

For the past 5 years, the Senate's appointment desk, just one floor from this Chamber, was where Tony always greeted people with a smile and made them feel very special. In this tribute to him, I also speak for his coworkers and friends, Joy Ogdon, Christine Catucci, and Laura Williams.

Mr. President, I first met Tony Anderson when I worked for Kansas Senator Frank Carlson and was a good friend with his mother, Margaret, who was a long-time and valued member of the Carlson staff.

Like many of our dedicated employees, Mr. Anderson was never far from Capitol Hill. He was born in the old Providence Hospital at Third and E Streets N.E., and Tony got his training early and from some of the best. While still in high school, and later in college, he worked in various capacities for many Senators; the list reads similar to a Who's Who of the Senate during those years. I am talking about Senator Russell Long, Senator Leverett Saltonstall, Senator John Kennedy, Senator George Murphy, and Senator Frank Carlson.

He graduated from Anacostia High School and later attended Federal City College, Montgomery College, and later the University of the District of Columbia.

James Thomas Anderson was also Brother Bernard, junior Professor member of the Order of St. Francis, a Holy Order within the Episcopal Church, located at Little Portion Monastery in New York. His chosen service within the Order of St. Francis was commensurate with his strong support of human and animal rights. Upon his return from the monastery, he worked for the Architect of the National Cathedral.

Mr. Anderson's life took a turn from Washington as a result of being a waiter at the old Carroll Arms Hotel Restaurant, where his interest in wines led him to a successful career that took him to the vineyards of Italy, France, Germany, and Spain. With his knowledge of wine and cheeses, he helped to open the Capitol Hill Wine and Cheese Shop, one of the first business successes that led to the revitalization of Capitol Hill.

He later became the sommelier at the Watergate Terrace, the Four Seasons, Jean Louis at the Watergate, and then to the Hay Adams Hotel. Mr. Anderson was instrumental in getting the Four Seasons' wine and beverage program started.

Tony Anderson then returned to the Capitol, working in the Senate Restaurant and Banquet Department. He could tell many accounts of serving First Ladies, visiting dignitaries, and even a luncheon for the Queen of England. No one did it better or with more elegance and propriety than Tony.

Mr. Anderson left the Senate Restaurant, and for the past 5 years served on the Senate Appointments Desk. In that capacity, he was a natural. Tony Anderson was born in the city, grew up

in the city. He loved the city and the Senate dearly. He truly enjoyed people, made them feel welcome, and if they had a moment, he made their visit to our Capitol special with all of his stories and experiences.

I am not sure when he told me who he was. As I indicated, we were friends when I worked for Senator Frank Carlson a long time ago. For me and for most who have worked here as pages, interns, employees, and staffers—and, yes, also as Members of Congress—each experience, each person and, yes, even the places, are like a special collage etched in your memory.

I can't remember exactly when it was, but I know I was coming from the Hart Building; I decided not to take the elevator to get to the first floor but to take the old stairs that I used when I was an intern for Senator Frank Carlson; they lead to the Senate Foreign Relations Committee room. Well, I turned right and was hurrying on my way, glancing at those ever-present appointment cards, when I heard Tony:

Hey, Pat, remember me? I'm Tony Anderson, Margaret Anderson's son.

And there he was, with a bow tie and a smile, the same smile and always pleasant demeanor that made him special to his family, coworkers, and friends—not to mention everyone he ever served and helped, from the Queen of England to John Q. Public, visitor to our Nation's Capitol.

Mr. Anderson died at the age of 57. He is survived by his sister, Karen Anderson Cramer of Ocean Pines, MD. He was preceded in death by his parents, James and Margaret Anderson, and Edward Brodniak, his life partner of 32 years.

Tony, thanks and godspeed.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. GORTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. ROBERTS). Without objection, it is so ordered.

#### CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

#### AIR TRANSPORTATION IMPROVEMENT ACT

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to the consideration of the Air Transportation Improvement Act, which the clerk will report by title.

The legislative clerk read as follows:

A bill (S. 82) to authorize appropriations for the Federal Aviation Administration, and for other purposes.

The Senate proceeded to consider the bill which had been reported from the

Committee on Commerce, Science, and Transportation, with amendments; as follows:

(The parts of the bill intended to be stricken are shown in boldface brackets and the parts of the bill intended to be inserted are shown in *italic*.)

S. 82

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

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

(a) SHORT TITLE.—This Act may be cited as the "Air Transportation Improvement Act".

(b) TABLE OF SECTIONS.—The table of sections for this Act is as follows:

Sec. 1. Short title; table of sections.

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

#### TITLE I—AUTHORIZATIONS

Sec. 101. Federal Aviation Administration operations.

Sec. 102. Air navigation facilities and equipment.

Sec. 103. Airport planning and development and noise compatibility planning and programs.

Sec. 104. Reprogramming notification requirement.

Sec. 105. Airport security program.

Sec. 106. Automated surface observation system stations.

#### TITLE II—AIRPORT IMPROVEMENT PROGRAM AMENDMENTS

Sec. 201. Removal of the cap on discretionary fund.

Sec. 202. Innovative use of airport grant funds.

Sec. 203. Matching share.

Sec. 204. Increase in apportionment for noise compatibility planning and programs.

Sec. 205. Technical amendments.

Sec. 206. Report on efforts to implement capacity enhancements.

Sec. 207. Prioritization of discretionary projects.

Sec. 208. Public notice before grant assurance requirement waived.

Sec. 209. Definition of public aircraft.

Sec. 210. Terminal development costs.

Sec. 211. Airfield pavement conditions.

Sec. 212. Discretionary grants.

#### TITLE III—AMENDMENTS TO AVIATION LAW

Sec. 301. Severable services contracts for periods crossing fiscal years.

[Sec. 302. Foreign carriers eligible for waiver under Airport Noise and Capacity Act.]

Sec. 302. *Limited transportation of certain aircraft.*

Sec. 303. Government and industry consortia.

Sec. 304. Implementation of Article 83 Bis of the Chicago Convention.

Sec. 305. Foreign aviation services authority.

Sec. 306. Flexibility to perform criminal history record checks; technical amendments to Pilot Records Improvement Act.

Sec. 307. Extension of Aviation Insurance Program.

Sec. 308. Technical corrections to civil penalty provisions.

Sec. 309. Criminal penalty for pilots operating in air transportation without an airman's certificate.

Sec. 310. Nondiscriminatory interline interconnection requirements.

#### TITLE IV—MISCELLANEOUS

Sec. 401. Oversight of FAA response to year 2000 problem.

Sec. 402. Cargo collision avoidance systems deadline.

Sec. 403. Runway safety areas; precision approach path indicators.

Sec. 404. Airplane emergency locators.

Sec. 405. Counterfeit aircraft parts.

Sec. 406. FAA may fine unruly passengers.

Sec. 407. Higher standards for handicapped access.

Sec. 408. Conveyances of United States Government land.

Sec. 409. Flight operations quality assurance rules.

Sec. 410. Wide area augmentation system.

Sec. 411. Regulation of Alaska air guides.

Sec. 412. Application of FAA regulations.

Sec. 413. Human factors program.

Sec. 414. Independent validation of FAA costs and allocations.

Sec. 415. Whistleblower protection for FAA employees.

Sec. 416. Report on modernization of oceanic ATC system.

Sec. 417. Report on air transportation oversight system.

Sec. 418. Recycling of EIS.

Sec. 419. Protection of employees providing air safety information.

Sec. 420. Improvements to air navigation facilities.

Sec. 421. Denial of airport access to certain air carriers.

Sec. 422. Tourism.

Sec. 423. Equivalency of FAA and EU safety standards.

Sec. 424. Sense of the Senate on property taxes on public-use airports.

Sec. 425. Federal Aviation Administration Personnel Management System.

Sec. 426. Aircraft and aviation component repair and maintenance advisory panel.

[Sec. 427. Report on enhanced domestic airline competition.]

Sec. 427. *Authority to sell aircraft and aircraft parts for use in responding to oil spills.*

Sec. 428. Aircraft situational display data.

Sec. 429. To express the sense of the Senate concerning a bilateral agreement between the United States and the United Kingdom regarding Charlotte-London route.

Sec. 430. To express the sense of the Senate concerning a bilateral agreement between the United States and the United Kingdom regarding Cleveland-London route.

Sec. 431. Allocation of Trust Fund funding.

Sec. 432. Taos Pueblo and Blue Lakes Wilderness Area demonstration project.

Sec. 433. Airline marketing disclosure.

Sec. 434. Certain air traffic control towers.

Sec. 435. Compensation under the Death on the High Seas Act.

Sec. 436. *FAA study of breathing hoods.*

Sec. 437. *FAA study of alternative power sources for flight data recorders and cockpit voice recorders.*

Sec. 438. *Passenger facility fee letters of intent.*

Sec. 439. *Elimination of HAZMAT enforcement backlog.*

Sec. 440. *FAA evaluation of long-term capital leasing.*

#### TITLE V—AVIATION COMPETITION PROMOTION

Sec. 501. Purpose.

Sec. 502. Establishment of small community aviation development program.

Sec. 503. Community-carrier air service program.

Sec. 504. Authorization of appropriations.

Sec. 505. Marketing practices.

Sec. 506. Slot exemptions for nonstop regional jet service.

Sec. 507. Exemptions to perimeter rule at Ronald Reagan Washington National Airport.

Sec. 508. Additional slot exemptions at Chicago O'Hare International Airport.

Sec. 509. Consumer notification of e-ticket expiration dates.

Sec. 510. Regional air service incentive options.

Sec. 511. GAO study of air transportation needs.

#### TITLE VI—NATIONAL PARK OVERFLIGHTS

Sec. 601. Findings.

Sec. 602. Air tour management plans for national parks.

Sec. 603. Advisory group.

Sec. 604. Overflight fee report.

Sec. 605. Prohibition of commercial air tours over the Rocky Mountain National Park.

#### TITLE VII—TITLE 49 TECHNICAL CORRECTIONS

Sec. 701. Restatement of 49 U.S.C. 106(g).

Sec. 702. Restatement of 49 U.S.C. 44909.

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

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

#### TITLE I—AUTHORIZATIONS

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

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

“(k) AUTHORIZATION OF APPROPRIATIONS FOR OPERATIONS.—

“(1) IN GENERAL.—There are authorized to be appropriated to the Secretary of Transportation for operations of the Administration \$5,631,000,000 for fiscal year 1999 and \$5,784,000,000 for fiscal year 2000. Of the amounts authorized to be appropriated for fiscal year 1999, not more than \$9,100,000 shall be used to support air safety efforts through payment of United States membership obligations, to be paid as soon as practicable.

“(2) AUTHORIZED EXPENDITURES.—Of the amounts appropriated under paragraph (1) \$450,000 may be used for wildlife hazard mitigation measures and management of the wildlife strike database of the Federal Aviation Administration.

“(3) UNIVERSITY CONSORTIUM.—There are authorized to be appropriated not more than \$9,100,000 for the 3 fiscal year period beginning with fiscal year 1999 to support a university consortium established to provide an air safety and security management certificate program, working cooperatively with the Federal Aviation Administration and United States air carriers. Funds authorized under this paragraph—

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

“(B) shall be awarded on the basis of open competition.”.

(b) COORDINATION.—The authority granted the Secretary under section 41720 of title 49, United States Code, does not affect the Secretary's authority under any other provision of law.

##### SEC. 102. AIR NAVIGATION FACILITIES AND EQUIPMENT.

(a) IN GENERAL.—Section 48101(a) is amended by striking paragraphs (1) and (2) and inserting the following:

“(1) for fiscal year 1999—

“(A) \$222,800,000 for engineering, development, test, and evaluation: en route programs;

“(B) \$74,700,000 for engineering, development, test, and evaluation: terminal programs;

“(C) \$108,000,000 for engineering, development, test, and evaluation: landing and navigational aids;

“(D) \$17,790,000 for engineering, development, test, and evaluation: research, test, and evaluation equipment and facilities programs;

“(E) \$391,358,300 for air traffic control facilities and equipment: en route programs;

“(F) \$492,315,500 for air traffic control facilities and equipment: terminal programs;

“(G) \$38,764,400 for air traffic control facilities and equipment: flight services programs;

“(H) \$50,500,000 for air traffic control facilities and equipment: other ATC facilities programs;

“(I) \$162,400,000 for non-ATC facilities and equipment programs;

“(J) \$14,500,000 for training and equipment facilities programs;

“(K) \$280,800,000 for mission support programs;

“(L) \$235,210,000 for personnel and related expenses; and

“(2) \$2,189,000,000 for fiscal year 2000.”.

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

(1) by striking “fiscal years 1995 and 1996” and inserting “fiscal years 1999 and 2000”; and

(2) by striking “acquisition,” and inserting “acquisition under new or existing contracts.”.

(c) LIFE-CYCLE COST ESTIMATES.—The Administrator of the Federal Aviation Administration shall establish life-cycle cost estimates for any air traffic control modernization project the total life-cycle costs of which equal or exceed \$50,000,000.

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

(a) EXTENSION AND AUTHORIZATION.—Section 48103 is amended by striking “\$1,205,000,000 for the 6-month period beginning October 1, 1998.” and inserting “\$2,410,000,000 for fiscal years ending before October 1, 1999, and \$4,885,000,000 for fiscal years ending before October 1, 2000.”.

(b) PROJECT GRANT AUTHORITY.—Section 47104(c) is amended by striking “March 31, 1999,” and inserting “September 30, 2000.”.

##### SEC. 104. REPROGRAMMING NOTIFICATION REQUIREMENT.

Before reprogramming any amounts appropriated under section 106(k), 48101(a), or 48103 of title 49, United States Code, for which notification of the Committees on Appropriations of the Senate and the House of Representatives is required, the Secretary of Transportation shall submit a written explanation of the proposed reprogramming to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

##### SEC. 105. AIRPORT SECURITY PROGRAM.

(a) IN GENERAL.—Chapter 471 (as amended by section 202(a) of this Act) is amended by adding at the end thereof the following new section:

##### “§ 47136. Airport security program

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

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

“(1) evaluates and tests the benefits of innovative airport security systems or related

technology, including explosives detection systems, for the purpose of improving airport and aircraft physical security and access control; and

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

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

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

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

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

(b) CONFORMING AMENDMENT.—The chapter analysis for such chapter (as amended by section 202(b) of this Act) is amended by inserting after the item relating to section 47135 the following:

"47136. Airport security program."

#### **SEC. 106. AUTOMATED SURFACE OBSERVATION SYSTEM STATIONS.**

The Administrator of the Federal Aviation Administration shall not terminate human weather observers for Automated Surface Observation System stations until—

(1) the Secretary of Transportation determines that the System provides consistent reporting of changing meteorological conditions and notifies the Congress in writing of that determination; and

(2) 60 days have passed since the report was submitted to the Congress.

### **TITLE II—AIRPORT IMPROVEMENT PROGRAM AMENDMENTS**

#### **SEC. 201. REMOVAL OF THE CAP ON DISCRETIONARY FUND.**

Section 47115(g) is amended by striking paragraph (4).

#### **SEC. 202. INNOVATIVE USE OF AIRPORT GRANT FUNDS.**

(a) CODIFICATION AND IMPROVEMENT OF 1996 PROGRAM.—Subchapter I of chapter 471 is amended by adding at the end thereof the following:

##### **"§ 47135. Innovative financing techniques**

"(a) IN GENERAL.—The Secretary of Transportation is authorized to carry out a demonstration program under which the Secretary may approve applications under this subchapter for not more than 20 projects for which grants received under the subchapter may be used to implement innovative financing techniques.

"(b) PURPOSE.—The purpose of the demonstration program shall be to provide information on the use of innovative financing techniques for airport development projects.

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

"(d) INNOVATIVE FINANCING TECHNIQUE DEFINED.—In this section, the term 'innovative

financing technique' includes methods of financing projects that the Secretary determines may be beneficial to airport development, including—

"(1) payment of interest;

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

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

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 471 is amended by inserting after the item relating to section 47134 the following:

"47135. Innovative financing techniques."

#### **SEC. 203. MATCHING SHARE.**

Section 47109(a)(2) is amended by inserting "not more than" before "90 percent".

#### **SEC. 204. INCREASE IN APPORTIONMENT FOR NOISE COMPATIBILITY PLANNING AND PROGRAMS.**

Section 47117(e)(1)(A) is amended by striking "31" each time it appears and [substituting] *inserting* "35".

#### **SEC. 205. TECHNICAL AMENDMENTS.**

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

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

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

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

(2) in paragraph (1) by—

(A) striking "Instead of apportioning amounts for airports in Alaska under" and inserting "Notwithstanding"; and

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

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

"(3) An amount apportioned under this subsection may be used for any public airport in Alaska."

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

(d) DISCRETIONARY FUND DEFINITION.—

(1) Section 47115 is amended—

(A) by striking "25" in subsection (a) and inserting "12.5"; and

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

(2) Section 47116 is amended—

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

(B) by redesignating paragraphs (1) and (2) in subsection (b) as subparagraphs (A) and (B), respectively, and inserting before subparagraph (A), as so redesignated, the following:

"(1) one-seventh for grants for projects at small hub airports (as defined in section 47131 of this title); and

"(2) the remaining amounts based on the following:"

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

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

(f) GRANT ELIGIBILITY FOR PRIVATE RELIEVER AIRPORTS.—Section 47102(17)(B) is amended by—

(1) striking "or" at the end of clause (i) and redesignating clause (ii) as clause (iii); and

(2) inserting after clause (i) the following: "(ii) a privately-owned airport that, as a reliever airport, received Federal aid for airport development prior to October 9, 1996, but only if the Administrator issues revised administrative guidance after July 1, 1998, for the designation of reliever airports; or".

(g) RELIEVER AIRPORTS NOT ELIGIBLE FOR LETTERS OF INTENT.—Section 47110(e)(1) is amended by striking "or reliever".

(h) PASSENGER FACILITY FEE WAIVER FOR CERTAIN CLASS OF CARRIERS.—Section 40117(e)(2) is amended—

(1) by striking "and" after the semicolon in subparagraph (B);

(2) by striking "payment." in subparagraph (C) and inserting "payment; [and];" and

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

"(D) in Alaska aboard an aircraft having a seating capacity of less than 20 [passengers]."; *passengers; and*

"(E) on flights, including flight segments, between 2 or more points in Hawaii."

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

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

(2) by striking "transportation." in paragraph (2)(D) and inserting "transportation; and"; and

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

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

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

"(B) passengers enplaned on a flight to an airport—

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

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

(j) USE OF THE WORD "GIFT" AND PRIORITY FOR AIRPORTS IN SURPLUS PROPERTY DISPOSAL.—

(1) Section 47151 is amended—

(A) by striking "give" in subsection (a) and inserting "convey to";

(B) by striking "gift" in subsection (a)(2) and inserting "conveyance";

(C) by striking "giving" in subsection (b) and inserting "conveying";

(D) by striking "gift" in subsection (b) and inserting "conveyance"; and

(E) by adding at the end thereof the following:

"(d) PRIORITY FOR PUBLIC AIRPORTS.—Except for requests from another Federal agency, a department, agency, or instrumentality of the Executive Branch of the United States Government shall give priority to a request by a public agency (as defined in section 47102 of this title) for surplus property described in subsection (a) of this section for use at a public airport."

(2) Section 47152 is amended—

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

(B) by striking "gift" in the first sentence and inserting "conveyance".

(3) The chapter analysis for chapter 471 is amended by striking the item relating to section 47152 and inserting the following:

"47152. Terms of conveyances."

(4) Section 47153(a) is amended—

(A) by striking "gift" in paragraph (1) and inserting "conveyance";

(B) by striking "given" in paragraph (1)(A) and inserting "conveyed"; and

(C) by striking "gift" in paragraph (1)(B) and inserting "conveyance".

(k) **MINIMUM APPORTIONMENT.**—Section 47114(c)(1)(B) is amended by adding at the end thereof the following: "For fiscal years beginning after fiscal year 1999, the preceding sentence shall be applied by substituting '\$650,000' for '\$500,000'."

[(k) **APPORTIONMENT FOR CARGO ONLY AIRPORTS.**—Section 47114(c)(2)(A) is amended by striking "2.5 percent" and inserting "3 percent".]

(l) **APPORTIONMENT FOR CARGO ONLY AIRPORTS.**—

(1) Section 47114(c)(2)(A) is amended by striking "2.5 percent" and inserting "3 percent".

