

customs of the United States Senate: Therefore, be it

*Resolved*, That the Senate salutes Howard O. Greene, Jr. for his career of public service to the United States Senate and its members.

Section 2. The Secretary of the Senate shall transmit a copy of this resolution to Howard O. Greene, Jr.

#### SENATE RESOLUTION 294—TO PROVIDE FOR SEVERANCE PAY

Mr. STEVENS submitted the following resolution; which was considered and agreed to:

S. RES. 294

*Resolved*, (a) That the individual who was the Sergeant at Arms and Doorkeeper of the Senate on September 1, 1996, and whose service as the Sergeant at Arms and Doorkeeper of the Senate terminated on or after September 1, 1996 but prior to September 6, 1996, shall be entitled to one lump sum payment consisting of severance pay in an amount equal to two months of the individual's basic pay at the rate such individual was paid on September 1, 1996.

(b) The Secretary of the Senate shall make payments under this resolution from funds appropriated for fiscal year 1996 from the appropriation account "Miscellaneous Items" within the contingent fund of the Senate.

(c) A payment under this resolution shall not be treated as compensation for purposes of any provision of title 5, United States Code, or of any other law relating to benefits accruing from employment by the United States, and the period of entitlement to such pay shall not be treated as a period of employment for purposes of any such provision of law.

#### AMENDMENTS SUBMITTED

#### THE INTELLIGENCE AUTHORIZATION ACT FOR FISCAL YEAR 1997

##### SPECTER (AND KERREY) AMENDMENT NO. 5355

Mr. SPECTER (for himself and Mr. KERREY) proposed an amendment to the bill (S. 1718) to authorize appropriations for fiscal year 1997 for intelligence and intelligence-related activities of the U.S. Government, the community management account, and for the Central Intelligence Agency Retirement and Disability System, and for other purposes; as follows:

On page 72 strike out line 14 and all that follows through page 73, line 9.

##### THURMOND (AND NUNN) AMENDMENT NO. 5356

Mr. SPECTER (for Mr. THURMOND, for himself and Mr. NUNN) proposed an amendment to the bill, S. 1718, *supra*; as follows:

On page 52, beginning on line 18, strike out "shall manage" and all that follows through page 52, line 23, and insert in lieu thereof "shall assist the Director of Central Intelligence in carrying out the Director's collection responsibilities in order to ensure the efficient and effective collection of national intelligence."

#### THE DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS ACT, 1997

##### BAUCUS AMENDMENT NO. 5357

(Ordered to lie on the table.)

Mr. BAUCUS submitted an amendment intended to be proposed by him to the bill (H.R. 3662) making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1997, and for other purposes; as follows:

At the appropriate place in title I, insert the following:

##### SEC. 1. KERR HYDROELECTRIC PROJECT.

For fiscal year 1997 and each fiscal year thereafter, the Secretary of the Interior shall not recommend that the Federal Energy Regulatory Commission impose, and the Commission shall not impose, as a condition to the modification of the Kerr Hydroelectric Project (FERC Project No. 5-021), a requirement to construct offshore revetment structures in Flathead Lake, Montana.

• Mr. BAUCUS. Mr. President; I submit an amendment to H.R. 3662, the fiscal year 1997 Interior appropriations bill.

From 1961 to his retirement from the Senate in 1977, Montana's Mike Mansfield served as Senate majority leader. It was the longest term as majority leader in American history.

During these years, the Senate passed the Voting Rights Act, created Medicare, passed the Clean Air and Clean Water Acts, debated the Cuban missile crisis and the war in Vietnam. On all these issues and more, Mike was a respected national leader.

Yet when Mike was asked to reflect back on his years in the Senate and identify his single proudest accomplishment, he responded, "saving Flathead Lake from the Army Corps of Engineers."

If you don't know Montana; and you don't know Flathead Lake; and you don't know Mike Mansfield, this answer may come as a surprise. But for those of us who know all three, this is perfectly easy to understand.

Located in western Montana, between Missoula and Kalispell, Flathead Lake is the largest fresh water lake in the United States, outside of the Great Lakes. Surrounded by the Mission Mountains and the Swan Range to the west, it is a place of spectacular beauty.

And it is also a place that is very much a part of so many Montanans—including this Senator. From boating, water skiing, fishing, or just sitting around a bonfire along the Lake's shore, Flathead Lake is a very special Montana place.

The corps had a plan to radically raise the level of this lake, transforming it forever and drowning many of the coves, shorelines, and fishing spots Montanans know so well. Montanans liked it just the way it was—and we still do today.

Yet some folks outside Montana just don't get it. They think they can im-

prove Flathead Lake. And that brings me to the amendment now before us.

The U.S. Fish and Wildlife Service has asked the Federal Energy Regulatory Commission for approval to construct an 8,700-foot-long retaining wall, at the cost of \$10 to \$14 million, near the north shore of the lake.

In theory, this great wall would prevent shore erosion and restore waterfowl habitat. These are commendable goals. But the cost of this proposal outweighs any possible benefits.

The view of the lake from the town of Bigfork, for example, would be ruined. Boaters would see a neo-industrial monstrosity instead of a peaceful shore. It is a bad idea, and my amendment would nip this weed in the bud by prohibiting construction of this wall.

Frankly, the Fish and Wildlife Service doesn't need to mandate lowering the level of Flathead Lake. And it doesn't need to mandate a big concrete slab in the lake to stem shoreline erosion. If erosion is proven to be an ongoing and significant problem, the Fish and Wildlife Service needs to find unobtrusive remedial measures that respect Flathead Lake and the people who enjoy it.

I believe this is just simple common sense. One Great Wall of China is plenty. None of us will ever improve on what the Good Lord did when he created Flathead Lake. Let us admit that right now and pass this amendment. •

#### THE FEDERAL AVIATION REAUTHORIZATION ACT OF 1996

##### HEFLIN AMENDMENT NO. 5358

(Ordered to lie on the table.)

Mr. HEFLIN submitted an amendment intended to be proposed by him to the bill (S. 1994) to amend title 49, United States Code, to reauthorize programs of the Federal Aviation Administration, and for other purposes; as follows:

At the appropriate place, insert the following:

##### SEC. 409. GADSDEN AIR DEPOT, ALABAMA.

(a) AUTHORITY TO GRANT WAIVERS.—Notwithstanding section 16 of the Federal Airport Act (as in effect on May 4, 1949), the Secretary is authorized, subject to the provisions of section 47153 of title 49, United States Code, and the provisions of subsection (b) of this section, to waive any of the terms contained in the deed of conveyances dated May 4, 1949, under which the United States conveyed certain property to the city of Gadsden, Alabama, for airport purposes.

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

(1) The city of Gadsden, Alabama, shall agree that, in conveying any interest in the property which the United States conveyed to the city by a deed described in subsection (a), the city will receive an amount for such interest which is equal to the fair market value (as determined pursuant to regulations issued by the Secretary).

(2) Any such amount so received by the city shall be used by the city for the development, improvement, operation, or maintenance of (A) a public airport, or (B) lands (including any improvements thereto) which

produce revenues that are used for airport development purposes.

Conform the table of contents of the bill accordingly.

#### REID AMENDMENT NO. 5359

(Ordered to lie on the table.)

Mr. REID submitted an amendment intended to be proposed by him to the bill, S. 1994, *supra*; as follows:

At the appropriate place, insert the following new section:

#### SEC. . SENSE OF THE SENATE.

(a) FINDINGS.—The Senate finds that—

(1) there has been an intensification in the oppression and disregard for human life among nations that are willing to export terrorism;

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

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

(b) SENSE OF THE SENATE.—It is the sense of the Senate that if evidence establishes beyond a clear and reasonable doubt that any act of hostility towards any United States citizen was an act of international terrorism sponsored, organized, condoned, or directed by any nation, a state of war should be considered to exist or to have existed between the United States of America and that nation, beginning as of the moment that the act of aggression occurs.

#### PRESSLER (AND OTHERS) AMENDMENT NO. 5360

Mr. MCCAIN (for Mr. PRESSLER, for himself, Mr. MCCAIN, Mr. HOLLINGS, Mr. FORD, and Mr. STEVENS) proposed an amendment to the bill, S. 1994, *supra*; as follows:

Strike out all after the enacting clause and insert the following:

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

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

(b) TABLE OF CONTENTS.

Sec. 1. Short title; Table of contents.

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

#### TITLE I—REAUTHORIZATION OF FAA PROGRAMS

Sec. 101. Federal Aviation Administration operations.

Sec. 102. Air navigation facilities.

Sec. 103. Research and development.

Sec. 104. Airport improvement program.

Sec. 105. Interaccount flexibility.

#### TITLE II—AIRPORT IMPROVEMENT PROGRAM MODIFICATIONS

Sec. 201. Pavement maintenance program.

Sec. 202. Maximum percentages of amount made available for grants to certain primary airports.

Sec. 203. Discretionary fund.

Sec. 204. Designating current and former military airports.

Sec. 205. State block grant program.

Sec. 206. Access to airports by intercity buses.

#### TITLE III—AIRPORT SAFETY AND SECURITY

Sec. 301. Report including proposed legislation on funding for airport security.

Sec. 302. Family advocacy.

Sec. 303. Accident and safety data classification; report on effects of publication and automated surveillance targeting systems.

Sec. 304. Weapons and explosive detection study.

Sec. 305. Requirement for criminal history records checks.

Sec. 306. Interim deployment of commercially available explosive detection equipment.

Sec. 307. Audit of performance of background checks for certain personnel.

Sec. 308. Sense of the Senate on passenger profiling.

Sec. 309. Authority to use certain funds for airport security programs and activities.

Sec. 310. Development of aviation security liaison agreement.

Sec. 311. Regular joint threat assessments.

Sec. 312. Baggage match report.

Sec. 313. Enhanced security programs.

Sec. 314. Report on air cargo.

#### TITLE IV—MISCELLANEOUS PROVISIONS

Sec. 401. Acquisition of housing units.

Sec. 402. Protection of voluntarily submitted information.

Sec. 403. Application of FAA regulations.

Sec. 404. Sense of the Senate regarding the funding of the Federal Aviation Administration.

Sec. 405. Authorization for State-specific safety measures.

Sec. 406. Sense of the Senate regarding the air ambulance exemption from certain Federal excise taxes.

Sec. 407. FAA safety mission.

Sec. 408. Carriage of candidates in State and local elections.

Sec. 409. Train whistle requirements.

Sec. 410. Limitation on authority of States to regulate gambling devices on vessels.

#### TITLE V—COMMERCIAL SPACE LAUNCH ACT AMENDMENTS

Sec. 501. Commercial space launch amendments.

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

Sec. 601. Short title.

Sec. 602. Definitions.

Sec. 603. Effective date.

##### Subtitle A—General Provisions

Sec. 621. Findings.

Sec. 622. Purposes.

Sec. 623. Regulation of civilian air transportation and related services by the Federal Aviation Administration and Department of Transportation.

Sec. 624. Regulations.

Sec. 625. Personnel and services.

Sec. 626. Contracts.

Sec. 627. Facilities.

Sec. 628. Property.

Sec. 629. Transfers of funds from other Federal agencies.

Sec. 630. Management Advisory Council.

Sec. 631. Aircraft engine standards.

Sec. 632. Rural air fare study.

##### Subtitle B—Federal Aviation Administration Streamlining Programs

Sec. 651. Review of acquisition management system.

Sec. 652. Air traffic control modernization reviews.

Sec. 653. Federal Aviation Administration personnel management system.

Sec. 654. Conforming amendment.

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

Sec. 671. Findings.

Sec. 672. Purposes.

Sec. 673. User fees for various Federal Aviation Administration services.

Sec. 674. Independent assessment and task force to review existing and innovative funding mechanisms.

Sec. 675. Procedure for consideration of certain funding proposals.

Sec. 676. Administrative provisions.

Sec. 677. Advance appropriations for Airport and Airway Trust Fund activities.

Sec. 678. Rural Air Service Survival Act.

#### TITLE VII—PILOT RECORDS

Sec. 701. Short title.

Sec. 702. Employment investigations of pilot applicants.

Sec. 703. Study of minimum standards for pilot qualifications.

#### TITLE VIII—ABOLITION OF BOARD OF REVIEW

Sec. 801. Abolition of Board of Review and related authority.

Sec. 802. Sense of the Senate.

Sec. 803. Conforming amendments in other law.

Sec. 804. Definitions.

Sec. 805. Increase in number of Presidentially appointed members of Board.

Sec. 806. Reconstituted Board to function without interruption.

Sec. 807. Operational slots at National Airport.

Sec. 808. Airports authority support of Board.

#### TITLE IX—AIRPORT REVENUE PROTECTION

Sec. 901. Short title.

Sec. 902. Findings; purpose.

Sec. 903. Definitions.

Sec. 904. Restriction on use of airport revenues.

Sec. 905. Regulations; audits and accountability.

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

#### 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.

#### TITLE I—REAUTHORIZATION OF FAA PROGRAMS

##### SEC. 101. FEDERAL AVIATION ADMINISTRATION OPERATIONS.

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

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

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

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

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

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

(c) CLERICAL AMENDMENT.—Section 48108 is amended by striking subsection (c).

##### SEC. 102. AIR NAVIGATION FACILITIES.

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

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

##### SEC. 103. RESEARCH AND DEVELOPMENT.

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

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

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

(1) by striking “and \$21,958,500,000” and inserting “\$19,200,500,000”; and

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

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

**SEC. 105. INTERACCOUNT FLEXIBILITY.**

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

“(1) INTERACCOUNT FLEXIBILITY.—

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

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

“(3) A transfer of budget authority under paragraph (1) may not result in a net decrease of more than 5 percent, or a net increase of more than 10 percent, in the budget authority available under any appropriation involved in that transfer.

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

“(5) The Administrator may transfer budget authority pursuant to this section only after—

“(A) submitting a written explanation of the proposed transfer to the Committees on Transportation and Infrastructure and Appropriations of the House of Representatives and the Committees on Commerce, Science, and Transportation and Appropriations of the Senate; and

“(B) 30 days have passed after the explanation is submitted and none of the committees notifies the Administrator in writing that it objects to the proposed transfer within the 30 day period.”.

## TITLE II—AIRPORT IMPROVEMENT PROGRAM MODIFICATIONS

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

(a) PAVEMENT MAINTENANCE.—Chapter 471 is amended by adding the following section at the end of subchapter I:

**“§ 47132. Pavement maintenance**

“(a) IN GENERAL.—The Administrator of the Federal Aviation Administration shall issue guidelines to carry out a pavement maintenance pilot project to preserve and extend the useful life of runways, taxiways, and aprons at airports for which apportionments are made under section 47114(d). The regulations shall provide that the Administrator may designate not more than 10 projects. The regulations shall provide criteria for the Administrator to use in choosing the projects. At least 2 such projects must be in States without a primary airport that had 0.25 percent or more of the total boardings in the United States in the preceding calendar year. In designating a project, the Administrator shall take into consideration geographical, climatological, and soil diversity.

