) permits FAA to carry out at least one program to test and evaluate innovative airport security systems and related technology.

Subsection (b) lists the factors that the FAA should consider in deciding which eligible sponsor should receive the grant.

Subsection (c) makes clear that this grant does not require a local share.

Subsection (d) permits FAA to impose terms and conditions on the grant.

Subsection (e) defines an eligible sponsor as a nonprofit corporation composed of a consortium of public and private persons, including a sponsor of a primary airport, with the necessary engineering and technical expertise to successfully conduct the testing and evaluation of airport and aircraft related security systems. The National Safe Skies Alliance would be an example of this.

Subsection (f) authorizes \$5 million per year for this program.

*Section 108. Matching share for state block grant program*

Permits a grant under the State Block grant program in which the local share is more than the usual 10%.

*Section 109. Treatment of certain facilities as airport-related projects*

Permits PFCs to be used to fund the base terminal building and nearby fueling facilities if that would help provide gates for additional air service by a carrier that has less than 50% of the passengers at that airport.

*Section 110. Terminal development costs*

Enables certain small airports to use their entitlement funds to help pay off the debt they incurred in constructing new terminal buildings.

*Section 111. Conveyances of surplus property for public airports*

Subsection (a) gives a request of an airport for surplus property priority consideration.

Subsection (b) requires FAA to provide notice and an opportunity to comment before waiving a restriction on an airport's ability to dispose of land. The length of the comment period is not specified but the Committee would suggest 45 days as an appropriate period.

Subsection (c) requires FAA to consider the current and future needs of airport users as well as the interests of the owner in deciding whether to grant the waiver.

Subsection (d) makes technical changes in the use of terminology.

*Section 112. Construction of runways*

This section counters provisions in Appropriations Acts that prevent funding for an additional runway at a particular airport. It is not intended by this provision that that airport be given any special priority for AIP grants, only that it be given the same opportunity as any other airport to receive such grants.

*Section 113. Potomac Metroplex terminal radar approach control facility*

Requires a study of FAA's plans regarding the Potomac Metroplex before selecting a site or beginning construction of that facility.

*Section 114. General facilities authority*

Subsection (a) requires FAA to maintain an inventory of Instrument Landing Systems in light of the uncertainties surrounding the Wide Area Augmentation System.

Subsection (b) requires FAA to maintain and upgrade Loran-C for the same reason.

*Section 115. Transportation assistance for Olympic cities*

Gives priority for discretionary grants to airports that need to make improvements in order to host the Olympics.

*Section 116. Denial of airport access to certain air carriers*

Allows reliever airports that do not have a certificate authorizing scheduled passenger operations to deny access to public charter operators that are providing notice of their schedule much as a regularly scheduled operator would.

*Section 117. Period of applicability of amendments*

Repeals a provision that would otherwise require a return to the pre-1996 AIP formulas.

*Section 118. Technical amendments*

Subsection (a) moves the small hub portion of the PFC turn-back from the discretionary fund to the small airport fund and makes corresponding changes in the percentages so that non-hubs and general aviation airports will not suffer as a result of this change.

Subsection (b) permits small commercial service airports that had a multi-year agreement with FAA for grants for terminal development to continue to receive those grants from the discretionary fund even if they lose primary airport status, subject to the availability of funds. In addition, the Committee is aware that there are some non-commercial airports seeking AIP grants to build passenger terminals so that airlines can begin commercial service there. The Committee would urge the FAA to favorably consider such requests to the extent the law permits if the airport has reasonable expectations of enough enplanements there to justify the grant.

## TITLE II—CONTRACT TOWER PROGRAM

*Section 201. Contract towers*

Paragraph (A) directs DOT to extend the current contract tower program to not more than 20 low activity air traffic control (ATC) towers that do not now qualify for the program.

Paragraph (B) lists the characteristics of the airport that the FAA should consider in deciding which ones should get priority for this program. They are the following:

- (i) Airports that are participating in the current program but have been notified that they will be terminated because their benefit to cost ratio is less than 1.
- (ii) Airports at which the tower was closed as a result of the air traffic controllers strike in 1981.
- (iii) Airports that are receiving subsidized essential air service.
- (iv) Airports that are prepared to assume the construction and maintenance costs of the tower.
- (v) Airports with safety or operational problems related to their topography, weather, runway configuration, or mix of aircraft.

Paragraph (C) requires the airport or State or local government to share in the costs of operating the tower to the extent that the costs of that operation exceed the benefits.

Paragraph (D) authorizes \$6 million for this program.

## TITLE III.—FAMILY ASSISTANCE

*Section 301. Responsibilities of National Transportation Safety Board*

Subsection (a) makes three changes to the current moratorium on the solicitation of families by lawyers following an accident. These changes are—

- (A) Applying the moratorium to accidents involving foreign airlines that occur in this country;
- (B) Applying the moratorium to associates, agents, employees or other representatives of the attorney; and
- (C) Increasing the moratorium period from 30 to 45 days.

The last two changes adopt recommendation 7.2 of the Final Report of the Task Force on Assistance to Families of Aviation Disasters that was established pursuant to section 704 of the Aviation Disaster Family Assistance Act of 1996, 110 Stat. 3268. This subsection also provides for enforcement of the moratorium on lawyer solicitation.

Subsection (b) allows Red Cross counselors and mental health workers to offer their services at the crash scene for 30 days even if they are not licensed in that state. The NTSB's family liaison can extend this period for another 30 days if needed and if the local authorities are notified. This implements Recommendation 6 of the Task Force.

Subsection (c) extends the family assistance services to employees of foreign airlines and to other people aboard the flight even if they did not pay for the seat or hold a reservation for the flight.

Subsection (d) moves the free-standing provision in section 705 of the Family Assistance Act into Title 49.

*Section 302. Air carrier plans*

Subsection (a) mandates several changes to the airlines' disaster assistance plans. These changes are—

- (1) Requiring airlines, upon request, to inform the family as to whether the person had a reservation on the flight (This implements Task Force Recommendation 1.2.4.); and
- (2) Requiring airlines to provide adequate training to employees in meeting the needs of families (This implements Task Force Recommendation 1.4).

Airlines are given 180 days to update their disaster assistance plans in light of the above new requirements.

Subsection (b) limits the liability of an airline that informs a family as to whether the person had a reservation on the flight.

Subsection (c) is the same as subsection 301(d) above.

*Section 303. Foreign air carrier plans*

Subsection (a) adds non-revenue passengers to those entitled to services under the Aviation Disaster Family Assistance Act.

Subsection (b) changes a word so that the portions of the statute dealing with U.S. and foreign airlines will be consistent.

Subsection (c) requires foreign airlines to provide the same training to employees as U.S. airlines. Foreign airlines are given 180 days following the date of enactment to update their disaster assistance plans to reflect this.

*Section 304. Applicability of Death on the High Seas Act*

Makes clear that the Death on the High Seas Act does not apply to aviation accidents. The provision does not say what law would apply as the Committee expects courts to apply normal choice of law analysis considering such things as where the ticket was bought, where the parties reside, etc.

## TITLE IV.—WAR RISK INSURANCE PROGRAM

*Section 401. Aviation insurance program amendments*

Subsection (a) restates existing law permitting an airline to sue the U.S. government when a loss insured under the war risk program is in dispute. The subsection also adds a new provision permitting such lawsuits by an insurance company when that company is subrogated to the rights of an airline and the company has paid the airline for damage to an aircraft that is covered by premium insurance under the war risk program.

Subsection (b) extends the program until December 31, 2003.

## TITLE V.—SAFETY

*Section 501. Cargo collision avoidance systems deadline*

Subsection (a) requires large cargo aircraft to be equipped with collision avoidance systems that are as good as TCAS II by December 31, 2002.

Subsection (b) permits FAA to extend the deadline one year if that would promote safety. This is designed to accommodate a situation where a system that is as good or better than TCAS II is close to completion but needs a little more time that could be accommodated by this extra year.

*Section 502. Records of employment of pilot applicants*

Makes the following changes to the Pilot Records Improvement Act:

- (1) Exempts the military from the requirement to provide records;
- (2) Limits the records that must be provided to those that involve the individual's performance as a pilot; and
- (3) Allows an airline to hire a pilot previously employed by a foreign airline without receiving the records from that airline if it has made a documented good faith effort to obtain those records.

*Section 503. Whistleblower protection for FAA employees*

Restores the procedures for protecting FAA employees who "blow the whistle" on safety problems.

*Section 504. Safety risk mitigation programs*

Requires the FAA to issue guidelines and encourage the development of air safety risk mitigation programs throughout the aviation industry, including self-audit and self-disclosure programs. This is intended to implement one of the recommendations of the National Civil Aviation Review Commission that can be found at page III-20 of the Commission's report.

*Section 505. Flight operations quality assurance rules*

Requires FAA to issue a rule to protect airlines and their employees from civil enforcement actions under the Flight Operations Quality Assurance (FOQA) program. FOQA is based on trust. If people feel they will be punished for sharing information, they will not provide it and the public safety benefit will be lost. Encouraging the voluntary sharing of safety-related information has been a long-standing interest of this Committee. See, for example, section 402 of the Federal Aviation Reauthorization Act of 1996, 110 Stat. 3255, and pages 4 and 5 of H. Rept. 104-682.

*Section 506. Small Airport certification*

Requires FAA to issue within 180 days the proposed rule implementing the requirement that small airports obtain a certificate that was imposed by section 404 of the Federal Aviation Reauthorization Act of 1996, 110 Stat. 3256. The final rule must be issued within 1 year of the close of the comment period. This provision does not override the requirements in subsections (d) and (e) of 49 U.S.C. 44706.

*Section 507. Marking of life limited aircraft parts*

Subsection (a) requires FAA to issue a rule to require that all life-limited parts be permanently marked with some sort of phrase such as “not to be used for aviation” (or a readily identifiable symbol indicating the same) when they are removed from an aircraft because they are about to exceed their specified useful life. This would, of course, not require the marking of parts that have been melted down so that they no longer have any resemblance to their former state.

Subsection (b) sets deadlines for the issuance of this rule.

Subsection (c) adds the failure to mark life limited parts under the FAA’s rule to the list of violations in section 46301(a)(3) that are subject to a \$10,000 civil penalty, subject to the inflation adjustment that applies to all the violations listed in that section.

## TITLE VI.—WHISTLEBLOWER PROTECTION

*Section 601. Protection of employees providing air safety information*

Subsection (a) prohibits an airline or a contractor of an airline from firing, or taking other adverse action against, an employee for doing any of the following:

- (1) Providing information to the Federal government relating to air safety;
  - (2) Filing or being about to file a proceeding relating to airline safety;
  - (3) Testifying or being about to testify in such a proceeding;
- or
- (4) Assisting or participating in such a proceeding.

Subsection (b) governs the filing of complaints by aggrieved whistleblowers.

Paragraph (1) allows whistleblowers who believe they have been fired or otherwise treated unfairly in violation of subsection (a) to file a complaint with the Secretary of Labor within 180 days of the

violation. The airline and the FAA must be notified of the complaint by the Labor Dept.

Paragraph (2) directs the Labor Department, within 60 days of receiving a complaint, and after giving the airline an opportunity to respond, to launch an investigation to determine whether there is reason to believe the complaint has merit and to notify the parties of its findings. If Labor concludes that there is reason to believe a violation has occurred, it shall issue a preliminary order providing a remedy. Within 30 days of being notified of Labor's findings, either side may file objections and request a hearing but this shall not stay a reinstatement remedy in the preliminary order. If a hearing is not requested within 30 days, the preliminary order becomes a final order and is not subject to judicial review.

Paragraph (3) describes the final order.

Subparagraph (A) directs the Labor Secretary, within 120 days after the end of the hearing, to issue a final order providing a remedy or denying the complaint. The matter can be settled at any time prior to the issuance of the final order.

Subparagraph (B) lists the remedies that could be ordered. They are—

- (i) take action to abate the violation;
- (ii) reinstate the employee with back pay;
- (iii) provide monetary damages to the employee.

If an order is issued under paragraph (3), the Labor Secretary, at the request of the employee, shall assess the employee's attorney's fees against the airline.