(2) Section 47114(c)(2) is further amended by striking subparagraph (C) and redesignating subparagraph (D) as subparagraph (C).

(m) **TEMPORARY AIR SERVICE INTERRUPTIONS.**—Section 47114(c)(1) is amended by adding at the end thereof the following:

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

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

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

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

[(l) (n) **FLEXIBILITY IN PAVEMENT DESIGN STANDARDS.**—Section 47114(d) is amended by adding at the end thereof the following:

"(4) The Secretary may permit the use of State highway specifications for airfield pavement construction using funds made available under this subsection at nonprimary airports with runways of 5,000 feet or shorter serving aircraft that do not exceed 60,000 pounds gross weight, if the Secretary determines that—

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

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

An airport may not seek funds under this subchapter for runway rehabilitation or reconstruction of any such airfield pavement constructed using State highway specifications for a period of 10 years after construction is completed."

(o) **ELIGIBILITY OF RUNWAY INCURSION PREVENTION DEVICES.**—

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

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

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

(B) by striking "area." in paragraph (10) and inserting "area; and"; and

(C) by adding at the end the following:

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

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

#### **SEC. 206. REPORT ON EFFORTS TO IMPLEMENT CAPACITY ENHANCEMENTS.**

Within 9 months after the date of enactment of this Act, the Secretary of Transportation shall report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives on efforts by the Federal Aviation Administration to implement capacity enhancements and improvements, both technical and procedural, such as precision runway monitoring systems, and the time frame for implementation of such enhancements and improvements.

#### **SEC. 207. PRIORITIZATION OF DISCRETIONARY PROJECTS.**

Section 47120 is amended by—

(1) inserting "(a) IN GENERAL.—" before "In"; and

(2) adding at the end thereof the following:

"(b) **DISCRETIONARY FUNDING TO BE USED FOR HIGHER PRIORITY PROJECTS.**—The Administrator of the Federal Aviation Administration shall discourage airport sponsors and airports from using entitlement funds for lower priority projects by giving lower priority to discretionary projects submitted by airport sponsors and airports that have used entitlement funds for projects that have a lower priority than the projects for which discretionary funds are being requested."

#### **SEC. 208. PUBLIC NOTICE BEFORE GRANT ASSURANCE REQUIREMENT WAIVED.**

(a) **IN GENERAL.**—Notwithstanding any other provision of law to the contrary, the Secretary of Transportation may not waive any assurance required under section 47107 of title 49, United States Code, that requires property to be used for aeronautical purposes unless the Secretary provides notice to the public not less than 30 days before issuing any such waiver. Nothing in this section shall be construed to authorize the Secretary to issue a waiver of any assurance required under that section.

(b) **EFFECTIVE DATE.**—This section applies to any request filed on or after the date of enactment of this Act.

#### **SEC. 209. DEFINITION OF PUBLIC AIRCRAFT.**

Section 40102(a)(37)(B)(ii) is amended—

(1) by striking "or" at the end of subclause (I);

(2) by striking the "States." in subclause (II) and inserting "States; or"; and

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

"(III) transporting persons aboard the aircraft if the aircraft is operated for the purpose of prisoner transport."

#### **SEC. 210. TERMINAL DEVELOPMENT COSTS.**

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

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

#### **SEC. 211. AIRFIELD PAVEMENT CONDITIONS.**

(a) **EVALUATION OF OPTIONS.**—The Administrator of the Federal Aviation Administration shall evaluate options for improving the quality of information available to the Ad-

ministration on airfield pavement conditions for airports that are part of the national air transportation system, including—

(1) improving the existing runway condition information contained in the Airport Safety Data Program by reviewing and revising rating criteria and providing increased training for inspectors;

(2) requiring such airports to submit pavement condition index information as part of their airport master plan or as support in applications for airport improvement grants; and

(3) requiring all such airports to submit pavement condition index information on a regular basis and using this information to create a pavement condition database that could be used in evaluating the cost-effectiveness of project applications and forecasting anticipated pavement needs.

(b) **REPORT TO CONGRESS.**—The Administrator shall transmit a report, containing an evaluation of such options, to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure not later than 12 months after the date of enactment of this Act.

#### **SEC. 212. DISCRETIONARY GRANTS.**

Notwithstanding any limitation on the amount of funds that may be expended for grants for noise abatement, if any funds made available under section 48103 of title 49, United States Code, remain available at the end of the fiscal year for which those funds were made available, and are not allocated under section 47115 of that title, or under any other provision relating to the awarding of discretionary grants from unobligated funds made available under section 48103 of that title, the Secretary of Transportation may use those funds to make discretionary grants for noise abatement activities.

### **TITLE III—AMENDMENTS TO AVIATION LAW**

#### **SEC. 301. SEVERABLE SERVICES CONTRACTS FOR PERIODS CROSSING FISCAL YEARS.**

(a) Chapter 401 is amended by adding at the end thereof the following:

"§40125. **Severable services contracts for periods crossing fiscal years**

"(a) **IN GENERAL.**—The Administrator of the Federal Aviation Administration may enter into a contract for procurement of severable services for a period that begins in one fiscal year and ends in the next fiscal year if (without regard to any option to extend the period of the contract) the contract period does not exceed one year.

"(b) **OBLIGATION OF FUNDS.**—Funds made available for a fiscal year may be obligated for the total amount of a contract entered into under the authority of subsection (a) of this section."

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

"40125. Severable services contracts for periods crossing fiscal years."

#### **[SEC. 302. FOREIGN CARRIERS ELIGIBLE FOR WAIVER UNDER AIRPORT NOISE AND CAPACITY ACT.]**

[The first sentence of section 47528(b)(1) is amended by inserting "or foreign air carrier" after "air carrier" the first place it appears and after "carrier" the first place it appears.]

#### **SEC. 302. LIMITED TRANSPORTATION OF CERTAIN AIRCRAFT.**

Section 47528(e) is amended by adding at the end thereof the following:

"(4) An air carrier operating Stage 2 aircraft under this subsection may transport Stage 2 aircraft to or from the 48 contiguous States on a non-revenue basis in order to—

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

### SEC. 303. GOVERNMENT AND INDUSTRY CONSORTIA.

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

"(f) GOVERNMENT AND INDUSTRY CONSORTIA.—The Administrator may establish at airports such consortia of government and aviation industry representatives as the Administrator may designate to provide advice on matters related to aviation security and safety. Such consortia shall not be considered federal advisory committees for purposes of the Federal Advisory Committee Act (5 U.S.C. App.)."

### SEC. 304. IMPLEMENTATION OF ARTICLE 83 BIS OF THE CHICAGO CONVENTION.

Section 44701 is amended—

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

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

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

"(1) Notwithstanding the provisions of this chapter, and pursuant to Article 83 bis of the Convention on International Civil Aviation, the Administrator may, by a bilateral agreement with the aeronautical authorities of another country, exchange with that country all or part of their respective functions and duties with respect to aircraft described in subparagraphs (A) and (B), under the following articles of the Convention:

"(A) Article 12 (Rules of the Air).

"(B) Article 31 (Certificates of Airworthiness).

"(C) Article 32a (Licenses of Personnel).

"(2) The agreement under paragraph (1) may apply to—

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

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

"(3) The Administrator relinquishes responsibility with respect to the functions and duties transferred by the Administrator as specified in the bilateral agreement, under the Articles listed in paragraph (1) of this subsection for United States-registered aircraft transferred abroad as described in subparagraph (A) of that paragraph, and accepts responsibility with respect to the functions and duties under those Articles for aircraft registered abroad that are transferred to the United States as described in subparagraph (B) of that paragraph.

"(4) The Administrator may, in the agreement under paragraph (1), predicate the transfer of these functions and duties on any conditions the Administrator deems necessary and prudent."

### SEC. 305. FOREIGN AVIATION SERVICES AUTHORITY.

[Section 45301 is amended by striking "government." in subsection (a)(2) and inserting "government or to any entity obtaining services outside the United States.".]

Section 45301(a)(2) is amended to read as follows:

"(2) Services provided to a foreign government or to any entity obtaining services outside the United States other than—

"(A) air traffic control services; and

"(B) fees for production-certification-related service (as defined in Appendix C of part 187 of title 14, Code of Federal Regulations) performed outside the United States."

### SEC. 306. FLEXIBILITY TO PERFORM CRIMINAL HISTORY RECORD CHECKS; TECHNICAL AMENDMENTS TO PILOT RECORDS IMPROVEMENT ACT.

Section 44936 is amended—

(1) by striking "subparagraph (C)" in subsection (a)(1)(B) and inserting "subparagraph (C), or in the case of passenger, baggage, or property screening at airports, the Administrator decides it is necessary to ensure air transportation security";

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

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

### SEC. 307. EXTENSION OF AVIATION INSURANCE PROGRAM.

Section 44310 is amended by striking "March 31, 1999." and inserting "December 31, 2003."

### SEC. 308. TECHNICAL CORRECTIONS TO CIVIL PENALTY PROVISIONS.

Section 46301 is amended—

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

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

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

### SEC. 309. CRIMINAL PENALTY FOR PILOTS OPERATING IN AIR TRANSPORTATION WITHOUT AN AIRMAN'S CERTIFICATE.

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

"§46317. Criminal penalty for pilots operating in air transportation without an airman's certificate

"(a) APPLICATION.—This section applies only to aircraft used to provide air transportation.

"(b) GENERAL CRIMINAL PENALTY.—An individual shall be fined under title 18, imprisoned for not more than 3 years, or both, if that individual—

"(1) knowingly and willfully serves or attempts to serve in any capacity as an airman without an airman's certificate authorizing the individual to serve in that capacity; or

"(2) knowingly and willfully employs for service or uses in any capacity as an airman an individual who does not have an airman's certificate authorizing the individual to serve in that capacity.

"(c) CONTROLLED SUBSTANCE CRIMINAL PENALTY.—

"(1) In this subsection, the term 'controlled substance' has the same meaning given that term in section 102 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 802).

"(2) An individual violating subsection (b) shall be fined under title 18, imprisoned for not more than 5 years, or both, if the violation is related to transporting a controlled substance by aircraft or aiding or facilitating a controlled substance violation and that transporting, aiding, or facilitating—

"(A) is punishable by death or imprisonment of more than 1 year under a Federal or State law; or

"(B) is related to an act punishable by death or imprisonment for more than 1 year under a Federal or State law related to a controlled substance (except a law related to simple possession (as that term is used in section 46306(c)) of a controlled substance).

"(3) A term of imprisonment imposed under paragraph (2) shall be served in addi-

tion to, and not concurrently with, any other term of imprisonment imposed on the individual subject to the imprisonment."

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

"46317. Criminal penalty for pilots operating in air transportation without an airman's certificate."

### SEC. 310. NONDISCRIMINATORY INTERLINE INTERCONNECTION REQUIREMENTS.

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

"§41717. Interline agreements for domestic transportation

"(a) NONDISCRIMINATORY REQUIREMENTS.—

If a major air carrier that provides air service to an essential airport facility has any agreement involving ticketing, baggage and ground handling, and terminal and gate access with another carrier, it shall provide the same services to any requesting air carrier that offers service to a community selected for participation in the program under section 41743 under similar terms and conditions and on a nondiscriminatory basis within 30 days after receiving the request, as long as the requesting air carrier meets such safety, service, financial, and maintenance requirements, if any, as the Secretary may by regulation establish consistent with public convenience and necessity. The Secretary must review any proposed agreement to determine if the requesting carrier meets operational requirements consistent with the rules, procedures, and policies of the major carrier. This agreement may be terminated by either party in the event of failure to meet the standards and conditions outlined in the [agreement.] agreement.

"(b) DEFINITIONS.—In this section the term 'essential airport facility' means a large hub airport (as defined in section 41731(a)(3)) in the contiguous 48 States in which one carrier has more than 50 percent of such airport's total annual enplanements."

(b) CLERICAL AMENDMENT.—The chapter analysis for subchapter I of chapter 417 is amended by adding at the end thereof the following:

"41717. Interline agreements for domestic transportation."

### TITLE IV—MISCELLANEOUS

#### SEC. 401. OVERSIGHT OF FAA RESPONSE TO YEAR 2000 PROBLEM.

The Administrator of the Federal Aviation Administration shall report to the Senate Committee on Commerce, Science, and Transportation and the House Committee on Transportation and Infrastructure every 3 months, in oral or written form, on electronic data processing problems associated with the year 2000 within the Administration.

#### SEC. 402. CARGO COLLISION AVOIDANCE SYSTEMS DEADLINE.

(a) IN GENERAL.—The Administrator of the Federal Aviation Administration shall require by regulation that, not later than December 31, 2002, collision avoidance equipment be installed on each cargo aircraft with a payload capacity of 15,000 kilograms or more.

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

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

(2) other safety or public interest objectives.

(c) COLLISION AVOIDANCE EQUIPMENT.—For purposes of this section, the term "collision

avoidance equipment" means TCAS II equipment (as defined by the Administrator), or any other similar system approved by the Administration for collision avoidance purposes.

**SEC. 403. RUNWAY SAFETY AREAS; PRECISION APPROACH PATH INDICATORS.**

Within 6 months after the date of enactment of this Act, the Administrator of the Federal Aviation Administration shall solicit comments on the need for—

(1) the improvement of runway safety areas; and

(2) the installation of precision approach path indicators.

**SEC. 404. AIRPLANE EMERGENCY LOCATORS.**

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

"(b) NONAPPLICATION.—Subsection (a) does not apply to aircraft when used in—

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

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

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

"(4) showing compliance with regulations, exhibition, or air racing; or

"(5) the aerial application of a substance for an agricultural purpose."

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

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

(c) EFFECTIVE DATE; REGULATIONS.—

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

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

**SEC. 405. COUNTERFEIT AIRCRAFT PARTS.**

(a) DENIAL; REVOCATION; AMENDMENT OF CERTIFICATE.—

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

**"§ 44725. Denial and revocation of certificate for counterfeit parts violations"**

"(a) DENIAL OF CERTIFICATE.—

"(1) IN GENERAL.—Except as provided in paragraph (2) of this subsection and subsection (e)(2) of this section, the Administrator may not issue a certificate under this chapter to any person—

"(A) convicted of a violation of a law of the United States or of a State relating to the installation, production, repair, or sale of a counterfeit or falsely-represented aviation part or material; or

"(B) subject to a controlling or ownership interest of an individual convicted of such a violation.

"(2) EXCEPTION.—Notwithstanding paragraph (1), the Administrator may issue a certificate under this chapter to a person described in paragraph (1) if issuance of the certificate will facilitate law enforcement efforts.

"(b) REVOCATION OF CERTIFICATE.—

"(1) IN GENERAL.—Except as provided in subsections (f) and (g) of this section, the Administrator shall issue an order revoking a certificate issued under this chapter if the

Administrator finds that the holder of the certificate, or an individual who has a controlling or ownership interest in the holder—

"(A) was convicted of a violation of a law of the United States or of a State relating to the installation, production, repair, or sale of a counterfeit or falsely-represented aviation part or material; or

"(B) knowingly carried out or facilitated an activity punishable under such a law.

"(2) NO AUTHORITY TO REVIEW VIOLATION.—In carrying out paragraph (1) of this subsection, the Administrator may not review whether a person violated such a law.

"(c) NOTICE REQUIREMENT.—Before the Administrator revokes a certificate under subsection (b), the Administrator shall—

"(1) advise the holder of the certificate of the reason for the revocation; and

"(2) provide the holder of the certificate an opportunity to be heard on why the certificate should not be revoked.

"(d) APPEAL.—The provisions of section 44710(d) apply to the appeal of a revocation order under subsection (b). For the purpose of applying that section to such an appeal, 'person' shall be substituted for 'individual' each place it appears.

"(e) ACQUITTAL OR REVERSAL.—

"(1) IN GENERAL.—The Administrator may not revoke, and the Board may not affirm a revocation of, a certificate under subsection (b)(1)(B) of this section if the holder of the certificate, or the individual, is acquitted of all charges related to the violation.

"(2) REISSUANCE.—The Administrator may reissue a certificate revoked under subsection (b) of this section to the former holder if—

"(A) the former holder otherwise satisfies the requirements of this chapter for the certificate;

"(B) the former holder, or individual, is acquitted of all charges related to the violation on which the revocation was based; or

"(C) the conviction of the former holder, or individual, of the violation on which the revocation was based is reversed.

"(f) WAIVER.—The Administrator may waive revocation of a certificate under subsection (b) of this section if—

"(1) a law enforcement official of the United States Government, or of a State (with respect to violations of State law), requests a waiver; or

"(2) the waiver will facilitate law enforcement efforts.

"(g) AMENDMENT OF CERTIFICATE.—If the holder of a certificate issued under this chapter is other than an individual and the Administrator finds that—

"(1) an individual who had a controlling or ownership interest in the holder committed a violation of a law for the violation of which a certificate may be revoked under this section, or knowingly carried out or facilitated an activity punishable under such a law; and

"(2) the holder satisfies the requirements for the certificate without regard to that individual,

then the Administrator may amend the certificate to impose a limitation that the certificate will not be valid if that individual has a controlling or ownership interest in the holder. A decision by the Administrator under this subsection is not reviewable by the Board."

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

"44725. Denial and revocation of certificate for counterfeit parts violations"

(b) PROHIBITION ON EMPLOYMENT.—Section 44711 is amended by adding at the end thereof the following:

"(c) PROHIBITION ON EMPLOYMENT OF CONVICTED COUNTERFEIT PART DEALERS.—No person subject to this chapter may employ anyone to perform a function related to the procurement, sale, production, or repair of a part or material, or the installation of a part into a civil aircraft, who has been convicted of a violation of any Federal or State law relating to the installation, production, repair, or sale of a counterfeit or falsely-represented aviation part or material."

**SEC. 406. FAA MAY FINE UNRULY PASSENGERS.**

(a) IN GENERAL.—Chapter 463 [is amended by redesignating section 46316 as section 46217, and by inserting after section 46317 the following:] (as amended by section 309) is amended by adding at the end thereof the following:

**"§ 46316. Interference with cabin or flight crew"**

"(a) IN GENERAL.—An individual who interferes with the duties or responsibilities of the flight crew or cabin crew of a civil aircraft, or who poses an imminent threat to the safety of the aircraft or other individuals on the aircraft, is liable to the United States Government for a civil penalty of not more than \$10,000, which shall be paid to the Federal Aviation Administration and deposited in the account established by section 45303(c).

"(b) COMPROMISE AND SETOFF.—

"(1) The Secretary of Transportation or the Administrator may compromise the amount of a civil penalty imposed under subsection (a).

"(2) The Government may deduct the amount of a civil penalty imposed or compromised under this section from amounts it owes the individual liable for the penalty."

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

"46316. Interference with cabin or flight crew.

"46317. General criminal penalty when specific penalty not provided."

**SEC. 407. HIGHER STANDARDS FOR HANDICAPPED ACCESS.**

(a) ESTABLISHMENT OF HIGHER INTERNATIONAL STANDARDS.—The Secretary of Transportation shall work with appropriate international organizations and the aviation authorities of other nations to bring about their establishment of higher standards for accommodating handicapped passengers in air transportation, particularly with respect to foreign air carriers that code-share with domestic air carriers.

(b) INVESTIGATION OF ALL COMPLAINTS REQUIRED.—Section 41705 is amended by—

(1) inserting "(a) IN GENERAL.—" before "In providing";

(2) striking "carrier" and inserting "carrier, including any foreign air carrier doing business in the United States,"; and [after "In providing air transportation, an air carrier"; and]

(3) adding at the end thereof the following:

"(b) EACH ACT CONSTITUTES SEPARATE OFFENSE.—Each separate act of discrimination prohibited by subsection (a) constitutes a separate violation of that subsection.

"(c) INVESTIGATION OF COMPLAINTS.—

"(1) IN GENERAL.—The Secretary or a person designated by the Secretary within the Office of Civil Rights shall investigate each complaint of a violation of subsection (a).

"(2) PUBLICATION OF DATA.—The Secretary or a person designated by the Secretary within the Office of Civil Rights shall publish disability-related complaint data in a manner comparable to other consumer complaint data.

"(3) EMPLOYMENT.—The Secretary is authorized to employ personnel necessary to enforce this section.



"(4) REVIEW AND REPORT.—The Secretary or a person designated by the Secretary within the Office of Civil Rights shall regularly review all complaints received by air carriers alleging discrimination on the basis of disability, and report annually to Congress on the results of such review.