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

(b) COMPLIANCE WITH FEDERAL MAN-DATES.—

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

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

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

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

(A) by inserting “and” at the end of subparagraph (D);

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

(C) by striking subparagraph (F).

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

“47132. Pavement maintenance.”.

**SEC. 202. MAXIMUM PERCENTAGES OF AMOUNT MADE AVAILABLE FOR GRANTS TO CERTAIN PRIMARY AIRPORTS.**

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

“(g) SLIDING SCALE.—

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

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

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

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

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

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

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

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

**SEC. 203. DISCRETIONARY FUND.**

Section 47115 is amended—

(1) by striking “and” at the end of subsection (d)(2); and inserting a comma and the following: “, including, in the case of a project at a reliever airport, the number of operations projected to be diverted from a primary airport to that reliever airport as a result of the project, as well as the cost savings projected to be realized by users of the local airport system; and”.

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

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

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

(4) by adding at the end the following:

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

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

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

“(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)(E) of this title. The maximum number of airports bearing such designation at any time is 12. The Secretary may only so designate an airport (other than an airport so designated before August 24, 1994) if—

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

“(A) section 2687 of title 10;

“(B) section 201 of the Defense Authorization Amendments and Base Closure and Realignment Act (10 U.S.C. 2687 note); or

“(C) section 2905 of the Defense Base Closure and Realignment Act of 1990 (10 U.S.C. 2687 note); or

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

“(A) reduce delays at an airport with more than 20,000 hours of annual delays in commercial passenger aircraft takeoffs and landings; or

“(B) enhance airport and air traffic control system capacity in a metropolitan area or reduce current and projected flight delays.”.

(b) ADDITIONAL DESIGNATION PERIODS.—Section 47118(d) is amended by striking “designation,” and inserting “designation, and for subsequent 5-fiscal-year periods if the Secretary determine that the airport satisfies the designation criteria under subsection (a) at the beginning of each such subsequent 5-fiscal-year period.”.

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

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

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

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

(1) by striking paragraph (2);

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

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

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

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

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

Section 47107(a) is amended—

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

(2) by striking the period at the end of paragraph (19) and inserting “; and”; and

(3) by adding at the end the following:

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

## TITLE III—AIRPORT SAFETY AND SECURITY

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

(a) IN GENERAL.—Not later than 30 days after the date of enactment of this Act, the Administrator shall conduct a study and

submit to the Congress a report on whether, and if so, how to transfer certain responsibilities of air carriers under Federal law for security activities conducted onsite at airports to airport operators who are subject to section 44903 of title 49, United States Code, or to the Federal Government or providing for shared responsibilities between air carriers and airport operators or the Federal Government.

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

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

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

(c) **CERTIFICATION OF SCREENING COMPANIES.**—The Federal Aviation Administration is directed to certify companies providing security screening and to improve the training and testing of security screeners through development of uniform performance standards for providing security screening services.

#### SEC. 302. FAMILY ADVOCACY.

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

##### “§ 1136. Family advocacy

“(a) **IN GENERAL.**—The National Transportation Safety Board shall establish a program consistent with its existing authority to provide family advocacy services for aircraft accidents described in subsection (b)(1) and serve as the lead agency in coordinating the provision of the services described in subsection (b). The National Transportation Safety Board shall, as necessary, in carrying out the program, cooperate with the Secretary of Transportation, the Administrator of the Federal Aviation Administration, and such other public and private organizations as may be appropriate.

“(b) **FAMILY ADVOCACY SERVICES.**—

“(1) **IN GENERAL.**—The National Transportation Safety Board shall work with an air carrier involved in an accident in air commerce and facilitate the procurement by that air carrier of the services of family advocates who are not otherwise employed by an air carrier and who are not employed by the Federal Aviation Administration to, in the event of an accident in air commerce—

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

“(B) to the extent practicable, direct and facilitate all communication among air carriers, surviving passengers, families of passengers, news reporters, the Federal Government, and the governments of States and political subdivisions thereof;

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

“(D) carry out such other related duties as the National Transportation Safety Board determines to be appropriate.

“(2) **DEFINITIONS.**—For purposes of this subsection, the following definitions shall apply:

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

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

(b) **GUIDELINES.**—Not later than 90 days after the date of enactment of this Act, the National Transportation Safety Board shall

issue guidelines for the implementation of the program established by the Board under section 1136 of title 49, United States Code, as added by subsection (a).

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

“1136. Family advocacy.”.

#### SEC. 303. ACCIDENT AND SAFETY DATA CLASSIFICATION; REPORT ON EFFECTS OF PUBLICATION AND AUTOMATED SURVEILLANCE TARGETING SYSTEMS.

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

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

##### “§ 1119. Accident and safety data classification and publication

“(a) **IN GENERAL.**—Not later than 90 days after the date of enactment of this section, the National Transportation Safety Board (hereafter in this section referred to as the ‘Board’) shall, in consultation and coordination with the Administrator of the Federal Aviation Administration (hereafter in this section referred to as the ‘Administrator’), develop a system for classifying air carrier accident and pertinent safety data maintained by the Board.

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

“(1) **IN GENERAL.**—The system developed under this section shall provide for the classification of accident and safety data in a manner that, in comparison to the system in effect on the date of enactment of this section, provides for—

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

“(B) clearer descriptions of passenger safety concerns associated with air transportation accidents; and

“(C) a report to the Congress by the Board that describes methods for accurately informing the public of the concerns referred to in subparagraph (B) through regular reporting of accident and safety data obtained through the system developed under this section.

“(2) **PUBLIC COMMENT.**—Upon developing a system of classification under paragraph (1), the Board shall provide adequate opportunity for public review and comment.

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

“(4) **REPORT ON THE EFFECTS ASSOCIATED WITH PUBLICATION OF AIR TRANSPORTATION ACCIDENT AND SAFETY INFORMATION.**—

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

“(B) **CONTENT AND FORM OF REPORT.**—The report prepared under this paragraph shall include recommendations concerning the adoption or revision of requirements for reporting accident and safety data.

“(5) **RECOMMENDATIONS OF THE ADMINISTRATOR.**—The Administrator may, from time to time, request the Board to consider revisions (including additions to the classification system developed under this section).

The Board shall respond to any request made by the Administrator under this section not later than 90 days after receiving that request.

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

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

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

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

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

(b) **AUTOMATED SURVEILLANCE TARGETING SYSTEMS.**—Section 44713 is amended by adding at the end the following new subsection:

“(e) **AUTOMATED SURVEILLANCE TARGETING SYSTEMS.**—

“(1) **IN GENERAL.**—The Administrator shall give high priority to developing and deploying a fully enhanced safety performance analysis system that includes automated surveillance to assist the Administrator in prioritizing and targeting surveillance and inspection activities of the Federal Aviation Administration.

“(2) **DEADLINES FOR DEPLOYMENT.**—

“(A) **INITIAL PHASE.**—The initial phase of the operational deployment of the system developed under this subsection shall begin not later than December 31, 1997.

“(B) **FINAL PHASE.**—The final phase of field deployment of the system developed under this subsection shall begin not later than December 31, 1999. By that date, all principal operations and maintenance inspectors of the Administration, and appropriate supervisors and analysts of the Administration shall have been provided access to the necessary information and resources to carry out the system.

“(3) **INTEGRATION OF INFORMATION.**—In developing the system under this section, the Administration shall consider the near-term integration of accident and incident data into the safety performance analysis system under this subsection.”.

#### SEC. 304. WEAPONS AND EXPLOSIVE DETECTION STUDY.

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

(b) **PANEL OF EXPERTS.**—

(1) **IN GENERAL.**—In carrying out a study under this section, the Director of the National Academy of Sciences (or the head of another equivalent entity) shall establish a panel (hereinafter in this section as the ‘panel’).

(2) **EXPERTISE.**—Each member of the panel established under this subsection shall have expertise in weapons and explosive detection technology, security, air carrier and airport operations, or another appropriate area. The Director of the National Academy of Sciences (or the head of another equivalent entity) shall ensure that the panel has an appropriate number of representatives of the areas specified in the preceding sentence.

(c) **STUDY.**—The panel established under subsection (b), in consultation with the National Science and Technology Council, representatives of appropriate Federal agencies,

and appropriate members of the private sector, shall—

(1) assess the weapons and explosive detection technologies that are available at the time of the study that are capable of being effectively deployed in commercial aviation;

(2) determine how the technologies referred to in paragraph (1) may more effectively be used for promotion and improvement of security at airport and aviation facilities and other secured areas; and

(3) on the basis of the assessments and determinations made under paragraphs (1) and (2), identify the most promising technologies for the improvement of the efficiency and cost-effectiveness of weapons and explosive detection.

(d) **COOPERATION.**—The National Science and Technology Council shall take such action as may be necessary to facilitate, to the maximum extent practicable and upon request of the Director of the National Academy of Sciences (or the head of another equivalent entity), the cooperation of representatives of appropriate Federal agencies, as provided for in subsection (c), in providing the panel, for the study under this section—

(1) expertise; and

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

(e) **REPORTS.**—The Director of the National Academy of Sciences (or the head of another equivalent entity) shall, pursuant to an arrangement entered into under subsection (a), submit to the Administrator such reports as the Administrator considers to be appropriate. Upon receipt of a report under this subsection, the Administrator shall submit a copy of the report to the appropriate committees of the Congress.

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

#### **SEC. 305. REQUIREMENT FOR CRIMINAL HISTORY RECORDS CHECKS.**

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

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

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

and

(3) by adding at the end the following:

“(B) The Administrator shall require by regulation that an employment investigation (including a criminal history record check in any case described in subparagraph (C)) be conducted for—

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

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

“(iii) such other individuals who exercise security functions associated with baggage or cargo, as the Administrator determines is necessary to ensure air transportation security.

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

“(i) an employment investigation reveals a gap in employment of 12 months or more that the individual who is the subject of the investigation does not satisfactorily account for;

“(ii) that individual is unable to support statements made on the application of that individual;

“(iii) there are significant inconsistencies in the information provided on the application of that individual; or

“(iv) information becomes available during the employment investigation indicating a possible conviction for one of the crimes listed in subsection (b)(1)(B).”.

(b) **APPLICABILITY.**—The amendment made by subsection (a)(3) shall apply to individuals hired to perform functions described in section 44936(a)(1)(B) of title 49, United States Code, after the date of the enactment of this Act, except that the Administrator may, as the Administrator determines to be appropriate, require such employment investigations or criminal history records checks for individuals performing those functions on the date of enactment of this Act. Nothing in section 44936 of title 49, United States Code, as amended by subsection (a) precludes the Administration from permitting the employment of an individual on an interim basis while employment or criminal history record checks required by that section are being conducted.

#### **SEC. 306. INTERIM DEPLOYMENT OF COMMERCIALLY AVAILABLE EXPLOSIVE DETECTION EQUIPMENT.**

Section 44913(a) is amended—

(1) by redesignating paragraph (3) as paragraph (4); and

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

“(3) Until such time as the Administrator determines that equipment certified under paragraph (1) is commercially available and has successfully completed operational testing as provided in paragraph (1), the Administrator shall facilitate the deployment of such approved commercially available explosive detection devices as the Administrator determines will enhance aviation security significantly. The Administrator shall require that equipment deployed under this paragraph be replaced by equipment certified under paragraph (1) when equipment certified under paragraph (1) becomes commercially available. The Administrator is authorized, based on operational considerations at individual airports, to waive the required installation of commercially available equipment under paragraph (1) in the interests of aviation security.”.

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

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

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

#### **SEC. 308. SENSE OF THE SENATE ON PASSENGER PROFILING.**

It is the sense of the Senate that the Administrator of the Federal Aviation Administration, in consultation with the intelligence and law enforcement communities, should continue to assist air carriers in developing computer-assisted and other appropriate passenger profiling programs which should be used in conjunction with other security measures and technologies.

#### **SEC. 309. AUTHORITY TO USE CERTAIN FUNDS FOR AIRPORT SECURITY PROGRAMS AND ACTIVITIES.**

(a) **IN GENERAL.**—Notwithstanding any other provision of law, funds referred to in subsection (b) may be used to expand and enhance air transportation security programs and other activities (including the improvement of facilities and the purchase and deployment of equipment) to ensure the safety and security of passengers and other persons involved in air travel.

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

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

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

#### **SEC. 310. DEVELOPMENT OF AVIATION SECURITY LIAISON AGREEMENT.**

The Secretary of Transportation and the Attorney General, acting through the Ad-

ministrator of the Federal Aviation Administration and the Director of the Federal Bureau of Investigation, shall enter into an interagency agreement providing for the establishment of an aviation security liaison at existing appropriate Federal agencies' field offices in or near cities served by a designated high-risk airport.

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

The Administrator of the Federal Aviation Administration and the Director of the Federal Bureau of Investigation shall carry out joint threat and vulnerability assessments on security every 3 years, or more frequently, as necessary, at airports determined to be high risk.

#### **SEC. 312. BAGGAGE MATCH REPORT.**

Within 30 days after the completion of the passenger bag match pilot program recommended by the Vice President's Commission on Aviation Security, the Administrator shall submit a report to Congress on the safety effectiveness and operational effectiveness of the pilot program. The report shall also assess the extent to which implementation of baggage match requirements, coupled with the best available technologies and methodologies, such as passenger profiling, enhance domestic aviation security.

#### **SEC. 313. ENHANCED SECURITY PROGRAMS.**

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

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

“(a) **IN GENERAL.**—

“(1) **PERIODIC ASSESSMENTS.**—The Administrator shall require each air carrier and airport (including the airport owner or operator in cooperation with the air carriers and vendors serving each airport) that provides for intrastate, interstate, or foreign air transportation to conduct periodic vulnerability assessments of the security systems of that air carrier or airport, respectively. The Administration shall perform periodic audits of the assessments referred to in paragraph (1).

“(2) **INVESTIGATIONS.**—The Administrator shall conduct periodic and unannounced inspections of security systems of airports and air carriers to determine the effectiveness and vulnerabilities of such systems. To the extent allowable by law, the Administrator may provide for anonymous tests of those security systems.”.

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

“44916. Assessments and evaluations.”.

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

Within—days after the date of enactment of this Act, the Secretary of Transportation shall prepare a report for the Congress on any changes recommended and implemented as a result of the Vice President's Commission on Aviation Security to enhance and supplement screening and inspection of cargo, mail, and company-shipped materials transported in air commerce. The report shall include an assessment of the effectiveness of such changes, any additional recommendations, and, if necessary, any legislative proposals necessary to carry out additional changes.

#### **TITLE IV—MISCELLANEOUS PROVISIONS**

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

Section 40110 is amended—

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

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

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

“(1) **AUTHORITY.**—In carrying out this part, the Administrator may acquire interests in

housing units outside the contiguous United States.