Subparagraph (C) permits the Labor Secretary to assess the airline's attorney's fees against the employee if the Secretary finds that the complaint was frivolous. Frivolous complaints are not defined but would probably include unfounded complaints potentially linked to other job-related matters.

Paragraph (4) pertains to judicial review.

Subparagraph (A) permits either party, within 60 days of the issuance of the final order, to appeal to the circuit court where the violation allegedly occurred or where the employee resided at the time of the violation. This shall not stay the order unless the court decides otherwise.

Subparagraph (B) prohibits one from challenging the final order in another judicial proceeding if it could have been appealed under subparagraph (A) above.

Paragraph (5) permits the Labor Secretary to enforce the order by bringing suit in a District court against the person that has failed to comply. The court may issue an injunction or provide other relief.

Paragraph (6) allows one of the parties to enforce the Secretary's order.

Subparagraph (A) allows the one who won the case before the Secretary to sue the other party to force compliance with the Secretary's order. The U.S. district court will have jurisdiction over the case.

Subparagraph (B) allows the court to award attorney's fees as appropriate.

Subsection (c) states that any nondiscretionary duty imposed by this section is enforceable in a mandamus proceeding.

Subsection (d) makes clear that an employee could be fired if the employee, on his or her own, deliberately causes a violation of any requirement relating to airline safety.

Subsection (e) uses a definition of “contractor” similar to the one found in the drug testing rules at 14 CFR 121, Appendix I. This will ensure that employees actually have some expertise in a safety-sensitive position in order to avail themselves of the protections offered by this legislation.

*Section 602. Civil Penalty*

Provides a \$1,000 civil penalty for the violation of this title.

TITLE VII—CENTENNIAL OF FLIGHT COMMISSION

*Section 701. Short title*

This section provides that this title may be cited as the “Centennial of Flight Commemoration Act.”

*Section 702. Findings*

This section sets forth the reasons for the establishment of the Commission.

*Section 703. Establishment*

This section establishes the Commission.

*Section 704. Membership*

This section lists the members of the Commission and establishes procedures.

*Section 705. Duties*

This section describes the duties of the Commission.

*Section 706. Powers*

This section describes the authority of the Commission.

*Section 707. Staff and support services*

Sets forth the staff of the Commission and exempts them from certain civil service laws.

*Section 708. Contributions*

Permits donations of money, materials, and services to the Commission.

*Section 709. Exclusive right to name, logos, emblems, seals, and marks*

Permits the Commission to devise any logo or emblems that it decides are appropriate.

*Section 710. Reports*

Requires the Commission to submit annual reports to Congress and to submit a final report not later than June 30, 2004.

*Section 711. Audit of financial transactions*

Requires GAO to audit the financial transactions of the Commission.

*Section 712. Advisory board*

Establishes a 19-member advisory Board.

*Section 713. Definitions*

This section defines terms.

*Section 714. Termination*

This section terminates the Commission 60 days after it submits its final report.

*Section 715. Authorization of appropriations*

Authorizes \$250,000 per year for the Commission.

## TITLE VIII—MISCELLANEOUS PROVISIONS

*Section 801. Clarification of regulatory approval process*

Requires the FAA to notify the Committee within 10 days of submitting a rule to DOT for review with the reasons why that rule was so submitted.

*Section 802. Duties and powers of Administrator*

Lists the statutory responsibilities for which FAA is responsible.

*Section 803. Prohibition on release of offeror proposals*

This section is similar to a provision in the National Defense Authorization Act of 1997 (P.L. 104–201, 110 Stat. 2422, 2609) that provided that contractor proposals submitted to agencies in response to a solicitation for competitive bids are exempt from release under the Freedom of Information Act (FOIA). The FAA was not included in this exemption because, under procurement reform, it is exempt from the Federal Property and Administrative Services Act. This section would correct that omission. The section does permit FAA to release certain information relating to unsuccessful offeror proposals under procedures to be developed after public comment.

*Section 804. Multiyear procurement contracts*

Permits FAA to make a contract for not more than 10 years for telecommunication services that are provided through the use of satellites. Generally, such contracts would be limited to 5 years.

*Section 805. Federal Aviation Administration personnel management system*

Subsection (a) states that the 60-day period for congressional review of a proposed change to the FAA's personnel management system shall not include any time during which Congress has adjourned for the year.

Subsection (b) permits an employee to contest an adverse personnel action either through contractual grievance procedures if the employee is a member of a bargaining unit or through the FAA's

internal grievance procedure known as “Guaranteed Fair Treatment.”

Subsection (c) gives the employee the further option of appealing to the Merit Systems Protection Board (MSPB).

Subsection (d) requires the DOT Inspector General to study the costs and benefits of the MSPB procedure and the Guaranteed Fair Treatment procedure, including a survey of employee preferences, and to report to Congress by May 15, 1999.

*Section 806. General facilities and personnel authority*

Permits FAA to make improvements to real property leased for an air navigation facility if certain specified conditions are met.

*Section 807. Implementation of Article 83 bis of the Chicago Convention*

This section provides the legislative authority for the implementation of Article 83 bis of the Convention on International Civil Aviation, 7 December 1944, 61 Stat. 1180, T.I.A.S. No. 1591, 15 U.N.T.S. 295, known as the Chicago Convention. (The suffix bis means that the new article is inserted between Articles 83 and 84.) The section permits the FAA, through bilateral agreement, to relinquish responsibility for U.S.-registered aircraft for which safety oversight responsibility is transferred abroad and accept responsibility for the foreign-registered aircraft whose oversight is transferred to the U.S. The transferred aircraft would be treated, for all practical safety oversight purposes only, as if they were on the registry of the other country. Paragraph (3) prohibits transferring responsibility for U.S.-registered aircraft to foreign nations that are not in compliance with their obligations under international law for the safety oversight of civil aviation. These would typically be countries that are in Category II or III under the FAA’s international aviation safety assessment program.

*Section 808. Public availability of airmen records*

Paragraph (1) requires the name and address of airmen to once again be made available to the public within 60 days of enactment notwithstanding privacy act considerations and subject to paragraph (2).

Paragraph (2) requires that before an airman’s address can be made available to the public, the airman be given an opportunity to withhold the address from public release.

Paragraph (3) directs FAA to work with the aviation community to develop and implement not later than 30 days from the date of enactment a one-time written notification to airmen of the advantages and disadvantages to them of making their name and address publicly available.

*Section 809. Government and industry consortia*

This codifies in Title 49 a provision from an Appropriations Act for fiscal year 1997 (Public Law 104–208) that allows FAA to establish consortia of government and aviation industry representatives at individual airports to provide advice on aviation security and safety.

*Section 810. Passenger manifest*

This section returns to the pre-recodification language with respect to passenger manifests. A passenger manifest is a list of passengers aboard a flight. Prior to the re-codification of Title 49, the law stated that the manifest should include certain information (Section 203 of Public Law 101-604, 104 Stat. 3082, November 16, 1990). This was designed to indicate that DOT had flexibility in specifying the information to be included in the manifest. However, the recodification changed the word should to shall. In order to make DOT's flexibility clear, and because the 1994 recodification expressly stated that it made no substantive change in law, this section returns to the original wording.

*Section 811. Cost recovery for foreign aviation services*

This section clarifies the FAA's authority to collect fees for foreign aviation services provided by the FAA, such as those provided at foreign repair stations and for other foreign activities. The FAA has collected such fees since 1995.

*Section 812. Technical corrections to civil penalty provisions*

Paragraph (1) deletes references in section 46301(a)(1)(A) to section 46302 (providing false information) and section 46303 (carrying a weapon). Section 46301(a)(1)(A) limits civil penalties to \$1,000 while sections 46302 and 46303 impose penalties of \$10,000 by their own terms. Deleting the reference would make clear that violations of these two sections carry a maximum civil penalty of \$10,000.

Paragraph (2) makes clear that not only individuals, but also other persons such as airlines, are entitled to notice and an opportunity for a hearing.

Paragraph (3) adds a reference in the judicial review section to orders of the Administrator since civil penalty authority also rests in that office.

*Section 813. Enhanced vision technologies*

Requires a study of enhanced vision technologies and makes them eligible for AIP funding. This section also requires FAA to submit to Congress a schedule for certifying laser guidance equipment and cold cathode lighting equipment.

*Section 814. Foreign carriers eligible for waiver under Airport Noise and Capacity Act*

This section would make foreign airlines eligible for the same waiver from the December 31, 1999 date for compliance with Stage 3 noise levels as is provided to U.S. airlines under the Airport Noise and Capacity Act of 1990 (Section 9308(b) of the Omnibus Budget Reconciliation Act of 1990). Nothing in this section should be construed as encouraging the FAA to grant such waivers.

*Section 815. Typographical errors*

This section consists of technical changes suggested by FAA that are not intended to make any substantive change but rather to correct typographical errors.

*Section 816. Acquisition management system*

This section would give the FAA flexibility to enter into contracts for procurement of severable services that begin in one year and end in another. Prior to procurement reform, FAA had this flexibility under the Federal Acquisition Streamlining Act of 1994 (41 U.S.C. 253l).

*Section 817. Independent validation of FAA costs and allocations*

Directs the DOT Inspector General to undertake an analyses of the cost accounting system that FAA is developing to ensure that it is appropriate, reasonable, and understandable.

*Section 818. Elimination of backlog of equal employment opportunity complaints*

Authorizes \$2 million to help DOT eliminate the backlog of pending equal employment opportunity complaints.

*Section 819. Newport News, Virginia*

Removes deed restrictions at the airport at Newport News, subject to the standard conditions for such waivers.

*Section 820. Grant of easement, Los Angeles, California*

Permits the granting of an easement to build a road that could improve access to Palmdale Airport.

*Section 821. Regulation of Alaska air guides*

Directs the FAA to reopen its decision to apply Part 135 rules to Alaska air guides in order to provide an opportunity for affected parties to comment.

## HEARINGS AND LEGISLATIVE HISTORY

The Subcommittee on Aviation held hearings on the Airport Improvement Program and the reauthorization of the FAA on March 12, 18, 19, and 25, 1998. H.R. 4057 was introduced on June 16, 1998. The Committee has not held hearings on the reported legislation.

## COMMITTEE CONSIDERATION

On June 18, 1998, the Subcommittee on Aviation reported the bill, by unanimous voice vote, to the Committee on Transportation and Infrastructure. On June 25, 1998, the Committee met in open session and ordered the bill reported, with an amendment, by voice vote with a quorum present. There were no recorded votes taken during Committee consideration of H.R. 4057.

## ROLL CALL VOTES

Clause 2(1)(2)(B) of rule XI requires each committee report to include the total number of votes cast for and against on each roll call vote on a motion to report and on any amendment offered to the measure or matter, and the names of those members voting for and against. There were no recorded votes taken in connection with ordering H.R. 4057 reported. A motion by Mr. Duncan to order

H.R. 4057 favorably reported to the House, with amendment, was agreed to by voice vote, a quorum being present.

#### COMMITTEE OVERSIGHT FINDINGS

With respect to the requirements of clause 2(1)(3)(A) of rule XI of the Rules of House of Representatives, the Committee's oversight findings and recommendations are reflected in this report.

#### COST OF THE LEGISLATION

Clause 7 of rule XIII of the Rules of the House of Representatives does not apply where a cost estimate and comparison prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974 has been timely submitted prior to the filing of the report and is included in the report. Such a cost estimate is included in this report.

#### COMPLIANCE WITH HOUSE RULE XI

1. With respect to the requirement of clause 2(1)(3)(B) of rule XI of the Rules of the House of Representatives, and section 308(a) of the Congressional Budget Act of 1974, the Committee references the report of the Congressional Budget Office included below.

2. With respect to the requirement of clause 2(1)(3)(D) of rule XI of the Rules of the House of Representatives, the Committee has received no report of oversight findings and recommendations from the Committee on Government Reform and Oversight on the subject of H.R. 4057.

3. With respect to the requirement of clause 2(1)(3)(C) of rule XI of the Rules of the House of Representatives and section 402 of the Congressional Budget Act of 1974, the Committee has received the following cost estimate for H.R. 4057 from the Director of the Congressional Budget Office.