"(5) TECHNICAL ASSISTANT.—Not later than 180 days after enactment of the Air Transportation and Improvement Act, the Secretary shall—

"(A) implement a plan, in consultation with the Department of Justice, United States Architectural and Transportation Barriers Compliance Board, and the National Council on Disability, to provide technical assistance to air carriers and individuals with disabilities in understanding the rights and responsibilities of this section; and

"(B) ensure the availability and provision of appropriate technical assistance manuals to individuals and entities with rights or duties under this section."

[(b)] (c) INCREASED CIVIL PENALTIES.—Section 46301(a) is amended by—

(1) inserting "41705," after "41704," in paragraph (1)(A); and

(2) adding at the end thereof the following:

"(7) Unless an air carrier that violates section 41705 with respect to an individual provides that individual a credit or voucher for the purchase of a ticket on that air carrier or any affiliated air carrier in an amount (determined by the Secretary) of—

"(A) not less than \$500 and not more than \$2,500 for the first violation; or

"(B) not less than \$2,500 and not more than \$5,000 for any subsequent violation, then that air carrier is liable to the United States Government for a civil penalty, determined by the Secretary, of not more than 100 percent of the amount of the credit or voucher so determined. For purposes of this paragraph, each act of discrimination prohibited by section 41705 constitutes a separate violation of that section.".]

"(7) VIOLATION OF SECTION 41705.—

"(A) CREDIT; VOUCHER; CIVIL PENALTY.—Unless an individual accepts a credit or voucher for the purchase of a ticket on an air carrier or any affiliated air carrier for a violation of subsection (a) in an amount (determined by the Secretary) of—

"(i) not less than \$500 and not more than \$2,500 for the first violation; or

"(ii) not less than \$2,500 and not more than \$5,000 for any subsequent violation, then that air carrier is liable to the United States Government for a civil penalty, determined by the Secretary, of not more than 100 percent of the amount of the credit or voucher so determined.

"(B) REMEDY NOT EXCLUSIVE.—Nothing in subparagraph (A) precludes or affects the right of persons with disabilities to file private rights of action under section 41705 or to limit claims for compensatory or punitive damages asserted in such cases.

"(C) ATTORNEY'S FEES.—In addition to the penalty provided by subparagraph (A), an individual who—

"(i) brings a civil action against an air carrier to enforce this section; and

"(ii) who is awarded damages by the court in which the action is brought, may be awarded reasonable attorneys' fees and costs of litigation reasonably incurred in bringing the action if the court deems it appropriate."

#### SEC. 408. CONVEYANCES OF UNITED STATES GOVERNMENT LAND.

(a) IN GENERAL.—Section 47125(a) is amended to read as follows:

"(a) CONVEYANCES TO PUBLIC AGENCIES.—

"(1) REQUEST FOR CONVEYANCE.—Except as provided in subsection (b) of this section, the Secretary of Transportation—

"(A) shall request the head of the department, agency, or instrumentality of the

United States Government owning or controlling land or airspace to convey a property interest in the land or airspace to the public agency sponsoring the project or owning or controlling the airport when necessary to carry out a project under this subchapter at a public airport, to operate a public airport, or for the future development of an airport under the national plan of integrated airport systems; and

"(B) may request the head of such a department, agency, or instrumentality to convey a property interest in the land or airspace to such a public agency for a use that will complement, facilitate, or augment airport development, including the development of additional revenue from both aviation and nonaviation sources.

"(2) RESPONSE TO REQUEST FOR CERTAIN CONVEYANCES.—Within 4 months after receiving a request from the Secretary under paragraph (1), the head of the department, agency, or instrumentality shall—

"(A) decide whether the requested conveyance is consistent with the needs of the department, agency, or instrumentality;

"(B) notify the Secretary of the decision; and

"(C) make the requested conveyance if—

"(i) the requested conveyance is consistent with the needs of the department, agency, or instrumentality;

"(ii) the Attorney General approves the conveyance; and

"(iii) the conveyance can be made without cost to the United States Government.

"(3) REVERSION.—Except as provided in subsection (b), a conveyance under this subsection may only be made on the condition that the property interest conveyed reverts to the Government, at the option of the Secretary, to the extent it is not developed for an airport purpose or used consistently with the conveyance."

(b) RELEASE OF CERTAIN CONDITIONS.—Section 47125 is amended—

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

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

"(b) RELEASE OF CERTAIN CONDITIONS.—The Secretary may grant a release from any term, condition, reservation, or restriction contained in any conveyance executed under this section, section 16 of the Federal Airport Act, section 23 of the Airport and Airway Development Act of 1970, or section 516 of the Airport and Airway Improvement Act of 1982, to facilitate the development of additional revenue from aeronautical and non-aeronautical sources if the Secretary—

"(1) determines that the property is no longer needed for aeronautical purposes;

"(2) determines that the property will be used solely to generate revenue for the public airport;

"(3) provides preliminary notice to the head of the department, agency, or instrumentality that conveyed the property interest at least 30 days before executing the release;

"(4) provides notice to the public of the requested release;

"(5) includes in the release a written justification for the release of the property; and

"(6) determines that release of the property will advance civil aviation in the United States."

(c) EFFECTIVE DATE.—Section 47125(b) of title 49, United States Code, as added by subsection (b) of this section, applies to property interests conveyed before, on, or after the date of enactment of this Act.

(d) IDITAROD AREA SCHOOL DISTRICT.—Notwithstanding any other provision of law (including section 47125 of title 49, United States Code, as amended by this section), the Administrator of the Federal Aviation Ad-

ministration, or the Administrator of the General Services Administration, may convey to the Iditarod Area School District without reimbursement all right, title, and interest in 12 acres of property at Lake Minchumina, Alaska, identified by the Administrator of the Federal Aviation Administration, including the structures known as housing units 100 through 105 and as utility building 301.

#### SEC. 409. FLIGHT OPERATIONS QUALITY ASSURANCE RULES.

Not later than 90 days after the date of enactment of this Act, the Administrator shall issue a notice of proposed rulemaking to develop procedures to protect air carriers and their employees from [civil enforcement action under the program known as Flight Operations Quality Assurance.] *enforcement actions for violations of the Federal Aviation Regulations other than criminal or deliberate acts that are reported or discovered as a result of voluntary reporting programs, such as the Flight Operations Quality Assurance Program and the Aviation Safety Action Program.* Not later than 1 year after the last day of the period for public comment provided for in the notice of proposed rulemaking, the Administrator shall issue a final rule establishing those procedures.

#### SEC. 410. WIDE AREA AUGMENTATION SYSTEM.

(a) PLAN.—The Administrator shall identify or develop a plan to implement WAAS to provide navigation and landing approach capabilities for civilian use and make a determination as to whether a backup system is necessary. Until the Administrator determines that WAAS is the sole means of navigation, the Administration shall continue to develop and maintain a backup system.

(b) REPORT.—Within 6 months after the date of enactment of this Act, the Administrator shall—

(1) report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure, on the plan developed under subsection (a);

(2) submit a timetable for implementing WAAS; and

(3) make a determination as to whether WAAS will ultimately become a primary or sole means of navigation and landing approach capabilities.

(c) WAAS DEFINED.—For purposes of this section, the term "WAAS" means wide area augmentation system.

(d) FUNDING AUTHORIZATION.—There are authorized to be appropriated to the Secretary of Transportation such sums as may be necessary to carry out this section.

#### SEC. 411. REGULATION OF ALASKA AIR GUIDES.

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

#### [SEC. 412. APPLICATION OF FAA REGULATIONS.]

#### SEC. 412. ALASKA RURAL AVIATION IMPROVEMENT.

[Section 40113] (a) APPLICATION OF FAA REGULATIONS.—Section 40113 is amended by adding at the end thereof the following:

"(f) APPLICATION OF CERTAIN REGULATIONS TO ALASKA.—In amending 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 considers appropriate."

(b) **AVIATION CLOSED CIRCUIT TELEVISION.**—The Administrator of the Federal Aviation Administration, in consultation with commercial and general aviation pilots, shall install closed circuit weather surveillance equipment at not fewer than 15 rural airports in Alaska and provide for the dissemination of information derived from such equipment to pilots for pre-flight planning purposes and en route purposes, including through the dissemination of such information to pilots by flight service stations. There are authorized to be appropriated \$2,000,000 for the purposes of this subsection.

(c) **MIKE-IN-HAND WEATHER OBSERVATION.**—The Administrator of the Federal Aviation Administration and the Assistant Administrator of the National Weather Service, in consultation with the National Transportation Safety Board and the Governor of the State of Alaska, shall develop and implement a "mike-in-hand" weather observation program in Alaska under which Federal Aviation Administration employees, National Weather Service employees, other Federal or State employees sited at an airport, or persons contracted specifically for such purpose (including part-time contract employees who are not sited at such airport), will provide near-real time aviation weather information via radio and otherwise to pilots who request such information.

(d) **RURAL IFR COMPLIANCE.**—There are authorized to be appropriated \$4,000,000 to the Administrator for runway lighting and weather reporting systems at remote airports in Alaska to implement the CAPSTONE project.

#### SEC. 413. HUMAN FACTORS PROGRAM.

(a) IN GENERAL.—Chapter 445 is amended by adding at the end thereof the following:

##### "§44516. Human factors program

"(a) **OVERSIGHT COMMITTEE.**—The Administrator of the Federal Aviation Administration shall establish an advanced qualification program oversight committee to advise the Administrator on the development and execution of Advanced Qualification Programs for air carriers under this section, and to encourage their adoption and implementation.

"(b) **HUMAN FACTORS TRAINING.**—

"(1) **AIR TRAFFIC CONTROLLERS.**—The Administrator shall—

"(A) address the problems and concerns raised by the National Research Council in its report 'The Future of Air Traffic Control' on air traffic control automation; and

"(B) respond to the recommendations made by the National Research Council.

"(2) **PILOTS AND FLIGHT CREWS.**—The Administrator shall work with the aviation industry to develop specific training curricula, within 12 months after the date of enactment of the Air Transportation Improvement Act, to address critical safety problems, including problems of pilots—

"(A) in recovering from loss of control of the aircraft, including handling unusual attitudes and mechanical malfunctions;

"(B) in deviating from standard operating procedures, including inappropriate responses to emergencies and hazardous weather;

"(C) in awareness of altitude and location relative to terrain to prevent controlled flight into terrain; and

"(D) in landing and approaches, including nonprecision approaches and go-around procedures.

"(c) **ACCIDENT INVESTIGATIONS.**—The Administrator, working with the National Transportation Safety Board and representa-

tives of the aviation industry, shall establish a process to assess human factors training as part of accident and incident investigations.

"(d) **TEST PROGRAM.**—The Administrator shall establish a test program in cooperation with United States air carriers to use model Jeppesen approach plates or other similar tools to improve nonprecision landing approaches for aircraft.

"(e) **ADVANCED QUALIFICATION PROGRAM DEFINED.**—For purposes of this section, the term 'advanced qualification program' means an alternative method for qualifying, training, certifying, and ensuring the competency of flight crews and other commercial aviation operations personnel subject to the training and evaluation requirements of Parts 121 and 135 of title 14, Code of Federal Regulations."

(b) **AUTOMATION AND ASSOCIATED TRAINING.**—The Administrator shall complete the Administration's updating of training practices for flight deck automation and associated training requirements within 12 months after the date of enactment of this Act.

(c) **CONFORMING AMENDMENT.**—The chapter analysis for chapter 445 is amended by adding at the end thereof the following:

"44516. Human factors program."

#### SEC. 414. INDEPENDENT VALIDATION OF FAA COSTS AND ALLOCATIONS.

(a) **INDEPENDENT ASSESSMENT.**—

(1) **INITIATION.**—Not later than 90 days after the date of enactment of this Act, the Inspector General of the Department of Transportation shall initiate the analyses described in paragraph (2). In conducting the analyses, the Inspector General shall ensure that the analyses are carried out by 1 or more entities that are independent of the Federal Aviation Administration. The Inspector General may use the staff and resources of the Inspector General or may contract with independent entities to conduct the analyses.

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

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

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

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

(iv) An assessment of the Federal Aviation Administration's system of internal controls for ensuring the consistency and reliability of reported data to begin immediately after full operational capability of the cost accounting system.

(B) A review and validation of the Federal Aviation Administration's definition of the services to which the Federal Aviation Administration ultimately attributes its costs, and the methods used to identify direct costs associated with the services.

(C) An assessment and validation of the general cost pools used by the Federal Aviation Administration, including the rationale for and reliability of the bases on which the Federal Aviation Administration proposes to allocate costs of services to users and the integrity of the cost pools as well as any other factors considered important by the Inspec-

tor General. Appropriate statistical tests shall be performed to assess relationships between costs in the various cost pools and activities and services to which the costs are attributed by the Federal Aviation Administration.

(b) **DEADLINE.**—The independent analyses described in this section shall be completed no later than 270 days after the contracts are awarded to the outside independent contractors. The Inspector General shall submit a final report combining the analyses done by its staff with those of the outside independent contractors to the Secretary of Transportation, the Administrator, the Committee on Commerce, Science, and Transportation of the Senate, and the Committee on Transportation and Infrastructure of the House of Representatives. The final report shall be submitted by the Inspector General not later than 300 days after the award of contracts.

(c) **FUNDING.**—There are authorized to be appropriated such sums as may be necessary for the cost of the contracted audit services authorized by this section.

#### SEC. 415. WHISTLEBLOWER PROTECTION FOR FAA EMPLOYEES.

Section 347(b)(1) of Public Law 104-50 (49 U.S.C. 106, note) is amended by striking "protection;" and inserting "protection, including the provisions for investigations and enforcement as provided in chapter 12 of title 5, United States Code;"

#### SEC. 416. REPORT ON MODERNIZATION OF OCEANIC ATC SYSTEM.

The Administrator of the Federal Aviation Administration shall report to the Congress on plans to modernize the oceanic air traffic control system, including a budget for the program, a determination of the requirements for modernization, and, if necessary, a proposal to fund the program.

#### SEC. 417. REPORT ON AIR TRANSPORTATION OVERSIGHT SYSTEM.

Beginning in 2000, the Administrator of the Federal Aviation Administration shall report biannually to the Congress on the air transportation oversight system program announced by the Administration on May 13, 1998, in detail on the training of inspectors, the number of inspectors using the system, air carriers subject to the system, and the budget for the system.

#### SEC. 418. RECYCLING OF EIS.

Notwithstanding any other provision of law to the contrary, the Secretary of Transportation may authorize the use, in whole or in part, of a completed environmental assessment or environmental impact study for a new airport construction project on the air operations area, that is substantially similar in nature to one previously constructed pursuant to the completed environmental assessment or environmental impact study in order to avoid unnecessary duplication of expense and effort, and any such authorized use shall meet all requirements of Federal law for the completion of such an assessment or study.

#### SEC. 419. PROTECTION OF EMPLOYEES PROVIDING AIR SAFETY INFORMATION.

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

##### "SUBCHAPTER III—WHISTLEBLOWER PROTECTION PROGRAM

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

"(a) **DISCRIMINATION AGAINST AIRLINE EMPLOYEES.**—No air carrier or contractor or subcontractor of an air carrier may discharge an employee of the air carrier or the contractor or subcontractor of an air carrier or otherwise discriminate against any such employee with respect to compensation,



terms, conditions, or privileges of employment because the employee (or any person acting pursuant to a request of the employee)—

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

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

“(3) testified or will testify in such a proceeding; or

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

“(b) DEPARTMENT OF LABOR COMPLAINT PROCEDURE.—

“(1) FILING AND NOTIFICATION.—

“(A) IN GENERAL.—In accordance with this paragraph, a person may file (or have a person file on behalf of that person) a complaint with the Secretary of Labor if that person believes that an air carrier or contractor or subcontractor of an air carrier discharged or otherwise discriminated against that person in violation of subsection (a).

“(B) REQUIREMENTS FOR FILING COMPLAINTS.—A complaint referred to in subparagraph (A) may be filed not later than 90 days after an alleged violation occurs. The complaint shall state the alleged violation.

“(C) NOTIFICATION.—Upon receipt of a complaint submitted under subparagraph (A), the Secretary of Labor shall notify the air carrier, contractor, or subcontractor named in the complaint and the Administrator of the Federal Aviation Administration of the—

“(i) filing of the complaint;

“(ii) allegations contained in the complaint;

“(iii) substance of evidence supporting the complaint; and

“(iv) opportunities that are afforded to the air carrier, contractor, or subcontractor under paragraph (2).

“(2) INVESTIGATION; PRELIMINARY ORDER.—

“(A) IN GENERAL.—

“(i) INVESTIGATION.—Not later than 60 days after receipt of a complaint filed under paragraph (1) and after affording the person named in the complaint an opportunity to submit to the Secretary of Labor a written response to the complaint and an opportunity to meet with a representative of the Secretary to present statements from witnesses, the Secretary of Labor shall conduct an investigation and determine whether there is reasonable cause to believe that the complaint has merit and notify in writing the complainant and the person alleged to have committed a violation of subsection (a) of the Secretary's findings.

“(ii) ORDER.—Except as provided in subparagraph (B), if the Secretary of Labor concludes that there is reasonable cause to believe that a violation of subsection (a) has occurred, the Secretary shall accompany the findings referred to in clause (i) with a preliminary order providing the relief prescribed under paragraph (3)(B).

“(iii) OBJECTIONS.—Not later than 30 days after the date of notification of findings under this paragraph, the person alleged to have committed the violation or the complainant may file objections to the findings or preliminary order and request a hearing on the record.

“(iv) EFFECT OF FILING.—The filing of objections under clause (iii) shall not operate to stay any reinstatement remedy contained in the preliminary order.

“(v) HEARINGS.—Hearings conducted pursuant to a request made under clause (iii) shall be conducted *[expeditiously.] expeditiously and governed by the Federal Rules of Civil Procedure*. If a hearing is not requested during the 30-day period prescribed in clause (iii), the preliminary order shall be deemed a final order that is not subject to judicial review.

“(B) REQUIREMENTS.—

“(i) REQUIRED SHOWING BY COMPLAINANT.—The Secretary of Labor shall dismiss a complaint filed under this subsection and shall not conduct an investigation otherwise required under subparagraph (A) unless the complainant makes a prima facie showing that any behavior described in paragraphs (1) through (4) of subsection (a) was a contributing factor in the unfavorable personnel action alleged in the complaint.

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

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

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

“(3) FINAL ORDER.—

“(A) DEADLINE FOR ISSUANCE; SETTLEMENT AGREEMENTS.—

“(i) IN GENERAL.—Not later than 120 days after conclusion of a hearing under paragraph (2), the Secretary of Labor shall issue a final order that—

“(I) provides relief in accordance with this paragraph; or

“(II) denies the complaint.

“(ii) SETTLEMENT AGREEMENT.—At any time before issuance of a final order under this paragraph, a proceeding under this subsection may be terminated on the basis of a settlement agreement entered into by the Secretary of Labor, the complainant, and the air carrier, contractor, or subcontractor alleged to have committed the violation.

“(B) REMEDY.—If, in response to a complaint filed under paragraph (1), the Secretary of Labor determines that a violation of subsection (a) has occurred, the Secretary of Labor shall order the air carrier, contractor, or subcontractor that the Secretary of Labor determines to have committed the violation to—

“(i) take action to abate the violation;

“(ii) reinstate the complainant to the former position of the complainant and ensure the payment of compensation (including back pay) and the restoration of terms, conditions, and privileges associated with the employment; and

“(iii) provide compensatory damages to the complainant.

“(C) COSTS OF COMPLAINT.—If the Secretary of Labor issues a final order that provides for relief in accordance with this paragraph, the Secretary of Labor, at the request of the complainant, shall assess against the air carrier, contractor, or subcontractor named in

the order an amount equal to the aggregate amount of all costs and expenses (including attorney and expert witness fees) reasonably incurred by the complainant (as determined by the Secretary of Labor) for, or in connection with, the bringing of the complaint that resulted in the issuance of the order.

“(4) FRIVOLOUS COMPLAINTS.—Rule 11 of the Federal Rules of Civil Procedure applies to any complaint brought under this section that the Secretary finds to be frivolous or to have been brought in bad faith.

“[(4)] (5) REVIEW.—

“(A) APPEAL TO COURT OF APPEALS.—

“(i) IN GENERAL.—Not later than 60 days after a final order is issued under paragraph (3), a person adversely affected or aggrieved by that order may obtain review of the order in the United States court of appeals for the circuit in which the violation allegedly occurred or the circuit in which the complainant resided on the date of that violation.