“(2) CONTINUING OBLIGATIONS.—Notwithstanding section 1341 of title 31, United States Code, the Administrator may acquire an interest in a housing unit under paragraph (1) even if there is an obligation thereafter to pay necessary and reasonable fees duly assessed upon such unit, including fees related to operation, maintenance, taxes, and insurance.

“(3) CERTIFICATION TO CONGRESS.—The Administrator may acquire an interest in a housing unit under paragraph (1) only if the Administrator transmits to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate at least 30 days before completing the acquisition a report containing—

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

“(B) a certification that acquiring the housing unit is the most cost-beneficial means of providing necessary accommodations in carrying out this part.

“(4) PAYMENT OF FEES.—The Administrator may pay, when due, fees resulting from the acquisition of an interest in a housing unit under this subsection from any amounts made available to the Administrator.”.

#### SEC. 402. PROTECTION OF VOLUNTARILY SUBMITTED INFORMATION.

(a) IN GENERAL.—Chapter 401 is amended by redesignating section 40120 as section 40121 and by inserting after section 40119 the following:

##### “§ 40120. Protection of voluntarily submitted information

“(a) IN GENERAL.—Notwithstanding any other provision of law, neither the Administrator of the Federal Aviation Administration, nor any agency receiving information from the Administrator, shall disclose voluntarily-provided safety or security related information if the Administrator finds that—

“(1) the disclosure of the information would inhibit the voluntary provision of that type of information and that the receipt of that type of information aids in fulfilling the Administrator's safety and security responsibilities; and

“(2) withholding such information from disclosure would be consistent with the Administrator's safety and security responsibilities.

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

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

“40120. Protection of voluntarily submitted information.

“40121. Relationship of other laws.”.

#### SEC. 403. APPLICATION OF FAA REGULATIONS.

In revising title 14, Code of Federal Regulations, in a manner affecting intrastate aviation in Alaska, the Administrator of the Federal Aviation Administration shall consider the extent to which Alaska is not served by transportation modes other than aviation, and shall establish such regulatory distinctions as the Administrator deems appropriate.

#### SEC. 404. SENSE OF THE SENATE REGARDING THE FUNDING OF THE FEDERAL AVIATION ADMINISTRATION.

(a) FINDINGS.—The Senate finds that—

(1) the Congress is responsible for ensuring that the financial needs of the Federal Aviation Administration, the agency that performs the critical function of overseeing the Nation's air traffic control system and ensuring the safety of air travelers in the United States, are met;

(2) the number of air traffic control equipment and power failures is increasing, which could place at risk the reliability of our Nation's air traffic control system;

(3) aviation excise taxes that constitute the Airport and Airway Trust Fund, which provides most of the funding for the Federal Aviation Administration

(4) the surplus in the Airport and Airway Trust Fund will be spent by the Federal Aviation Administration by December 1996;

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

(6) this Act creates a sound process to review Federal Aviation Administration funding and develop a funding system to meet the Federal Aviation Administration's long-term funding needs; and

(7) without immediate action by the Congress to ensure that the Federal Aviation Administration's financial needs are met, air travelers' confidence in the system could be undermined.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that there should be an immediate enactment of an 18-month reinstatement of the aviation excise taxes to provide short-term funding for the Federal Aviation Administration.

#### SEC. 405. AUTHORIZATION FOR STATE-SPECIFIC SAFETY MEASURES.

There are authorized to be appropriated to the Federal Aviation Administration not more than \$10,000,000 for fiscal year 1997 for the purpose of addressing State-specific aviation safety problems identified by the National Transportation Safety Board.

#### SEC. 406. SENSE OF THE SENATE REGARDING THE AIR AMBULANCE EXEMPTION FROM CERTAIN FEDERAL EXCISE TAXES.

It is the sense of the Senate that, if the excise taxes imposed by section 4261 or 4271 of the Internal Revenue Code of 1986 are reinstated, the exemption from those taxes provided by section 4261(f) of such Code for air transportation by helicopter for the purpose of providing emergency medical services should be broadened to include air transportation by fixed-wing aircraft for that purpose.

#### SEC. 407. FAA SAFETY MISSION.

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

(1) by inserting “safety of” before “air commerce” in the section caption;

(2) by inserting “SAFETY OF” before “AIR COMMERCE” in the caption of subsection (a); and

(3) by inserting “safety of” before “air commerce” in subsection (a).

(b) CLERICAL AMENDMENT.—The table of sections for chapter 401 is amended by striking the item relating to section 40104 and inserting:

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

#### SEC. 408. CARRIAGE OF CANDIDATES IN STATE AND LOCAL ELECTIONS.

The Administrator of the Federal Aviation Administration shall revise section 91.321 of the Administration's regulations (14 CFR 91.321), relating to the carriage of candidates in Federal elections, to make the same or similar rules applicable to the carriage of candidates for election to public office in State and local government elections.

#### SEC. 409. TRAIN WHISTLE REQUIREMENTS.

The Secretary of Transportation may not implement regulations issued under section 20153(b) of title 49, United States Code, requiring audible warnings to be sounded by a locomotive horn at highway-rail grade crossings, unless—

(1) in implementing the regulations or providing an exception to the regulations under

section 20158(c) of such title, the Secretary of Transportation takes into account, among other criteria—

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

(i) have in effect restrictions on sounding of a locomotive horn at highway-rail grade crossings; or

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

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

(2) whenever the Secretary determines that supplementary safety measures (as that term is defined in section 20153(a) of title 49, United States Code) are necessary to provide an exception referred to in paragraph (1), the Secretary—

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

(B) works in partnership with affected communities to provide technical assistance and to develop a reasonable schedule for the installation of those measures.

#### SEC. 410 LIMITATION ON AUTHORITY OF STATES TO REGULATE GAMBLING DEVICES ON VESSELS.

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

“(C) EXCLUSION OF CERTAIN VOYAGES AND SEGMENTS.—Except for a voyage or segment of a voyage that occurs within the boundaries of the State of Hawaii, a voyage or segment of a voyage is not described in subparagraph (B) if such voyage or segment includes or consists of a segment—

“(i) that begins and ends in the same State;

“(ii) that is part of a voyage to another State or to a foreign country; and

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

#### TITLE V—COMMERCIAL SPACE LAUNCH ACT AMENDMENTS

#### SEC. 501. COMMERCIAL SPACE LAUNCH AMENDMENTS.

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

(1) in the table of sections—

(A) by amending the item relating to section 70104 to read as follows:

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

(B) by amending the item relating to section 70108 to read as follows:

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

and

(C) by amending the item relating to section 70109 to read as follows:

“70109. Preemption of scheduled launches or reentries”;

(2) in section 70101—

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

(B) by inserting “, reentry,” after “launching” both places it appears in subsection (a)(4);

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

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



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

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

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

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

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

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

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

(L) by inserting “and reentry” after “commercial launch” in subsection (b)(3);

(M) by striking “launch” after “and transfer commercial” in subsection (b)(3); and

(N) by inserting “and development of reentry sites,” after “launch-site support facilities,” in subsection (b)(4)

(3) in section 70102—

(A) by striking “and any payload” and inserting in lieu thereof “or reentry vehicle and any payload from Earth” in paragraph (3);

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

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

(D) by inserting after paragraph (9) the following new paragraphs:

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

“(11) ‘reentry services’ means—

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

“(B) the conduct of a reentry.

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

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

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

(4) in section 70103(b)—

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

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

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

(5) in section 70104—

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

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

(B) by inserting “or reentry site, or to reenter a reentry vehicle” after “operate a launch site” each place it appears in subsection (a);

(C) by inserting “or reentry” after “launch or operation” in subsection (a)(3) and (4);

(D) in subsection (b)—

(i) by striking “launch license” and inserting in lieu thereof “license”;

(ii) by inserting “or reenter” after “may launch”; and

(iii) by inserting “or reentering” after “related to launching”; and

(E) in subsection (c)—

(i) by amending the subsection heading to read as follows: “PREVENTING LAUNCHES AND REENTRIES.—”;

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

(iii) by inserting “or reentry” after “deceives the launch”;

(6) in section 70105—

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

(B) by striking “or operation” and inserting in lieu thereof “, operation, or reentry” in subsection (b)(2)(A);

(7) in section 70106(a)—

(A) by inserting “or reentry site” after “observer at a launch site”;

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

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

(8) in section 70108—

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

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

and

(B) in subsection (a)—

(i) by inserting “or reentry site, or reentry of a reentry vehicle,” after “operation of a launch site”; and

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

(9) in section 70109—

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

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

(B) in subsection (a)—

(i) by inserting “or reentry” after “ensure that a launch”;

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

(iii) by inserting “or reentry date commitment” after “launch date commitment”;

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

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

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

(vii) by inserting “or reentry” after “the scheduled launch”; and

(C) in subsection (c), by inserting “or reentry” after “prompt launching”;

(10) in section 70110—

(A) by inserting “or reentry” after “prevent the launch” in subsection (a)(2); and

(B) by inserting “or reentry site, or reentry of a reentry vehicle,” after “operation of a launch site” in subsection (a)(3)(B);

(11) in section 70111—

(A) by inserting “or reentry” after “launch” in subsection (a)(1)(A);

(B) by inserting “and reentry services” after “launch services” in subsection (a)(1)(B);

(C) by inserting “or reentry services” after “or launch services” in subsection (a)(2);

(D) by inserting “or reentry” after “commercial launch” both places it appears in subsection (b)(1);

(E) by inserting “or reentry services” after “launch services” in subsection (b)(2)(C);

(F) by striking “or its payload for launch” in subsection (d) and inserting in lieu thereof “or reentry vehicle, or the payload of either, for launch or reentry”; and

(G) by inserting “, reentry vehicle,” after “manufacturer of the launch vehicle” in subsection (d);

(12) in section 70112—

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

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

(C) by inserting “or reentry services” after “launch services” each place it appears in subsection (b);

(D) by inserting “applicable” after “carried out under the” in paragraphs (1) and (2) of subsection (b);

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

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

(G) by inserting “or reentry site or a reentry” after “launch site” in subsection (e);

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

(14) in section 70115(b)(1)(D)(i)—

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

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

(15) in section 70117—

(A) by inserting “or reentry site, or to reenter a reentry vehicle” after “operate a launch site” in subsection (a);

(B) by inserting “or reentry” after “approval of a space launch” in subsection (d);

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

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

(D) in subsection (g)—

(i) by striking “operation of a launch vehicle or launch site,” in paragraph (1) and inserting in lieu thereof “reentry, operation of a launch vehicle or reentry vehicle, or operation of a launch site or reentry site,”; and

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

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

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

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

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

“(2) In carrying out paragraph (1), the Secretary may establish procedures for certification of the safety of a launch vehicle, reentry vehicle, or safety system, procedure, service, or personnel that may be used in conducting licensed commercial space launch or reentry activities.”;

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

(E) by striking the period at the end of subsection (b)(2)(C) and inserting in lieu thereof “;and”;

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

(D) regulations establishing criteria for accepting or rejecting an application for a license under this chapter within 60 days after receipt of such application.; and

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

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

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

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

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

“(A) activities directly related to the preparation of a launch site or payload facility for one or more launches;”.

(4) Section 70102(b) of title 49, United States Code, is amended—

(A) in the subsection heading, as amended by subsection (a)(4)(A) of this section, by inserting “AND STATE SPONSORED SPACEPORTS” after “AND REENTRIES”; and

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

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

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

(A) in subsection (a)(1), by inserting after subparagraph (B) the following:

“The Secretary shall establish criteria and procedures for determining the priority of competing requests from the private sector and State governments for property and services under this section.”;

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

(C) by inserting after subsection (b)(2) the following new paragraph:

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

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

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

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

(C) in subsection (f), by inserting “launch, reentry, or site operator” after “carried out under a”.

(c) REGULATIONS.—(1) Chapter 701 of title 49, United States Code, is amended by adding at the end the following new section:

#### § 70120. Regulations

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

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

“(2) procedures for requesting and obtaining licenses to operate a commercial launch vehicle and reentry vehicle;

“(3) procedures for requesting and obtaining operator licenses for launch and reentry; and

“(4) procedures for the application of government indemnification.”.

(2) The table of sections for such chapter 701 is amended by adding after the item relating to section 70119 the following new item:

“70120. Regulations.”.

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

##### SEC. 601. SHORT TITLE.

This title may be cited as the “Air Traffic Management System Performance Improvement Act of 1996”.

##### SEC. 602. DEFINITIONS.

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

(1) ADMINISTRATION.—The term “Administration” means the Federal Aviation Administration.

(2) ADMINISTRATOR.—The term “Administrator” means the Administrator of the Federal Aviation Administration.

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

##### SEC. 603. EFFECTIVE DATE.

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

##### Subtitle A—General Provisions

##### SEC. 621. FINDINGS.

The Congress finds the following:

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

(2) Until January 1, 1996, users of the air transportation system paid 70 percent of the budget of the Administration, with the remaining 30 percent coming from the General Fund. The General Fund contribution of the years is one measure of the benefit received by the general public, military, and other users of Administration’s services.

(3) The Administration must become a more efficient, effective, and different organization to meet future challenges.

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

(5) Congress must keep its commitment to the users of the national air transportation system by seeking to spend all moneys collected from them each year and deposited into the Airport and Airway Trust Fund. Existing surpluses representing past receipts must also be spent for the purposes for which such funds were collected.

(6) The aviation community and the employees of the Administration must come together to improve the system. The Administration must continue to recognize who its customers are and what their needs are, and to design and redesign the system to make safety improvements and increase productivity.

(7) The Administration projects that commercial operations will increase by 18 percent and passenger traffic by 35 percent by the year 2002. Without effective airport expansion and system modernization, these needs cannot be met.

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

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

(10) There is widespread agreement within government and the aviation industry that reform of the Administration is essential to safely and efficiently accommodate the projected growth of aviation within the next decade.

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

(12) Prior to the imposition of any new charges or user fees on segments of the industry, an independent review must be performed to assess the funding needs and assumptions for operations, capital spending, and airport infrastructure.

(13) An independent, thorough, and complete study and assessment must be per-

formed of the costs to the Administration and the costs driven by each segment of the aviation system for safety and operational services, including the use of the air traffic control system and the Nation’s airports.

(14) Because the Administration is a unique Federal entity in that it is a participant in the daily operations of an industry, and because the national air transportation system faces significant problems without significant changes, the Administration has been authorized to change the Federal procurement and personnel systems to ensure that the Administration has the ability to keep pace with new technology and is able to match resources with the real personnel needs of the Administration.

(15) The existing budget system does not allow for long-term planning or timely acquisition of technology by the Administration.

(16) Without reforms in the areas of procurement, personnel, funding, and governance, the Administration will continue to experience delays and cost overruns in its major modernization programs and needed improvements in the performance of the air traffic management system will not occur.