U.S. CONGRESS,  
CONGRESSIONAL BUDGET OFFICE,  
*Washington, DC, July 17, 1998.*

Hon. BUD SHUSTER,  
*Chairman, Committee on Transportation and Infrastructure,  
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 4057, the Airport Improvement Program Reauthorization Act of 1998.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contacts are Clare Doherty (for Federal costs), Lisa Cash Driskill (for the state and local impact), and Jean Wooster (for the private-sector impact).

Sincerely,

JAMES L. BLUM  
(For June E. O'Neill, Director).

Enclosure:

## CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

*H.R. 4057—Airport Improvement Program Reauthorization Act of 1998*

Summary: H.R. 4057 would reauthorize funding for programs at the Federal Aviation Administration (FAA) for fiscal year 1999. The bill would provide \$2.3 billion in contract authority for the airport improvement program and authorize the appropriation of \$7.8 billion for FAA operations, facilities, and equipment. In addition, the bill would authorize the appropriation of \$6 million a year for the contract tower program, \$250,000 a year from 1999 through 2004 for the Centennial Flight Commission, and \$2 million for fiscal year 1999 to hire additional personnel at the Department of Transportation (DOT)

H.R. 4057 would expand a pilot program that provides for an innovative use of airport improvement grant funds. The Joint Committee on Taxation (JCT) expects that this provision would result in an increase in tax-exempt financing and subsequent loss of federal revenue. JCT estimates a revenue loss over the 1999–2003 period of \$2 million, with additional losses between \$500,000 and \$1 million a year through 2008. Enacting H.R. 4057 could increase collections of civil penalties, which are governmental receipts, but CBO estimates that any such increase in collections would be negligible. Because enacting H.R. 4057 would affect receipts (and could affect direct spending), pay-as-you-go procedures would apply to the bill.

H.R. 4057 contains an intergovernmental mandate as defined in the Unfunded Mandates Reform Act (UMRA), but CBO estimates it would have an insignificant impact on the budgets of state and local governments and no effect on the budgets of tribal governments. In general the bill would benefit the budgets of state and local governments.

H.R. 4057 would impose private-sector mandates, as defined by UMRA, on domestic and foreign air carriers, the end users of life-limited aircraft parts, and owners and operators of cargo aircraft. CBO cannot determine whether the direct costs of the mandate would exceed the annual threshold for private-sector mandates (\$100 million in 1996, adjusted for inflation), primarily because of the uncertainty about the cost of marking life-limited aircraft parts. The cost of the other private-sector mandates in the bill would be below the threshold.

Description of the bill's major provisions: Title I would reauthorize FAA's airport improvement program, facilities and equipment program, and operations program. The bill also would prohibit the Secretary of Transportation from selecting a site and beginning construction of the Potomac Metroplex Terminal Radar Approach Facility until the Administrator of the FAA submits a report to the Congress. Title II would authorize the appropriation of \$6 million per fiscal year for the contract tower program.

Title III would amend Title 49 of the U.S. Code so that the Death on the High Seas Act of 1920 (DOHSA) would not apply to aviation incidents. The Warsaw Convention of 1929 and DOHSA provide families of victims of aviation disasters with legal remedies to seek financial compensation for the loss of a family member. The War-

saw Convention is the primary basis for lawsuits related to international airline disasters. Under the Warsaw Convention, families of passengers who die in an aviation disaster can seek limited financial compensation for their loss. Under DOHSA, a family can seek compensation only if the family was financially dependent upon the deceased. The Supreme Court recently ruled that DOHSA applies to lawsuits when an aviation crash occurs more than three miles from land. By making DOHSA inapplicable to aviation incidents, H.R. 4057 would broaden the circumstances under which relatives can seek compensation for the death of a family member in an aviation incident over the ocean. It could also lead to larger awards.

Title IV would amend the aviation insurance program and make clear that an insured party could purchase an additional insurance policy from a third party under which the third party would, in the event of a claim, reimburse the insured party immediately and then seek reimbursement from the federal government. Such a contract would allow parties insured under the aviation insurance program to be assured of immediate reimbursement for any claims.

Title VI would establish a whistleblower protection program for employees of air carriers, or contractors and subcontractors of an air carrier. If a complaint is filed, the Secretary of Labor would conduct an investigation. H.R. 4057 would establish civil penalties for violations of this provision.

Title VII would establish the Centennial of Flight Commission and the First Flight Centennial Advisory Board. The commission would be composed of seven members that would plan programs and activities for the 100th anniversary of powered flight. The commission would coordinate with other federal agencies to plan activities and programs. The Executive Director and staff of the commission would receive paid compensation. The commission would be able to accept donations of money, personal services, and historic materials. Any donated funds remaining with the commission at the termination of the activities, and after all bills are paid, would be deposited in the general fund of the Treasury. Each fiscal year, the commission would be required to complete a report. In addition, the Comptroller General of the General Accounting Office would be required to audit the financial transactions of the commission and submit a report no later than September 30, 2004. H.R. 4057 would authorize annual appropriations of \$250,000 for the commission.

The bill also would require the Administrator of the FAA to contact all airmen by written notification and inform them that their address may be made available to the public unless the FAA is told otherwise.

The bill would authorize the appropriation of \$2 million in fiscal year 1999 to hire or contract for additional personnel to eliminate the backlog of pending equal employment opportunity complaints at DOT. In addition, H.R. 4057 would expand the definition of those required to pay overflight fees to the FAA.

Title VIII would require the Inspector General to complete studies and reports on the Merit System Protection Board and FAA costs and allocations. In addition, the Inspector General would be required to contract with an independent entity to assess the FAA's efficiency and effectiveness.

Finally, H.R. 4057 would require the Secretary of Transportation and the Administrator of the FAA to complete numerous studies and rulemakings, issue guidelines and rules, and publish subsequent reports.

Estimated cost to the Federal Government: CBO estimates that implementing H.R. 4057 would result in additional outlays of about \$10 billion over the 1999–2003 period and a net loss of federal revenues of \$2 million over the same period. The estimated budgetary impact of H.R. 4057 is shown in the following table. The costs of this legislation fall within budget function transportation (400).

	By Fiscal Year in Millions of Dollars					
	1998	1999	2000	2001	2002	2003
DIRECT SPENDING						
Spending Under Current Law						
Budget Authority .....	1,935	0	0	0	0	0
Estimated Outlays .....	0	0	0	0	0	0
Proposed Changes						
Budget Authority .....	0	2,347	0	0	0	0
Estimated Outlays .....	0	0	0	0	0	0
Total Spending Under H.R. 4057						
Budget Authority .....	1,935	2,347	0	0	0	0
Estimated Outlays .....	0	0	0	0	0	0
SPENDING SUBJECT TO APPROPRIATION						
Spending Under Current Law						
Budget Authority <sup>1</sup> .....	7,178	0	0	0	0	0
Estimated Outlays .....	8,820	3,342	1,329	623	143	68
Proposed Changes						
Authorization Level .....	0	7,771	6	6	6	6
Estimated Outlays .....	0	6,026	2,414	925	561	124
Total Spending Under H.R. 4057						
Authorization Level <sup>1</sup> .....	7,178	7,771	6	6	6	6
Estimated Outlays .....	8,820	9,368	3,743	1,549	704	192
CHANGES REVENUES						
Estimated Revenues .....	0	( <sup>2</sup> )	( <sup>2</sup> )	( <sup>2</sup> )	-1	-1

Note: Enacting H.R. 4057 could also affect revenues by increasing collections from civil penalties and from donations for the proposed commission. Any donations would then result in additional direct spending. CBO estimates that the amounts involved would be negligible for both additional revenues and direct spending.

<sup>1</sup> The 1998 level is the amount appropriated for that year.

<sup>2</sup> Less than \$500,000.

Basis of estimate: Implementing H.R. 4057 would affect direct spending, spending subject to appropriation, and revenues. In particular, the bill would provide \$2.3 billion in contract authority (a form of direct spending) for the airport improvement program and authorize the appropriation of \$7.8 billion for the operations and facilities and equipment accounts. All of the outlays from this contract authority would be controlled by annual obligation limitations imposed through the appropriations process. All of the projected outlays controlled by appropriation action, whether from appropriated budget authority or annually limited contract authority, are categorized as spending subject to appropriation. Estimates of outlays are based on historical spending patterns for the affected programs and information provided by DOT and FAA staff.

Spending subject to appropriation: For purposes of this estimate, CBO assumes that the amounts authorized for aviation programs will be appropriated for each fiscal year. Because most of the outlays from contract authority are governed by annual obligation lim-

itations in appropriation acts, they are discretionary and are included in the table as estimated outlays subject to appropriation.

H.R. 4057 would provide \$2.3 billion in contract authority for the airport improvement program and authorize the appropriation of \$5.6 billion for FAA operations and \$2.1 billion for facilities and equipment in fiscal year 1999. In addition, the bill would authorize the appropriation of \$6 million a year for a program to contract for air traffic control services at not more than 20 air traffic control towers, \$250,000 for each fiscal year from 1999 through 2004 for the National Flight Commission, and \$2 million in fiscal year 1999 to hire additional personnel at DOT.

H.R. 4057 contains several additional provisions that would require the FAA to conduct studies and complete reports. CBO assumes that all such costs would be funded from the authorization amounts provided in the bill for FAA operations, facilities, and equipment. In total, CBO estimates that studies and reports required by the bill would cost about \$12 million. Of that total, the required assessment of FAA costs and allocations—to be completed by an independent contractor and the DOT Inspector General—would cost \$7.5 million. Costs related to delaying construction and reporting on the Potomac Metroplex Terminal Radar Approach Facility would total about \$1.5 million. CBO estimates that other costs of analysis and reporting would total about \$3 million.

Revenues: H.R. 4057 would expand a pilot program that provides for an innovative use of the airport improvement grant funds to implement innovative financing techniques for airport capital projects. These techniques include payment of interest, purchase of bond insurance, and other credit enhancement associated with airport bonds. While the first pilot program, enacted in 1996, included these provisions, the early use of the program was geared more toward changing federal/local matching ratios. In addition, the earlier authorization provided for no more than 10 projects. This provision represents an expansion to 20 pilot projects. It is designed to leverage new investment financed by additional tax-exempt debt. JCT expects that this provision would result in an increase in tax-exempt financing and subsequent loss of federal revenue. JCT estimates a loss of revenue of \$2 million over the 1999–2003 period and \$6 million over the 1999–2008 period.

The provisions establishing new civil penalties and allowing the proposed commission to accept donations also could affect revenues, but CBO estimates that any such effects would not be significant.

Direct spending: Spending from donations to the commission would also constitute additional direct spending, but CBO expects that those amounts, if any, would be negligible.

Amending Title 49 so that the DOHSA would not apply to aviation incidents would probably not have a significant impact on the federal budget. The bill could affect federal spending if the government becomes either a defendant or a plaintiff in a future civil action related to aviation, but CBO has no basis for estimating the likelihood or outcome of any such potential actions.

The airline insurance provision clarifies existing law. Enacting this provision could affect federal spending if the clarification made the aviation insurance program more acceptable to carriers and thereby increased the number of insured flights—and potential

claims—under the program. CBO expects, however, that there would be no significant budgetary effect over the next five years.

Pay-as-you-go considerations: Section 252 of the Balanced Budget and Emergency Deficit Control Act sets up pay-as-you-go procedures for legislation affecting direct spending or receipts. The net changes in outlays and governmental receipts that are subject to pay-as-you-go procedures are shown in the following table. For the purposes of enforcing pay-as-you-go procedures, only the effects in the current year, the budget year, and the succeeding four years are counted.

	By Fiscal Year, in Millions of Dollars										
	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008
Changes in outlays .....	0	0	0	0	0	0	0	0	0	0	0
Changes in receipts .....	0	0	0	-1	-1	-1	-1	-1	-1	-1	-1

Estimated impact on State, local, and Tribal governments: H.R. 4057 would prohibit a state or local government from preventing people associated with disaster counseling services who are not licensed in that state from providing those services for up to 60 days after an aviation accident. This prohibition would constitute an intergovernmental mandate as defined in UMRA. However, because it would not require state or local governments to expend funds, CBO estimates that it would impose insignificant costs on state and local governments.

Overall, the bill would increase the uses of funding from the airport improvement program (AIP) available to state and local governments operating airports. In addition, the percentage of funds earmarked for non-primary and general aviation airports would increase.