“(ii) REQUIREMENTS FOR JUDICIAL REVIEW.—A review conducted under this paragraph shall be conducted in accordance with chapter 7 of title 5. The commencement of proceedings under this subparagraph shall not, unless ordered by the court, operate as a stay of the order that is the subject of the review.

“(B) LIMITATION ON COLLATERAL ATTACK.—An order referred to in subparagraph (A) shall not be subject to judicial review in any criminal or other civil proceeding.

“[(5)] (6) ENFORCEMENT OF ORDER BY SECRETARY OF LABOR.—

“(A) IN GENERAL.—If an air carrier, contractor, or subcontractor named in an order issued under paragraph (3) fails to comply with the order, the Secretary of Labor may file a civil action in the United States district court for the district in which the violation occurred to enforce that order.

“(B) RELIEF.—In any action brought under this paragraph, the district court shall have jurisdiction to grant any appropriate form of relief, including injunctive relief and compensatory damages.

“[(6)] (7) ENFORCEMENT OF ORDER BY PARTIES.—

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

“(B) ATTORNEY FEES.—In issuing any final order under this paragraph, the court may award costs of litigation (including reasonable attorney and expert witness fees) to any party if the court determines that the awarding of those costs is appropriate.

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

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

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

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

**"SUBCHAPTER III—WHISTLEBLOWER PROTECTION PROGRAM"**

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

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

**SEC. 420. IMPROVEMENTS TO AIR NAVIGATION FACILITIES.**

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

"(5) The Administrator may improve real property leased for air navigation facilities without regard to the costs of the improvements in relation to the cost of the lease if—

"(A) the improvements primarily benefit the government;

"(B) are essential for mission accomplishment; and

"(C) the government's interest in the improvements is protected."

**SEC. 421. DENIAL OF AIRPORT ACCESS TO CERTAIN AIR CARRIERS.**

Section 47107 is amended by adding at the end thereof the following:

"(q) DENIAL OF ACCESS.—

"(1) EFFECT OF DENIAL.—If an owner or operator of an airport described in paragraph (2) denies access to an air carrier described in paragraph (3), that denial shall not be considered to be unreasonable or unjust discrimination or a violation of this section.

"(2) AIRPORTS TO WHICH SUBSECTION APPLIES.—An airport is described in this paragraph if it—

"(A) is designated as a reliever airport by the Administrator of the Federal Aviation Administration;

"(B) does not have an operating certificate issued under part 139 of title 14, Code of Federal Regulations (or any subsequent similar regulations); and

"(C) is located within a 35-mile radius of an airport that has—

"(i) at least 0.05 percent of the total annual boardings in the United States; and

"(ii) current gate capacity to handle the demands of a public charter operation.

"(3) AIR CARRIERS DESCRIBED.—An air carrier is described in this paragraph if it conducts operations as a public charter under part 380 of title 14, Code of Federal Regulations (or any subsequent similar regulations) with aircraft that is designed to carry more than 9 passengers per flight.

"(4) DEFINITIONS.—In this subsection:

"(A) AIR CARRIER; AIR TRANSPORTATION; AIRCRAFT; AIRPORT.—The terms 'air carrier', 'air transportation', 'aircraft', and 'airport' have the meanings given those terms in section 40102 of this title.

"(B) PUBLIC CHARTER.—The term 'public charter' means charter air transportation for which the general public is provided in advance a schedule containing the departure location, departure time, and arrival location of the flights."

**SEC. 422. TOURISM.**

(a) FINDINGS.—Congress finds that—

(1) through an effective public-private partnership, Federal, State, and local governments and the travel and tourism industry can successfully market the United States as the premiere international tourist destination in the world;

(2) in 1997, the travel and tourism industry made a substantial contribution to the health of the Nation's economy, as follows:

(A) The industry is one of the Nation's largest employers, directly employing 7,000,000 Americans, throughout every region of the country, heavily concentrated among small businesses, and indirectly employing an additional 9,200,000 Americans, for a total of 16,200,000 jobs.

(B) The industry ranks as the first, second, or third largest employer in 32 States and

the District of Columbia, generating a total tourism-related annual payroll of \$127,900,000,000.

(C) The industry has become the Nation's third-largest retail sales industry, generating a total of \$489,000,000,000 in total expenditures.

(D) The industry generated \$71,700,000,000 in tax revenues for Federal, State, and local governments;

(3) the more than \$98,000,000,000 spent by foreign visitors in the United States in 1997 generated a trade services surplus of more than \$26,000,000,000;

(4) the private sector, States, and cities currently spend more than \$1,000,000,000 annually to promote particular destinations within the United States to international visitors;

(5) because other nations are spending hundreds of millions of dollars annually to promote the visits of international tourists to their countries, the United States will miss a major marketing opportunity if it fails to aggressively compete for an increased share of international tourism expenditures as they continue to increase over the next decade;

(6) a well-funded, well-coordinated international marketing effort—combined with additional public and private sector efforts—would help small and large businesses, as well as State and local governments, share in the anticipated phenomenal growth of the international travel and tourism market in the 21st century;

(7) by making permanent the successful visa waiver pilot program, Congress can facilitate the increased flow of international visitors to the United States;

(8) Congress can increase the opportunities for attracting international visitors and enhancing their stay in the United States by—

(A) improving international signage at airports, seaports, land border crossings, highways, and bus, train, and other public transit stations in the United States;

(B) increasing the availability of multilingual tourist information; and

(C) creating a toll-free, private-sector operated, telephone number, staffed by multilingual operators, to provide assistance to international tourists coping with an emergency;

(9) by establishing a satellite system of accounting for travel and tourism, the Secretary of Commerce could provide Congress and the President with objective, thorough data that would help policymakers more accurately gauge the size and scope of the domestic travel and tourism industry and its significant impact on the health of the Nation's economy; and

(10) having established the United States National Tourism Organization under the United States National Tourism Organization Act of 1996 (22 U.S.C. 2141 et seq.) to increase the United States share of the international tourism market by developing a national travel and tourism strategy, Congress should support a long-term marketing effort and other important regulatory reform initiatives to promote increased travel to the United States for the benefit of every sector of the economy.

(b) PURPOSES.—The purposes of this section are to provide international visitor initiatives and an international marketing program to enable the United States travel and tourism industry and every level of government to benefit from a successful effort to make the United States the premiere travel destination in the world.

(c) INTERNATIONAL VISITOR ASSISTANCE TASK FORCE.—

(1) ESTABLISHMENT.—Not later than 9 months after the date of enactment of this Act, the Secretary of Commerce shall estab-

lish an Intergovernmental Task Force for International Visitor Assistance (hereafter in this subsection referred to as the "Task Force").

(2) DUTIES.—The Task Force shall examine—

(A) signage at facilities in the United States, including airports, seaports, land border crossings, highways, and bus, train, and other public transit stations, and shall identify existing inadequacies and suggest solutions for such inadequacies, such as the adoption of uniform standards on international signage for use throughout the United States in order to facilitate international visitors' travel in the United States;

(B) the availability of multilingual travel and tourism information and means of disseminating, at no or minimal cost to the Government, of such information; and

(C) facilitating the establishment of a toll-free, private-sector operated, telephone number, staffed by multilingual operators, to provide assistance to international tourists coping with an emergency.

(3) MEMBERSHIP.—The Task Force shall be composed of the following members:

(A) The Secretary of Commerce.

(B) The Secretary of State.

(C) The Secretary of Transportation.

(D) The Chair of the Board of Directors of the United States National Tourism Organization.

(E) Such other representatives of other Federal agencies and private-sector entities as may be determined to be appropriate to the mission of the Task Force by the Chairman.

(4) CHAIRMAN.—The Secretary of Commerce shall be Chairman of the Task Force. The Task Force shall meet at least twice each year. Each member of the Task Force shall furnish necessary assistance to the Task Force.

(5) REPORT.—Not later than 18 months after the date of the enactment of this Act, the Chairman of the Task Force shall submit to the President and to Congress a report on the results of the review, including proposed amendments to existing laws or regulations as may be appropriate to implement such recommendations.

(d) TRAVEL AND TOURISM INDUSTRY SATELLITE SYSTEM OF ACCOUNTING.—

(1) IN GENERAL.—The Secretary of Commerce shall complete, as soon as may be practicable, a satellite system of accounting for the travel and tourism industry.

(2) FUNDING.—To the extent any costs or expenditures are incurred under this subsection, they shall be covered to the extent funds are available to the Department of Commerce for such purpose.

(e) AUTHORIZATION OF APPROPRIATIONS.—

(1) AUTHORIZATION.—Subject to paragraph (2), there are authorized to be appropriated such sums as may be necessary for the purpose of funding international promotional activities by the United States National Tourism Organization to help brand, position, and promote the United States as the premiere travel and tourism destination in the world.

(2) RESTRICTIONS ON USE OF FUNDS.—None of the funds appropriated under paragraph (1) may be used for purposes other than marketing, research, outreach, or any other activity designed to promote the United States as the premiere travel and tourism destination in the world, except that the general and administrative expenses of operating the United States National Tourism Organization shall be borne by the private sector through such means as the Board of Directors of the Organization shall determine.

(3) REPORT TO CONGRESS.—Not later than March 30 of each year in which funds are

made available under subsection (a), the Secretary shall submit to the Committee on Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a detailed report setting forth—

(A) the manner in which appropriated funds were expended;

(B) changes in the United States market share of international tourism in general and as measured against specific countries and regions;

(C) an analysis of the impact of international tourism on the United States economy, including, as specifically as practicable, an analysis of the impact of expenditures made pursuant to this section;

(D) an analysis of the impact of international tourism on the United States trade balance and, as specifically as practicable, an analysis of the impact on the trade balance of expenditures made pursuant to this section; and

(E) an analysis of other relevant economic impacts as a result of expenditures made pursuant to this section.

#### SEC. 423. EQUIVALENCY OF FAA AND EU SAFETY STANDARDS.

The Administrator of the Federal Aviation Administration shall determine whether the Administration's safety regulations are equivalent to the safety standards set forth in European Union Directive 89/336EEC. If the Administrator determines that the standards are equivalent, the Administrator shall work with the Secretary of Commerce to gain acceptance of that determination pursuant to the Mutual Recognition Agreement between the United States and the European Union of May 18, 1998, in order to ensure that aviation products approved by the Administration are acceptable under that Directive.

#### SEC. 424. SENSE OF THE SENATE ON PROPERTY TAXES ON PUBLIC-USE AIRPORTS.

It is the sense of the Senate that—

(1) property taxes on public-use airports should be assessed fairly and equitably, regardless of the location of the owner of the airport; and

(2) the property tax recently assessed on the City of The Dalles, Oregon, as the owner and operator of the Columbia Gorge Regional/The Dalles Municipal Airport, located in the State of Washington, should be repealed.

#### SEC. 425. FEDERAL AVIATION ADMINISTRATION PERSONNEL MANAGEMENT SYSTEM.

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

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

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

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

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

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

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

to the Board under any law, rule, or regulation as of March 31, 1996."

#### SEC 426. AIRCRAFT AND AVIATION COMPONENT REPAIR AND MAINTENANCE ADVISORY PANEL.

(a) ESTABLISHMENT OF PANEL.—The Administrator of the Federal Aviation Administration—

(1) shall establish an Aircraft Repair and Maintenance Advisory Panel to review issues related to the use and oversight of aircraft and aviation component repair and maintenance facilities located within, or outside of, the United States; and

(2) may seek the advice of the panel on any issue related to methods to improve the safety of domestic or foreign contract aircraft and aviation component repair facilities.

(b) MEMBERSHIP.—The panel shall consist of—

(1) 8 members, appointed by the Administrator as follows:

(A) 3 representatives of labor organizations representing aviation mechanics;

(B) 1 representative of cargo air carriers;

(C) 1 representative of passenger air carriers;

(D) 1 representative of aircraft and aviation component repair stations;

(E) 1 representative of aircraft manufacturers; and

(F) 1 representative of the aviation industry not described in the preceding subparagraphs;

(2) 1 representative from the Department of Transportation, designated by the Secretary of Transportation;

(3) 1 representative from the Department of State, designated by the Secretary of State; and

(4) 1 representative from the Federal Aviation Administration, designated by the Administrator.

(c) RESPONSIBILITIES.—The panel shall—

(1) determine how much aircraft and aviation component repair work and what type of aircraft and aviation component repair work is being performed by aircraft and aviation component repair stations located within, and outside of, the United States to better understand and analyze methods to improve the safety and oversight of such facilities; and

(2) provide advice and counsel to the Administrator with respect to aircraft and aviation component repair work performed by those stations, staffing needs, and any safety issues associated with that work.

(d) FAA TO REQUEST INFORMATION FROM FOREIGN AIRCRAFT REPAIR STATIONS.—

(1) COLLECTION OF INFORMATION.—The Administrator shall by regulation request aircraft and aviation component repair stations located outside the United States to submit such information as the Administrator may require in order to assess safety issues and enforcement actions with respect to the work performed at those stations on aircraft used by United States air carriers.

(2) DRUG AND ALCOHOL TESTING INFORMATION.—Included in the information the Administrator requests under paragraph (1) shall be information on the existence and administration of employee drug and alcohol testing programs in place at such stations, if applicable.

(3) DESCRIPTION OF WORK DONE.—Included in the information the Administrator requests under paragraph (1) shall be information on the amount and type of aircraft and aviation component repair work performed at those stations on aircraft registered in the United States.

(e) FAA TO REQUEST INFORMATION ABOUT DOMESTIC AIRCRAFT REPAIR STATIONS.—If the Administrator determines that information on the volume of the use of domestic aircraft and aviation component repair stations is

needed in order to better utilize Federal Aviation Administration resources, the Administrator may—

(1) require United States air carriers to submit the information described in subsection (d) with respect to their use of contract and noncontract aircraft and aviation component repair facilities located in the United States; and

(2) obtain information from such stations about work performed for foreign air carriers.

(f) FAA TO MAKE INFORMATION AVAILABLE TO PUBLIC.—The Administrator shall make any information received under subsection (d) or (e) available to the public.

(g) TERMINATION.—The panel established under subsection (a) shall terminate on the earlier of—

(1) the date that is 2 years after the date of enactment of this Act; or

(2) December 31, 2000.

(h) ANNUAL REPORT TO CONGRESS.—The Administrator shall report annually to the Congress on the number and location of air agency certificates that were revoked, suspended, or not renewed during the preceding year.

(i) DEFINITIONS.—Any term used in this section that is defined in subtitle VII of title 49, United States Code, has the meaning given that term in that subtitle.

#### [SEC. 427. REPORT ON ENHANCED DOMESTIC AIRLINE COMPETITION.

](a) FINDINGS.—The Congress makes the following findings:

[(1) There has been a reduction in the level of competition in the domestic airline business brought about by mergers, consolidations, and proposed domestic alliances.

[(2) Foreign citizens and foreign air carriers may be willing to invest in existing or start-up airlines if they are permitted to acquire a larger equity share of a United States airline.

[(b) STUDY.—The Secretary of Transportation, after consulting the appropriate Federal agencies, shall study and report to the Congress not later than June 30, 1999, on the desirability and implications of—

[(1) decreasing the foreign ownership provision in section 40102(a)(15) of title 49, United States Code, to 51 percent from 75 percent; and

[(2) changing the definition of air carrier in section 40102(a)(2) of such title by substituting "a company whose principal place of business is in the United States" for "a citizen of the United States".]

#### SEC. 427. AUTHORITY TO SELL AIRCRAFT AND AIRCRAFT PARTS FOR USE IN RESPONDING TO OIL SPILLS.

(a) AUTHORITY.—

(1) Notwithstanding section 202 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 483) and subject to subsections (b) and (c), the Secretary of Defense may, during the period beginning March 1, 1999, and ending on September 30, 2002, sell aircraft and aircraft parts referred to in paragraph (2) to a person or entity that contracts to deliver oil dispersants by air in order to disperse oil spills, and that has been approved by the Secretary of the Department in which the Coast Guard is operating, for the delivery of oil dispersants by air in order to disperse oil spills.

(2) The aircraft and aircraft parts that may be sold under paragraph (1) are aircraft and aircraft parts of the Department of Defense that are determined by the Secretary to be—

(A) excess to the needs of the Department;

(B) acceptable for commercial sale; and

(C) with respect to aircraft, 10 years old or older.

(b) CONDITIONS OF SALE.—Aircraft and aircraft parts sold under subsection (a)—

(1) may be used only for oil spill spotting, observation, and dispersant delivery; and

(2) may not be flown outside of or removed from the United States except for the purpose of

fulfilling an international agreement to assist in oil spill dispersing efforts, or for other purposes that are jointly approved by the Secretary of Defense and the Secretary of Transportation.

(c) **CERTIFICATION OF PERSONS AND ENTITIES.**—The Secretary of Defense may sell aircraft and aircraft parts to a person or entity under subsection (a) only if the Secretary of Transportation certifies to the Secretary of Defense, in writing, before the sale, that the person or entity is capable of meeting the terms and conditions of a contract to deliver oil spill dispersants by air.

(d) **REGULATIONS.**—

(1) As soon as practicable after the date of enactment of this Act, the Secretary of Defense shall, in consultation with the Secretary of Transportation and the Administrator of General Services, prescribe regulations relating to the sale of aircraft and aircraft parts under this section.

(2) The regulations shall—

(A) ensure that the sale of the aircraft and aircraft parts is made at a fair market value as determined by the Secretary of Defense, and, to the extent practicable, on a competitive basis;

(B) require a certification by the purchaser that the aircraft and aircraft parts will be used in subsection (b);

(C) establish appropriate means of verifying and enforcing the use of the aircraft and aircraft parts by the purchaser and other end-users in accordance with the conditions set forth in subsection (b) or pursuant to subsection (e); and

(D) ensure, to the maximum extent practicable, that the Secretary of Defense consults with the Administrator of General Services and with the heads of appropriate departments and agencies of the Federal Government regarding alternative requirements for such aircraft and aircraft parts before the sale of such aircraft and aircraft parts under this section.

(e) **ADDITIONAL TERMS AND CONDITIONS.**—The Secretary of Defense may require such other terms and conditions in connection with each sale of aircraft and aircraft parts under this section as the Secretary considers appropriate for such sale. Such terms and conditions shall meet the requirements of regulations prescribed under subsection (d).

(f) **REPORT.**—Not later than March 31, 2002, the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives a report on the Secretary's exercise of authority under this section. The report shall set forth—

(1) the number and types of aircraft sold under the authority, and the terms and conditions under which the aircraft were sold;

(2) the persons or entities to which the aircraft were sold; and

(3) an accounting of the current use of the aircraft sold.

(g) **CONSTRUCTION.**—Nothing in this section may be construed as affecting the authority of the Administrator of the Federal Aviation Administration under any other provision of law.

(h) **PROCEEDS FROM SALE.**—The net proceeds of any amounts received by the Secretary of Defense from the sale of aircraft and aircraft parts under this section shall be covered into the general fund of the Treasury as miscellaneous receipts.

#### SEC. 428. AIRCRAFT SITUATIONAL DISPLAY DATA.

(a) **IN GENERAL.**—A memorandum of agreement between the Administrator of the Federal Aviation Administration and any person directly that obtains aircraft situational display data from the Administration shall require that—

(1) the person demonstrate to the satisfaction of the Administrator that such person is capable of selectively blocking the display of any aircraft-situation-display-to-industry derived data related to any identified aircraft registration number; and

(2) the person agree to block selectively the aircraft registration numbers of any aircraft owner or operator upon the Administration's request.

(b) **EXISTING MEMORANDA TO BE CONFORMED.**—The Administrator shall conform any memoranda of agreement, in effect on the date of enactment of this Act, between the Administration and a person under which that person obtains such data to incorporate the requirements of subsection (a) within 30 days after that date.

#### SEC. 429. TO EXPRESS THE SENSE OF THE SENATE CONCERNING A BILATERAL AGREEMENT BETWEEN THE UNITED STATES AND THE UNITED KINGDOM REGARDING CHARLOTTE-LONDON ROUTE.

(a) **DEFINITIONS.**—In this section:

(1) **AIR CARRIER.**—The term "air carrier" has the meaning given that term in section 40102 of title 49, United States Code.

(2) **BERMUDA II AGREEMENT.**—The term "Bermuda II Agreement" means the Agreement Between the United States of America and United Kingdom of Great Britain and Northern Ireland Concerning Air Services, signed at Bermuda on July 23, 1977 (TIAS 8641).