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

##### SEC. 622. PURPOSES.

The purposes of this title are—

(1) to ensure that final action shall be taken on all notices of proposed rulemaking of the Administration within 18 months after the date of their publication;

(2) to permit the Administration, with Congressional review, to establish a program to improve air traffic management system performance and to establish appropriate levels of cost accountability for air traffic management services provided by the Administration;

(3) to establish a more autonomous and accountable Administration within the Department of Transportation; and

(4) to make the Administration a more efficient and effective organization, able to meet the needs of a dynamic, growing industry, and to ensure the safety of the traveling public.

##### SEC. 623. REGULATION OF CIVILIAN AIR TRANSPORTATION AND RELATED SERVICES BY THE FEDERAL AVIATION ADMINISTRATION AND DEPARTMENT OF TRANSPORTATION.

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

(1) by striking “The Administrator” in the fifth sentence of subsection (b) and inserting “Except as provided in subsection (f) of this section or in other provisions of law, the Administrator”; and

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

“(f) AUTHORITY OF THE SECRETARY AND THE ADMINISTRATOR.—

“(1) AUTHORITY OF THE SECRETARY.—Except as provided in paragraph (2), the Secretary of Transportation shall carry out the duties and powers of the Administration.

“(2) AUTHORITY OF THE ADMINISTRATOR.—

The Administrator—

“(A) is the final authority for carrying out all functions, powers, and duties of the Administration relating to—

“(i) except as otherwise provided in paragraph (3), the promulgation of regulations, rules, orders, circulars, bulletins, and other official publications of the Administration; and

“(ii) any obligation imposed on the Administrator, or power conferred on the Administrator, by the Air Traffic Management System Performance Improvement Act of 1996 (or any amendment made by that Act);

“(b) shall offer advice and counsel to the President with respect to the appointment



and qualifications of any officer or employee of the Administration to be appointed by the President or as a political appointee;

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

“(D) except as otherwise provided for in this title, and notwithstanding any other provision of law to the contrary, shall not be required to coordinate, submit for approval or concurrence, or seek the advice or views of the Secretary or any other officer or employee of the Department of Transportation on any matter with respect to which the Administrator is the final authority.

“(3) DEFINITION OF POLITICAL APPOINTEE.—For purposes of this subsection, the term ‘political appointee’ means any individual who—

“(A) is employed in a position on the Executive Schedule under sections 5312 through 5316 of title 5;

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

“(C) is employed in a position in the executive branch of the Government of a confidential or policy-determining character under Schedule C of subpart C of part 213 of title 5 of the Code of Federal Regulations.”.

(b) PRESERVATION OF EXISTING AUTHORITY.—Nothing in this title or the amendments made by this title limits any authority granted to the Administrator by statute or by delegation that was in effect on the day before the date of enactment of this Act.

**SEC. 624. REGULATIONS.**

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

(1) by redesignating paragraph (3) as paragraph (4); and

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

“(3) REGULATIONS.—

“(A) IN GENERAL.—In the performance of the functions of the Administrator and the Administration, the Administrator is authorized to issue, rescind, and revise such regulations as are necessary to carry out those functions. The issuance of such regulations shall be governed by the provisions of chapter 5 of title 5. The Administrator shall act upon all petitions for rulemaking no later than 6 months after the date such petitions are filed by dismissing such petitions, by informing the petitioner of an intention to dismiss, or by issuing a notice of proposed rulemaking or advanced notice of proposed rulemaking. The Administrator shall issue a final regulation, or take other final action, not later than 18 months after the date of publication in the Federal Register of a notice of proposed rulemaking or, in the case of an advanced notice of proposed rulemaking, if issued, not later than 24 months after that date.

“(B) APPROVAL OF SECRETARY OF TRANSPORTATION.—

“(i) The Administrator may not issue a proposed regulation or final regulation that is likely to result in the expenditure by State, local, and tribal governments in the aggregate, or by the private sector, of \$50,000,000 or more (adjusted annually for inflation beginning with the year following the date of enactment of the Air Traffic Management System Performance Improvement Act of 1996) in any 1 year, or any regulation which is significant, unless the Secretary of Transportation approves the issuance of the regulation in advance. For purposes of this paragraph, a regulation is significant if it is likely to—

“(I) have an annual effect on the economy of \$100,000,000 or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

“(II) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

“(III) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

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

“(ii) In an emergency, the Administrator may issue a regulation described in clause (i) without prior approval by the Secretary, but any such emergency regulation is subject to ratification by the Secretary after it is issued and shall be rescinded by the Administrator within 5 days (excluding Saturdays, Sundays, and legal public holidays) after issuance if the Secretary fails to ratify its issuance.

“(iii) Any regulation that does not meet the criteria of clause (i), and any regulation or other action that is a routine or frequent action or a procedural action, may be issued by the Administrator without review or approval by the Secretary.

“(iv) The Administrator shall submit a copy of any regulation requiring approval by the Secretary under clause (i) to the Secretary, who shall either approve it or return it to the Administrator with comments within 45 days after receiving it.

“(C) PERIODIC REVIEW.—(i) Beginning on the date which is 3 years after the date of enactment of the Air Traffic Management System Performance Improvement Act of 1996, the Administrator shall review any unusually burdensome regulation issued by the Administrator after the date of enactment of the Air Traffic Management System Performance Improvement Act of 1996 beginning not later than 3 years after the effective date of the regulation to determine if the cost assumptions were accurate, the benefit of the regulations, and the need to continue such regulations in force in their present form.

“(ii) The Administrator may identify for review under the criteria set forth in clause (i) unusually burdensome regulations that were issued before the date of enactment of the Air Traffic Management System Performance Improvement Act of 1996 and that have been in force for more than 3 years.

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

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

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

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

“(1) PERSONNEL AND SERVICES.—

“(i) OFFICERS AND EMPLOYEES.—Except as provided in section 40121(a) of this title and section 347 of Public Law 104–50, the Administrator is authorized, in the performance of the functions of the Administrator, to appoint, transfer, and fix the compensation of such officers and employees, including attorneys, as may be necessary to carry out the functions of the Administrator and the Administration. In fixing compensation and

benefits of officers and employees, the Administrator shall not engage in any type of bargaining, except to the extent provided for in section 40121(a), nor shall the Administrator be bound by any requirement to establish such compensation or benefits at particular levels.

“(2) EXPERTS AND CONSULTANTS.—The Administrator is authorized to obtain the services of experts and consultants in accordance with section 3109 of title 5.

“(3) TRANSPORTATION AND PER DIEM EXPENSES.—The Administrator is authorized to pay transportation expenses, and per diem in lieu of subsistence expenses, in accordance with chapter 57 of title 5.

“(4) USE OF PERSONNEL FROM OTHER AGENCIES.—The Administrator is authorized to utilize the services of personnel of any other Federal agency (as such term is defined under section 551(1) of title 5).

“(5) VOLUNTARY SERVICES.—

“(A) IN GENERAL.—(i) In exercising the authority to accept gifts and voluntary services under section 326 of this title, and without regard to section 1342 of title 31, the Administrator may not accept voluntary and uncompensated services if such services are used to displace Federal employees employed on a full-time, part-time, or seasonal basis.

“(ii) the Administrator is authorized to provide for incidental expenses, including transportation, lodging, and subsistence for volunteers who provide voluntary services under this subsection.

“(iii) An individual who provides voluntary services under this subsection shall not be considered a Federal employee for any purpose other than for purposes of chapter 81 of title 5, relating to compensation for work injuries, and chapter 171 of title 28, relating to tort claims.”.

**SEC. 626. CONTRACTS.**

Section 106(l), as added by section 625 of this title, is amended by adding at the end the following new paragraph:

“(6) CONTRACTS.—The Administrator is authorized to enter into and perform such contracts, leases, cooperative agreements, or other transactions as may be necessary to carry out the functions of the Administrator and the Administration. The Administrator may enter into such contracts, leases, cooperative agreements, and other transactions with any Federal agency (as such term is defined in section 551(1) of title 5) or any instrumentality of the United States, any State, territory, or possession, or political subdivision thereof, any other governmental entity, or any person, firm, association, corporation, or educational institution, on such terms and conditions as the Administrator may consider appropriate.”.

**SEC. 627. FACILITIES.**

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

“(m) COOPERATION BY ADMINISTRATOR.—With the consent of appropriate officials, the Administrator may, with or without reimbursement, use or accept the services, equipment, personnel, and facilities of any other Federal agency (as such term is defined in section 551(1) of title 5) and any other public or private entity. The administrator may also cooperate with appropriate officials of other public and private agencies and instrumentalities concerning the use of services, equipment, personnel, and facilities. The head of each Federal agency shall cooperate with the Administrator in making the services, equipment, personnel, and facilities of the Federal agency available to the Administrator. The head of a Federal agency is authorized, notwithstanding any other provision of law, to transfer to or to receive from the Administration, without reimbursement,

supplies and equipment other than administrative supplies or equipment.”.

#### SEC. 628. PROPERTY.

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

“(n) ACQUISITION.—

“(1) IN GENERAL.—The Administrator is authorized—

“(A) to acquire (by purchase, lease, condemnation, or otherwise), construct, improve, repair, operate, and maintain—

“(i) air traffic control facilities and equipment;

“(ii) research and testing sites and facilities; and

“(iii) such other real and personal property (including office space and patents), or any interest therein, within and outside the continental United States as the Administrator considers necessary;

“(B) to lease to others such real and personal property; and

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

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

#### SEC. 629. TRANSFERS OF FUNDS FROM OTHER FEDERAL AGENCIES.

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

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

#### SEC. 630. MANAGEMENT ADVISORY COUNCIL.

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

“(p) MANAGEMENT ADVISORY COUNCIL.—

“(1) ESTABLISHMENT.—Within 3 months after the date of enactment of the Air Traffic Management System Performance Improvement Act of 1996, the Administrator shall establish an advisory council which shall be known as the Federal Aviation Management Advisory Council (in this subsection referred to as the ‘Council’). With respect to Administration management, policy, spending, funding, and regulatory matters affecting the aviation industry, the Council may submit comments, recommended modifications, and dissenting views to the Administrator. The Administrator shall include in any submission to Congress, the Secretary, or the general public, and in any submission for publication in the Federal Register, a description of the comments, recommended modifications, and dissenting views received from the Council, together with the reasons for any differences between the views of the Council and the views or actions of the Administrator.

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

“(A) a designee of the Secretary of Transportation;

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

“(C) 13 members representing aviation interests, appointed by the President by and with the advice and consent of the Senate.

“(3) QUALIFICATIONS.—No member appointed under paragraph (2)(C) may serve as

an officer or employee of the United States Government while serving as a member of the Council.

“(4) FUNCTIONS.—

“(A) IN GENERAL.—(i) The Council shall provide advice and counsel to the Administrator on issues which affect or are affected by the operations of the Administrator. The Council shall function as an oversight resource for management, policy, spending, and regulatory matters under the jurisdiction of the Administration.

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

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

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

“(C) ACCESS TO DOCUMENTS AND STAFF.—The Administration may give the Council appropriate access to relevant documents and personnel of the Administration, and the Administrator shall make available, consistent with the authority to withhold commercial and other proprietary information under section 552 of title 5 (commonly known as the ‘Freedom of Information Act’), cost data associated with the acquisition and operation of air traffic service systems. Any member of the Council who receives commercial or other proprietary data from the Administrator shall be subject to the provisions of section 1905 of title 18, pertaining to unauthorized disclosure of such information.

“(5) FEDERAL ADVISORY COMMITTEE ACT NOT TO APPLY.—The Federal Advisory Committee Act (5 U.S.C. App.) does not apply to the Council or such aviation rulemaking committees as the Administrator shall designate.

“(6) ADMINISTRATIVE MATTERS.—

“(A) TERMS OF MEMBERS.—(i) Except as provided in subparagraph (B), members of the Council appointed by the President under paragraph (2)(C) shall be appointed for a term of 3 years.

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

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

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

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

“(iii) An individual chosen to fill a vacancy shall be appointed for the unexpired term of the member replaced.

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

“(B) CHAIRMAN; VICE CHAIRMAN.—The Council shall elect a chair and a vice chair from among the members appointed under paragraph (2)(C), each of whom shall serve for a term of 1 year. The vice chair shall perform the duties of the chairman in the absence of the chairman.

“(C) TRAVEL AND PER DIEM.—Each member of the Council shall be paid actual travel expenses, and per diem in lieu of subsistence expenses when away from his or her usual place of residence, in accordance with section 5703 of title 5.

“(D) DETAIL OF PERSONNEL FROM THE ADMINISTRATION.—The Administrator shall make available to the Council such staff, information, and administrative services and assistance as may reasonably be required to enable the Council to carry out its responsibilities under this subsection.

“(7) REPORT TO CONGRESS.—The Council, in conjunction with the Administration, shall

undertake a review of the overall condition of aviation safety in the United States and emerging trends in the safety of particular sections of the aviation industry. This shall include an examination of—

“(A) the extent to which the dual mission of the Administration to promote and regulate civil aviation may affect aviation safety and provide recommendations to Congress for any necessary changes the Council, in conjunction with Administration, deems appropriate; and

“(B) the adequacy of staffing and training resources for safety personnel of the Administration, including safety inspectors. The Council shall report to Congress within 180 days after the date of enactment of this Act on its findings and recommendations under this paragraph.

#### SEC. 631. AIRCRAFT ENGINE STANDARDS.

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

“(a) STANDARDS AND REGULATIONS.—(1) To relieve and protect the public health and welfare from aircraft noise, sonic boom, and aircraft engine emissions, the Administrator of the Federal Aviation Administration, as he deems necessary, shall prescribe—

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

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

“(C) emission standards applicable to the emission of any air pollutant from any class or classes of aircraft engines which, in the judgment of the Administrator, causes, or contributes to, air pollution which may reasonably be anticipated to endanger public health or welfare.”.

#### SEC. 632. RURAL AIR FARE STUDY.

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

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

(A) between—

(i) nonhub airports located in small communities; and

(ii) large hub airports; and

(B) between large hub airports;

(2) analyse—

(A) the extent to which passenger service that is provided from nonhub airports is provided on—

(i) regional commuter commercial air carriers; or

(ii) major air carriers;

(B) the type of aircraft employed in providing passenger service at nonhub airports; and

(C) whether there is competition among commercial air carriers with respect to the provision of air service to passengers from nonhub airports.

(b) FINDINGS.—The Secretary shall include in the report of the study conducted under subsection (a) findings concerning—

(1) whether passengers who use commercial air carriers to and from rural areas (as defined by the Secretary) pay a disproportionately greater price for that transportation than passengers who use commercial air carriers between urban areas (as defined by the Secretary);

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

(3) whether a relationship exists between higher air fares and competition among commercial air carriers for passengers traveling on jet aircraft from small communities (as defined by the Secretary) and, if such a relationship exists, the nature of that relationship;

(4) the number of small communities that have lost air service as a result of the deregulation of commercial air carriers with respect to air fares;

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

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

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

(8) **NONHUB AIRPORT.**—The term “nonhub airport” is defined in section 41731(a)(4) of such title.