The AIP also provides capital improvement grants to the nations 413 primary airports. The formula to distribute these grants would be changed to provide a safety net for smaller airports when AIP funding drops below \$1.35 billion in a given year. In doing so, the bill could result in a reallocation of funds from larger to smaller airports in some years.

Eligibility for grants under the military airport program would be expanded from 12 airports to 15 airports. Finally, the bill would establish a contract tower program and authorize \$6 million to subsidize the cost of air traffic control services at up to 20 locations not currently served by the Department of Transportation air traffic control contract programs.

Estimated impact on the private sector: H.R. 4057 would impose private-sector mandates, as defined by UMRA, on domestic and foreign air carriers, the end users of life-limited aircraft parts, and owners and operators of cargo aircraft. CBO cannot determine whether the direct costs of the mandate would exceed the annual threshold for private-sector mandates (\$100 million in 1996, adjusted for inflation), primarily because of the uncertainty about the cost of marking life-limited aircraft parts. The cost of the other private-sector mandates in the bill would fall below the threshold.

**Air carrier plans:** Sections 302 and 303 would add new requirements to the plans to address the needs of families of passengers involved in aircraft accidents. Currently both domestic air carriers that hold a certificate of public convenience and necessity and foreign air carriers that use the United States as a point of embarkation, destination, or stopover are required to submit and comply with those plans. This bill would require that as part of those plans air carriers give assurance that they would provide adequate training to their employees and agents to meet the needs of survivors and family members following an accident. In addition, domestic air carriers would be required to provide assurance that upon a request from a passenger's family, the air carrier would inform them if the passenger's name appeared on the preliminary manifest. Updated plans would have to be submitted to the Secretary of Transportation and the Chairman of the National Transportation Safety Board on or before the 180th day following enactment.

The bill does not specify what level of training would be adequate for air carriers to be able to provide required assurance. Based on information from representatives of air carriers, CBO concludes that the major domestic and foreign air carriers and some smaller carriers currently provide training to deal with the needs of survivors and family members following an accident. In addition, the domestic carriers provide flight reservation information upon request as would be required under H.R. 4057. Although the bill does not specify how air carriers would provide an assurance of adequate training, CBO estimates that the cost of meeting those additional requirements would be small.

**Whistleblower protection:** Title VI would protect employees of air carriers, contractors, or subcontractors that provide air safety information to the United States Government. Those firms would not be able to discharge or discriminate against such employees with respect to compensation, terms, conditions, or privilege of employment. Based on information provided by a major air carrier and the Occupational Safety and Health Administration, the agency that would enforce those provisions, CBO estimates that neither the air carriers nor their contractors would incur any direct costs in complying with the whistleblower protection.

**End users of life-limited aircraft parts:** Section 809 would require the permanent marking of all civil aircraft parts that exceed their useful life when they are removed from an aircraft. The bill would also require that the FAA conduct a rulemaking procedure to determine the most effective method of such marking. Representatives of the industry and FAA are not able to estimate the economic impact of this requirement, since both the method of marking and the number of life-limited aircraft parts that would be affected by this mandate are currently not known.

**Cargo aircraft owners and operators:** Title V would mandate that a cargo collision avoidance system be installed on each cargo aircraft with a payload capacity of 15,000 kilograms or more by December 31, 2002. Cargo industry representatives say they are currently developing a collision avoidance system and expect it to be installed in such cargo aircraft by the deadline. Thus, CBO estimates that cargo aircraft owners and operators would not incur any additional costs from passage of this bill.

Previous CBO estimates: On July 9, 1998, CBO provided a cost estimate for H.R. 4058, as reported by the House Committee on Transportation and Infrastructure on June 25, 1998. Section 401 of H.R. 4057 is identical to a section in H.R. 4058 pertaining to aviation insurance and third-party liability.

On July 24, 1997, CBO provided a cost estimate for H.R. 2005, as reported by the House Committee on Transportation and Infrastructure on July 23, 1997. Section 304 of H.R. 4057 is virtually identical to H.R. 2005.

Estimate prepared by: Federal Costs: Clare Doherty. Impact on State, Local, and Tribal Governments: Lisa Cash Driskill. Impact on the Private Sector: Jean Wooster.

Estimate approved by: Paul N. Van de Water, Assistant Director for Budget Analysis.

#### APPLICABILITY TO THE LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act (Public Law 104-1).

#### FEDERAL MANDATES STATEMENT

The Committee adopts as its own the estimate of the Federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act (Public Law 104-4).

#### CONSTITUTIONAL AUTHORITY STATEMENT

Pursuant to clause (2)(1)(4) of rule XI of the Rules of the House of Representatives, committee reports on a bill or joint resolution of a public character shall include a statement citing the specific powers granted to the Congress in the Constitution to enact the measure. The Committee on Transportation and Infrastructure finds that Congress has the authority to enact this measure pursuant to its powers granted under article I, section 8 of the Constitution.

#### ADVISORY COMMITTEE STATEMENT

The bill establishes an advisory committee within the meaning of section 5(b) of the Federal Advisory Committee Act. In the view of the Committee, the functions of the Commission are not and could not be accomplished by one or more other agencies or by an advisory committee already in existence, or by enlarging the mandate of an existing advisory committee.

#### CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

**TITLE 49, UNITED STATES CODE**

\* \* \* \* \*

**SUBTITLE I—DEPARTMENT OF  
TRANSPORTATION**

\* \* \* \* \*

**CHAPTER 1—ORGANIZATION**

\* \* \* \* \*

**§ 106. Federal Aviation Administration**

(a) \* \* \*

\* \* \* \* \*

(f) **AUTHORITY OF THE SECRETARY AND THE ADMINISTRATOR.—**

(1) \* \* \*

\* \* \* \* \*

(3) **REGULATIONS.—**

(A) \* \* \*

(B) **APPROVAL OF SECRETARY OF TRANSPORTATION.—**

(i) \* \* \*

\* \* \* \* \*

*(v) Not later than 10 days after the date of the determination of the Administrator under clause (i), the Administrator shall transmit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a written justification of the reasons for the determination. The justification shall include a citation to the item or items listed in clause (i) that is the authority on which the Administrator is relying for making the determination.*

\* \* \* \* \*

(g) **DUTIES AND POWERS OF ADMINISTRATOR.—**(1) Except as provided in paragraph (2) of this subsection, the Administrator shall carry out—

(A) duties and powers of the Secretary of Transportation under subsection (f) of this section related to aviation safety (except those related to transportation, packaging, marking, or description of hazardous material) and stated in sections 308(b), 1132(c) and (d), 40101(c), 40103(b), 40106(a), 40108, 40109(b), [40113(a), (c), and (d), 40114(a), 40119, 44501(a) and (c), 44502(a)(1), (b), and (c), 44504, 44505, 44507, 44508, 44511–44513, 44701–44716, 44718(c), 44721(a), 44901, 44902, 44903(a)–(c) and (e), 44906, 44912, 44935–44937, and 44938(a) and (b), chapter 451, sections 45302–45304,] 40113(a), 40113(c), 40113(d), 40113(e), 40114(a), and 40119, chapter 445 (except sections 44501(b), 44502(a)(2), 44502(a)(3), 44502(a)(4), 44503, 44506, 44509, 44510, 44514, and 44515), chapter 447 (except sections 44717, 44718(a), 44718(b), 44719, 44720, 44721(b), 44722, and 44723), chapter 449 (except sections

44903(d), 44904, 44905, 44907–44911, 44913, 44915, and 44931–44934), chapter 451, chapter 453, sections 46104, 46301(d) and (h)(2), 46303(c), 46304–46308, 46310, 46311, and 46313–46316, chapter 465, and sections 47504(b)(related to flight procedures), 47508(a), and 48107 of this title; and

\* \* \* \* \*

(k) AUTHORIZATION OF APPROPRIATIONS FOR OPERATIONS.—

(1) *IN GENERAL.*—There is authorized to be appropriated to the Secretary of Transportation for operations of the Administration [\$5,158,000,000 for fiscal year 1997 and \$5,344,000,000 for fiscal year 1998.] \$5,632,000,000 for fiscal year 1999.

(2) *AUTHORIZED EXPENDITURES.*—Of the amounts appropriated under paragraph (1) for fiscal year 1999—

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

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

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

\* \* \* \* \*

**SUBTITLE II—OTHER GOVERNMENT AGENCIES**

\* \* \* \* \*

**CHAPTER 11—NATIONAL TRANSPORTATION SAFETY BOARD**

\* \* \* \* \*

**SUBCHAPTER III—AUTHORITY**

\* \* \* \* \*

**§ 1136. Assistance to families of passengers involved in aircraft accidents**

(a) \* \* \*

\* \* \* \* \*

(g) **PROHIBITED ACTIONS.**—

(1) \* \* \*

(2) *UNSOLICITED COMMUNICATIONS.*—In the event of an accident involving an air carrier providing interstate or foreign air transportation, and in a case involving a foreign air carrier and an accident that occurs within the United States, no unsolicited communication concerning a potential action for personal injury or wrongful death may be made by an attorney (including any associate, agent, employee, or other representa-

tive of the attorney) or any potential party to the litigation to an individual injured in the accident, or to a relative of an individual involved in the accident, before the ~~30th~~ 45th day following the date of the accident.

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

(h) *DEFINITIONS.*—In this section, the following definitions apply:

(1) *AIRCRAFT ACCIDENT.*—The term “aircraft accident” means any aviation disaster regardless of its cause or suspected cause.

[(2) *PASSENGER.*—The term “passenger” includes an employee of an air carrier aboard an aircraft.]

(2) *PASSENGER.*—The term “passenger” includes—

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

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

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

#### SUBCHAPTER IV—ENFORCEMENT AND PENALTIES

##### § 1151. Aviation enforcement

(a) *CIVIL ACTIONS BY BOARD.*—The National Transportation Safety Board may bring a civil action in a district court of the United States against a person to enforce section 1132, 1134(b) or (f)(1) (related to an aircraft accident), 1136(g)(2), or 1155(a) of this title or a regulation prescribed or order issued under any of those sections. An action under this subsection may be brought in the judicial district in which the person does business or the violation occurred.

(b) *CIVIL ACTIONS BY ATTORNEY GENERAL.*—On request of the Board, the Attorney General may bring a civil action in an appropriate court—

(1) to enforce section 1132, 1134(b) or (f)(1) (related to an aircraft accident), 1136(g)(2), or 1155(a) of this title or a regulation prescribed or order issued under any of those sections; and

(2) to prosecute a person violating those sections or a regulation prescribed or order issued under any of those sections.

(c) *PARTICIPATION OF BOARD.*—On request of the Attorney General, the Board may participate in a civil action to enforce section

1132, 1134(b) or (f)(1)(related to an aircraft accident), 1136(g)(2), or 1155(a) of this title.

\* \* \* \* \*

**SUBTITLE III—GENERAL AND INTERMODAL PROGRAMS**

\* \* \* \* \*

**CHAPTER 51—TRANSPORTATION OF HAZARDOUS MATERIAL**

\* \* \* \* \*

**§ 5108. Registration**

(a) \* \* \*

\* \* \* \* \*

(f) AVAILABILITY OF STATEMENTS.—The Secretary of Transportation shall make a registration statement filed under subsection (a) of this section available for inspection by any person for a fee the Secretary establishes. However, this subsection does not require the release of information described in section **[552(f)] 552(b)** of title 5 or otherwise protected by law from disclosure to the public.

\* \* \* \* \*

**SUBTITLE IV—INTERSTATE TRANSPORTATION**

\* \* \* \* \*

**PART C—PIPELINE CARRIERS**

\* \* \* \* \*

**CHAPTER 159—ENFORCEMENT: INVESTIGATIONS, RIGHTS, AND REMEDIES**

\* \* \* \* \*

**§ 15904. Rights and remedies of persons injured by pipeline carriers**

(a) \* \* \*

\* \* \* \* \*

(c) COMPLAINTS.—

(1) FILING.—A person may file a complaint with the Board under *section* 15901(b) or bring a civil action under subsection (b) to enforce liability against a pipeline carrier providing transportation subject to this part.