(3) **CHARLOTTE-LONDON (GATWICK) ROUTE.**—The term "Charlotte-London (Gatwick) route" means the route between Charlotte, North Carolina, and the Gatwick Airport in London, England.

(4) **FOREIGN AIR CARRIER.**—The term "foreign air carrier" has the meaning given that term in section 40102 of title 49, United States Code.

(5) **SECRETARY.**—The term "Secretary" means the Secretary of Transportation.

(b) **FINDINGS.**—Congress finds that—

(1) under the Bermuda II Agreement, the United States has a right to designate an air carrier of the United States to serve the Charlotte-London (Gatwick) route;

(2) the Secretary awarded the Charlotte-London (Gatwick) route to US Airways on September 12, 1997, and on May 7, 1998, US Airways announced plans to launch nonstop service in competition with the monopoly held by British Airways on the route and to provide convenient single-carrier one-stop service to the United Kingdom from dozens of cities in North Carolina and South Carolina and the surrounding region;

(3) US Airways was forced to cancel service for the Charlotte-London (Gatwick) route for the summer of 1998 and the following winter because the Government of the United Kingdom refused to provide commercially viable access to Gatwick Airport;

(4) British Airways continues to operate monopoly service on the Charlotte-London (Gatwick) route and recently upgraded the aircraft for that route to B-777 aircraft;

(5) British Airways had been awarded an additional monopoly route between London England and Denver, Colorado, resulting in a total of 10 monopoly routes operated by British Airways between the United Kingdom and points in the United States;

(6) monopoly service results in higher fares to passengers; and

(7) US Airways is prepared, and officials of the air carrier are eager, to initiate competitive air service on the Charlotte-London (Gatwick) route as soon as the Government of the United Kingdom provides commercially viable access to the Gatwick Airport.

(c) **SENSE OF THE SENATE.**—It is the sense of the Senate that the Secretary should—

(1) act vigorously to ensure the enforcement of the rights of the United States under the Bermuda II Agreement;

(2) intensify efforts to obtain the necessary assurances from the Government of the United Kingdom to allow an air carrier of the United States to operate commercially

viable, competitive service for the Charlotte-London (Gatwick) route; and

(3) ensure that the rights of the Government of the United States and citizens and air carriers of the United States are enforced under the Bermuda II Agreement before seeking to renegotiate a broader bilateral agreement to establish additional rights for air carriers of the United States and foreign air carriers of the United Kingdom.

#### SEC. 430. TO EXPRESS THE SENSE OF THE SENATE CONCERNING A BILATERAL AGREEMENT BETWEEN THE UNITED STATES AND THE UNITED KINGDOM REGARDING CLEVELAND-LONDON ROUTE.

(a) **DEFINITIONS.**—In this section:

(1) **AIR CARRIER.**—The term "air carrier" has the meaning given that term in section 40102 of title 49, United States Code.

(2) **AIRCRAFT.**—The term "aircraft" has the meaning given that term in section 40102 of title 49, United States Code.

(3) **AIR TRANSPORTATION.**—The term "air transportation" has the meaning given that term in section 40102 of title 49, United States Code.

(4) **BERMUDA II AGREEMENT.**—The term "Bermuda II Agreement" means the Agreement Between the United States of America and United Kingdom of Great Britain and Northern Ireland Concerning Air Services, signed at Bermuda on July 23, 1977 (TIAS 8641).

(5) **CLEVELAND-LONDON (GATWICK) ROUTE.**—The term "Cleveland-London (Gatwick) route" means the route between Cleveland, Ohio, and the Gatwick Airport in London, England.

(6) **FOREIGN AIR CARRIER.**—The term "foreign air carrier" has the meaning given that term in section 40102 of title 49, United States Code.

(7) **SECRETARY.**—The term "Secretary" means the Secretary of Transportation.

(8) **SLOT.**—The term "slot" means a reservation for an instrument flight rule take-off or landing by an air carrier of an aircraft in air transportation.

(b) **FINDINGS.**—Congress finds that—

(1) under the Bermuda II Agreement, the United States has a right to designate an air carrier of the United States to serve the Cleveland-London (Gatwick) route;

(2)(A) on December 3, 1996, the Secretary awarded the Cleveland-London (Gatwick) route to Continental Airlines;

(B) on June 15, 1998, Continental Airlines announced plans to launch nonstop service on that route on February 19, 1999, and to provide single-carrier one-stop service between London, England (from Gatwick Airport) and dozens of cities in Ohio and the surrounding region; and

(C) on August 4, 1998, the Secretary tentatively renewed the authority of Continental Airlines to carry out the nonstop service referred to in subparagraph (B) and selected Cleveland, Ohio, as a new gateway under the Bermuda II Agreement;

(3) unless the Government of the United Kingdom provides Continental Airlines commercially viable access to Gatwick Airport, Continental Airlines will not be able to initiate service on the Cleveland-London (Gatwick) route; and

(4) Continental Airlines is prepared to initiate competitive air service on the Cleveland-London (Gatwick) route when the Government of the United Kingdom provides commercially viable access to the Gatwick Airport.

(c) **SENSE OF THE SENATE.**—It is the sense of the Senate that the Secretary should—

(1) act vigorously to ensure the enforcement of the rights of the United States under the Bermuda II Agreement;

(2) intensify efforts to obtain the necessary assurances from the Government of the

United Kingdom to allow an air carrier of the United States to operate commercially viable, competitive service for the Cleveland-London (Gatwick) route; and

(3) ensure that the rights of the Government of the United States and citizens and air carriers of the United States are enforced under the Bermuda II Agreement before seeking to renegotiate a broader bilateral agreement to establish additional rights for air carriers of the United States and foreign air carriers of the United Kingdom, including the right to commercially viable competitive slots at Gatwick Airport and Heathrow Airport in London, England, for air carriers of the United States.

#### SEC. 431. ALLOCATION OF TRUST FUND FUNDING.

(a) DEFINITIONS.—In this section:

(1) AIRPORT AND AIRWAY TRUST FUND.—The term "Airport and Airway Trust Fund" means the trust fund established under section 9502 of the Internal Revenue Code of 1986.

(2) SECRETARY.—The term "Secretary" means the Secretary of Transportation.

(3) STATE.—The term "State" means each of the States, the District of Columbia, and the Commonwealth of Puerto Rico.

(4) STATE DOLLAR CONTRIBUTION TO THE AIRPORT AND AIRWAY TRUST FUND.—The term "State dollar contribution to the Airport and Airway Trust Fund", with respect to a State and fiscal year, means the amount of funds equal to the amounts transferred to the Airport and Airway Trust Fund under section 9502 of the Internal Revenue Code of 1986 that are equivalent to the taxes described in section 9502(b) of the Internal Revenue Code of 1986 that are collected in that State.

(b) REPORTING.—

(1) IN GENERAL.—As soon as practicable after the date of enactment of this Act, and annually thereafter, the Secretary of the Treasury shall report to the Secretary the amount equal to the amount of taxes collected in each State during the preceding fiscal year that were transferred to the Airport and Airway Trust Fund.

(2) REPORT BY SECRETARY.—Not later than 90 days after the date of enactment of this Act, and annually thereafter, the Secretary shall prepare and submit to Congress a report that provides, for each State, for the preceding fiscal year—

(A) the State dollar contribution to the Airport and Airway Trust Fund; and

(B) the amount of funds (from funds made available under section 48103 of title 49, United States Code) that were made available to the State (including any political subdivision thereof) under chapter 471 of title 49, United States Code.

#### SEC. 432. TAOS PUEBLO AND BLUE LAKES WILDERNESS AREA DEMONSTRATION PROJECT.

Within 18 months after the date of enactment of this Act, the Administrator of the Federal Aviation Administration shall work with the Taos Pueblo to study the feasibility of conducting a demonstration project to require all aircraft that fly over Taos Pueblo and the Blue Lakes Wilderness Area of Taos Pueblo, New Mexico, to maintain a mandatory minimum altitude of at least 5,000 feet above ground level.

#### SEC. 433. AIRLINE MARKETING DISCLOSURE.

(a) DEFINITIONS.—In this section:

(1) AIR CARRIER.—The term "air carrier" has the meaning given that term in section 40102 of title 49, United States Code.

(2) AIR TRANSPORTATION.—The term "air transportation" has the meaning given that term in section 40102 of title 49, United States Code.

(b) FINAL REGULATIONS.—Not later than 90 days after the date of enactment of this Act,

the Secretary of Transportation shall promulgate final regulations to provide for improved oral and written disclosure to each consumer of air transportation concerning the corporate name of the air carrier that provides the air transportation purchased by that consumer. In issuing the regulations issued under this subsection, the Secretary shall take into account the proposed regulations issued by the Secretary on January 17, 1995, published at page 3359, volume 60, Federal Register.

#### SEC. 434. CERTAIN AIR TRAFFIC CONTROL TOWERS.

Notwithstanding any other provision of law, regulation, intergovernmental circular advisory or other process, or any judicial proceeding or ruling to the contrary, the Federal Aviation Administration shall use such funds as necessary to contract for the operation of air traffic control towers, located in Salisbury, Maryland; Bozeman, Montana; and Boca Raton, Florida: *Provided*, That the Federal Aviation Administration has made a prior determination of eligibility for such towers to be included in the contract tower program.

#### SEC. 435. COMPENSATION UNDER THE DEATH ON THE HIGH SEAS ACT.

(a) IN GENERAL.—Section 2 of the Death on the High Seas Act (46 U.S.C. App. 762) is amended by—

(1) inserting "(a) IN GENERAL.—" before "The recovery"; and

(2) adding at the end thereof the following:

"(b) COMMERCIAL AVIATION.—

"(1) IN GENERAL.—If the death was caused during commercial aviation, additional compensation for nonpecuniary damages for wrongful death of a decedent is recoverable in a total amount, for all beneficiaries of that decedent, that shall not exceed the greater of the pecuniary loss sustained or a sum total of \$750,000 from all defendants for all claims. Punitive damages are not recoverable.

"(2) INFLATION ADJUSTMENT.—The \$750,000 amount shall be adjusted, beginning in calendar year 2000 by the increase, if any, in the Consumer Price Index for all urban consumers for the prior year over the Consumer Price Index for all urban consumers for the calendar year 1998.

"(3) NONPECUNIARY DAMAGES.—For purposes of this subsection, the term 'nonpecuniary damages' means damages for loss of care, comfort, and companionship."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) applies to any death caused during commercial aviation occurring after July 16, 1996.

#### SEC. 436. FAA STUDY OF BREATHING HOODS.

The Administrator shall study whether breathing hoods currently available for use by flight crews when smoke is detected are adequate and report the results of that study to the Congress within 120 days after the date of enactment of this Act.

#### SEC. 437. FAA STUDY OF ALTERNATIVE POWER SOURCES FOR FLIGHT DATA RECORDERS AND COCKPIT VOICE RECORDERS.

The Administrator of the Federal Aviation Administration shall study the need for an alternative power source for on-board flight data recorders and cockpit voice recorders and shall report the results of that study to the Congress within 120 days after the date of enactment of this Act. *If, within that time, the Administrator determines, after consultation with the National Transportation Safety Board that the Board is preparing recommendations with respect to this subject matter and will issue those recommendations within a reasonable period of time, the Administrator shall report to the Congress the Administrator's comments on the Board's recommendations rather than conducting a separate study.*

#### SEC. 438. PASSENGER FACILITY FEE LETTERS OF INTENT.

The Secretary of Transportation may not require an eligible agency (as defined in section 40117(a)(2) of title 49, United States Code), to impose a passenger facility fee (as defined in section 40117(a)(4) of that title) in order to obtain a letter of intent under section 47110 of that title.

#### SEC. 439. ELIMINATION OF HAZMAT ENFORCEMENT BACKLOG.

(a) FINDINGS.—The Congress makes the following findings:

(1) The transportation of hazardous materials continues to present a serious aviation safety problem which poses a potential threat to health and safety, and can result in evacuations, emergency landings, fires, injuries, and deaths.

(2) Although the Federal Aviation Administration budget for hazardous materials inspection increased \$10,500,000 in fiscal year 1998, the General Accounting Office has reported that the backlog of hazardous materials enforcement cases has increased from 6 to 18 months.

(b) ELIMINATION OF HAZARDOUS MATERIALS ENFORCEMENT BACKLOG.—The Administrator of the Federal Aviation Administration shall—

(1) make the elimination of the backlog in hazardous materials enforcement cases a priority;

(2) seek to eliminate the backlog within 6 months after the date of enactment of this Act; and

(3) make every effort to ensure that inspection and enforcement of hazardous materials laws are carried out in a consistent manner among all geographic regions, and that appropriate fines and penalties are imposed in a timely manner for violations.

(c) INFORMATION REGARDING PROGRESS.—The Administrator shall provide information to the Committee on Commerce, Science, and Transportation, on a quarterly basis beginning 3 months after the date of enactment of this Act for a year, on plans to eliminate the backlog and enforcement activities undertaken to carry out subsection (b).

#### SEC. 440. FAA EVALUATION OF LONG-TERM CAPITAL LEASING.

Notwithstanding any other provision of law to the contrary, the Administrator of the Federal Aviation Administration may establish a pilot program for fiscal years 2001 through 2004 to test and evaluate the benefits of long-term capital leasing contracts. The Administrator shall establish criteria for the program, but may enter into no more than 10 leasing contracts under this section, each of which shall be for a period greater than 5 years, under which the equipment or facility operates. The contracts to be evaluated may include requirements related to oceanic air traffic control, air-to-ground radio communications, and air traffic control tower construction.

#### TITLE V—AVIATION COMPETITION PROMOTION

##### SEC. 501. PURPOSE.

The purpose of this title is to facilitate, through a 4-year pilot program, incentives and projects that will help up to 40 communities or consortia of communities to improve their access to the essential airport facilities of the national air transportation system through public-private partnerships and to identify and establish ways to overcome the unique policy, economic, geographic, and marketplace factors that may inhibit the availability of quality, affordable air service to small communities.

##### SEC. 502. ESTABLISHMENT OF SMALL COMMUNITY AVIATION DEVELOPMENT PROGRAM.

Section 102 is amended by adding at the end thereof the following:

"(g) SMALL COMMUNITY AIR SERVICE DEVELOPMENT PROGRAM.—

"(1) ESTABLISHMENT.—The Secretary shall establish a 4-year pilot aviation development

program to be administered by a program director designated by the Secretary.

"(2) FUNCTIONS.—The program director shall—

"(A) function as a facilitator between small communities and air carriers;

"(B) carry out section 41743 of this title;

"(C) carry out the airline service restoration program under sections 41744, 41745, and 41746 of this title;

"(D) ensure that the Bureau of Transportation Statistics collects data on passenger information to assess the service needs of small communities;

"(E) work with and coordinate efforts with other Federal, State, and local agencies to increase the viability of service to small communities and the creation of aviation development zones; and

"(F) provide policy recommendations to the Secretary and the Congress that will ensure that small communities have access to quality, affordable air transportation services.

"(3) REPORTS.—The program director shall provide an annual report to the Secretary and the Congress beginning in 2000 that—

"(A) analyzes the availability of air transportation services in small communities, including, but not limited to, an assessment of the air fares charged for air transportation services in small communities compared to air fares charged for air transportation services in larger metropolitan areas and an assessment of the levels of service, measured by types of aircraft used, the availability of seats, and scheduling of flights, provided to small communities;

"(B) identifies the policy, economic, geographic and marketplace factors that inhibit the availability of quality, affordable air transportation services to small communities; and

"(C) provides policy recommendations to address the policy, economic, geographic, and marketplace factors inhibiting the availability of quality, affordable air transportation services to small communities."

#### **SEC. 503. COMMUNITY-CARRIER AIR SERVICE PROGRAM.**

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

##### **"§41743. Air service program for small communities**

"(a) COMMUNITIES PROGRAM.—Under advisory guidelines prescribed by the Secretary of Transportation, a small community or a consortia of small communities or a State may develop an assessment of its air service requirements, in such form as the program director designated by the Secretary under section 102(g) may require, and submit the assessment and service proposal to the program director.

"(b) SELECTION OF PARTICIPANTS.—In selecting community programs for participation in the communities program under subsection (a), the program director shall apply criteria, including geographical diversity and the presentation of unique circumstances, that will demonstrate the feasibility of the program. For purposes of this subsection, the application of geographical diversity criteria means criteria that—

"(1) will promote the development of a national air transportation system; and

"(2) will involve the participation of communities in all regions of the country.

"(c) CARRIERS PROGRAM.—The program director shall invite part 121 air carriers and regional/commuter carriers (as such terms are defined in section 41715(d) of this title) to offer service proposals in response to, or in conjunction with, community aircraft service assessments submitted to the office under subsection (a). A service proposal under this paragraph shall include—

"(1) an assessment of potential daily passenger traffic, revenues, and costs necessary for the carrier to offer the service;

"(2) a forecast of the minimum percentage of that traffic the carrier would require the community to garner in order for the carrier to start up and maintain the service; and

"(3) the costs and benefits of providing jet service by regional or other jet aircraft.

"(d) PROGRAM SUPPORT FUNCTION.—The program director shall work with small communities and air carriers, taking into account their proposals and needs, to facilitate the initiation of service. The program director—

"(1) may work with communities to develop innovative means and incentives for the initiation of service;

"(2) may obligate funds authorized under section 504 of the Air Transportation Improvement Act to carry out this section;

"(3) shall continue to work with both the carriers and the communities to develop a combination of community incentives and carrier service levels that—

"(A) are acceptable to communities and carriers; and

"(B) do not conflict with other Federal or State programs to facilitate air transportation to the communities;

"(4) designate an airport in the program as an Air Service Development Zone and work with the community on means to attract business to the area surrounding the airport, to develop land use options for the area, and provide data, working with the Department of Commerce and other agencies;

"(5) take such other action under this chapter as may be appropriate.

"(e) LIMITATIONS.—

"(1) COMMUNITY SUPPORT.—The program director may not provide financial assistance under subsection (c)(2) to any community unless the program director determines that—

"(A) a public-private partnership exists at the community level to carry out the community's proposal;

"(B) the community will make a substantial financial contribution that is appropriate for that community's resources, but of not less than 25 percent of the cost of the project in any event;

"(C) the community has established an open process for soliciting air service proposals; and

"(D) the community will accord similar benefits to air carriers that are similarly situated.

"(2) AMOUNT.—The program director may not obligate more than **[\$30,000,000]** \$80,000,000 of the amounts authorized under 504 of the Air Transportation Improvement Act over the 4 years of the program.

"(3) NUMBER OF PARTICIPANTS.—The program established under subsection (a) shall not involve more than 40 communities or consortia of communities.

"(f) REPORT.—The program director shall report through the Secretary to the Congress annually on the progress made under this section during the preceding year in expanding commercial aviation service to smaller communities.

##### **"§41744. Pilot program project authority**

"(a) IN GENERAL.—The program director designated by the Secretary of Transportation under section 102(g)(1) shall establish a 4-year pilot program—

"(1) to assist communities and States with inadequate access to the national transportation system to improve their access to that system; and

"(2) to facilitate better air service link-ups to support the improved access.

"(b) PROJECT AUTHORITY.—Under the pilot program established pursuant to subsection (a), the program director may—

"(1) out of amounts authorized under section 504 of the Air Transportation Improvement Act, provide financial assistance by way of grants to small communities or consortia of small communities under section 41743 of up to \$500,000 per year; and

"(2) take such other action as may be appropriate.

"(c) OTHER ACTION.—Under the pilot program established pursuant to subsection (a), the program director may facilitate service by—

"(1) working with airports and air carriers to ensure that appropriate facilities are made available at essential airports;

"(2) collecting data on air carrier service to small communities; and

"(3) providing policy recommendations to the Secretary to stimulate air service and competition to small communities.

"(d) ADDITIONAL ACTION.—Under the pilot program established pursuant to subsection (a), the Secretary shall work with air carriers providing service to participating communities and major air carriers serving large hub airports (as defined in section 41731(a)(3)) to facilitate joint fare arrangements consistent with normal industry practice.

##### **"§41745. Assistance to communities for service**

"(a) IN GENERAL.—Financial assistance provided under section 41743 during any fiscal year as part of the pilot program established under section 41744(a) shall be implemented for not more than—

"(1) 4 communities within any State at any given time; and

"(2) 40 communities in the entire program at any time.