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

#### **Subtitle B—Federal Aviation Administration Streamlining Programs**

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

Not later than April 1, 1999, the Administration shall employ outside experts to provide an independent evaluation of the effectiveness of its acquisition management system within 3 months after such date. The Administrator shall transmit a copy of the evaluation to the Committee on Commerce, Science, and Transportation of the Senate, and the Committee on Transportation and Infrastructure of the House of Representatives.

#### **SEC. 652. AIR TRAFFIC CONTROL MODERNIZATION REVIEWS.**

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

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

“(a) **REQUIRED TERMINATIONS OF ACQUISITIONS.**—The Administrator of the Federal Aviation Administration (hereinafter referred to in this section as the ‘Administrator’) shall terminate any program initiated after the date of enactment of the Air Traffic Management System Performance Improvement Act of 1996 and funded under the Facilities and Equipment account that—

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

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

“(3) is more than 50 percent behind schedule as determined in accordance with the schedule goal established for the program.

“(b) **AUTHORIZED TERMINATIONS OF ACQUISITIONS.**—The Administrator shall consider terminating, under the authority of subsection (a), any substantial acquisition that—

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

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

“(3) is more than 10 percent behind schedule as determined in accordance with the schedule goal established for the program.

“(c) **EXCEPTIONS AND REPORT.**—

“(1) **CONTINUANCE OF PROGRAM, ETC.**—Notwithstanding subsection (a), the Administrator may continue an acquisitions program required to be terminated under subsection (a) if the Administrator determines that termination would be inconsistent with the development or operation of the national air transportation system in a safe and efficient manner.

“(2) **DEPARTMENT OF DEFENSE.**—The Department of Defense shall have the same exemptions from acquisition laws as are waived by the Administrator under section 348(b) of Public Law 104-50 when engaged in

joint actions to improve or replenish the national air traffic control system. The Administration may require real property, goods, and services through the The Department of Defense, or other appropriate agencies, but is bound by the acquisition laws and regulations governing those cases.

“(3) **REPORT.**—If the Administrator makes a determination under paragraph (1), the Administrator shall transmit a copy of the determination, together with a statement of the basis for the determination, to the Committees on Appropriations of the Senate and the House of Representatives, the Committee on Commerce, Science, and Transportation of the Senate, and the Committee on Transportation and Infrastructure of the House of Representatives.”

#### **SEC. 653. FEDERAL AVIATION ADMINISTRATION PERSONNEL MANAGEMENT SYSTEM.**

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

##### **“§40122. Federal Aviation Administration personnel management system**

“(a) **IN GENERAL.**—

“(1) **CONSULTATION AND NEGOTIATION.**—In developing and making changes to the personnel management system initially implemented by the Administrator on April 1, 1996, the Administrator shall negotiate with the exclusive bargaining representatives of employees of the Administration certified under section 7111 of title 5 and consult with other employees of the Administration.

“(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 the Congress.

“(3) **COST SAVINGS AND PRODUCTIVITY GOALS.**—The Administration and the exclusive bargaining representatives of the employees shall use every reasonable effort to find cost savings and to increase productivity within each of the affected bargaining units.

“(4) **ANNUAL BUDGET DISCUSSIONS.**—The Administration and the exclusive bargaining representatives of the employees shall meet annually for the purpose of finding additional cost savings within the Administration’s annual budget as it applies to each of the affected bargaining units and throughout the agency.

“(b) **EXPERT EVALUATION.**—On the date that is 3 years after the personnel management system is implemented, the Administration shall employ outside experts to provide an independent evaluation of the effectiveness of the system within 3 months after such date. For this purpose, the Administrator may utilize the services of experts and consultants under section 3109 of title 5 without regard to the limitation imposed by the last sentence of section 3109(b) of such title, and may contract on a sole source basis, notwithstanding any other provision of law to the contrary.

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

“(d) **ETHICS.**—The Administration shall be subject to Executive Order No. 12674 and reg-

ulations and opinions promulgated by the Office of Government Ethics, including those set forth in section 3635 of title 5 of the Code of Federal Regulations.

“(e) **EMPLOYEE PROTECTIONS.**—Until July 1, 1999, basic wages (including locality pay) and operational differential pay provided employees of the Administration shall not be involuntarily adversely affected by reason of the enactment of this section, except for unacceptable performance or by reason of a reduction in force or reorganization or by agreement between the Administration and the affected employees’ exclusive bargaining representative.

“(f) **LABOR-MANAGEMENT AGREEMENTS.**—Except as otherwise provided by this title, all labor-management agreements covering employees of the Administration that are in effect on the effective date of the Air Traffic Management System Performance Improvement Act of 1996 shall remain in effect until their normal expiration date, unless the Administrator and the exclusive bargaining representation agree to the contrary.”

#### **SEC. 654. CONFORMING AMENDMENT.**

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

“40121. Air traffic control modernization reviews.

“40122. Federal Aviation Administration personnel management system.

“40123. Relationship to other laws.”

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

#### **SEC. 671. FINDINGS.**

The Congress finds the following:

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

(2) The Administration certifies aircraft, engines, propellers, and other manufactured parts.

(3) The Administration certifies more than 650 training schools for pilots and nonpilots, more than 4,858 repair stations, and more than 193 maintenance schools.

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

(5) The Administration certifies more than 6,000 medical examiners, each of whom is then qualified to medically certify the qualifications of pilots and nonpilots.

(6) The Administration certifies more than 470 airports, and provides a limited certification for another 205 airports. Other airports in the United States are also reviewed by the Administration.

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

(8) The Administration issues more than 655,000 pilot’s licenses and more than 560,000 nonpilot’s licenses (including mechanics).

(9) The Administration’s certification means that the product meets worldwide recognized standards of safety and reliability.

(10) The Administration’s certification means aviation-related equipment and services meet worldwide recognized standards.

(11) The Administration’s certification is recognized by governments and businesses throughout the world and as such may be a valuable element for any company desiring to sell aviation-related products throughout the world.

(12) The Administration’s certification may constitute a valuable license, franchise, privilege, or benefits for the holders.

(13) The Administration also is a major purchaser of computers, radars, and other systems needed to run the air traffic control system. The Administration’s design, acceptance, commissioning, or certification of such

equipment enables the private sector to market those products around the world, and as such confers a benefit on the manufacturer.

(14) The Administration provides extensive services to public use aircraft.

#### SEC. 672. PURPOSES.

The purposes of this title are—

(1) to provide a financial structure for the Administration so that it will be able to support the future growth in the national aviation and airport system;

(2) to review existing and alternative funding options, including incentive-based fees for services, and establish a program to improve air traffic management system performance and to establish appropriate levels of cost accountability for air traffic management services provided by the Administration;

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

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

(5) to consider a fee system based on the cost or value of the services provided and other funding alternatives;

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

(7) to achieve a more efficient and effective Administration for the benefit of the aviation transportation industry.

#### SEC. 673. USER FEES FOR VARIOUS FEDERAL AVIATION ADMINISTRATION SERVICES.

(1) IN GENERAL.—Chapter 453 is amended by striking section 45301 and inserting the following new section:

##### “§ 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.

“(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.

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

“(c) USE OF EXPERTS AND CONSULTANTS.—In developing the system, the Administrator may consult with such nongovernmental experts as the Administrator may employ and the Administrator may utilize the services of experts and consultants under section 3109 of title 5 without regard to the limitation imposed by the last sentence of section 3109(b) of such title, and may contract on a sole source basis, notwithstanding any other provision of law to the contrary. Notwithstanding any other provision of law to the contrary, the Administrator may retain such experts under a contract awarded on a basis other than a competitive basis and without

regard to any such provisions requiring competitive bidding or precluding sole source contract authority.”

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

“45301. General provisions.”

(c) REPEAL.—

(1) IN GENERAL.—Section 70118 is repealed.

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

#### SEC. 674. INDEPENDENT ASSESSMENT AND TASK FORCE TO REVIEW EXISTING AND INNOVATIVE FUNDING MECHANISMS.

(a) INDEPENDENT ASSESSMENT.—

(1) INITIATION.—As soon as all members of the task force are appointed under subsection (b) of this section, the Administrator shall contract with an entity independent of the Administration and the Department of Transportation to conduct a complete independent assessment of the financial requirements of the Administration through the year 2002.

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

(3) CERTAIN FACTORS TO BE TAKEN INTO ACCOUNT.—The independent assessment shall take into account all relevant factors, including—

- (A) anticipated air traffic forecasts;
- (B) other workload measures;
- (C) estimated productivity gains, if any, which contribute to budgetary requirements;
- (D) the need for programs; and
- (E) the need to provide for continued improvements in all facets of aviation safety, along with operational improvements in air traffic control.

(4) COST ALLOCATION.—The independent assessment shall also assess the costs to the Administration occasioned by the provision of services to each segment of the aviation system.

(5) DEADLINE.—The independent assessment shall be completed no later than 90 days after the contract is awarded, and shall be submitted to the task force, the Secretary, the Secretary of the Treasury, the Committee on Commerce, Science, and Transportation and the Committee on Finance of the Senate, and the Committee on Transportation and Infrastructure and the Committee on Ways and Means of the House of Representatives.

(b) TASK FORCE.—

(1) ESTABLISHMENT.—Not later than 30 days after the date of enactment of this Act, the Secretary, in consultation with the Secretary of the Treasury, shall establish an 11-member task force, independent of the Administration and the Department of Transportation.

(2) MEMBERSHIP.—The members of the task force shall be selected from among individuals who have expertise in the aviation industry and who are able, collectively, to represent a balance view of the issues important to general aviation, major air carriers, air cargo carriers, regional air carriers, business aviation, airports, aircraft manufacturers, the financial community, aviation industry workers, and airline passengers. At least one member of the task force shall have detailed knowledge of the congressional budgetary process.

(3) HEARINGS AND CONSULTATION.—

(a) HEARINGS.—The task force shall take such testimony and solicit and receive such comments from the public and other interested parties as it considers appropriate, shall conduct 2 public hearings after affording adequate notice to the public thereof, and is authorized to conduct such additional hearings as may be necessary.

(b) CONSULTATION.—The task force shall consult on a regular and frequent basis with the Secretary of Transportation, the Secretary of the Treasury, the Committee on Commerce, Science, and Transportation and the Committee on Finance of the Senate, and the Committee on Transportation and Infrastructure and the Committee on Ways and Means of the House of Representatives.

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

(4) DUTIES.—

(A) REPORT TO SECRETARY.—

(i) IN GENERAL.—The task force shall submit a report setting forth a comprehensive analysis of the Administration's budgetary requirements through fiscal year 2002, based upon the independent assessment under subsection (a), that analyzes alternative financing and funding means for meeting the needs of the aviation system through the year 2002. The task force shall submit a preliminary report of that analysis to the Secretary not later than 6 months after the independent assessment is completed under subsection (a). The Secretary shall provide comments on the preliminary report to the task force within 30 days after receiving it. The task force shall issue a final report of such comprehensive analysis within 30 days after receiving the Secretary's comments on its preliminary report.

(i) CONTENTS.—The report submitted by the task force under clause (i)—

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

(II) shall consider estimated cost savings, if any, resulting from the procurement and personnel reforms included in this Act or in sections 347 and 348 of Public Law 104-50, and additional financial initiatives;

(III) shall include specific recommendations to the Congress on how the Administration can reduce costs, raise additional revenue for the support of agency operations, and accelerate modernization efforts; and

(IV) shall include a draft bill containing the changes in law necessary to implement its recommendations.

(B) RECOMMENDATIONS.—The task force shall make such recommendations under subparagraph (A)(III) as the task force deems appropriate. Those recommendations may include—

(i) alternative financing and funding proposals, including linked financing proposals;

(ii) modifications to existing levels of Airports and Airways Trust Fund receipts and taxes for each type of tax;

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

(iv) methods to ensure that funds collected from the aviation community are able to meet the needs of the agency;

(v) methods to ensure that funds collected from the aviation community and passengers are used to support the aviation system;

(vi) means of meeting the airport infrastructure needs for large, medium, and small airports; and

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

(C) **ADDITIONAL RECOMMENDATIONS.**—The task force report may also make recommendations concerning—

(i) means of improving productivity by expanding and accelerating the use of automation and other technology;

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

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

(iv) the elimination of unneeded programs; and

(v) a limited innovative program based on funding mechanisms such as loan guarantees, financial partnerships with for-profit private sector entities, government-sponsored enterprises, and revolving loan funds, as a means of funding specific facilities and equipment projects, and to provide limited additional funding alternatives for airport capacity development.

(D) **IMPACT ASSESSMENT FOR RECOMMENDATIONS.**—For each recommendation contained in the task force's report, the report shall include a full analysis and assessment of the impact implementation of the recommendation would have on—

(i) safety;

(ii) administrative costs;

(iii) the congressional budget process;

(iv) the economics of the industry (including the proportionate share of all users);

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

(vi) the funding needs of the Administration.

(E) **TRUST FUND TAX RECOMMENDATIONS.**—If the task force's report includes a recommendation that the existing Airport and Airways Trust Fund tax structure be modified, the report shall—

(i) state the specific rates for each group affected by the proposed modifications;

(ii) consider the impact such modifications shall have on specific users and the public (including passengers); and

(iii) state the basis for the recommendations.

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

(i) the impact such a recommendation would have on passengers, air fares (including low-fare, high frequency service), service, and competition;

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

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

(iv) the unique circumstances associated with interisland air carrier service in Hawaii and rural air service in Alaska;

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

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

(vii) alternative methodologies for calculating fees so as to achieve a fair and reasonable distribution of costs of service among users;

(viii) the usefulness of phased-in approaches to implementing such a financing system;

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

(x) the provision of incentives to encourage greater efficiency in the provision of air traffic services by the Administration and greater efficiency in the use of air traffic services by aircraft operators.

(G) **ACCESS TO DOCUMENTS AND STAFF.**—The Administration may give the task force appropriate access to relevant documents and personnel of the Administration, and the Administrator shall make available, consistent with the authority to withhold commercial and other proprietary information under section 552 of title 5, United States Code (commonly known as the 'Freedom of Information Act') cost data associated with the acquisition and operation of air traffic service systems. Any member of the task force who receives commercial or other proprietary data from the Administrator shall be subject to the provisions of section 1905 of title 18, United States Code, pertaining to unauthorized disclosure of such information.

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

(I) **DETAIL OF PERSONNEL FROM THE ADMINISTRATION.**—The Administrator shall make available to the task force such staff, information, and administrative services and assistance as may reasonably be required to enable the task force to carry out its responsibilities under this subsection.

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

(K) **REPORT BY SECRETARY TO CONGRESS.**—

(1) **CONSIDERATION OF TASK FORCE'S PRELIMINARY REPORT.**—Within 30 days after receiving the preliminary report of the task force under subsection (b), the Secretary, in consultation with the Secretary of the Treasury, shall furnish comments on that report to the task force.