\* \* \* \* \*

**SUBTITLE VII—AVIATION PROGRAMS**

\* \* \* \* \*

**PART A—AIR COMMERCE AND SAFETY**

**SUBPART I—GENERAL**

**CHAPTER 401—GENERAL PROVISIONS**

\* \* \* \* \*

**§ 40110. General procurement authority**

(a) \* \* \*

\* \* \* \* \*

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

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

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

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

**§ 40111. Multiyear procurement contracts for services and related items**

(a) \* \* \*

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

[(b)] (c) *REQUIRED FINDINGS.—The Administrator may make a contract under this section only if the Administrator finds that—*

(1) \* \* \*

[(c)] (d) *CONSIDERATIONS.—When making a contract under this section, the Administrator shall be guided by the following:*

(1) \* \* \*

\* \* \* \* \*

[(d)] (e) *ENDING CONTRACTS.—A contract made under this section shall be ended if amounts are not made available to continue*

the contract into a subsequent fiscal year. The cost of ending the contract may be paid from—

(1) \* \* \*

\* \* \* \* \*

**§ 40117. Passenger facility fees**

(a) \* \* \*

\* \* \* \* \*

(j) *SHELL OF TERMINAL BUILDING AND AIRCRAFT FUELING FACILITIES.*—In order to enable additional air service by an air carrier with less than 50 percent of the scheduled passenger traffic at an airport, the Secretary may consider the shell of a terminal building (including heating, ventilation, and air conditioning) and aircraft fueling facilities adjacent to an airport terminal building to be an eligible airport-related project under subsection (a)(3)(E).

\* \* \* \* \*

**§ 40120. Relationship to other laws**

(a) **NONAPPLICATION.**—Except as provided in the International Navigational Rules Act of 1977 (33 U.S.C. 1601 et seq.), the navigation and shipping laws of the United States (including the Act entitled “An Act relating to the maintenance of actions for death on the high seas and other navigable waters”, approved March 30, 1920, commonly known as the Death on the High Seas Act (46 U.S.C. App. 761–767; 41 Stat. 537–538)) and the rules for the prevention of collisions do not apply to aircraft or to the navigation of vessels related to those aircraft.

\* \* \* \* \*

**§ 40122. Federal Aviation Administration personnel management system**

(a) **IN GENERAL.**—

(1) \* \* \*

(2) **MEDIATION.**—If the Administrator does not reach an agreement under paragraph (1) with the exclusive bargaining representatives, the services of the Federal Mediation and Conciliation Service shall be used to attempt to reach such agreement. If the services of the Federal Mediation and Conciliation Service do not lead to an agreement, the Administrator’s proposed change to the personnel management system shall not take effect until 60 days have elapsed after the Administrator has transmitted the proposed change, along with the objections of the exclusive bargaining representatives to the change, and the reasons for such objections, to Congress. *The 60-day period shall not include any period during which Congress has adjourned sine die.*

\* \* \* \* \*

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

*member of the collective bargaining unit or through the Administration's internal process relating to review of major adverse personnel actions of the Administration, known as Guaranteed Fair Treatment.*

\* \* \* \* \*

SUBPART II—ECONOMIC REGULATION

CHAPTER 411—AIR CARRIER CERTIFICATES

\* \* \* \* \*

**§ 41113. Plans to address needs of families of passengers involved in aircraft accidents**

(a) SUBMISSION OF PLANS.—[Not later than 6 months after the date of the enactment of this section, each air carrier] *Each air carrier* holding a certificate of public convenience and necessity under section 41102 of this title shall submit to the Secretary and the Chairman of the National Transportation Safety Board a plan for addressing the needs of the families of passengers involved in any aircraft accident involving an aircraft of the air carrier and resulting in a major loss of life.

(b) CONTENTS OF PLANS.—A plan to be submitted by an air carrier under subsection (a) shall include, at a minimum, the following:

(1) \* \* \*

\* \* \* \* \*

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

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

(c) CERTIFICATE REQUIREMENT.—[After the date that is 6 months after the date of the enactment of this section, the Secretary] *The Secretary* may not approve an application for a certificate of public convenience and necessity under section 41102 of this title unless the applicant has included as part of such application a plan that meets the requirements of subsection (b).

(d) LIMITATION ON LIABILITY.—An air carrier shall not be liable for damages in any action brought in a Federal or State court arising out of the performance of the air carrier in preparing or providing a passenger list, *or in providing information concerning a flight reservation*, pursuant to a plan submitted by the air carrier under subsection (b), unless such liability was caused by conduct of the air carrier which was grossly negligent or which constituted intentional misconduct.

\* \* \* \* \*

*(f) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this section may be construed as limiting the actions that an air carrier may take, or the obligations that an air carrier may have, in provid-*

*ing assistance to the families of passengers involved in an aircraft accident.*

**CHAPTER 413—FOREIGN AIR TRANSPORTATION**

\* \* \* \* \*

**§ 41313. Plans to address needs of families of passengers involved in foreign air carrier accidents**

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

(1) AIRCRAFT ACCIDENT.—The term “aircraft accident” means any aviation disaster, regardless of its cause or suspected cause, that occurs within the United States; and

[(2) PASSENGER.—The term “passenger” includes an employee of a foreign air carrier or air carrier aboard an aircraft.]

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

(b) SUBMISSION OF PLANS.—A foreign air carrier providing foreign air transportation under this chapter shall transmit to the Secretary of Transportation and the Chairman of the National Transportation Safety Board a plan for addressing the needs of the families of passengers involved in an aircraft accident that involves an aircraft under the control of the foreign air carrier and results in a [significant] *major* loss of life.

(c) CONTENTS OF PLANS.—To the extent permitted by foreign law which was in effect on the date of the enactment of this section, a plan submitted by a foreign air carrier under subsection (b) shall include the following:

(1) \* \* \*

\* \* \* \* \*

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

\* \* \* \* \*

**CHAPTER 421—LABOR-MANAGEMENT PROVISIONS**

\* \* \* \* \*

*SUBCHAPTER III—WHISTLEBLOWER PROTECTION PROGRAM*

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

\* \* \* \* \*

*SUBCHAPTER III—WHISTLEBLOWER PROTECTION PROGRAM*

**§ 42121. Protection of employees providing air safety information**

(a) DISCRIMINATION AGAINST AIRLINE EMPLOYEES.—*No air carrier or contractor or subcontractor of an air carrier may discharge an employee or otherwise discriminate against an employee with respect to compensation, terms, conditions, or privileges of employ-*

ment because the employee (or any person acting pursuant to a request of the employee)—

(1) provided, caused to be provided, or is about to provide or cause to be provided to the Federal Government information relating to air safety under this subtitle or any other law of the United States;

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

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

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

(b) DEPARTMENT OF LABOR COMPLAINT PROCEDURE.—

(1) FILING AND NOTIFICATION.—A person who believes that he or she has been discharged or otherwise discriminated against by a person in violation of subsection (a) may, not later than 180 days after the date on which such violation occurs, file (or have any person file on his or her behalf) a complaint with the Secretary of Labor alleging such discharge or discrimination. Upon receipt of such a complaint, the Secretary of Labor shall notify the person named in the complaint and the Administrator of the Federal Aviation Administration of the filing of the complaint, of the allegations contained in the complaint, of the substance of evidence supporting the complaint, and of the opportunities that will be afforded to such person under paragraph (2).

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

(3) FINAL ORDER.—

(A) DEADLINE FOR ISSUANCE; SETTLEMENT AGREEMENTS.—Not later than 120 days after the date of conclusion of a hearing under paragraph (2), the Secretary of

Labor shall issue a final order providing the relief prescribed by this paragraph or denying the complaint. At any time before issuance of a final order, a proceeding under this subsection may be terminated on the basis of a settlement agreement entered into by the Secretary of Labor, the complainant, and the person alleged to have committed the violation.

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

- (i) take affirmative action to abate the violation;
- (ii) reinstate the complainant to his or her former position together with the compensation (including back pay), terms, conditions, and privileges associated with his or her employment; and
- (iii) provide compensatory damages to the complainant.

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

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

(4) *REVIEW.*—

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

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

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

tions brought under this paragraph, the district courts shall have jurisdiction to grant all appropriate relief including, but not limited to, injunctive relief and compensatory damages.

(6) ENFORCEMENT OF ORDER BY PARTIES.—

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

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

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

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

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

\* \* \* \* \*

SUBPART III—SAFETY

\* \* \* \* \*

CHAPTER 443—INSURANCE

\* \* \* \* \*

§ 44309. Civil actions

[(a) DISPUTED LOSSES.—A person may bring a civil action in a district court of the United States against the United States Government when a loss insured under this chapter is in dispute. A civil action involving the same matter (except the action authorized by this subsection) may not be brought against an agent, officer, or employee of the Government carrying out this chapter. To the extent applicable, the procedure in an action brought under section 1346(a)(2) of title 28 applies to an action under this subsection.]

(a) LOSSES.—

(1) ACTIONS AGAINST UNITED STATES.—A person may bring a civil action in a district court of the United States or in the United States Court of Federal Claims against the United States Government when—

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

(B)(i) the person is subrogated under a contract between the person and a party insured under this chapter (other

than section 44305(b)) to the rights of the insured party against the United States Government; and

(ii) the person has paid to the insured party, with the approval of the Secretary of Transportation, an amount for a physical damage loss that the Secretary has determined is a loss covered by insurance issued under this chapter (other than section 44305(b)).

(2) LIMITATION.—A civil action involving the same matter (except the action authorized by this subsection) may not be brought against an agent, officer, or employee of the Government carrying out this chapter.

(3) PROCEDURE.—To the extent applicable, the procedure in an action brought under section 1346(a)(2) of title 28 applies to an action under this subsection.

\* \* \* \* \*

**§ 44310. Ending effective date**

The authority of the Secretary of Transportation to provide insurance and reinsurance under this chapter is not effective after December 31, [1998] 2003.

\* \* \* \* \*

**CHAPTER 445—FACILITIES, PERSONNEL, AND RESEARCH**

\* \* \* \* \*

**§ 44502. General facilities and personnel authority**

(a) GENERAL AUTHORITY.—(1) \* \* \*

\* \* \* \* \*

(4) PURCHASE OF INSTRUMENT LANDING SYSTEM.—

(A) ESTABLISHMENT OF PROGRAM.—The Secretary shall purchase precision approach instrument landing system equipment for installation at airports on an expedited basis.

(B) AUTHORIZATION.—No less than \$30,000,000 of the amounts appropriated under section 48101(a) for [each of fiscal years 1995 and 1996] *fiscal year 1999* shall be used for the purpose of carrying out this paragraph, including acquisition under new or existing contracts, site preparation work, installation, and related expenditures.

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

(6) IMPROVEMENTS ON LEASED PROPERTIES.—The Administrator may make improvements to real property leased for an air navigation facility, regardless of whether the cost of making the improvements exceeds the cost of leasing the real property, if—

- (A) the property is leased for free or nominal rent;
- (B) the improvements primarily benefit the Government;

(C) the improvements are essential for accomplishment of the mission of the Federal Aviation Administration; and  
 (D) the interest of the Government in the improvements is protected.

\* \* \* \* \*

**CHAPTER 447—SAFETY REGULATION**

Sec.  
 44701. General requirements.  
 \* \* \* \* \*  
 44725. Marking of life limited aircraft parts.

**§ 44701. General requirements**

(a) \* \* \*  
 \* \* \* \* \*

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

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

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

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

(4) *REGISTERED AIRCRAFT DEFINED.*—In this subsection, the term “registered aircraft” means—

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

(B) aircraft registered in a foreign country and operated under an agreement for the lease, charter, or interchange of

*the aircraft or any similar arrangement by an operator that has its principal place of business or, if it has no such place of business, its permanent residence in the United States.*

**[(e)] (f) EXEMPTIONS.**—The Administrator may grant an exemption from a requirement of a regulation prescribed under subsection (a) or (b) of this section or any of sections 44702–44716 of this title if the Administrator finds the exemption is in the public interest.

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

\* \* \* \* \*

**§ 44703. Airman certificates**

**(a) \* \* \***

\* \* \* \* \*

**(c) PUBLIC INFORMATION.**—

*(1) IN GENERAL.*—Subject to paragraph (2) and notwithstanding any other provision of law, the records of the contents (as prescribed in subsection (b)) of any airman certificate issued under this section shall be made available to the public after the 60th day following the date of enactment of the Airport Improvement Program Reauthorization Act of 1998.