For purposes of this subsection, a consortium of communities shall be treated as a single community.

"(b) ELIGIBILITY.—In order to participate in a pilot project under this subchapter, a State, community, or group of communities shall apply to the Secretary in such form and at such time, and shall supply such information, as the Secretary may require, and shall demonstrate to the satisfaction of the Secretary that—

"(1) the applicant has an identifiable need for access, or improved access, to the national air transportation system that would benefit the public;

"(2) the pilot project will provide material benefits to a broad section of the travelling public, businesses, educational institutions, and other enterprises whose access to the national air transportation system is limited;

"(3) the pilot project will not impede competition; and

"(4) the applicant has established, or will establish, public-private partnerships in connection with the pilot project to facilitate service to the public.

"(c) COORDINATION WITH OTHER PROVISIONS OF SUBCHAPTER.—The Secretary shall carry out the 4-year pilot program authorized by this subchapter in such a manner as to complement action taken under the other provisions of this subchapter. To the extent the Secretary determines to be appropriate, the Secretary may adopt criteria for implementation of the 4-year pilot program that are the same as, or similar to, the criteria developed under the preceding sections of this subchapter for determining which airports are eligible under those sections. The Secretary shall also, to the extent possible, provide incentives where no direct, viable, and feasible alternative service exists, taking into account geographical diversity and appropriate market definitions.

"(d) MAXIMIZATION OF PARTICIPATION.—The Secretary shall structure the program established pursuant to section 41744(a) in a way designed to—



"(1) permit the participation of the maximum feasible number of communities and States over a 4-year period by limiting the number of years of participation or otherwise; and

"(2) obtain the greatest possible leverage from the financial resources available to the Secretary and the applicant by—

"(A) progressively decreasing, on a project-by-project basis, any Federal financial incentives provided under this chapter over the 4-year period; and

"(B) terminating as early as feasible Federal financial incentives for any project determined by the Secretary after its implementation to be—

"(i) viable without further support under this subchapter; or

"(ii) failing to meet the purposes of this chapter or criteria established by the Secretary under the pilot program.

"(e) **SUCCESS BONUS.**—If Federal financial incentives to a community are terminated under subsection (d)(2)(B) because of the success of the program in that community, then that community may receive a one-time incentive grant to ensure the continued success of that program.

"(f) **PROGRAM TO TERMINATE IN 4 YEARS.**—No new financial assistance may be provided under this subchapter for any fiscal year beginning more than 4 years after the date of enactment of the Air Transportation Improvement Act.

#### "§ 41746. Additional authority

"In carrying out this chapter, the Secretary—

"(1) may provide assistance to States and communities in the design and application phase of any project under this chapter, and oversee the implementation of any such project;

"(2) may assist States and communities in putting together projects under this chapter to utilize private sector resources, other Federal resources, or a combination of public and private resources;

"(3) may accord priority to service by jet aircraft;

"(4) take such action as may be necessary to ensure that financial resources, facilities, and administrative arrangements made under this chapter are used to carry out the purposes of title V of the Air Transportation Improvement Act; and

"(5) shall work with the Federal Aviation Administration on airport and air traffic control needs of communities in the program.

#### "§ 41747. Air traffic control services pilot program

"(a) **IN GENERAL.**—To further facilitate the use of, and improve the safety at, small airports, the Administrator of the Federal Aviation Administration shall establish a pilot program to contract for Level I air traffic control services at 20 facilities not eligible for participation in the Federal Contract Tower Program.

"(b) **PROGRAM COMPONENTS.**—In carrying out the pilot program established under subsection (a), the Administrator may—

"(1) utilize current, actual, site-specific data, forecast estimates, or airport system plan data provided by a facility owner or operator;

"(2) take into consideration unique aviation safety, weather, strategic national interest, disaster relief, medical and other emergency management relief services, status of regional airline service, and related factors at the facility;

"(3) approve for participation any facility willing to fund a pro rata share of the operating costs used by the Federal Aviation Administration to calculate, and, as necessary, a 1:1 benefit-to-cost ratio, as required for eli-

gibility under the Federal Contract Tower Program; and

"(4) approve for participation no more than 3 facilities willing to fund a pro rata share of construction costs for an air traffic control tower so as to achieve, at a minimum, a 1:1 benefit-to-cost ratio, as required for eligibility under the Federal Contract Tower Program, and for each of such facilities the Federal share of construction costs does not exceed \$1,000,000.

"(c) **REPORT.**—One year before the pilot program established under subsection (a) terminates, the Administrator shall report to the Congress on the effectiveness of the program, with particular emphasis on the safety and economic benefits provided to program participants and the national air transportation system."

(b) **CONFORMING AMENDMENT.**—The chapter analysis for subchapter II of chapter 417 is amended by inserting after the item relating to section 41742 the following:

"41743. Air service program for small communities.

"41744. Pilot program project authority.

"41745. Assistance to communities for service.

"41746. Additional authority.

"41747. Air traffic control services pilot program."

(c) **WAIVER OF LOCAL CONTRIBUTION.**—Section 41736(b) is amended by inserting after paragraph (4) the following:

"Paragraph (4) does not apply to any community approved for service under this section during the period beginning October 1, 1991, and ending December 31, 1997."

(d) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated to the Secretary of Transportation such sums as may be necessary to carry out section 41747 of title 49, United States Code.

#### **SEC. 504. AUTHORIZATION OF APPROPRIATIONS.**

[To carry out sections 41743 through 41746 of title 49, United States Code, for the 4 fiscal-year period beginning with fiscal year 2000—

["(1) there are authorized to be appropriated to the Secretary of Transportation not more than \$10,000,000; and

["(2) not more than \$20,000,000 shall be made available, if available, to the Secretary for obligation and expenditure out of the account established under section 45303(a) of title 49, United States Code.

[To the extent that amounts are not available in such account, there are authorized to be appropriated such sums as may be necessary to provide the amount authorized to be obligated under paragraph (2) to carry out those sections for that 4 fiscal-year period.]

*There are authorized to be appropriated to the Secretary of Transportation \$80,000,000 to carry out sections 41743 through 41746 of title 49, United States Code, for the 4 fiscal-year period beginning with fiscal year 2000.*

#### **SEC. 505. MARKETING PRACTICES.**

Section 41712 is amended by—

(1) inserting "(a) **IN GENERAL.**—" before "On"; and

(2) adding at the end thereof the following:

"(b) **MARKETING PRACTICES THAT ADVERSELY AFFECT SERVICE TO SMALL OR MEDIUM COMMUNITIES.**—Within 180 days after the date of enactment of the Air Transportation Improvement Act, the Secretary shall review the marketing practices of air carriers that may inhibit the availability of quality, affordable air transportation services to small and medium-sized communities, including—

"(1) marketing arrangements between airlines and travel agents;

"(2) code-sharing partnerships;

"(3) computer reservation system displays;

"(4) gate arrangements at airports;

"(5) exclusive dealing arrangements; and

"(6) any other marketing practice that may have the same effect.

"(c) **REGULATIONS.**—If the Secretary finds, after conducting the review required by subsection (b), that marketing practices inhibit the availability of such service to such communities, then, after public notice and an opportunity for comment, the Secretary [shall] *may* promulgate regulations that address the [problem]." *problem, or take other appropriate action. Nothing in this section expands the authority or jurisdiction of the Secretary to promulgate regulations under the Federal Aviation Act or under any other Act.*

#### **SEC. 506. SLOT EXEMPTIONS FOR NONSTOP REGIONAL JET SERVICE.**

(a) **IN GENERAL.**—Subchapter I of chapter 417, as amended by section 310, is amended by adding at the end thereof the following:

#### "§ 41718. Slot exemptions for nonstop regional jet service.

"(a) **IN GENERAL.**—Within 90 days after receiving an application for an exemption to provide nonstop regional jet air service between—

"(1) an airport with fewer than 2,000,000 annual enplanements; and

"(2) a high density airport subject to the exemption authority under section 41714(a), the Secretary of Transportation shall grant or deny the exemption in accordance with established principles of safety and the promotion of competition.

"(b) **EXISTING SLOTS TAKEN INTO ACCOUNT.**—In deciding to grant or deny an exemption under subsection (a), the Secretary may take into consideration the slots and slot exemptions already used by the applicant.

"(c) **CONDITIONS.**—The Secretary may grant an exemption to an air carrier under subsection (a)—

"(1) for a period of not less than 12 months;

"(2) for a minimum of 2 daily roundtrip flights; and

"(3) for a maximum of 3 daily roundtrip flights.

"(d) **CHANGE OF NONHUB, SMALL HUB, OR MEDIUM HUB AIRPORT; JET AIRCRAFT.**—The Secretary may, upon application made by an air carrier operating under an exemption granted under subsection (a)—

"(1) authorize the air carrier or an affiliated air carrier to upgrade service under the exemption to a larger jet aircraft; or

"(2) authorize an air carrier operating under such an exemption to change the nonhub airport or small hub airport for which the exemption was granted to provide the same service to a different airport that is smaller than a large hub airport (as defined in section 47134(d)(2)) if—

"(A) the air carrier has been operating under the exemption for a period of not less than 12 months; and

"(B) the air carrier can demonstrate unmitigatable losses.

"(e) **FORFEITURE FOR MISUSE.**—Any exemption granted under subsection (a) shall be terminated immediately by the Secretary if the air carrier to which it was granted uses the slot for any purpose other than the purpose for which it was granted or in violation of the conditions under which it was granted.

"(f) **RESTORATION OF AIR SERVICE.**—To the extent that—

["(1) slots were withdrawn from an air carrier under section 41714(b);

["(2) the withdrawal of slots under that section resulted in a net loss of slots; and

["(3) the net loss of slots and slot exemptions resulting from the withdrawal had an adverse effect on service to nonhub airports and in other domestic markets,

[the Secretary shall give priority consideration to the request of any air carrier from

which slots were withdrawn under that section for an equivalent number of slots at the airport where the slots were withdrawn. No priority consideration shall be given under this subsection to an air carrier described in paragraph (1) when the net loss of slots and slot exemptions is eliminated.

“(g) (f) PRIORITY TO NEW ENTRANTS AND LIMITED INCUMBENT CARRIERS.—

“(1) IN GENERAL.—In granting slot exemptions under this section the Secretary shall give priority consideration to an application from an air carrier that, as of July 1, 1998, operated or held fewer than 20 slots or slot exemptions at the high density airport for which it filed an exemption application.

“(2) LIMITATION.—No priority may be given under paragraph (1) to an air carrier that, at the time of application, operates or holds 20 or more slots and slot exemptions at the airport for which the exemption application is filed.

“(3) AFFILIATED CARRIERS.—The Secretary shall treat all commuter air carriers that have cooperative agreements, including code-share agreements, with other air carriers equally for determining eligibility for exemptions under this section regardless of the form of the corporate relationship between the commuter air carrier and the other air carrier.

“(h) (g) STAGE 3 AIRCRAFT REQUIRED.—An exemption may not be granted under this section with respect to any aircraft that is not a Stage 3 aircraft (as defined by the Secretary).

“(i) (h) REGIONAL JET DEFINED.—In this section, the term ‘regional jet’ means a passenger, turbofan-powered aircraft carrying not fewer than 30 and not more than 50 passengers.”.

(b) CONFORMING AMENDMENTS.—

(1) Section 40102 is amended by inserting after paragraph (28) the following:

“(28A) [LIMITED INCUMBENT AIR CARRIER.—The term ‘limited incumbent air carrier’ has the meaning given that term in subpart S of part 93 of title 14, Code of Federal Regulations, except that ‘20’ shall be substituted for ‘12’ in sections 93.213(a)(5), 93.223(c)(3), and 93.225(h) as such sections were in effect on August 1, 1998.”.

(2) The chapter analysis for subchapter I of chapter 417 is amended by adding at the end thereof the following:

“41718. Slot exemptions for nonstop regional jet service.”.

#### **SEC. 507. EXEMPTIONS TO PERIMETER RULE AT RONALD REAGAN WASHINGTON NATIONAL AIRPORT.**

(a) IN GENERAL.—Subchapter I of chapter 417, as amended by section 506, is amended by adding at the end thereof the following:

##### **“§41719. Special Rules for Ronald Reagan Washington National Airport**

“(a) BEYOND-PERIMETER EXEMPTIONS.—The Secretary shall by order grant exemptions from the application of sections 49104(a)(5), 49109, 49111(e), and 41714 of this title to air carriers to operate limited frequencies and aircraft on select routes between Ronald Reagan Washington National Airport and domestic hub airports of such carriers and exemptions from the requirements of subparts K and S of part 93, Code of Federal Regulations, if the Secretary finds that the exemptions will—

“(1) provide air transportation service with domestic network benefits in areas beyond the perimeter described in that section;

“(2) increase competition by new entrant air carriers or in multiple markets;

“(3) not reduce travel options for communities served by small hub airports and medium hub airports within the perimeter described in section 49109 of title 49, United States Code; and

“(4) not result in meaningfully increased travel delays.

“(b) WITHIN-PERIMETER EXEMPTIONS.—The Secretary shall by order grant exemptions from the requirements of sections 49104(a)(5), 49111(e), and 41714 of this title and subparts K and S of part 93 of title 14, Code of Federal Regulations, to commuter air carriers for service to airports with fewer than 2,000,000 annual enplanements within the perimeter established for civil aircraft operations at Ronald Reagan Washington National Airport under section 49109. The Secretary shall develop criteria for distributing slot exemptions for flights within the perimeter to such airports under this paragraph in a manner consistent with the promotion of air transportation.

“(c) LIMITATIONS.—

“(1) STAGE 3 AIRCRAFT REQUIRED.—An exemption may not be granted under this section with respect to any aircraft that is not a Stage 3 aircraft (as defined by the Secretary).

“(2) GENERAL EXEMPTIONS.—The exemptions granted under subsections (a) and (b) may not increase the number of operations at Ronald Reagan Washington National Airport in any 1-hour period during the hours between 7:00 a.m. and 9:59 p.m. by more than [2] 3 operations.”.

“(3) ADDITIONAL EXEMPTIONS.—The Secretary shall grant exemptions under subsections (a) and (b) that—

“(A) will result in [12] 24 additional daily air carrier slot exemptions at such airport for long-haul service beyond the perimeter;

“(B) will result in 12 additional daily commuter slot exemptions at such airport; and

“(C) will not result in additional daily commuter slot exemptions for service to any within-the-perimeter airport that [is not smaller than a large hub airport (as defined in section 47134(d)(2)).] has 2,000,000 or fewer annual enplanements.

“(4) ASSESSMENT OF SAFETY, NOISE AND ENVIRONMENTAL IMPACTS.—The Secretary shall assess the impact of granting exemptions, including the impacts of the additional slots and flights at Ronald Reagan Washington National Airport provided under subsections (a) and (b) on safety, noise levels and the environment within 90 days of the date of the enactment of this Act. The environmental assessment shall be carried out in accordance with parts 1500–1508 of title 40, Code of Federal Regulations. Such environmental assessment shall include a public meeting.

“(5) APPLICABILITY WITH EXEMPTION 5133.—Nothing in this section affects Exemption No. 5133, as from time-to-time amended and [extended.”.] extended.

“(d) ADDITIONAL WITHIN-PERIMETER SLOT EXEMPTIONS AT RONALD REAGAN WASHINGTON NATIONAL AIRPORT.—The Secretary shall by order grant 12 slot exemptions from the requirements of sections 49104(a)(5), 49111(e), and 41714 of this title and subparts K and S of part 93 of title 14, Code of Federal Regulations, to air carriers for flights to airports within the perimeter established for civil aircraft operations at Ronald Reagan Washington National Airport under section 49109. The Secretary shall develop criteria for distributing slot exemptions for flights within the perimeter to such airports under this subsection in a manner consistent with the promotion of air transportation.”.

(b) OVERRIDE OF MWAA RESTRICTION.—Section 49104(a)(5) is amended by adding at the end thereof the following:

“(D) Subparagraph (C) does not apply to any increase in the number of instrument flight rule takeoffs and landings necessary to implement exemptions granted by the Secretary under section 41719.”.

(c) MWAA NOISE-RELATED GRANT ASSURANCES.—

(1) IN GENERAL.—In addition to any condition for approval of an airport development

project that is the subject of a grant application submitted to the Secretary of Transportation under chapter 471 of title 49, United States Code, by the Metropolitan Washington Airports Authority, the Authority shall be required to submit a written assurance that, for each such grant made to the Authority for fiscal year 2000 or any subsequent fiscal year—

(A) the Authority will make available for that fiscal year funds for noise compatibility planning and programs that are eligible to receive funding under chapter 471 of title 49, United States Code, in an amount not less than 10 percent of the aggregate annual amount of financial assistance provided to the Authority by the Secretary as grants under chapter 471 of title 49, United States Code; and

(B) the Authority will not divert funds from a high priority safety project in order to make funds available for noise compatibility planning and programs.

(2) WAIVER.—The Secretary of Transportation may waive the requirements of paragraph (1) for any fiscal year for which the Secretary determines that the Metropolitan Washington Airports Authority is in full compliance with applicable airport noise compatibility planning and program requirements under part 150 of title 14, Code of Federal Regulations.

(3) SUNSET.—This subsection shall cease to be in effect 5 years after the date of enactment of this Act, if on that date the Secretary of Transportation certifies that the Metropolitan Washington Airports Authority has achieved full compliance with applicable noise compatibility planning and program requirements under part 150 of title 14, Code of Federal Regulations.

(d) NOISE COMPATIBILITY PLANNING AND PROGRAMS.—Section 47117(e) is amended by adding at the end the following:

“(3) The Secretary shall give priority in making grants under paragraph (1)(A) to applications for airport noise compatibility planning and programs at and around airports where operations increase under title V of the Air Transportation Improvement Act and the amendments made by that title.”.

(e) CONFORMING AMENDMENTS.—

(1) Section 49111 is amended by striking subsection (e).

(2) The chapter analysis for subchapter I of chapter 417, as amended by section 506(b) of this Act, is amended by adding at the end thereof the following:

“41719. Special Rules for Ronald Reagan Washington National Airport.”.

(f) REPORT.—Within 1 year after the date of enactment of this Act, and biannually thereafter, the Secretary shall certify to the United States Senate Committee on Commerce, Science, and Transportation, the United States House of Representatives Committee on Transportation and Infrastructure, the Governments of Maryland, Virginia, and West Virginia and the metropolitan planning organization for Washington, D.C., that noise standards, air traffic congestion, airport-related vehicular congestion, safety standards, and adequate air service to communities served by small hub airports and medium hub airports within the perimeter described in section 49109 of title 49, United States Code, have been maintained at appropriate levels.

#### **SEC. 508. ADDITIONAL SLOT EXEMPTIONS AT CHICAGO O'HARE INTERNATIONAL AIRPORT.**

(a) IN GENERAL.—Subchapter I of chapter 417, as amended by section 507, is amended by adding at the end thereof the following:

##### **“§41720. Special Rules for Chicago O'Hare International Airport**

“(a) IN GENERAL.—The Secretary of Transportation shall grant 30 slot exemptions over

a 3-year period beginning on the date of enactment of the Air Transportation Improvement Act at Chicago O'Hare International Airport.

"(b) EQUIPMENT AND SERVICE REQUIREMENTS.—

"(1) STAGE 3 AIRCRAFT REQUIRED.—An exemption may not be granted under this section with respect to any aircraft that is not a Stage 3 aircraft (as defined by the Secretary).

"(2) SERVICE PROVIDED.—Of the exemptions granted under subsection (a)—

"(A) 18 shall be used only for service to underserved markets, of which no fewer than 6 shall be designated as commuter slot exemptions; and

"(B) 12 shall be air carrier slot exemptions.

"(c) PROCEDURAL REQUIREMENTS.—Before granting exemptions under subsection (a), the Secretary shall—

"(1) conduct an environmental review, taking noise into account, and determine that the granting of the exemptions will not cause a significant increase in noise;

"(2) determine whether capacity is available and can be used safely and, if the Secretary so determines then so certify;

"(3) give 30 days notice to the public through publication in the Federal Register of the Secretary's intent to grant the exemptions; and

"(4) consult with appropriate officers of the State and local government on any related noise and environmental issues.

"(d) UNDERSERVED MARKET DEFINED.—In this section, the term 'service to underserved markets' means passenger air transportation service to an airport that is a nonhub airport or a small hub airport (as defined in paragraphs (4) and (5), respectively, of section 41731(a)).