(2) **SECRETARY'S REPORT TO CONGRESS.**—Within 30 days after receiving the final report of the task force and in no event more than 1 year after the date of enactment of this Act, the Secretary, after consulting the Secretary of the Treasury, shall submit a report, based upon the final report of the task force, containing the Secretary's recommendations for funding the needs of the aviation system through the year 2002 to the Committee on Commerce, Science, and Transportation and the Committee on Finance of the Senate and the Committee on Transportation and Infrastructure and the Committee on Ways and Means of the House of Representatives.

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

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

(B) a draft bill containing the changes in law necessary to implement the Secretary's recommendations.

(4) **PUBLICATION.**—The Secretary shall cause a copy of the reports to be printed in the Federal Register upon their submission to Congress.

(d) **GAO AUDIT OF COST ALLOCATION.**—The Comptroller General shall conduct an assessment of the manner in which costs for air traffic control services are allocated between the Administration and the Department of Defense. The Comptroller General shall report the results of the assessment, together with any recommendations the Comptroller General may have for reallocation of costs and for opportunities to increase the efficiency of air traffic control services provided by the Administration and by the Department of Defense, to the task force, the Administrator, the Secretary of Defense, the Committee on Transportation and Infrastructure of the House of Representatives, and the Committee on Commerce, Science, and Transportation of the Senate not later

than 120 days after the date of enactment of this Act.

## SEC. 675. PROCEDURE FOR CONSIDERATION OF CERTAIN FUNDING PROPOSALS.

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

### "§ 48111. Funding proposals

"(a) **INTRODUCTION AND REFERRAL.**—Within 15 days (not counting any day on which either House is not in session) after a funding proposal is submitted to the House of Representatives and the Senate by the Secretary of Transportation under section 674(c) of the Air Traffic Management System Performance Improvement Act of 1996, an implementing bill with respect to such funding proposed shall be introduced in the House by the Majority Leader of the House, for himself and the Minority Leader of the House, or by Members of the House designated by the Majority Leader and Minority Leader of the House; and shall be introduced in the Senate by the Majority Leader of the Senate, for himself and the Minority Leader of the Senate, or by Members of the Senate designated by the Majority Leader and Minority Leader of the Senate. The implementing bill shall be referred by the Presiding Officers of the respective Houses to the appropriate committee, or, in the case of a bill containing provisions within the jurisdiction of two or more committees, jointly to such committees for consideration of those provisions within their respective jurisdictions.

"(b) **CONSIDERATION IN THE HOUSE OF REPRESENTATIVES.**—

"(1) **REFERRAL AND REPORTING.**—Any committee of the House of Representatives to which an implementing bill is referred shall report it, with or without recommendation, not later than the 45th calendar day of session after the date of its introduction. If any committee fails to report the bill within that period, it is in order to move that the House discharge the committee from further consideration of the bill. A motion to discharge may be made only by a Member favoring the bill (but only at a time or place designated by the Speaker in the legislative schedule of the day after the calendar day on which the Member offering the motion announces to the House his intention to do so and the form of the motion). The motion is highly privileged. Debate thereon shall be limited to not more than one hour, the time to be divided in the House equally between a proponent and an opponent. The previous question shall be considered as ordered on the motion to its adoption without intervening motion. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order.

"(2) **CONSIDERATION OF IMPLEMENTING BILL.**—After an implementing bill is reported or a committee has been discharged from further consideration, it is in order to move that the House resolve into the Committee of the Whole House on the State of the Union for consideration of the bill. If reported and the report has been available for at least one calendar day, all points of order against the bill and against consideration of the bill are waived. If discharged, all points of order against the bill and against consideration of the bill are waived. The motion is highly privileged. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order. During consideration of the bill in the Committee of the Whole, the first reading of the bill shall be dispensed with. General debate shall proceed, shall be confined to the bill, and shall not exceed one hour equally divided and controlled by a proponent and an opponent of the bill. The bill shall be considered as read for amendment under the five-minute rule. Only one motion to rise shall be in order, except

if offered by the manager. No amendment to the bill is in order except an amendment that is relevant to aviation funding and the Federal Aviation Administration. Consideration of the bill for amendment shall not exceed one hour excluding time for recorded votes and quorum calls. No amendment shall be subject to further amendment, except pro forma amendments for the purposes of debate only. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion. A motion to reconsider the vote on passage of the bill shall not be in order.

“(3) APPEALS OF RULINGS.—Appeals from decision of the Chair regarding application of the rules of the House of Representatives to the procedure relating to an implementing bill shall be decided without debate.

“(4) CONSIDERATION OF MORE THAN ONE IMPLEMENTING BILL.—It shall not be in order to consider under this subsection more than one implementing bill under this section, except for consideration of a similar Senate bill (unless the House has already rejected an implementing bill) or more than one motion to discharge described in paragraph (1) with respect to an implementing bill.

“(c) CONSIDERATION IN THE SENATE.—

“(1) REFERRAL AND REPORTING.—An implementing bill introduced in the Senate shall be referred to the appropriate committee or committees. A committee to which an implementing bill has been referred shall report the bill not later than the 45th day of session following the date of introduction of that bill. If any committee fails to report the bill within that period, then it shall be in order to move to discharge the committee from further consideration of the bill under rule 17.4 of the Standing Rules of the Senate, and the bill shall be placed on the Calendar. A motion to discharge the committee from further consideration of an implementing bill under this paragraph shall not be debatable. It shall not be in order to move to reconsider the vote by which the motion to discharge was adopted or rejected, although subsequent motions to discharge may be made under this paragraph.

“(2) IMPLEMENTING BILL FROM HOUSE.—When the Senate receives from the House of Representatives an implementing bill, the bill shall not be referred to committee and shall be placed on the Calendar.

“(3) CONSIDERATION OF SINGLE IMPLEMENTING BILL.—After the Senate has proceeded to the consideration of an implementing bill under this subsection, then no other implementing bill originating in that same House shall be subject to the procedures set forth in this subsection.

“(4) AMENDMENTS.—No amendment to the bill is in order except an amendment that is relevant to aviation funding and the Federal Aviation Administration. Consideration of the bill for amendment shall not exceed one hour excluding time for recorded votes and quorum calls. No amendment shall be subject to further amendment, except for perfecting amendments.

“(5) MOTION NONDEBATABLE.—A motion to proceed to consideration of an implementing bill under this subsection shall not be debatable. It shall not be in order to move to reconsider the vote by which the motion to proceed was adopted or rejected, although subsequent motions to proceed may be made under this paragraph.

“(6) LIMIT ON CONSIDERATION.—

“(A) After no more than 20 hours of consideration of an implementing bill, the Senate shall proceed, without intervening action or

debate (except as permitted under paragraph (9)), to vote on the final disposition thereof to the exclusion of all amendments not then pending and to the exclusion of all motions, except a motion to reconsider or table.

“(B) The time for debate on the implementing bill shall be equally divided between the Majority Leader and the Minority Leader or their designees.

“(7) DEBATE OF AMENDMENTS.—Debate on any amendment to an implementing bill shall be limited to one hour, equally divided and controlled by the Senator proposing the amendment and the majority manager, unless the majority manager is in favor of the amendment, in which case the minority manager shall be in control of the time in opposition.

“(8) NO MOTION TO RECOMMIT.—A motion to recommit an implementing bill shall not be in order.

“(9) DISPOSITION OF SENATE BILL.—If the Senate has read for the third time an implementing bill that originated in the Senate, then it shall be in order at any time thereafter to move to proceed to the consideration of an implementing bill for the same special message received from the House of Representatives and placed on the Calendar pursuant to paragraph (2), strike all after the enacting clause, substitute the text of the Senate implementing bill, agree to the Senate amendment, and vote on final disposition of the House implementing bill, all without any intervening action or debate.

“(10) CONSIDERATION OF HOUSE MESSAGE.—Consideration in the Senate of all motions, amendments, or appeals necessary to dispose of a message from the House of Representatives on an implementing bill shall be limited to not more than 4 hours. Debate on each motion or amendment shall be limited to 30 minutes. Debate on any appeal or point of order that is submitted in connection with the disposition of the House message shall be limited to 20 minutes. Any time for debate shall be equally divided and controlled by the proponent and the majority manager, unless the majority manager is a proponent of the motion, amendment, appeal, or point of order, in which case the minority manager shall be in control of the time in opposition.

“(d) CONSIDERATION IN CONFERENCE.—

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

“(2) HOUSE CONSIDERATION.—Notwithstanding any other rule of the House of Representatives, it shall be in order to consider the report of a committee of conference relating to an implementing bill if such report has been available for one calendar day (excluding Saturdays, Sundays, and legal holidays, unless the House is in session on such a day) and the accompanying statement shall have been filed in the House.

“(3) SENATE CONSIDERATION.—Consideration in the Senate of the conference report and any amendments in disagreement on an implementing bill shall be limited to not more than 4 hours equally divided and controlled by the Majority Leader and the Minority Leader or their designees. A motion to recommit the conference report is not in order.

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

“(1) IMPLEMENTING BILL.—The term ‘implementing bill’ means only a bill of either House of Congress which is introduced as provided in subsection (a) with respect to one or more Federal Aviation Administration funding proposals which contain changes in existing laws or new statutory authority required to implement such funding proposal or proposals.

“(2) FUNDING PROPOSAL.—The term ‘funding proposal’ means a proposal to provide interim or permanent funding for operations of the Federal Aviation Administration.

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

“(1) as an exercise of the rulemaking power of the House of Representatives and the Senate, respectively, and as such they are deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of implementing bills described in subsection (d); and they supersede other rules only to the extent that they are inconsistent therewith; and

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

(b) CLERICAL AMENDMENT.—The table of sections for chapter 481 is amended by adding at the end thereof the following:

“48111. Funding proposals.”.

#### SEC. 676. ADMINISTRATIVE PROVISIONS.

(a) IN GENERAL.—Chapter 453, as amended by section 654 of this title, is further amended by—

(1) redesignating section 45303 as section 45304; and

(2) by inserting after section 45302 the following:

#### “§ 45303. Administrative provisions

“(a) IN GENERAL.—

“(1) FEES PAYABLE TO ADMINISTRATOR.—All fees imposed and amounts collected under this chapter for services performed, or materials furnished, by the Federal Aviation Administration (hereafter in this section referred to as ‘Administration’) are payable to the Administrator.

“(2) REFUNDS.—The Administrator may refund any fee paid by mistake or any amount paid in excess of that required.

“(3) RECEIPTS CREDITED TO ACCOUNT.—Notwithstanding section 3302 of title 31 all fees and amounts collected by the Administration, except insurance premiums and other fees charged for the provision of insurance and deposited in the Aviation Insurance Revolving Fund and interest earned on investments of such Fund, and except amounts which on the date of enactment of the Air Traffic Management System Performance Improvement Act of 1996 are required to be credited to the general fund of the Treasury (whether imposed under this section or not)—

“(A) shall be credited to a separate account established in the Treasury and made available for Administration activities as offsetting collections;

“(B) shall be available immediately for expenditure but only for congressionally authorized and intended purposes; and

“(C) shall remain available until expended.

“(4) ANNUAL BUDGET REPORT BY ADMINISTRATOR.—The Administrator shall, on the same day each year as the President submits the annual budget to the Congress, provide to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives—

“(A) a list of fee collections by the Administration during the preceding fiscal year;

“(B) a list of activities by the Administration during the preceding fiscal year that were supported by fee expenditures and appropriations;

“(C) budget plans for significant programs, projects, and activities of the Administration, including out-year funding estimates;

“(D) any proposed disposition of surplus fees by the Administration; and



“(E) such other information as those committees consider necessary.

“(5) DEVELOPMENT OF COST ACCOUNTING SYSTEM.—The Administration shall develop a cost accounting system that adequately and accurately reflects the investments, operating and overhead costs, revenues, and other financial measurement and reporting aspects of its operations.

“(6) COMPENSATION TO CARRIERS FOR ACTING AS COLLECTION AGENTS.—The Administration shall prescribe regulations to ensure that any air carrier required, pursuant to the Air Traffic Management System Performance Improvement Act of 1996 or any amendments made by that Act, to collect a fee imposed on another party by the Administrator may collect from such other party an additional uniform amount that the Administrator determines reflects the necessary and reasonable expenses (net of interest accruing to the carrier after collection and before remittance) incurred in collecting and handling the fee.

“(7) COST REDUCTION AND EFFICIENCY REPORT.—Prior to the submission of any proposal for establishment, implementation, or expansion of any fees or taxes imposed on the aviation industry, the Administrator shall prepare a report for submission to the Congress which includes—

“(A) a justification of the need for the proposed fees or taxes;

“(B) a statement of steps taken by the Administrator to reduce costs and improve efficiency within the Administration;

“(C) an analysis of the impact of any fee or tax increase on each sector of the aviation transportation industry; and

“(D) a comparative analysis of any decrease in tax amounts equal to the receipts from which are credited to the Airport and Airway Trust Fund established under section 9502 of the Internal Revenue Code of 1986.”.

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 453 is amended by striking the item relating to section 45303 and inserting the following:

“45303. Administrative provisions.

“45304. Maximum fees for private person services.”.

#### SEC. 677. ADVANCE APPROPRIATIONS FOR AIRPORT AND AIRWAY TRUST FUND ACTIVITIES.

(a) IN GENERAL.—Part C of subtitle VII is amended by adding at the end the following new chapter:

“CHAPTER 482—ADVANCE APPROPRIATIONS FOR AIRPORT AND AIRWAY TRUST FACILITIES

“Sec.

“48201. Advance appropriations.

#### “§ 48201. Advance appropriations

“(a) MULTIYEAR AUTHORIZATIONS.—Beginning with fiscal year 1998, any authorization of appropriations for an activity for which amounts are to be appropriated from the Airport and Airway Trust Fund established under section 9502 of the Internal Revenue Code of 1986 shall provide funds for a period of not less than 3 fiscal years unless the activity for which appropriations are authorized is to be concluded before the end of that period.

“(b) MULTIYEAR APPROPRIATIONS.—Beginning with fiscal year 1998, amounts appropriated from the Airport and Airway Trust Fund shall be appropriated for periods of 3 fiscal years rather than annually.”.

(c) CONFORMING AMENDMENT.—The analysis for subtitle VIII is amended by adding at the end the following new item:

“482. Advance appropriations for airport and airway trust facilities ..... 48201.”.

#### SEC. 678. RURAL AIR SERVICE SURVIVAL ACT.

(a) SHORT TITLE.—This section may be cited as the “Rural Air Service Survival Act”.

(b) FINDINGS.—The Congress finds that—

(1) air service in rural areas is essential to a national transportation network;

(2) the rural air service infrastructure supports the safe operation of all air travel;

(3) rural air service creates economic benefits for all air carriers by making the national aviation system available to passengers from rural areas;

(4) rural air service has suffered since deregulation;

(5) the essential air service program under the Department of Transportation—

(A) provides essential airline access to rural and isolated rural communities throughout the Nation;

(B) is necessary for the economic growth and development of rural communities;

(C) is a critical component of the national transportation system of the United States; and

(D) has endured serious funding cuts in recent years; and

(6) a reliable source of funding must be established to maintain air service in rural areas and the essential air service program.