*(2) ADDRESSES OF AIRMEN.*—Before making the address of an airman available to the public under paragraph (1), the airman shall be given an opportunity to elect that the airman’s address not be made available to the public.

*(3) DEVELOPMENT AND IMPLEMENTATION OF PROGRAM.*—Not later than 30 days after the date of enactment of the Airport Improvement Program Reauthorization Act of 1998, the Administrator shall develop and implement, in cooperation with representatives of the aviation industry, a one-time written notification to airmen to set forth the implications of making the address of an airman available to the public under paragraph (1) and to carry out paragraph (2).

**[(c)] (d) APPEALS.**—(1) An individual whose application for the issuance or renewal of an airman certificate has been denied may appeal the denial to the National Transportation Safety Board, except if the individual holds a certificate that—

**(A) \* \* \***

\* \* \* \* \*

**[(d)] (e) RESTRICTIONS AND PROHIBITIONS.**—The Administrator of the Federal Aviation Administration may—

**(1) \* \* \***

\* \* \* \* \*

**[(e)] (f) CONTROLLED SUBSTANCE VIOLATIONS.**—The Administrator of the Federal Aviation Administration may not issue an airman certificate to an individual whose certificate is revoked under section 44710 of this title except—

(1) \* \* \*

\* \* \* \* \*

[(f)] (g) MODIFICATIONS IN SYSTEM.—(1) The Administrator of the Federal Aviation Administration shall make modifications in the system for issuing airman certificates necessary to make the system more effective in serving the needs of pilots and officials responsible for enforcing laws related to the regulation of controlled substances (as defined in section 102 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 802)). The modifications shall ensure positive and verifiable identification of each individual applying for or holding a certificate and shall address at least each of the following deficiencies in, and abuses of, the existing system:

(A) \* \* \*

\* \* \* \* \*

**§ 44725. Marking of life limited aircraft parts**

(a) *IN GENERAL.*—The Administrator of the Federal Aviation Administration shall conduct a rulemaking proceeding to determine the most effective way to permanently mark all life limited civil aviation parts. In accordance with that determination, the Administrator shall issue a rule to require the mandatory marking of all such parts that exceed their useful life.

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

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

(2) not later than 120 days after the close of the comment period on the proposed rule, issue a final rule.

\* \* \* \* \*

**CHAPTER 449—SECURITY**

\* \* \* \* \*

**§ 44903. Air transportation security**

(a) \* \* \*

\* \* \* \* \*

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

\* \* \* \* \*

**§ 44909. Passenger manifests**

(a) *AIR CARRIER REQUIREMENTS.*—(1) \* \* \*

(2) The passenger manifest [shall] *should* include the following information:

(A) the full name of each passenger.

(B) the passport number of each passenger, if required for travel.

(C) the name and telephone number of a contact for each passenger.

\* \* \* \* \*

**§ 44936. Employment investigations and restrictions**

(a) \* \* \*

\* \* \* \* \*

(f) RECORDS OF EMPLOYMENT OF PILOT APPLICANTS.—

(1) IN GENERAL.—Subject to paragraph (14), before allowing an individual to begin service as a pilot, an air carrier shall request and receive the following information:

(A) \* \* \*

(B) AIR CARRIER AND OTHER RECORDS.—From any air carrier or other person (*except a branch of the United States Armed Forces, the National Guard, or a reserve component of the United States Armed Forces*) that has employed the individual as a pilot of a civil or public aircraft at any time during the 5-year period preceding the date of the employment application of the individual, or from the trustee in bankruptcy for such air carrier or person—

(i) \* \* \*

(ii) other records pertaining to the [individual] *individual's performance as a pilot* that are maintained by the air carrier or person concerning—

(I) \* \* \*

\* \* \* \* \*

(14) SPECIAL RULES WITH RESPECT TO CERTAIN PILOTS.—

(A) \* \* \*

(B) GOOD FAITH EXCEPTION.—Notwithstanding paragraph (1), an air carrier, without obtaining information about an individual under paragraph (1)(B) from an air carrier or other person that no longer exists *or from a foreign government or entity that employed the individual*, may allow the individual to begin service as a pilot if the air carrier required to request the information has made a documented good faith attempt to obtain such information.

\* \* \* \* \*

**CHAPTER 453—FEES**

\* \* \* \* \*

**§ 45301. General provisions**

(a) SCHEDULE OF FEES.—The Administrator shall establish a schedule of new fees, and a collection process for such fees, for the following services provided by the Administration:

(1) Air traffic control and related services provided to aircraft other than military and civilian aircraft of the United States government or of a foreign government that neither take off from, nor land in, the United States.

(2) Services (other than air traffic control services) provided to a foreign government or to any entity obtaining inspection, testing, authorization, permit, rating, approval, review, or certification services outside the United States.

(b) LIMITATIONS.—

(1) AUTHORIZATION AND IMPACT CONSIDERATIONS.—In establishing fees under subsection (a), the Administrator—

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

(B) shall ensure that each of the fees required by subsection (a) is directly related to the Administration's costs of providing the service rendered.

Services for which costs may be recovered include the costs of air traffic control, navigation, weather services, training and emergency services which are available to facilitate safe transportation over the United States, and other services provided by the Administrator or by programs financed by the Administrator to flights that neither take off nor land in the United States.

\* \* \* \* \*

SUBPART IV—ENFORCEMENT AND PENALTIES

\* \* \* \* \*

CHAPTER 463—PENALTIES

\* \* \* \* \*

§ 46301. Civil penalties

(a) GENERAL PENALTY.—(1) A person is liable to the United States Government for a civil penalty of not more than \$1,000 for violating—

(A) chapter 401 (except sections 40103(a) and (d), 40105, 40116, and 40117), chapter 411, chapter 413 (except sections 41307 and 41310(b)–(f)), chapter 415 (except sections 41502, 41505, and 41507–41509), chapter 417 (except sections 41703, 41704, 41710, 41713, and 41714), chapter 419, [subchapter II of chapter 421] *subchapter II or III of chapter 421*, chapter 441 (except section 44109), section 44502(b) or (c), chapter 447 (except sections 44717 [and 44719–44723], 44719–44723, and 44725), chapter 449 (except sections 44902, 44903(d), 44904, 44907(a)–(d)(1)(A) and (d)(1)(C)–(f), and 44908), or section [46302, 46303, or] 47107(b) (including any assurance made under such section) of this title;

\* \* \* \* \*

(3) A civil penalty of not more than \$10,000 may be imposed for each violation under paragraph (1) of this subsection related to—

(A) the transportation of hazardous material; [or]

(B) the registration or recordation under chapter 441 of this title of an aircraft not used to provide air transportation[.]; or

(C) the failure to mark life limited aircraft parts in accordance of section 44725.

\* \* \* \* \*

(d) ADMINISTRATIVE IMPOSITION OF PENALTIES.—(1) \* \* \*

\* \* \* \* \*

(7)(A) The Administrator may impose a penalty on [an individual] a person (except an individual acting as a pilot, flight engineer, mechanic, or repairman) only after notice and an opportunity for a hearing on the record.

\* \* \* \* \*

(g) JUDICIAL REVIEW.—An order of the Secretary or the Administrator imposing a civil penalty may be reviewed judicially only under section 46110 of this title.

\* \* \* \* \*

PART B—AIRPORT DEVELOPMENT AND NOISE

CHAPTER 471—AIRPORT DEVELOPMENT

SUBCHAPTER I—AIRPORT IMPROVEMENT

Sec.  
47101. Policies.

\* \* \* \* \*

47136. Airport security program.

SUBCHAPTER II—SURPLUS PROPERTY FOR PUBLIC AIRPORTS

47151. Authority to transfer an interest in surplus property.

[47152. Terms of gifts.]

47152. Terms of conveyances.

\* \* \* \* \*

SUBCHAPTER I—AIRPORT IMPROVEMENT

§ 47101. Policies

(a) GENERAL.—It is the policy of the United States—  
(1) \* \* \*

\* \* \* \* \*

(11) that the airport improvement program should be administered to encourage projects that employ innovative technology, concepts, and approaches that will promote safety, capacity, and efficiency improvements in the construction of airports and in the air transportation system (including the development and use of innovative concrete and other materials in the construction of airport facilities to minimize initial laydown costs, minimize time out of service, and maximize lifecycle durability) and to encourage and solicit innovative technology proposals and activities (including integrated in-pavement lighting systems for runways and taxiways and other runway and taxiway incursion prevention devices) in the expenditure of funding pursuant to this subchapter;

\* \* \* \* \*

(f) MAXIMUM USE OF SAFETY FACILITIES.—This subchapter should be carried out consistently with a comprehensive airspace system plan, giving highest priority to commercial service airports, to maximize the use of safety facilities, including installing, operating, and maintaining, to the extent possible with available money and considering other safety needs—

(1) \* \* \*

\* \* \* \* \*

(9) runway edge lighting and marking; [and]

(10) radar approach coverage for each airport terminal area[.]; and

(11) runway and taxiway incursion prevention devices, including integrated in-pavement lighting systems for runways and taxiways, in accordance with an applicable runway incursion prevention plan.

\* \* \* \* \*

§ 47102. Definitions

In this subchapter—

(1) \* \* \*

\* \* \* \* \*

(3) “airport development” means the following activities, if undertaken by the sponsor, owner, or operator of a public-use airport:

(A) \* \* \*

(B) acquiring for, or installing at, a public-use airport—

(i) \* \* \*

(ii) safety or security equipment, including explosive detection devices and universal access systems, the Secretary requires by regulation for, or approves as contributing significantly to, the safety or security of individuals and property at the airport and including integrated in-pavement lighting systems for runways and taxiways and other runway and taxiway incursion prevention devices;

\* \* \* \* \*

(v) aircraft deicing equipment and structures (except aircraft deicing fluids and storage facilities for the equipment and fluids); [and]

(vi) interactive training systems[.]; and

(vii) enhanced visual technologies to replace or enhance conventional landing light systems.

\* \* \* \* \*

(H) Developing, in coordination with State and local transportation agencies, intermodal transportation plans necessary for Olympic-related projects at an airport.

\* \* \* \* \*

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

\* \* \* \* \*

**§ 47104. Project grant authority**

(a) \* \* \*

\* \* \* \* \*

(c) *EXPIRATION OF AUTHORITY.*—After September 30, [1998] 1999, the Secretary may not incur obligations under subsection (b) of this section, except for obligations of amounts—

(1) \* \* \*

\* \* \* \* \*

**§ 47108. Project grant agreements**

(a) \* \* \*

\* \* \* \* \*

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

\* \* \* \* \*

**§ 47109. United States Government’s share of project costs**

(a) *GENERAL.*—Except as provided in subsection (b) of this section, the United States Government’s share of allowable project costs is—

(1) 75 percent for a project at a primary airport having at least .25 percent of the total number of passenger boardings each year at all commercial service airports;

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

[(2)] (3) 90 percent for a project at any other airport; and

[(3)] (4) 40 percent for a project funded by the Administrator from the discretionary fund under section 47115 at an airport receiving an exemption under section 47134.

\* \* \* \* \*

**§ 47114. Apportionments**

(a) \* \* \*

\* \* \* \* \*

(c) *AMOUNTS APPORTIONED TO SPONSORS.*—(1)(A) The Secretary shall apportion to the sponsor of each primary airport for each fiscal year an amount equal to—

(i) \* \* \*

\* \* \* \* \*

(v) *subject to subparagraph (C), \$ .50 for each additional passenger boarding at the airport during the prior calendar year.*

\* \* \* \* \*

(C) *The amount to be apportioned for a fiscal year for a passenger described in subparagraph (A)(v) shall be reduced to \$.40 if the total amount made available under section 48103 for such fiscal year is less than \$1,350,000,000.*

(d) AMOUNTS APPORTIONED TO STATES.—(1) \* \* \*

(2) The Secretary shall apportion to the States **[18.5]** 20 percent of the amount subject to apportionment for each fiscal year as follows:

(A) **[0.66]** 0.62 percent of the apportioned amount to Guam, American Samoa, the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and the Virgin Islands.