(b) STUDIES.—

(1) 3-YEAR REPORT.—The Secretary shall study and submit a report 3 years after the first exemption granted under section 41720(a) of title 49, United States Code, is first used on the impact of the additional slots on the safety, environment, noise, access to underserved markets, and competition at Chicago O'Hare International Airport.

(2) DOT STUDY IN 2000.—The Secretary of Transportation shall study community noise levels in the areas surrounding the 4 high-density airports after the 100 percent Stage 3 fleet requirements are in place, and compare those levels with the levels in such areas before 1991.

(c) CONFORMING AMENDMENT.—The chapter analysis for subchapter I of chapter 417, as amended by section 507(b) of this Act, is amended by adding at the end thereof the following:

"41720. Special Rules for Chicago O'Hare International Airport."

#### SEC. 509. CONSUMER NOTIFICATION OF E-TICKET EXPIRATION DATES.

Section 41712, as amended by section 505 of this Act, is amended by adding at the end thereof the following:

"(d) E-TICKET EXPIRATION NOTICE.—It shall be an unfair or deceptive practice under subsection (a) for any air carrier utilizing electronically transmitted tickets to fail to notify the purchaser of such a ticket of its expiration date, if any."

#### SEC. 510. REGIONAL AIR SERVICE INCENTIVE OPTIONS.

(a) PURPOSE.—The purpose of this section is to provide the Congress with an analysis of means to improve service by jet aircraft to underserved markets by authorizing a review of different programs of Federal financial assistance, including loan guarantees like those that would have been provided for by section 2 of S. 1353, 105th Congress, as in-

troduced, to commuter air carriers that would purchase regional jet aircraft for use in serving those markets.

(b) STUDY.—The Secretary of Transportation shall study the efficacy of a program of Federal loan guarantees for the purchase of regional jets by commuter air carriers. The Secretary shall include in the study a review of options for funding, including alternatives to Federal funding. In the study, the Secretary shall analyze—

(1) the need for such a program;

(2) its potential benefit to small communities;

(3) the trade implications of such a program;

(4) market implications of such a program for the sale of regional jets;

(5) the types of markets that would benefit the most from such a program;

(6) the competitive implications of such a program; and

(7) the cost of such a program.

(c) REPORT.—The Secretary shall submit a report of the results of the study to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure not later than 24 months after the date of enactment of this Act.

#### SEC. 511. GAO STUDY OF AIR TRANSPORTATION NEEDS.

The General Accounting Office shall conduct a study of the current state of the national airport network and its ability to meet the air transportation needs of the United States over the next 15 years. The study shall include airports located in remote communities and reliever airports. In assessing the effectiveness of the system the Comptroller General may consider airport runway length of 5,500 feet or the equivalent altitude-adjusted length, air traffic control facilities, and navigational aids.

### TITLE VI—NATIONAL PARKS OVERFLIGHTS

#### SEC. 601. FINDINGS.

The Congress finds that—

(1) the Federal Aviation Administration has sole authority to control airspace over the United States;

(2) the Federal Aviation Administration has the authority to preserve, protect, and enhance the environment by minimizing, mitigating, or preventing the adverse effects of aircraft overflights on the public and tribal lands;

(3) the National Park Service has the responsibility of conserving the scenery and natural and historic objects and wildlife in national parks and of providing for the enjoyment of the national parks in ways that leave the national parks unimpaired for future generations;

(4) the protection of tribal lands from aircraft overflights is consistent with protecting the public health and welfare and is essential to the maintenance of the natural and cultural resources of Indian tribes;

(5) the National Parks Overflights Working Group, composed of general aviation, air tour, environmental, and Native American representatives, recommended that the Congress enact legislation based on its consensus work product; and

(6) this title reflects the recommendations made by that Group.

#### SEC. 602. AIR TOUR MANAGEMENT PLANS FOR NATIONAL PARKS.

(a) IN GENERAL.—Chapter 401, as amended by section 301 of this Act, is amended by adding at the end the following:

##### "§ 40126. Overflights of national parks

"(a) IN GENERAL.—

"(1) GENERAL REQUIREMENTS.—A commercial air tour operator may not conduct com-

mercial air tour operations over a national park or tribal lands except—

"(A) in accordance with this section;

"(B) in accordance with conditions and limitations prescribed for that operator by the Administrator; and

"(C) in accordance with any effective air tour management plan for that park or those tribal lands.

"(2) APPLICATION FOR OPERATING AUTHORITY.—

"(A) APPLICATION REQUIRED.—Before commencing commercial air tour operations over a national park or tribal lands, a commercial air tour operator shall apply to the Administrator for authority to conduct the operations over that park or those tribal lands.

"(B) COMPETITIVE BIDDING FOR LIMITED CAPACITY PARKS.—Whenever a commercial air tour management plan limits the number of commercial air tour flights over a national park area during a specified time frame, the Administrator, in cooperation with the Director, shall authorize commercial air tour operators to provide such service. The authorization shall specify such terms and conditions as the Administrator and the Director find necessary for management of commercial air tour operations over the national park. The Administrator, in cooperation with the Director, shall develop an open competitive process for evaluating proposals from persons interested in providing commercial air tour services over the national park. In making a selection from among various proposals submitted, the Administrator, in cooperation with the Director, shall consider relevant factors, including—

"(i) the safety record of the company or pilots;

"(ii) any quiet aircraft technology proposed for use;

"(iii) the experience in commercial air tour operations over other national parks or scenic areas;

"(iv) the financial capability of the company;

"(v) any training programs for pilots; and

"(vi) responsiveness to any criteria developed by the National Park Service or the affected national park.

"(C) NUMBER OF OPERATIONS AUTHORIZED.—In determining the number of authorizations to issue to provide commercial air tour service over a national park, the Administrator, in cooperation with the Director, shall take into consideration the provisions of the air tour management plan, the number of existing commercial air tour operators and current level of service and equipment provided by any such companies, and the financial viability of each commercial air tour operation.

"(D) COOPERATION WITH NPS.—Before granting an application under this paragraph, the Administrator shall, in cooperation with the Director, develop an air tour management plan in accordance with subsection (b) and implement such plan.

"(E) TIME LIMIT ON RESPONSE TO ATMP APPLICATIONS.—The Administrator shall act on any such application and issue a decision on the application not later than 24 months after it is received or amended.

"(3) EXCEPTION.—Notwithstanding paragraph (1), commercial air tour operators may conduct commercial air tour operations over a national park under part 91 of the Federal Aviation Regulations (14 CFR 91.1 et seq.) if—

"(A) such activity is permitted under part 119 (14 CFR 119.1(e)(2));

"(B) the operator secures a letter of agreement from the Administrator and the national park superintendent for that national park describing the conditions under which the flight operations will be conducted; and

"(C) the total number of operations under this exception is limited to not more than 5 flights in any 30-day period over a particular park.

"(4) SPECIAL RULE FOR SAFETY REQUIREMENTS.—Notwithstanding subsection (c), an existing commercial air tour operator shall, not later than 90 days after the date of enactment of the Air Transportation Improvement Act, apply for operating authority under part 119, 121, or 135 of the Federal Aviation Regulations (14 CFR Pt. 119, 121, or 135). A new entrant commercial air tour operator shall apply for such authority before conducting commercial air tour operations over a national park or tribal lands.

"(b) AIR TOUR MANAGEMENT PLANS.—

"(1) ESTABLISHMENT OF ATMPs.—

"(A) IN GENERAL.—The Administrator shall, in cooperation with the Director, establish an air tour management plan for any national park or tribal land for which such a plan is not already in effect whenever a person applies for authority to operate a commercial air tour over the park. The development of the air tour management plan is to be a cooperative undertaking between the Federal Aviation Administration and the National Park Service. The air tour management plan shall be developed by means of a public process, and the agencies shall develop information and analysis that explains the conclusions that the agencies make in the application of the respective criteria. Such explanations shall be included in the Record of Decision and may be subject to judicial review.

"(B) OBJECTIVE.—The objective of any air tour management plan shall be to develop acceptable and effective measures to mitigate or prevent the significant adverse impacts, if any, of commercial air tours upon the natural and cultural resources and visitor experiences and tribal lands.

"(2) ENVIRONMENTAL DETERMINATION.—In establishing an air tour management plan under this subsection, the Administrator and the Director shall each sign the environmental decision document required by section 102 of the National Environmental Policy Act of 1969 (42 U.S.C. 4332) which may include a finding of no significant impact, an environmental assessment, or an environmental impact statement, and the Record of Decision for the air tour management plan.

"(3) CONTENTS.—An air tour management plan for a national park—

"(A) may prohibit commercial air tour operations in whole or in part;

"(B) may establish conditions for the conduct of commercial air tour operations, including commercial air tour routes, maximum or minimum altitudes, time-of-day restrictions, restrictions for particular events, maximum number of flights per unit of time, intrusions on privacy on tribal lands, and mitigation of noise, visual, or other impacts;

"(C) shall apply to all commercial air tours within ½ mile outside the boundary of a national park;

"(D) shall include incentives (such as preferred commercial air tour routes and altitudes, relief from caps and curfews) for the adoption of quiet aircraft technology by commercial air tour operators conducting commercial air tour operations at the park;

"(E) shall provide for the initial allocation of opportunities to conduct commercial air tours if the plan includes a limitation on the number of commercial air tour flights for any time period; and

"(F) shall justify and document the need for measures taken pursuant to subparagraphs (A) through (E).

"(4) PROCEDURE.—In establishing a commercial air tour management plan for a national park, the Administrator and the Director shall—

"(A) initiate at least one public meeting with interested parties to develop a commercial air tour management plan for the park;

"(B) publish the proposed plan in the Federal Register for notice and comment and make copies of the proposed plan available to the public;

"(C) comply with the regulations set forth in sections 1501.3 and 1501.5 through 1501.8 of title 40, Code of Federal Regulations (for purposes of complying with those regulations, the Federal Aviation Administration is the lead agency and the National Park Service is a cooperating agency); and

"(D) solicit the participation of any Indian tribe whose tribal lands are, or may be, overflowed by aircraft involved in commercial air tour operations over a national park or tribal lands, as a cooperating agency under the regulations referred to in paragraph (4)(C).

"(5) AMENDMENTS.—Any amendment of an air tour management plan shall be published in the Federal Register for notice and comment. A request for amendment of an air tour management plan shall be made in such form and manner as the Administrator may prescribe.

"(c) INTERIM OPERATING AUTHORITY.—

"(1) IN GENERAL.—Upon application for operating authority, the Administrator shall grant interim operating authority under this paragraph to a commercial air tour operator for a national park or tribal lands for which the operator is an existing commercial air tour operator.

"(2) REQUIREMENTS AND LIMITATIONS.—Interim operating authority granted under this subsection—

"(A) shall provide annual authorization only for the greater of—

"(i) the number of flights used by the operator to provide such tours within the 12-month period prior to the date of enactment of the Air Transportation Improvement Act; or

"(ii) the average number of flights per 12-month period used by the operator to provide such tours within the 36-month period prior to such date of enactment, and, for seasonal operations, the number of flights so used during the season or seasons covered by that 12-month period;

"(B) may not provide for an increase in the number of operations conducted during any time period by the commercial air tour operator to which it is granted unless the increase is agreed to by the Administrator and the Director;

"(C) shall be published in the Federal Register to provide notice and opportunity for comment;

"(D) may be revoked by the Administrator for cause;

"(E) shall terminate 180 days after the date on which an air tour management plan is established for that park or those tribal lands; and

"(F) shall—

"(i) promote protection of national park resources, visitor experiences, and tribal lands;

"(ii) promote safe operations of the commercial air tour;

"(iii) promote the adoption of quiet technology, as appropriate; and

"(iv) allow for modifications of the operation based on experience if the modification improves protection of national park resources and values and of tribal lands.

"(3) NEW ENTRANT AIR TOUR OPERATORS.—

"(A) IN GENERAL.—The Administrator, in cooperation with the Director, may grant interim operating authority under this paragraph to an air tour operator for a national park for which that operator is a new entrant air tour operator if the Administrator determines the authority is necessary to en-

sure competition in the provision of commercial air tours over that national park or those tribal lands.

"(B) SAFETY LIMITATION.—The Administrator may not grant interim operating authority under subparagraph (A) if the Administrator determines that it would create a safety problem at that park or on tribal lands, or the Director determines that it would create a noise problem at that park or on tribal lands.

"(C) ATMP LIMITATION.—The Administrator may grant interim operating authority under subparagraph (A) of this paragraph only if the air tour management plan for the park or tribal lands to which the application relates has not been developed within 24 months after the date of enactment of the Air Transportation Improvement Act.

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

"(1) COMMERCIAL AIR TOUR.—The term 'commercial air tour' means any flight conducted for compensation or hire in a powered aircraft where a purpose of the flight is sightseeing. If the operator of a flight asserts that the flight is not a commercial air tour, factors that can be considered by the Administrator in making a determination of whether the flight is a commercial air tour, include, but are not limited to—

"(A) whether there was a holding out to the public of willingness to conduct a sightseeing flight for compensation or hire;

"(B) whether a narrative was provided that referred to areas or points of interest on the surface;

"(C) the area of operation;

"(D) the frequency of flights;

"(E) the route of flight;

"(F) the inclusion of sightseeing flights as part of any travel arrangement package; or

"(G) whether the flight or flights in question would or would not have been canceled based on poor visibility of the surface.

"(2) COMMERCIAL AIR TOUR OPERATOR.—The term 'commercial air tour operator' means any person who conducts a commercial air tour.

"(3) EXISTING COMMERCIAL AIR TOUR OPERATOR.—The term 'existing commercial air tour operator' means a commercial air tour operator that was actively engaged in the business of providing commercial air tours over a national park at any time during the 12-month period ending on the date of enactment of the Air Transportation Improvement Act.

"(4) NEW ENTRANT COMMERCIAL AIR TOUR OPERATOR.—The term 'new entrant commercial air tour operator' means a commercial air tour operator that—

"(A) applies for operating authority as a commercial air tour operator for a national park; and

"(B) has not engaged in the business of providing commercial air tours over that national park or those tribal lands in the 12-month period preceding the application.

"(5) COMMERCIAL AIR TOUR OPERATIONS.—The term 'commercial air tour operations' means commercial air tour flight operations conducted—

"(A) over a national park or within ½ mile outside the boundary of any national park;

"(B) below a minimum altitude, determined by the Administrator in cooperation with the Director, above ground level (except solely for purposes of takeoff or landing, or necessary for safe operation of an aircraft as determined under the rules and regulations of the Federal Aviation Administration requiring the pilot-in-command to take action to ensure the safe operation of the aircraft); and

"(C) less than 1 mile laterally from any geographic feature within the park (unless more than ½ mile outside the boundary).

“(6) NATIONAL PARK.—The term ‘national park’ means any unit of the National Park System.

“(7) TRIBAL LANDS.—The term ‘tribal lands’ means ‘Indian country’, as defined by section 1151 of title 18, United States Code, that is within or abutting a national park.

“(8) ADMINISTRATOR.—The term ‘Administrator’ means the Administrator of the Federal Aviation Administration.

“(9) DIRECTOR.—The term ‘Director’ means the Director of the National Park Service.”.

(b) EXEMPTIONS.—

(1) GRAND CANYON.—Section 40126 of title 49, United States Code, as added by subsection (a), does not apply to—

(A) the Grand Canyon National Park; or

(B) Indian country within or abutting the Grand Canyon National Park.

(2) LAKE MEAD.—*A commercial air tour of the Grand Canyon that transits over or near the Lake Mead National Recreation Area en route to, or returning from, the Grand Canyon, without offering a deviation in flight path between its point of origin and the Grand Canyon, shall be considered, for purposes of paragraph (1), to be exclusively a commercial air tour of the Grand Canyon.*

“(2) (3) ALASKA.—The provisions of this title and section 40126 of title 49, United States Code, as added by subsection (a), do not apply to any land or waters located in Alaska.

“(3) (4) COMPLIANCE WITH OTHER REGULATIONS.—For purposes of section 40126 of title 49, United States Code—

(A) regulations issued by the Secretary of Transportation and the Administrator of the Federal Aviation Administration under section 3 of Public Law 100-91 (16 U.S.C. 1a-1, note); and

(B) commercial air tour operations carried out in compliance with the requirements of those regulations, shall be deemed to meet the requirements of such section 40126.

(c) CLERICAL AMENDMENT.—The table of sections for chapter 401 is amended by adding at the end thereof the following:

“40126. Overflights of national parks.”.

#### SEC. 603. ADVISORY GROUP.

(a) ESTABLISHMENT.—Not later than 1 year after the date of enactment of this Act, the Administrator of the Federal Aviation Administration and the Director of the National Park Service shall jointly establish an advisory group to provide continuing advice and counsel with respect to the operation of commercial air tours over and near national parks.

(b) MEMBERSHIP.—

(1) IN GENERAL.—The advisory group shall be composed of—

(A) a balanced group of—

(i) representatives of general aviation;

(ii) representatives of commercial air tour operators;

(iii) representatives of environmental concerns; and

(iv) representatives of Indian tribes;

(B) a representative of the Federal Aviation Administration; and

(C) a representative of the National Park Service.

(2) EX-OFFICIO MEMBERS.—The Administrator and the Director shall serve as ex-officio members.

(3) CHAIRPERSON.—The representative of the Federal Aviation Administration and the representative of the National Park Service shall serve alternating 1-year terms as chairman of the advisory group, with the representative of the Federal Aviation Administration serving initially until the end of the calendar year following the year in which the advisory group is first appointed.

(c) DUTIES.—The advisory group shall provide advice, information, and recommenda-

tions to the Administrator and the Director—

(1) on the implementation of this title;

(2) on the designation of appropriate and feasible quiet aircraft technology standards for quiet aircraft technologies under development for commercial purposes, which will receive preferential treatment in a given air tour management plan;

(3) on other measures that might be taken to accommodate the interests of visitors to national parks; and

(4) on such other national park or tribal lands-related safety, environmental, and air touring issues as the Administrator and the Director may request.

(d) COMPENSATION; SUPPORT; FACA.—

(1) COMPENSATION AND TRAVEL.—Members of the advisory group who are not officers or employees of the United States, while attending conferences or meetings of the group or otherwise engaged in its business, or while serving away from their homes or regular places of business, each member may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.

(2) ADMINISTRATIVE SUPPORT.—The Federal Aviation Administration and the National Park Service shall jointly furnish to the advisory group clerical and other assistance.

(3) NONAPPLICATION OF FACA.—Section 14 of the Federal Advisory Committee Act (5 U.S.C. App.) does not apply to the advisory group.

(e) REPORT.—The Administrator and the Director shall jointly report to the Congress within 24 months after the date of enactment of this Act on the success of this title in providing incentives for quiet aircraft technology.

#### SEC. 604. OVERFLIGHT FEE REPORT.

Not later than 180 days after the date of enactment of this Act, the Administrator of the Federal Aviation Administration shall transmit to Congress a report on the effects proposed overflight fees are likely to have on the commercial air tour industry. The report shall include, but shall not be limited to—

(1) the viability of a tax credit for the commercial air tour operators equal to the amount of the proposed fee charged by the National Park Service; and

(2) the financial effects proposed offsets are likely to have on Federal Aviation Administration budgets and appropriations.

#### SEC. 605. PROHIBITION OF COMMERCIAL AIR TOURS OVER THE ROCKY MOUNTAIN NATIONAL PARK.

Effective beginning on the date of enactment of this Act, no commercial air tour may be operated in the airspace over the Rocky Mountain National Park notwithstanding any other provision of this Act or section 40126 of title 49, United States Code, as added by this Act.

#### TITLE VII—TITLE 49 TECHNICAL CORRECTIONS

##### SEC. 701. RESTATEMENT OF 49 U.S.C. 106(g).

(a) IN GENERAL.—Section 106(g) is amended by striking “40113(a), (c), and (d), 40114(a), 40119, 44501(a) and (c), 44502(a)(1), (b) and (c), 44504, 44505, 44507, 44508, 44511–44513, 44701–44716, 44718(c), 44721(a), 44901, 44902, 44903(a)–(c) and (e), 44906, 44912, 44935–44937, and 44938(a) and (b), chapter 451, sections 45302–45304,” and inserting “40113(a), (c)–(e), 40114(a), and 40119, and chapter 445 (except sections 44501(b), 44502(a)(2)–(4), 44503, 44506, 44509, 44510, 44514, and 44515), chapter 447 (except sections 44717, 44718(a) and (b), 44719, 44720, 44721(b), 44722, and 44723), chapter 449 (except sections 44903(d), 44904, 44905, 44907–44911, 44913, 44915, and 44931–44934), chapter 451, chapter 453, sections”.