(c) ESSENTIAL AIR SERVICE AUTHORIZATION.—Section 41742 is amended to read as follows:

#### “§ 41742. Essential air service authorization

“(a) IN GENERAL.—Out of the amounts received by the Administration credited to the account established under section 45303(a)(3) or otherwise provided to the Administration, the sum of \$50,000,000 is authorized and shall be made available immediately for obligation and expenditure to carry out the essential air service program under this subchapter for each fiscal year.

“(b) FUNDING FOR SMALL COMMUNITY AIR SERVICE.—Notwithstanding any other provision of law, moneys credited to the account established under section 45303(a), including the funds derived from fees imposed under the authority contained in section 45301(a), shall be used to carry out the essential air service program under this subchapter. Notwithstanding section 47114(g) of this title, any amounts from those fees that are not obligated or expended at the end of the fiscal year for the purpose of funding the essential air service program under this subchapter shall be made available to the Administration for use in improving rural air safety under subchapter I of chapter 471 of this title and shall be used exclusively for projects at rural airports under this subchapter.”.

(d) CONFORMING AMENDMENT.—The chapter analysis for chapter 417 is amended by striking the item relating to section 41742 and inserting the following:

“41742. Essential air service authorization.”.

(e) SECRETARY MAY REQUIRE MATCHING LOCAL FUNDS.—Section 41737 is amended by adding at the end thereof the following:

“(e) MATCHING FUNDS.—No earlier than 2 years after the effective date of section 679 of the Air Traffic Management System Performance Improvement Act of 1996, the Secretary may require an eligible agency, as defined in section 40117(a)(2) of this title, to provide matching funds of up to 10 percent for any payments it receives under this subchapter.”.

(f) TRANSFER OF ESSENTIAL AIR SERVICE PROGRAM TO FAA.—The responsibility for administration of subchapter II of chapter 417 is transferred from the Secretary of Transportation to the Administrator.

#### TITLE VII—PILOT RECORDS

##### SEC. 701. SHORT TITLE.

This title may be cited as the “Pilot Records Improvement Act of 1996”.

##### SEC. 702. EMPLOYMENT INVESTIGATIONS OF PILOT APPLICANTS.

(a) IN GENERAL.—Section 44936 is amended by adding at the end the following new subsection:

“(f) RECORDS OF EMPLOYMENT OF PILOT APPLICANTS.—

“(1) IN GENERAL.—Before hiring an individual as a pilot, an air carrier shall request and receive the following information:

“(A) FAA RECORDS.—From the Administrator of the Federal Aviation Administration (hereafter in this subsection referred to as the ‘Administrator’), records pertaining to the individual that are maintained by the Administrator concerning—

“(i) current airman certificates (including airman medical certificates) and associated type ratings, including any limitations to those certificates and ratings; and

“(ii) summaries of legal enforcement actions resulting in a finding by the Administrator of a violation of this title or a regulation prescribed or order issued under this title that was not subsequently overturned.

“(B) AIR CARRIER AND OTHER RECORDS.—From any air carrier or other person that has employed the individual 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) records pertaining to the individual that are maintained by an air carrier under regulations set forth in—

“(I) section 121.683 of title 14, Code of Federal Regulations;

“(II) paragraph (A) of section VI, appendix I, part 121 of such title;

“(III) paragraph (A) of section IV, appendix J, part 121 of such title;

“(IV) section 125.401 of such title; and

“(V) section 135.63(a)(4) of such title; and

“(ii) other records pertaining to the individual that are maintained by the air carrier or person concerning—

“(I) the training, qualifications, proficiency, or professional competence of the individual, including comments and evaluations made by a check airman designated in accordance with section 121.411, 125.295, or 135.337 of such title;

“(II) any disciplinary action taken with respect to the individual that was not subsequently overturned; and

“(III) any release from employment or resignation, termination, or disqualification with respect to employment.

“(C) NATIONAL DRIVER REGISTER RECORDS.—In accordance with section 30305(b)(7), from the chief driver licensing official of a State, information concerning the motor vehicle driving record of the individual.

“(2) WRITTEN CONSENT; RELEASE FROM LIABILITY.—An air carrier making a request for records under paragraph (1)—

“(A) shall be required to obtain written consent to the release of those records from the individual that is the subject of the records requested; and

“(B) may, notwithstanding any other provision of law or agreement to the contrary, require the individual who is the subject of the records to request to execute a release from liability for any claim arising from the furnishing of such records to or the use of such records by such air carrier (other than a claim arising from furnishing information known to be false and maintained in violation of a criminal statute).

“(3) 5-YEAR REPORTING PERIOD.—A person shall not furnish a record in response to a request made under paragraph (1) if the record was entered more than 5 years before the date of the request, unless the information concerns a revocation or suspension of an airman certificate or motor vehicle license that is in effect on the date of the request.

“(4) REQUIREMENT TO MAINTAIN RECORDS.—The Administrator shall maintain pilot records described in paragraph (1)(A) for a period of at least 5 years.

“(5) RECIPT OF CONSENT; PROVISION OF INFORMATION.—A person shall not furnish a

record in response to a request made under paragraph (1) without first obtaining a copy of the written consent of the individual who is the subject of the records requested. A person who receives a request for records under this paragraph shall furnish a copy of all of such requested records maintained by the person not later than 30 days after receiving the request.

“(6) RIGHT TO RECEIVE NOTICE AND COPY OF ANY RECORD FURNISHED.—A person who receives a request for records under paragraph (1) shall provide to the individual who is the subject of the records—

“(A) written notice of the request and of the right of that individual to receive a copy of such records; and

“(B) a copy of such records, if requested by the individual.

“(7) REASONABLE CHARGES FOR PROCESSING REQUESTS AND FURNISHING COPIES.—A person who receives a request under paragraph (1) or (6) may establish a reasonable charge for the cost of processing the request and furnishing copies of the requested records.

“(8) STANDARD FORMS.—The Administrator shall promulgate—

“(A) standard forms that may be used by an air carrier to request records under paragraph (1); and

“(B) standard forms that may be used by an air carrier to—

“(i) obtain the written consent of the individual who is the subject of a request under paragraph (1); and

“(ii) inform the individual of—

“(I) the request; and

“(II) the individual right of that individual to receive a copy of any records furnished in response to the request.

“(9) RIGHT TO CORRECT INACCURACIES.—An air carrier that maintains or requests and receives the records of an individual under paragraph (1) shall provide the individual with a reasonable opportunity to submit written comments to correct any inaccuracies contained in the records before making a final hiring decision with respect to the individual.

“(10) RIGHT OF PILOT TO REVIEW CERTAIN RECORDS.—Notwithstanding any other provision of law or agreement, an air carrier shall, upon written request from a pilot employed by such carrier, make available, within a reasonable time of the request, to the pilot for review, any and all employment records referred to in paragraph (1)(B) (i) or (ii) pertaining to the employment of the pilot.

“(11) PRIVACY PROTECTIONS.—An air carrier that receives the records of an individual under paragraph (1) may use such records only to assess the qualifications of the individual in deciding whether or not to hire the individual as a pilot. The air carrier shall take such actions as may be necessary to protect the privacy of the pilot and the confidentiality of the records, including ensuring that information contained in the records is not divulged to any individual that is not directly involved in the hiring decision.

“(12) PERIODIC REVIEW.—Not later than 18 months after the date of enactment of the Pilot Records Improvement Act of 1996, and at least once every 3 years thereafter, the Administrator shall transmit to the Congress a statement that contains, taking into account recent developments in the aviation industry—

“(A) recommendations by the Administrator concerning proposed changes to Federal Aviation Administration records, air carrier records, and other records required to be furnished under subparagraphs (A) and (B) of paragraph (1); or

“(B) reasons why the Administrator does not recommend any proposed changes to the records referred to in subparagraph (A).

“(13) REGULATIONS.—The Administrator may prescribe such regulations as may be necessary—

“(A) to protect—

“(i) the personal privacy of any individual whose records are requested under paragraph (1); and

“(ii) the confidentiality of those records;

“(B) to preclude the further dissemination of records received under paragraph (1) by the person who requested those records; and

“(C) to ensure prompt compliance with any request made under paragraph (1).

“(g) LIMITATION ON LIABILITY; PREEMPTION OF STATE LAW.—

“(1) LIMITATION ON LIABILITY.—No action or proceeding may be brought by or on behalf of an individual who has applied for or is seeking a position with an air carrier as a pilot and who has signed a release from liability, as provided for under paragraph (2), against—

“(A) the air carrier requesting the records of that individual under subsection (a)(1);

“(B) a person who has complied with such request; or

“(C) an agent or employee of a person described in subparagraph (A) or (B);

in the nature of an action for defamation, invasion of privacy, negligence, interference with contract, or otherwise, or under any Federal or State law with respect to the furnishing or use of such records in accordance with subsection (a).

“(2) PREEMPTION.—No State or political subdivision thereof may enact, prescribe, issue, continue in effect, or enforce any law (including any regulation, standard, or other provision having the force and effect of law) that prohibits, penalizes, or imposes liability for furnishing or using records in accordance with subsection (a).

“(3) PROVISION OF KNOWINGLY FALSE INFORMATION.—Paragraph (1) and (2) shall not apply with respect to a person who furnishes information in response to a request made under subsection (f)(1), that—

“(A) the person knows is false; and

“(B) was maintained in violation of a criminal statute of the United States.”.

(b) CONFORMING AMENDMENT.—Section 30305(b) is amended—

(1) by redesignating paragraph (7) as paragraph (8); and

(2) by inserting after paragraph (6) the following;

“(7) An individual who is seeking employment by an air carrier as a pilot may request the chief driver licensing official of a State to provide information about the individual under paragraph (2) to the prospective employer of the individual or to the Secretary of Transportation. Information may not be obtained from the National Driver Register under this subsection if the information was entered in the Register more than 5 years before the request unless the information is about a revocation or suspension still in effect on the date of the request.”.

(c) APPLICABILITY.—The amendments made by this section shall apply to any air carrier hiring an individual as a pilot whose application was first received by the carrier on or after the 120th day after the date of enactment of this Act.

#### SEC. 703. STUDY OF MINIMUM STANDARDS FOR PILOT QUALIFICATIONS.

The Administrator shall appoint a task force consisting of appropriate representatives of the aviation industry to conduct a study directed toward the development of—

(1) standards and criteria for preemployment screening tests measuring the psychomotor coordination, general intellectual capacity, instrument and mechanical comprehension, and physical and mental fitness of an applicant for employment as a pilot by an air carrier; and

(2) standards and criteria for pilot training facilities to be licensed by the Administrator and which will assure that pilots trained at such facilities meet the preemployment screening standards and criteria described in paragraph (1).

#### TITLE VIII—ABOLITION OF BOARD OF REVIEW

##### SEC. 801. ABOLITION OF BOARD OF REVIEW AND RELATED AUTHORITY.

(a) ABOLITION OF BOARD OF REVIEW.—Section 6007 of the Metropolitan Washington Airports Act of 1986 (formerly 49 U.S.C. App. 2456) is amended—

(1) by striking subsections (f) and (h);

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

(3) by redesignating subsection (i) as subsection (g).

(b) CONFORMING AMENDMENTS.—

(1) RELATIONSHIP TO AND EFFECT OF OTHER LAWS.—Section 6009(b) of the Metropolitan Washington Airports Act of 1986 (formerly 49 U.S.C. App. 2458(b)) is amended by striking “or by reason of the authority” and all that follows through the end of the subsection and inserting a period.

(2) SEPARABILITY.—Section 6011 of the Metropolitan Washington Airports Act of 1986 (formerly 49 U.S.C. App. 2460) is amended by striking “Except as provided in section 6007(h), if” and inserting “If”.

(c) PROTECTION OF CERTAIN ACTIONS.—Any action taken by the Airports Authority and submitted to the Board of Review pursuant to section 6007(f)(4) of the Metropolitan Washington Airports Act of 1986 before April 1, 1995, shall remain in effect and shall not be set aside solely by reason of a judicial order invalidating certain functions of the Board.

##### SEC. 802. SENSE OF THE SENATE.

It is the sense of the Senate that the Airports Authority—

(1) should not provide any reserved parking areas free of charge to Members of Congress, other Government officials, or diplomats at Washington National Airport or Washington Dulles International Airport; and

(2) should establish a parking policy for such airports that provides equal access to the public, and does not provide preferential parking privileges to Members of Congress, other Government officials, or diplomats.

##### SEC. 803. CONFORMING AMENDMENTS IN OTHER LAW.

Any reference in any Federal law, Executive order, rule, regulation, or delegation of authority to the Board of Review or the provisions of law repealed under this title is hereby repealed.

##### SEC. 804. DEFINITIONS.

For purposes of this title—

(1) the terms “Airports Authority”, “Washington National Airport”, and “Washington Dulles International Airport” have the same meanings as in section 6004 of the Metropolitan Washington Airports Act of 1986; and

(2) the term “Board of Review” means the Board of Review of the Airports Authority.

##### SEC. 805. INCREASE IN NUMBER OF PRESIDENTIALLY APPOINTED MEMBERS OF BOARD.

(a) IN GENERAL.—Section 6007(e) of the Metropolitan Washington Airports Act of 1986 (formerly 49 U.S.C. 2456(e)) is amended—

(1) by striking “11 members,” in paragraph (1) and inserting “13 members.”;

(2) by striking “one member” in paragraph (1)(D) and inserting “3 members”; and

(3) by striking “Seven” in paragraph (5) and inserting “Eight”.

(b) STAGGERING TERMS FOR PRESIDENTIAL APPOINTEES.—Of the members first appointed by the President after the date of enactment of this Act—

(1) one shall be appointed for a term that expires simultaneously with the term of the

member of the Metropolitan Washington Airports Authority board of directors serving on that date (or, if there is a vacancy in that office, the member appointed to fill the existing vacancy and the member to whom this paragraph applies shall be appointed for 2 years);

(2) one shall be appointed for a term ending 2 years after the term of the member (or members) to whom paragraph (1) applies expires; and

(3) one shall be appointed for a term ending 4 years after the term of the member (or members) to whom paragraph (1) applies expires.

#### **SEC. 806. RECONSTITUTED BOARD TO FUNCTION WITHOUT INTERRUPTION.**

Notwithstanding any provision of State law, including those provisions establishing, providing for the establishment of, or recognizing the Metropolitan Washington Airports Authority, and based upon the Federal interest in the continued functions of the Metropolitan Washington Airports Authority Act of 1986 (formerly 49 U.S.C. 2451(4)), the board of directors of such Authority, including any members appointed under the amendments made by section 805, shall continue to meet and act after the date of enactment of this Act until such time as necessary conforming changes in State law are made in the same manner as if those conforming changes had been enacted on the date of enactment of this Act.