(B) except as provided in paragraph (3) of this subsection, **[49.67]** 49.69 percent of the apportioned amount for airports, excluding primary airports but including reliever and nonprimary commercial service airports, in States not named in clause (A) of this paragraph in the proportion that the population of each of those States bears to the total population of all of those States.

(C) except as provided in paragraph (3) of this subsection, **[49.67]** 49.69 percent of the apportioned amount for airports, excluding primary airports but including reliever and nonprimary commercial service airports, in States not named in clause (A) of this paragraph in the proportion that the area of each of those States bears to the total area of all of those States.

**[(3) An amount apportioned under paragraph (2) of this subsection for an airport in—**

**[(A) Alaska may be made available by the Secretary for a public airport described in section 47117(e)(1)(C)(ii) of this title to which section 15(a)(3)(A)(II) of the Airport and Airway Development Act of 1970 applied during the fiscal year that ended September 30, 1981; and**

**[(B) Puerto Rico may be made available by the Secretary for a primary airport and an airport described in section 47117(e)(1)(C) of this title.]**

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

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

(e) **[ALTERNATIVE]** SUPPLEMENTAL APPORTIONMENT FOR ALASKA.—

(1) **[Instead of apportioning amounts for airports in Alaska under] IN GENERAL.—Notwithstanding subsections (c) and (d) of this section, the Secretary may apportion amounts for [those airports] airports in Alaska in the way in which amounts were apportioned in the fiscal year ending September 30, 1980, under section 15(a) of the Act. However, in apportioning**

amounts for a fiscal year under this subsection, the Secretary shall apportion—

(A) for each primary airport at least as much as would be apportioned for the airport under subsection (c)(1) of this section; and

(B) a total amount at least equal to the minimum amount required to be apportioned to airports in Alaska in the fiscal year ending September 30, 1980, under section 15(a)(3)(A) of the Act.

(2) *AUTHORITY FOR DISCRETIONARY GRANTS.*—This subsection does not prohibit the Secretary from making project grants for airports in Alaska from the discretionary fund under section 47115 of this title.

[(3) Airports referred to in this subsection include those public airports that received scheduled service as of September 3, 1982, but were not apportioned amounts in the fiscal year ending September 30, 1980, under section 15(a) of the Act because the airports were not under the control of a State or local public agency.]

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

\* \* \* \* \*

**§ 47115. Discretionary fund**

(a) *EXISTENCE AND AMOUNTS IN FUND.*—The Secretary of Transportation has a discretionary fund. The fund consists of—

(1) amounts subject to apportionment for a fiscal year that are not apportioned under section 47114(c)–(e) of this title; and

(2) [25] 12.5 percent of amounts not apportioned under section 47114 of this title because of section 47114(f).

\* \* \* \* \*

(d) *CONSIDERATIONS.*—In selecting a project for a grant to preserve and enhance capacity as described in subsection (c)(1) of this section, the Secretary shall consider—

(1) \* \* \*

\* \* \* \* \*

(5) the projected growth in the number of passengers that will be using the airport at which the project will be carried out; [and]

(6) any increase in the number of passenger boardings in the preceding 12-month period at the airport at which the project will be carried out, with priority consideration to be given to projects at airports at which the number of passenger boardings increased by at least 20 percent as compared to the number of passenger boardings in the 12-month period preceding such period[.]; and

(7) *the need for the project in order to meet the unique demands of hosting international quadrennial Olympic events.*

\* \* \* \* \*

[(g) *MINIMUM AMOUNT TO BE CREDITED.*—

[(1) *GENERAL RULE.*—In a fiscal year, there shall be credited to the fund, out of amounts made available under section

48103 of this title, an amount that is at least equal to the sum of—

[(A) \$148,000,000; plus

[(B) the total amount required from the fund to carry out in the fiscal year letters of intent issued before January 1, 1996, under section 47110(e) of this title or the Airport and Airway Improvement Act of 1982.

The amount credited is exclusive of amounts that have been apportioned in a prior fiscal year under section 47114 of this title and that remain available for obligation.

[(2) REDUCTION OF APPORTIONMENTS.—In a fiscal year in which the amount credited under subsection (a) is less than the minimum amount to be credited under paragraph (1), the total amount calculated under paragraph (3) shall be reduced by an amount that, when credited to the fund, together with the amount credited under subsection (a), equals such minimum amount.

[(3) AMOUNT OF REDUCTION.—For a fiscal year, the total amount available to make a reduction to carry out paragraph (2) is the total of the amounts determined under sections 47114(c)(1)(A), 47114(c)(2), 47114(d), and 47117(e) of this title. Each amount shall be reduced by an equal percentage to achieve the reduction.

[(4) SPECIAL RULE.—For a fiscal year in which the amount credited to the fund under this subsection exceeds \$300,000,000, the Secretary shall allocate the amount of such excess as follows:

[(A)  $\frac{1}{3}$  shall be made available to airports for which apportionments are made under section 47114(d) of this title.

[(B)  $\frac{1}{3}$  shall be made available for airport noise compatibility planning under section 47505(a)(2) of this title and for carrying out noise compatibility programs under section 47504(c)(1) of this title.

[(C)  $\frac{1}{3}$  shall be made available to current or former military airports for which grants may be made under section 47117(e)(1)(B) of this title.]

[(h)] (g) PRIORITY FOR LETTERS OF INTENT.—In making grants in a fiscal year with funds made available under this section, the Secretary shall fulfill intentions to obligate under section 47110(e) *with funds made available under this section and, if such funds are not sufficient, with funds made available under sections 47114(c)(1)(A), 47114(c)(2), 47114(d), and 47117(e) on a pro rata basis.*

#### § 47116. Small airport fund

(a) EXISTENCE AND AMOUNTS IN FUND.—The Secretary of Transportation has a small airport fund. The fund consists of [75] 87.5 percent of amounts not apportioned under section 47114 of this title because of section 47114(f).

(b) DISTRIBUTION OF AMOUNTS.—The Secretary may distribute amounts in the fund in each fiscal year for any purpose for which amounts are made available under section 48103 of this title as follows:

【(1) one-third for grants to sponsors of public-use airports (except commercial service airports).

【(2) two-thirds for grants to sponsors of each commercial service airport that each year has less than .05 percent of the total boardings in the United States in that year.】

(1)  $\frac{1}{7}$  for grants for projects at small hub airports (as defined in section 41731 of this title).

(2) The remaining amounts as follows:

(A)  $\frac{1}{3}$  for grants to sponsors of public-use airports (except commercial service airports).

(B)  $\frac{2}{3}$  for grants to sponsors of each commercial service airport that each year has less than .05 percent of the total boardings in the United States in that year.

\* \* \* \* \*

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

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

**§ 47117. Use of apportioned amounts**

(a) \* \* \*

\* \* \* \* \*

(e) **SPECIAL APPORTIONMENT CATEGORIES.**—(1) The Secretary shall use amounts available to the discretionary fund under section 47115 of this title for each fiscal year as follows:

(A) At least 【31】 33 percent for grants for airport noise compatibility planning under section 47505(a)(2) of this title and for carrying out noise compatibility programs under section 47504(c) of this title. The Secretary may count the amount of grants made for such planning and programs with funds apportioned under section 47114 in that fiscal year in determining whether or not such 【31】 33 percent requirement is being met in that fiscal year.

(B) 【At least 4 percent for each of fiscal years 1997 and 1998 to sponsors of current】 *At least 4 percent to sponsors of current or former military airports designated by the Secretary under section 47118(a) of this title for grants for developing current and former military airports to improve the capacity of the national air transportation system and to sponsors of non-commercial service airports for grants for operational and maintenance expenses at any such airport if the amount of such grants to the sponsor of the airport does not exceed*

\$30,000 in that fiscal year, if the Secretary determines that the airport is adversely affected by the closure or realignment of a military base, and if the sponsor of the airport certifies that the airport would otherwise close if the airport does not receive the grant.

\* \* \* \* \*

**[(f) LIMITATION FOR COMMERCIAL SERVICE AIRPORT IN ALASKA.—**The Secretary may not make a grant for a commercial service airport in Alaska of more than 110 percent of the amount apportioned for the airport for a fiscal year under section 47114(e) of this title.]

**[(g) (f) DISCRETIONARY USE OF APPORTIONMENTS.—**(1) Subject to paragraph (2) of this subsection, if the Secretary finds, based on the notices the Secretary receives under section 47105(f) of this title or otherwise, that an amount apportioned under section 47114 of this title will not be used for grants during a fiscal year, the Secretary may use an equal amount for grants during that fiscal year for any of the purposes for which amounts are authorized for grants under section 48103 of this title.

(2) The Secretary may make a grant under paragraph (1) of this subsection only if the Secretary decides that—

(A) the total amount used for grants for the fiscal year under section 48103 of this title will not be more than the amount made available under section 48103 for that fiscal year; and

(B) the amounts authorized for grants under section 48103 of this title for later fiscal years are sufficient for grants of the apportioned amounts that were not used for grants under the apportionment during the fiscal year and that remain available under subsection (b) of this section.

**[(h) (g) LIMITING AUTHORITY OF SECRETARY.—**The authority of the Secretary to make grants during a fiscal year from amounts that were apportioned for a prior fiscal year and remain available for approved airport development project grants under subsection (b) of this section may be impaired only by a law enacted after September 3, 1982, that expressly limits that authority.

**§ 47118. Designating current and former military airports**

(a) **GENERAL REQUIREMENTS.—**The Secretary of Transportation shall designate current or former military airports for which grants may be made under section 47117(e)(1)(B) of this title. The maximum number of airports bearing such designation at any time is **[12] 15**. The Secretary may only so designate an airport (other than an airport so designated before August 24, 1994) if—

(1) \* \* \*

\* \* \* \* \*

*(g) DESIGNATION OF GENERAL AVIATION AIRPORT.—Notwithstanding any other provision of this section, at least 1 of the airports designated under subsection (a) shall be a general aviation airport that is a former military installation closed or realigned under a law described in subsection (a)(1).*

**§ 47119. Terminal development costs**

(a) **REPAYING BORROWED MONEY.—**An amount apportioned under section 47114 of this title and made available to the sponsor of an

air carrier airport at which terminal development was carried out after June 30, 1970, and before July 12, 1976, or, in the case of a commercial service airport which annually had less than **[0.05]** 0.25 percent of the total enplanements in the United States, **[between January 1, 1992, and October 31, 1992,]** *between August 1, 1986, and September 30, 1990, or between June 1, 1991, and October 31, 1992,* is available to repay immediately money borrowed and used to pay the costs for terminal development at the airport, if those costs would be allowable project costs under section 47110(d) of this title if they had been incurred after September 3, 1982. An amount is available for a grant under this subsection—

(1) only if—

(A) the sponsor submits the certification required under section 47110(d) of this title;

(B) the Secretary of Transportation decides that using the amount to repay the borrowed money will not defer **[an airport development project outside the terminal area at that airport]** *any needed airport development project affecting safety, security, or capacity;* and

\* \* \* \* \*

(c) **NONHUB AIRPORTS.**—With respect to a project at a commercial service airport which annually has less than **[0.05]** 0.25 percent of the total enplanements in the United States, the Secretary may approve the use of the amounts described in subsection (a) notwithstanding the requirements of sections 47107(a)(17), 47112, and 47113.

\* \* \* \* \*

**§ 47124. Agreements for State and local operation of airport facilities**

(a) \* \* \*

(b) **AIR TRAFFIC CONTROL CONTRACT PROGRAM.**—(1) \* \* \*

\* \* \* \* \*

(3) **NONQUALIFYING AIR TRAFFIC CONTROL TOWERS.**—

(A) **IN GENERAL.**—*The Secretary shall establish a program to contract for air traffic control services at not more than 20 level I air traffic control towers, as defined by the Administrator of the Federal Aviation Administration, that do not qualify for the program established under subsection (a) and continued under paragraph (1).*

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

(i) *Air traffic control towers that are participating in the program continued under paragraph (1) but have been notified that they will be terminated from such program because the Administrator has determined that the benefit-to-cost ratio for their continuation in such program is less than 1.*

(ii) *Level I air traffic control towers of the Federal Aviation Administration that are closed as a result of the air traffic controllers strike in 1981.*

(iii) Air traffic control towers that are located at airports that receive air service from an air carrier that is receiving compensation under the essential air service program of subchapter II of chapter 417.

(iv) Air traffic control towers located at airports that are prepared to assume responsibility for tower construction and maintenance costs.

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

(C) COSTS EXCEEDING BENEFITS.—If the costs of operating a control tower under the program established under this paragraph exceed the benefits, the airport sponsor or State or local government having jurisdiction over the airport shall pay the portion of the costs that exceed such benefits.

(D) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated \$6,000,000 per fiscal year to carry out this paragraph.

\* \* \* \* \*

**§ 47135. Innovative financing techniques**

(a) IN GENERAL.—The Secretary of Transportation may approve applications under this subchapter for not more than 20 projects for which grants made under this subchapter may be used to implement innovative financing techniques.

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

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

(d) INNOVATIVE FINANCING TECHNIQUE DEFINED.—In this section, the term “innovative financing technique” is limited to—

- (1) payment of interest;
- (2) commercial bond insurance and other credit enhancement associated with airport bonds for eligible airport development; and
- (3) flexible non-Federal matching requirements.

**§ 47136. Airport security program**

(a) GENERAL AUTHORITY.—To improve security at public airports in the United States, the Secretary of Transportation shall carry out not less than 1 project to test and evaluate innovative airport security systems and related technology.

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

- (1) evaluates and tests the benefits of innovative airport security systems or related technology, including explosives detection

systems, for the purpose of improving airport and aircraft physical security and access control; and

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

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

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

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

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

## SUBCHAPTER II—SURPLUS PROPERTY FOR PUBLIC AIRPORTS

### § 47151. Authority to transfer an interest in surplus property

(a) *GENERAL AUTHORITY.*—Subject to sections 47152 and 47153 of this title, a department, agency, or instrumentality of the executive branch of the United States Government or a wholly owned Government corporation may [give] convey to a State, political subdivision of a State, or tax-supported organization any interest in surplus property—

(1) \* \* \*

(2) if the Administrator of General Services approves the [gift] conveyance and decides the interest is not best suited for industrial use.

(b) *ENSURING COMPLIANCE.*—Only the Secretary may ensure compliance with an instrument [giving] conveying an interest in surplus property under this subchapter. The Secretary may amend the instrument to correct the instrument or to make the [gift] conveyance comply with law.

(c) *DISPOSING OF INTERESTS NOT [GIVEN] CONVEYED UNDER THIS SUBCHAPTER.*—An interest in surplus property that could be used at a public airport but that is not [given] conveyed under this subchapter shall be disposed of under other applicable law.

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

**§ 47152. Terms of [gifts] conveyances**

Except as provided in section 47153 of this title, the following terms apply to a [gift] conveyance of an interest in surplus property under this subchapter:

(1) \* \* \*

\* \* \* \* \*

**§ 47153. Waiving and adding terms**

(a) GENERAL AUTHORITY.—(1) The Secretary of Transportation may waive, without charge, a term of a [gift] conveyance of an interest in property under this subchapter if the Secretary decides, after providing notice and an opportunity for public comment, that—

(A) the property no longer serves the purpose for which it was [given] conveyed; or

(B) the waiver will not prevent carrying out the purpose for which the [gift] conveyance was made and is necessary to advance the civil aviation interests of the United States.

\* \* \* \* \*

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

\* \* \* \* \*

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

\* \* \* \* \*

**CHAPTER 475—NOISE**

\* \* \* \* \*

**SUBCHAPTER II—NATIONAL AVIATION NOISE POLICY**

\* \* \* \* \*

**§ 47528. Prohibition on operating certain aircraft not complying with stage 3 noise levels**

(a) \* \* \*

(b) WAIVERS.—(1) If, not later than July 1, 1999, at least 85 percent of the aircraft used by an air carrier or foreign air carrier to provide air transportation comply with the stage 3 noise levels, the carrier may apply for a waiver of subsection (a) of this section for the remaining aircraft used by the carrier to provide air transportation. The application must be filed with the Secretary not later than January 1, 1999, and must include a plan with firm orders for making all aircraft used by the carrier to provide air transportation comply with the noise levels not later than December 31, 2003.

\* \* \* \* \*

PART C—FINANCING

CHAPTER 481—AIRPORT AND AIRWAY TRUST FUND AUTHORIZATIONS

\* \* \* \* \*

**§ 48101. Air navigation facilities and equipment**

(a) GENERAL AUTHORIZATION OF APPROPRIATIONS.—Not more than a total of the following amounts may be appropriated to the Secretary of Transportation out of the Airport and Airway Trust Fund established under section 9502 of the Internal Revenue Code of 1986 (26 U.S.C. 9502) to acquire, establish, and improve air navigation facilities under section 44502(a)(1)(A) of this title:

(1) \* \* \*

\* \* \* \* \*

(3) \$2,131,000,000 for fiscal year 1999.

\* \* \* \* \*

(d) UNIVERSAL ACCESS SYSTEMS.—Of the amounts appropriated under subsection (a) for fiscal year 1999, \$8,000,000 may be used for the voluntary purchase and installation of universal access systems.

\* \* \* \* \*

**§ 48103. Airport planning and development and noise compatibility planning and programs**

The total amounts which shall be available after September 30, [1996] 1998, to the Secretary of Transportation out of the Airport and Airway Trust Fund established under section 9502 of the Internal Revenue Code of 1986 (26 U.S.C. 9502) to make grants for airport planning and airport development under section 47104 of this title, airport noise compatibility planning under section 47505(a)(2) of this title, and carrying out noise compatibility programs under section 47504(c) of this title shall be [\$2,280,000,000 for fiscal years ending before October 1, 1997, and \$4,627,000,000 for fiscal years ending before October 1, 1998.] \$2,347,000,000 for fiscal years ending before October 1, 1999.

**§ 48104. Operations and maintenance**

(a) \* \* \*

\* \* \* \* \*

[(b) LIMITATION FOR FISCAL YEAR 1993.—The amount that may be appropriated out of the Fund for fiscal year 1993 may not be more than an amount equal to—

[(1) 75 percent of the amount made available under sections 106(k) and 48101–48103 of this title for that fiscal year; less

[(2) the amount made available under sections 48101–48103 of this title for that fiscal year.]

[(c) (b) LIMITATION FOR [FISCAL YEARS 1994–1998] FISCAL YEAR 1999.—The amount appropriated from the Trust Fund for the purposes of paragraphs (1) and (2) of subsection (a) for [each of fis-

cal years 1994 through 1998] *fiscal year 1999* may not exceed the lesser of—

(1) \* \* \*

\* \* \* \* \*

**§ 48108. Availability and uses of amounts**

(a) \* \* \*

\* \* \* \* \*

(c) LIMITATION ON OBLIGATING OR EXPENDING AMOUNTS.—In a fiscal year beginning after September 30, [1998] 1999, the Secretary of Transportation may obligate or expend an amount appropriated out of the Fund under section 48104 of this title only if a law expressly amends section 48104.

PART D—PUBLIC AIRPORTS

**CHAPTER 491—METROPOLITAN WASHINGTON AIRPORTS**

\* \* \* \* \*

**§ 49106. Metropolitan Washington Airports Authority**

(a) \* \* \*

(b) GENERAL AUTHORITY.—(1) The Airports Authority shall be authorized—

(A) \* \* \*

\* \* \* \* \*

(F) to make and maintain agreements with employee organizations to the extent that the Federal Aviation Administration was authorized to do so on October 18, [1996] 1986.

\* \* \* \* \*

(c) BOARD OF DIRECTORS.—(1) The Airports Authority shall be governed by a board of directors composed of the following 13 members:

(A) \* \* \*

\* \* \* \* \*

(3) Members of the board shall be appointed [by] to the board for 6 years, except that of the members first appointed by the President after October 9, 1996, one shall be appointed for 4 years. A member may serve after the expiration of that member's term until a successor has taken office.

\* \* \* \* \*

**§ 49107. Federal employees at Metropolitan Washington Airports**

(a) \* \* \*

(b) CIVIL SERVICE RETIREMENT.—Any Federal employee who transferred to the Airports Authority and who on June 6, 1987, was subject to subchapter III of chapter 83 or chapter 84 of title 5, is subject to subchapter [II] III of chapter 83 or chapter 84 for so long as continually employed by the Airports Authority without a break in service. For purposes of subchapter III of chapter 83 and

chapter 84, employment by the Airports Authority without a break in continuity of service is deemed to be employment by the United States Government. The Airports Authority is the employing agency for purposes of subchapter III of chapter 83 and chapter 84 and shall contribute to the Civil Service Retirement and Disability Fund amounts required by subchapter III of chapter 83 and chapter 84.

\* \* \* \* \*

**§ 49111. Relationship to and effect of other laws**

(a) \* \* \*

(b) INAPPLICABILITY OF CERTAIN LAWS.—The Metropolitan Washington Airports and the Airports Authority are not subject to the requirements of any law solely by reason of the retention [of] by the United States Government of the fee simple title to those airports.

\* \* \* \* \*

---

**SECTION 125 OF THE FEDERAL AVIATION  
REAUTHORIZATION ACT OF 1996**

**[SEC. 125. PERIOD OF APPLICABILITY OF AMENDMENTS.**

[The amendments made by this subtitle shall cease to be effective on September 30, 1998. On and after such date, sections 47114, 47115, 47117, and 47118 of title 49, United States Code, shall read as if such amendments had not been enacted.]

---

**DEPARTMENT OF TRANSPORTATION AND RELATED  
AGENCIES APPROPRIATIONS ACT, 1996**

\* \* \* \* \*

**TITLE III**

**GENERAL PROVISIONS**

(INCLUDING TRANSFERS OF FUNDS)

\* \* \* \* \*

**SEC. 347. (a) \* \* \***

\* \* \* \* \*

(b) The provisions of title 5, United States Code, shall not apply to the new personnel management system developed and implemented pursuant to subsection (a), with the exception of—

(1) section 2302(b), relating to whistleblower protection, *including the provisions for investigation and enforcement as provided in chapter 12 of title 5, United States Code;*

\* \* \* \* \*

(6) chapter 81, relating to compensation for work injury; **[and]**

(7) chapters 83–85, 87, and 89, relating to retirement, unemployment compensation, and insurance coverage[.]; *and*

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

[(c) This section shall take effect on April 1, 1996.]

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

SEC. 348. (a) \* \* \*

\* \* \* \* \*

[(c) This section shall take effect on April 1, 1996.]

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

\* \* \* \* \*

**ACT OF NOVEMBER 20, 1997**

AN ACT To codify without substantive change laws related to transportation and to improve the United States Code.

\* \* \* \* \*

**SEC. 5. REPEALS.**

(a) \* \* \*

\* \* \* \* \*

(b) REPEALER SCHEDULE.—The laws specified in the following schedule are repealed, except for rights and duties that matured, penalties that were incurred, and proceedings that were begun before the date of enactment of this Act:

Schedule of Laws Repealed  
Statutes at Large

Date	Chapter or Public Law	Section	Statutes at Large		U.S. Code	
			Volume	Page	Title	Section
<b>[1996]</b>						
1986						
Oct. 18	99–500 ...	6001–6012 .....	100	1783–373	.....	.....
Oct. 30	99–591 ...	6001–6012 .....	100	3341–376	.....	.....
1991						
Dec. 18	102–240	7001–7004 .....	105	2197 .....	.....	.....
1996						
Oct. 9	104–264	902–907 .....	110	3274 .....	.....	.....

**ACT OF OCTOBER 11, 1996**

AN ACT To codify without substantive change laws related to transportation and to improve the United States Code.

\* \* \* \* \*

**SEC. 5. TITLE 49, UNITED STATES CODE.**

Title 49, United States Code, is amended as follows:

(1) \* \* \*

\* \* \* \* \*

(45) The analysis of chapter 159 is amended as follows:

(A) Strike—

“CHAPTER 159—~~[ENFORCEMENT;]~~ *ENFORCEMENT: INVESTIGATIONS, RIGHTS, AND REMEDIES*”.

(B) Strike the item related to section 15907.

\* \* \* \* \*