#### **SEC. 807. OPERATIONAL SLOTS AT NATIONAL AIRPORT.**

Nothing in this title shall affect the number or distribution of operational slots at National Airport.

#### **SEC. 808. AIRPORTS AUTHORITY SUPPORT OF BOARD.**

Section 6005 of the Metropolitan Washington Airports Authority Act of 1986 (formerly 49 U.S.C. 2454) is amended by adding at the end thereof the following:

“(f) FEDERAL AGENCY OVERSIGHT.—The Airports Authority shall not be required—

“(1) to pay any person;

“(2) to provide office space or administrative support; or

“(3) to reimburse the Secretary of Transportation for expenses incurred,

for carrying out any Federal agency oversight responsibilities under this Act. Nothing in this subsection precludes the Airport Authority from providing services or expenses to any member of the Board of Directors.”.

### **TITLE IX—AIRPORT REVENUE PROTECTION**

#### **SEC. 901. SHORT TITLE.**

This title may be cited as the “Airport Revenue Protection Act of 1996”.

#### **SEC. 902. FINDINGS; PURPOSE.**

(a) IN GENERAL.—The Congress finds that—

(1) section 47107 of title 49, United States Code, prohibits the diversion of certain revenue generated by a public airport as a condition of receiving a project grant;

(2) a grant recipient that uses airport revenue for purposes that are not airport related in a manner inconsistent with chapter 471 of title 49, United States Code, illegally diverts airport revenues;

(3) any diversion of airport revenues in violation of the condition referred to in paragraph (1) undermines the interest of the United States in promoting a strong national air transportation system that is responsive to the needs of airport users;

(4) the Secretary and the Administrator have not enforced airport revenue diversion rules adequately and must have additional regulatory tools to increase enforcement efforts; and

(5) sponsors who have been found to have illegally diverted airport revenues—

(A) have not reimbursed or made restitution to airports in a timely manner; and

(B) must be encouraged to do so.

(b) PURPOSE.—The purpose of this title is to ensure that airport users are not burdened with hidden taxation for unrelated municipal services and activities by—

(1) eliminating the ability of any State or political subdivision thereof that is a recipient of a project grant to divert airport revenues for purposes that are not related to an airport, in violation of section 47107 of title 49, United States Code;

(2) imposing financial reporting requirements that are designed to identify instances of illegal diversions referred to in paragraph (1);

(3) establishing a statute of limitations for airport revenue diversion actions;

(4) clarifying limitations on revenue diversion that are permitted under chapter 471 of title 49, United States Code; and

(5) establishing clear penalties and enforcement mechanisms for identifying and prosecuting airport revenue diversion.

#### **SEC. 903. DEFINITIONS.**

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

(1) ADMINISTRATOR.—The term “Administrator” means the Administrator of the Federal Aviation Administration.

(2) AIRPORT.—The term “airport” has the meaning provided that term in section 47102(2) of title 49, United States Code.

(3) PROJECT GRANT.—The term “project grant” has the meaning provided that term in section 47102(14) of title 49, United States Code.

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

(5) SPONSOR.—The term “sponsor” has the meaning provided that term in section 47102(19) of title 49, United States Code.

#### **SEC. 904. RESTRICTION ON USE OF AIRPORT REVENUES.**

(a) IN GENERAL.—Subchapter I of chapter 471, as amended by section 201(a) of this Act, is further amended by adding at the end of subchapter I the following new section:

##### **“§ 47133. Restriction on use of revenues**

“(a) PROHIBITION.—Local taxes on aviation fuel (except taxes in effect on December 30, 1987) or the revenues generated by an airport that is the subject of Federal assistance may not be expended for any purpose other than the capital or operating costs of—

“(1) the airport;

“(2) the local airport system; or

“(3) any other local facility that is owned or operated by the person or entity that owns or operates the airport that is directly and substantially related to the air transportation of passengers or property.

“(b) EXCEPTIONS.—Subsection (a) shall not apply if a provision enacted not later than September 2, 1982, in a law controlling financing by the airport owner or operator, or a covenant or assurance in a debt obligation issued not later than September 2, 1982, by the owner or operator, provides that the revenues, including local taxes on aviation fuel at public airports, from any of the facilities of the owner or operator, including the airport, be used to support not only the airport but also the general debt obligations or other facilities of the owner or operator.

“(c) RULE OF CONSTRUCTION.—Nothing in this section may be construed to prevent the use of a State tax on aviation fuel to support a State aviation program or the use of airport revenue on or off the airport for a noise mitigation purpose.”.

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

“47133. Restriction on use of revenues.”.

#### **SEC. 905. REGULATIONS; AUDITS AND ACCOUNTABILITY.**

(a) IN GENERAL.—Section 47107 is amended by adding at the end the following new subsections:

“(m) AUDIT CERTIFICATION.—

“(1) IN GENERAL.—The Secretary of Transportation (hereafter in this section referred to as the ‘Secretary’), acting through the Administrator of the Federal Aviation Administration (hereafter in this section referred to as the ‘Administrator’), shall promulgate regulations that require a recipient of a project grant (or any other recipient of Federal financial assistance that is provided for an airport) to include as part of an annual audit conducted under sections 7501 through 7505 of title 31, a review and opinion of the review concerning the funding activities with respect to an airport that is the subject of the project grant (or other Federal financial assistance) and the sponsors, owners, or operators (or other recipients) involved.

“(2) CONTENT OF REVIEW.—A review conducted under paragraph (1) shall provide reasonable assurances that funds paid or transferred to sponsors are paid or transferred in a manner consistent with the applicable requirements of this chapter and any other applicable provision of law (including regulations promulgated by the Secretary or the Administrator).

“(3) REQUIREMENTS FOR AUDIT REPORT.—The report submitted to the Secretary under this subsection shall include a specific determination and opinion regarding the appropriateness of the disposition of airport funds paid or transferred to a sponsor.

“(n) RECOVERY OF ILLEGALLY DIVERTED FUNDS.—

“(1) IN GENERAL.—Not later than 180 days after the issuance of an audit or any other report that identifies an illegal diversion of airport revenues (as determined under subsections (b) and (l) and section 47133), the Secretary, acting through the Administrator, shall—

“(A) review the audit or report;

“(B) perform appropriate factfinding; and

“(C) conduct a hearing and render a final determination concerning whether the illegal diversion of airport revenues asserted in the audit or report occurred.

“(2) NOTIFICATION.—Upon making such a finding, the Secretary, acting through the Administrator, shall provide written notification to the sponsor and the airport of—

“(A) the finding; and

“(B) the obligations of the sponsor to reimburse the airport involved under this paragraph.

“(3) ADMINISTRATIVE ACTION.—The Secretary may withhold any amount from funds that would otherwise be made available to the sponsor, including funds that would otherwise be made available to a State, municipality, or political subdivision thereof (including any multimodal transportation agency or transit authority of which the sponsor is a member entity) as part of an appointment or grant made available pursuant to this title, if the sponsor—

“(A) receives notification that the sponsor is required to reimburse an airport; and

“(B) has had an opportunity to reimburse the airport, but has failed to do so.

“(4) CIVIL ACTION.—If a sponsor fails to pay an amount specified under paragraph (3) during the 180-day period beginning on the date of notification and the Secretary is unable to withhold a sufficient amount under paragraph (3), the Secretary, acting through the Administrator, may initiate a civil action under which the sponsor shall be liable for civil penalty in an amount equal to the illegal diversion in question plus interest (as determined under subsection (o)).

“(5) DISPOSITION OF PENALTIES.—

“(A) AMOUNTS WITHHELD.—The Secretary or the Administrator shall transfer any amounts withheld under paragraph (3) to the Airport and Airway Trust Fund.

“(B) CIVIL PENALTIES.—With respect to any amount collected by a court in a civil action under paragraph (4), the court shall cause to be transferred to the Airport and Airway Trust Fund any amount collected as a civil penalty under paragraph (4).

“(6) REIMBURSEMENT.—The Secretary, acting through the Administrator, shall, as soon as practicable after any amount is collected from a sponsor under paragraph (4), cause to be transferred from the Airport and Airway Trust Fund to an airport affected by a diversion that is the subject of a civil action under paragraph (4), reimbursement in an amount equal to the amount that has been collected from the sponsors under paragraph (4) (including any amount of interest calculated under subsection (o)).

“(7) STATUTE OF LIMITATION.—No person may bring an action for the recovery of funds illegally diverted in violation of this section (as determined under subsections (b) and (l)) or section 47133 after the date that is 6 years after the date on which the diversion occurred.

“(o) INTEREST.—

“(1) IN GENERAL.—Except as provided in paragraph (2), the Secretary, acting through the Administrator, shall charge a minimum annual rate of interest on the amount of any illegal diversion of revenues referred to in subsection (n) in an amount equal to the average investment interest rate for tax and loan accounts of the Department of the Treasury (as determined by the Secretary of the Treasury) for the applicable calendar year, rounded to the nearest whole percentage point.

“(2) ADJUSTMENT OF INTEREST RATES.—If, with respect to a calendar quarter, the average investment interest rate for tax and loan accounts of the Department of the Treasury exceeds the average investment interest rate for the immediately preceding calendar quarter, rounded to the nearest whole percentage point, the Secretary of the Treasury may adjust the interest rate charged under this subsection in a manner that reflects that change.

“(3) ACCRUAL.—Interest assessed under subsection (n) shall accrue from the date of the actual illegal diversion of revenues referred to in subsection (n).

“(4) DETERMINATION OF APPLICABLE RATE.—The applicable rate of interest charged under paragraph (1) shall—

“(A) be the rate in effect on the date on which interest begins to accrue under paragraph (3); and

“(B) remain at a rate fixed under subparagraph (A) during the duration of the indebtedness.

“(p) PAYMENT BY AIRPORT TO SPONSOR.—If, in the course of an audit or other review conducted under this section, the Secretary or the Administrator determines that an airport owes a sponsor funds as a result of activities conducted by the sponsor or expenditures by the sponsor for the benefit of the airport, interest on that amount shall be determined in the same manner as provided in paragraphs (1) through (4) of subsection (o), except that the amount of any interest assessed under this subsection shall be determined from the date on which the Secretary or the Administrator makes that determination.”

(b) REVISION OF POLICIES AND PROCEDURES; DEADLINES.—

(1) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the Secretary, acting through the Administrator, shall revise the policies and proce-

dures established under section 47107(l) of title 49, United States Code, to take into account the amendments made to that section by this title.

(2) STATUTE OF LIMITATIONS.—Section 47107(l) is amended by adding at the end the following new paragraph:

“(5) STATUTE OF LIMITATIONS.—In addition to the statute of limitations specified in subsection (n)(7), with respect to project grants made under this chapter—

“(A) any request by a sponsor to any airport for additional payments for services conducted off of the airport or for reimbursement for capital contributions or operating expenses shall be filed not later than 6 years after the date on which the expense is incurred; and

“(B) any amount of airport funds that are used to make a payment or reimbursement as described in subparagraph (A) after the date specified in that subparagraph shall be considered to be an illegal diversion of airport revenues that is subject to subsection (n).”

#### SEC. 906. CONFORMING AMENDMENTS TO THE INTERNAL REVENUE CODE OF 1986.

Section 9502 of the Internal Revenue Code of 1986 is amended—

(1) by striking “and” at the end of subsection (b)(3);

(2) by striking the period at the end of subsection (b)(4) and inserting “, and”; and

(3) by adding at the end of subsection (b) the following:

“(5) amounts determined by the Secretary of the Treasury to be equivalent to the amounts of civil penalties collected under section 47107(n) of title 49, United States Code.”; and

(4) in subsection (d), by adding at the end of subsection (d) the following:

“(4) TRANSFERS FROM THE AIRPORT AND AIRWAY TRUST FUND ON ACCOUNT OF CERTAIN AIRPORTS.—The Secretary of the Treasury may transfer from the Airport and Airway Trust Fund to the Secretary of Transportation or the Administrator of the Federal Aviation Administration an amount to make a payment to an airport affected by a diversion that is the subject of an administrative action under paragraph (3) or a civil action under paragraph (4) of section 47107(n) of title 49, United States Code.”.

#### CHAFEE (AND BAUCUS) AMENDMENT NO. 5361

Mr. CHAFEE (for himself and Mr. BAUCUS) proposed an amendment to the bill, S. 1994, supra; as follows:

On page 78, line 12, strike “and aircraft engine emissions.”.

On page 78, line 19 through 24, strike all of paragraph (C) and insert the following:

(C) The Administrator, as the Administrator deems appropriate, shall provide for the participation of a representative of the Environmental Protection Agency on such advisory committees or associated working groups that advise the Administrator on matters related to the environmental effects of aircraft and aircraft engines.

#### WARNER AMENDMENTS NOS. 5362–5363

Mr. WARNER proposed two amendments to the bill, S. 1994, supra; as follows:

##### AMENDMENT NO. 5362

On page 8, strike lines 14 through 17 and insert the following:

paragraph (D); and  
(B) by striking subparagraph (F) and inserting the following:

“(F) for debt financing of a terminal development project that, on an annual basis, has a total number of enplanements that is less than or equal to 0.05 percent of the total enplanements in the United States if—

“(i) construction for the project commenced during the period beginning on November 6, 1988, and ending on November 4, 1990; and

“(ii) the eligible agency certifies that no other eligible airport project that affects airport safety, security, or capacity will be deferred as a result of the debt financing.”.

##### AMENDMENT NO. 5363

On page 10, line 23, strike “(4)” and insert “(5)”.

On page 11, line 4, strike “and”;.

On page 11, between lines 4 and 5, insert the following:

“(4) 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, during that period, the number of passenger boardings was 20 percent or greater than the number of such boardings during the 12-month period preceding that period; and;”.

#### SIMON (AND JEFFORDS) AMENDMENT NO. 5364

Mr. SIMON (for himself and Mr. JEFFORDS) proposed an amendment to the bill, S. 1994, supra; as follows:

At the appropriate place in the bill, insert the following new section.

#### SEC. . PROVISIONS RELATING TO LIMITED SCOPE AUDIT.

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

“(ii) If an accountant is offering his opinion under this section in the case of an employee pension benefit plan, the accountant shall, to the extent consistent with generally accepted auditing standards, rely on the work of any independent public accountant of any bank or similar institution or insurance carrier regulated and supervised and subject to periodic investigation by a State or Federal agency that holds assets or processes transactions of the employee pension benefit plan.”

(b) CONFORMING AMENDMENTS.—

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

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

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

#### THE COMPREHENSIVE METH- AMPHETAMINE CONTROL ACT OF 1996

#### HATCH (AND OTHERS) AMENDMENT NO. 5365

Mr. MCCAIN (for Mr. HATCH, for himself, Mr. BIDEN, Mrs. FEINSTEIN, Mr.