(b) TECHNICAL CORRECTION.—The amendment made by this section may not be construed as making a substantive change in the language replaced.

##### SEC. 702. RESTATEMENT OF 49 U.S.C. 44909.

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

The PRESIDING OFFICER. The Senator from Washington is recognized.

Mr. GORTON. Mr. President, this afternoon the Senate begins consideration of a bill that will, if and when enacted, affect the constituents of every single Member of this body. An efficient air transportation system is critical not only to our commute home every weekend but, on a larger scale, to the functioning of a national and global economy.

The U.S. economy is becoming increasingly dependent upon a safe and efficient national air transportation system. Without a sound aviation infrastructure, the enormous flow of goods and services across the nation and over the oceans would slow to a trickle. Unfortunately, the air traffic delays experienced this past summer seem to be the first signs that the system is reaching its limits. It is vital, therefore, that Congress acts now to keep this essential form of transportation on a solid foundation.

S. 82, the Air Transportation Improvement Act, would reauthorize the programs of the Federal Aviation Administration (FAA), including the Airport Improvement Program (AIP), which expired last Friday. The AIP provides federal grants to support the capital needs of the nation's commercial airports and general aviation facilities. S. 82 establishes contract authority for the program. Without this authority in place, the FAA cannot distribute airport grants, regardless of whether an AIP appropriation is in place. It is imperative that airports receive the support that they need to operate both safely and efficiently.

In addition to grants for airport development, S. 82 includes numerous provisions designed to enhance aviation safety, to improve competition and service in the aviation industry, and to address the issue of commercial air tour flights over national parks.

On behalf of the aviation leadership of the Commerce Committee, I am offering an amendment in the nature of a substitute to S. 82. This managers' amendment does not dramatically change the provisions of the bill as it was reported. Rather, it makes technical changes and incorporates aviation-related provisions requested by many of our colleagues. The one notable difference between the bill as reported and as modified by the managers' amendment, is that the new version lengthens the term of the bill so that authorizations would be provided through fiscal year 2002.

At this point, let me take a moment to summarize some of the major provisions of the substitute amendment:

Title I provides 3-year authorizations for the AIP, the Facilities and Equipment account (F&E), and the Operations account. [Unlike the reported

bill, S. 82 also includes an authorization for the FAA's Research, Engineering and Development (RE&D) account.]

Title II would amend various provisions of the Airport Improvement Program. Although the current allocation formulas for AIP monies would remain essentially the same, there are a few differences. For example, the set-aside for noise mitigation would increase from 31 percent to 35 percent. Another change would increase from \$500,000 to \$650,000 the minimum amount of entitlement funds that an eligible airport receives each year.

As recommended by the DOT Inspector General, airports would be required to use their entitlement funds for their highest priority projects before using them on lower priority projects. Title II also includes numerous technical amendments requested by the Administration.

Title II also establishes a five-year pilot program to allow more airports to have the benefit of air traffic control services. This pilot program would be akin to the existing contract tower program. The difference being that an airport would bear part of the costs of a contract tower if it does not meet the benefit/cost ratio established for the regular program.

Title III includes several technical and substantive amendments to current aviation law. The key provisions would do the following:

Give the FAA the authority to establish consortia of government and aviation industry representatives at individual airports to provide advice on aviation security and safety.

Give the FAA broader authority to determine when a criminal history record check is warranted for persons performing security screening of passengers and cargo.

Reauthorize the "War Risk" aviation insurance program and implement an FAA suggestion to ensure timely payment of claims under the program.

Make it a crime for someone to pilot a commercial aircraft without a valid certificate.

Title IV includes a wide variety of provisions, all of which are intended to improve aviation safety, security, or efficiency. Notable provisions would do the following:

Require collision avoidance equipment to be installed on cargo aircraft.

Require more aircraft to be equipped with emergency locator transmitters.

Prohibit anyone convicted of a crime involving bogus aviation parts from working in the industry or obtaining a certificate from the FAA.

Give the FAA authority to impose fines on unruly passengers.

Require the DOT to step up its enforcement of laws and regulations related to the treatment of disabled passengers.

Require the FAA to accelerate its rulemaking on a program under which airlines and their crews share operational information. This new source of information may assist safety experts

in identifying potential problems before they cause accidents.

Require the FAA to develop a plan to implement the Wide Area Augmentation System (WAAS), which enables aircraft to use the Global Positioning System for navigation.

Require the DOT Inspector General to initiate an independent validation and assessment of the FAA's cost accounting system, which is currently under development.

Title V contains provisions intended to promote aviation competition and service. Key provisions include the following:

A five-year pilot program would be created to help small communities attract improved air service. It is designed to facilitate incentives and projects that will help communities improve their air access to business markets, through public-private partnerships.

The bill as approved by the Commerce Committee also includes several provisions dealing with slot controls for high-density airports and the perimeter rule at Reagan National Airport. Although the managers' amendment does not alter those provisions as they came out of committee, we will soon offer an amendment to replace them with a compromise redraft. That amendment has been crafted to accommodate the concerns of several Senators.

One notable difference is, the number of slot exemptions at Reagan National will be reduced from 48 to 24. Another change is that the high density rule will eventually cease to apply to all of the slot control airports, with the exception of Reagan National. Before the slot controls are eliminated, access to the airports will be broadened for regional jet air service to smaller communities and new infant airlines.

Title VI contains consensus legislation developed by Chairman MCCAIN to regulate the overflight of national parks by air tour operators.

Title VII contains entirely technical amendments to address recodification and other errors in title 49 of the United States Code.

Title VIII contains new provisions that transfer the aeronautic charting activities of the National Oceanographic and Atmospheric Administration to the FAA.

The passage of this bill is crucial. We have a duty to the American people to provide support to the national air transportation system. Air travel and the aviation-related industries are a fundamental part of our social and economic structure, and their response will continue to grow. The Congress may play only one part in the overall workings of this system, but it is an essential part.

The Air Transportation Improvement Act gives an opportunity to renew commitment to the future of this country. I strongly urge my colleagues to support S. 82.

Before we start the amendments and begin debate, I note with great pleas-

ure the presence of my friend and colleague, the Senator from West Virginia. Senator ROCKEFELLER and I are often together on one cause or another. The Senator is responsible for many of the good things that are included in this bill, which is the result of a true partnership.

I yield the floor.

Mr. ROCKEFELLER. I thank my distinguished colleague for those very generous comments. I feel no obligation to argue with him at this point. He and I have been on the floor many times before, sometimes successful, sometimes not. Today and tomorrow we hope to be more successful. Always I rely on the intelligence and the articulation of the good Senator from the State of Washington.

We are dealing with a new bill and a substitute for it which will come up shortly. Ordinarily in these matters, one doesn't talk about either Senators or staff or anybody else until everything is over. However, I think it would actually set a good tone for this debate if I thanked a few of my colleagues upfront. One, it may put them in a better mood; two, it will discharge a duty which I believe I have.

I have been very frustrated by this whole process because it has taken a long time and I don't like temporary extensions. We have had a history of short-term extensions. The FAA has suffered, the airports have suffered, my State has suffered, the Senator's State has suffered, a lot of it during the course of this past year.

My frustration spilled over as far as the junior Senator from West Virginia is concerned a few weeks ago when I came to the Senate floor and poured out my frustrations about the whole troubled state of our air traffic control system and the potential impact on our national economy, as well as the impact on my State and a lot of other things which I characterize as being fairly scary in terms of delays and congestion on what I consider to be an already enormously overburdened system. I am frightened about the prospects for the future. What we will do today is by no means the end of what we must do in the future.

Today I am feeling very good. It is very good to be on the floor. We are on the floor for a reason. We are on the floor introducing the Air Transportation Improvement Act of 1999, which we all know and love as the FAA and AIP reauthorization act.

The chairman of the Commerce Committee, JOHN MCCAIN, and the ranking member, FRITZ HOLLINGS, have been working around the clock with Senator GORTON and myself—the latter two being on the Aviation Subcommittee—to work out a number of long, lingering conflicts, some of which still linger but most of which do not with respect to this bill.

The majority leader and the Democratic leader were both extremely helpful and were very personally involved, showing their strong commitment to



aviation by finding time in a very busy fall schedule. I do not know how long it will last, but a potential 2 days is generous, and I respect and appreciate that.

A whole host of other Senators have constituents who care enormously about this whole question from a variety of points of view—access to air service, lack of access to air service, noise, all kinds of other issues—and have been willing to roll up their sleeves and work very hard to find a compromise. I want to name some: Senator SCHUMER; the Iowa Senators, HARKIN and GRASSLEY; Senator WYDEN from Oregon; the Virginia Senators, both ROBB and WARNER; the Illinois Senators, both DURBIN and FITZGERALD. Everyone has had to give a little, and it hasn't been easy. I hope everyone has also gotten a little, and, in some cases, some have gotten quite a lot.

First, I extend my thanks to my colleagues and to the leadership for putting the Senate in a situation for a fair debate. We have at least gone this far. There is a lot of work to do, but first things first. As we begin Senate consideration of the FAA reauthorization bill, I am optimistic we can proceed in good order. I think we can do this in a couple of days.

I tend to think at a fundamental level the cooperation and hard work I have seen reflects a deep and abiding sense of responsibility on the part of my colleagues, which they can hardly ignore in the first place, for the continued safety and efficiency of our aviation system and the condition of our air traffic control system which is unknown to most but ought to be feared by all.

We have a number of issues to debate here, some of which, as I indicated, are still in controversy. The vast majority—and I think my colleague will agree—have been fully worked out and have been agreed to on all sides. "All sides" become very important words. Not all, but a majority.

Aviation, as my ranking chairman indicated, is a proven engine of economic growth in this country. People don't think of it that way. Similar to universities, sometimes people think of them in different ways. It is an enormous economic engine. Each day, 2 million people travel on U.S. commercial airlines and a quarter of million do the same thing on smaller, private planes that transport people for business. Sometimes they do it simply for the sheer pleasure of flying.

Every day and night, U.S. airlines carry more than 10 million packages and overnight letters. Every day, more than 10 million Americans go to work in aviation-related businesses. Ten million Americans? Yes. That makes America among the largest manufacturing exporters of any enterprise. To the great credit of the aviation industry and the Federal Aviation Administration, projected growth for aviation is unparalleled. Within 10 years, U.S.

airlines will be carrying more than 1 billion passengers each year; that is up more than 50 percent from the records that were carried last year. The number of aircraft in the air, on the ground, moving about, will increase by 50 percent in the next decade. That can make you happy; that can also make you nervous.

The regional fleet, which is something I care about enormously, because that is the connection in the whole hub and spoke system, a connection which is very important, will grow by more than 40 percent. Worldwide, air cargo will more than triple. These are incredible figures, projections of which the FAA and the industry can and should be very proud.

Of course, there is a catch. We have to be able to handle this air traffic, and we have to be able to handle it safely, in order to realize this growth. By most accounts at the FAA and at airports across the Nation, we are simply not ready to do this. In fact, we are having trouble staying on top of the system. With every year and every month that we allow ourselves to fall further behind in our modernization effort, there are times when one wonders will we ever catch up, will we ever understand what it means to put into place a full infrastructure for an air traffic control system so we can take this doubling and tripling I have talked about before.

That is why, as Senator GORTON indicated, it is so critical we in Congress hold up our end of the bargain by making improvements where we can and provide a system with some kind of predictability. The FAA reauthorization bill is all about starting to chart a course for growth, with a focus on increasing efficiency, improving customer service, and facilitating competitive access, all the while staying focused on strengthening our strong safety record.

This is a 4-year authorization bill. It will cost about \$45 billion in total in aviation funding. That sounds like an enormous sum. It is, but it is not. It is because it is. It isn't because it will not do the job, but it will help us. It will get us started on the right path.

Ours is an enormous and complex aviation system. People don't stop to think about it. They take it for granted. They did not take it for granted when there was enormous traffic congestion to get to the Redskin Stadium a couple of weeks ago, and they did take it for granted when there seemed to be none yesterday. I wasn't at either game so I have no idea. But people tend to take for granted things which they use frequently. That is not something we can afford to be doing in Congress.

For now, let me note this \$45 billion authorization includes roughly \$10 billion for airports under the Airport Improvement Program, \$24 billion for the FAA's nearly 50,000 employees and for air traffic control operations, and \$10 billion for air traffic equipment as part of the whole modernization effort.

Let me share some of the highlights of the bill and the agreed-upon committee substitute, which I believe Senator GORTON and I will want to introduce momentarily. In terms of changes in aviation law and policy and innovative new programs, the package includes some of the following: an important agreement worked out with the majority to authorize an increase of \$500 million for the FAA's Air Traffic Control Modernization Program. We are grateful for every \$50 million, \$100 million, and \$1 billion we can get our hands on.

Mr. President, \$500 million is an increase; it is more than it was, and we are glad. There is an emphasis on improving air service to something we call small communities, which I imagine would be of interest to the Presiding Officer. That increase will take various forms such as an increase in the minimum Airport Improvement Program entitlement from \$500 million to \$650 million annually, a new \$80 million pilot project to assist small communities that are struggling to restore air service, and an immediate and, hopefully, lasting priority for new service opportunities at the four slot-controlled airports: O'Hare, LaGuardia, Kennedy, and Reagan National, and a ban on smoking on all international flights to and from the United States. Here, actually, I give special thanks to the tireless efforts of Senator DURBIN.

There is whistle-blower protection for airline and FAA employees so none will fear losing their jobs for pointing out safety violations or concerns that are pertinent. This is an item Senator KERREY from Nebraska has been preaching on for quite a while. There is a series of specific safety improvements such as new runway incursion technologies and stronger enforcement of hazardous materials regulations, and a significant new agreement on noise and environmental issues arising from aircraft that fly over our National Parks. In one case, we have an airport in a National Park—only one, thank heavens. This reflects several years of very tough negotiations among Senator MCCAIN, Senator BRYAN, and others.

In addition, through the amendment process, I know we will be considering, and hopefully taking action on, several other very important provisions. For example, Senator GORTON and I will offer a painstakingly negotiated agreement among all parties for an overhaul of the slot rules at the four high-density airports: Reagan National, Chicago O'Hare, New York Kennedy, and LaGuardia. Under this deal, the slot rules will be phased out over time—phased out over time—in New York and Chicago. This was a rather bold idea at the time, put forward, actually, by the Secretary of Transportation last spring. Most important, from my perspective, these changes offer us an opportunity to increase access to these key airports. Once again, I am thinking of the constituents of the State of

the Presiding Officer, and that is the name of the game: Can you get into some of these larger airports? This will give an extra boost of service to small communities and to new entrant airlines.

Several of us, further, will join together to offer an amendment to protect airline passenger rights—Senator GORTON and I and others will do that—to hold the airlines' feet to the fire on their promise to improve customer service and to reduce customer complaints. This last summer, I thought, was almost historic, not that it seemed to have enormous effect but it was a historic example of what happens when you get gridlock in the air. People were held up. It was all during the summer travel months. That period of time is going to keep growing as the congestion grows greater and greater.

Another amendment Senator GORTON and I will offer will propose incremental FAA management reform—that is something we feel very strongly about—and an innovative financing piece for air traffic equipment.

Finally, I expect we will see some amendments and debate related to airline competition. That will be controversial, the question of whether and how we should strengthen Federal competition laws and policies as they apply to the airline industry.

In closing, obviously, there are other important provisions in this bill. I will not go through them in full. Suffice it to say, Senator GORTON and I believe this is a truly balanced package, an inclusive FAA and AIP reauthorization package. There has been a lot of consulting, a lot of negotiating—an enormous amount of negotiating. I think it is a good bill.

I am glad to join my colleague, Senator GORTON, in offering the committee substitute today on behalf of ourselves, the chairman and ranking member, at the appropriate time. I look forward to the debate on it.

I thank the Presiding Officer.

• Mr. MCCAIN. Madam President, I wish to express my strong opposition to the conference agreement on H.R. 2084, the Fiscal Year 2000 Transportation Appropriations Bill as recently approved by the House and Senate conferees.

I recognize that there are very important provisions in the legislation, sections that appropriate funds for programs vital to the safety of the traveling public and our national transportation system over all. Yet despite that necessary funding, the legislation once again goes overboard on pork barrel spending.

It is extremely disappointing the conferees chose to meld the enormous number of listed projects that were earmarked in the House and Senate reports accompanying the transportation appropriations bill this year. Many additional projects were also included by the conferees. It seems that there is never a dearth of special projects that come to the attention of appropri-

ators—even after both chambers have already passed their versions of the legislation.

One would have thought with the windfall enjoyed by most states due to the new budgetary scheme under Transportation Equity Act for the 21st Century, there would have been less project earmarking, but unfortunately that was not the case. And, there always seems to be a ready list of towns, airports, universities, or research organizations that appropriators want to reward with more money to work on a transportation project.

For example, many airports that failed to be included when the House and Senate considered the transportation funding legislation somehow managed to be included in the conference agreement. Some of the new entrants on the airport funding priority list are the Aurora Municipal Airport in Illinois, the Upper Cumberland Regional Airport in Tennessee, the Abbeyville Airport in Alabama, and the Eastern West Virginia Airport in West Virginia.

Like some airports, transit projects that failed to make the cut when the House and Senate considered their respective funding bills also somehow made the cut in the conference report. Further, the conferees deemed it necessary to provide specific recommendations to allocate 65 percent of the dollars set aside for the new jobs access and reverse grants program established under TEA-21. And, yet the House appropriators had acknowledged in the House report accompanying the bill that this program was created "to make competitive grants." If the funding is to be competitively awarded, why did the conferees find the need to provide a listing of 47 specific recipients?

I have consistently fought Congressional earmarks that direct money to particular projects or recipients, believing that such decisions are far better made through nationwide competitive, merit-based guidelines and procedures. I continue to find this practice an appalling waste of taxpayer dollars. Bill after bill, year after year, earmarks continue to divert needed federal resources away from more meritorious and deserving projects. It is simply unconscionable that Congress condones wasting so much of our taxpayers dollars by funneling funds to special interest projects while at the same time, so many of our young men and women serving in the armed services go underpaid and in some cases, are forced to accept food by Congress, have been classic examples.

Let me share with my colleagues some of the university-related pork. \$500,000 is provided for Crowder College in Missouri for a truck driving center safety initiative. \$875,000 is set aside for the University of South Alabama to begin a research project on rural vehicular trauma victims. \$250,000 is set aside for Montana State University at Bozeman to pilot real-time diagnostic

monitoring of rail rolling stock. \$250,000 is set aside for the University of Missouri-Rolla to work on advanced composite materials for use in repairing old railroad bridges.

As I have said previously, I do not question that some—perhaps all—of this research may be needed, but I do question whether the specifically selected universities are the best place to spend taxpayer dollars on those projects. It is conceivable that there may be other, more experienced entities, that could perform the research—but we will never know because earmarking ignores merit-based criteria.

I vehemently object to the expenditure of scarce transportation funds on projects that have not been subject to uniform, objective funding criteria. I further object to the expenditure of scarce transportation funds on unauthorized programs.

Section 365 provides \$500,000 in grants to the Environmental Protection Agency to develop a program that allows employers in certain regions to receive credits for reduced vehicle-miles-traveled if that employer allows workers to telecommute. Section 365 was not in the House-passed bill. Section 365 was not in the Senate-passed bill. There have been no hearings on the provision in either the House or the Senate. I, for one, believe that the airport and surface transportation safety programs could far better use that half a million dollars than the Environmental Protection Agency.

I have asked the following question before and I will continue to on other appropriations bills. I ask my colleagues, why are the appropriators so reluctant to permit projects to be awarded based on a competitive and meritorious process that would be fair for all the states and local communities? I ask my colleagues, why are the appropriators so quick to slip in provisions creating brand new authorizations. I suspect it is due to the fact they may doubt the merits and worth of the very projects they are earmarking and of the programs they are authorizing.

I have only mentioned a few of the examples of earmarks and special projects contained in this measure and I will not waste the time of the Senate going over each and every earmark. However, a detailed listing of the many earmarked projects proposed in this bill and committee report are available from my office and can also be obtained from my website.

Finally, I would like to express my grave concerns over a provision that would prevent certain very critical motor carrier safety functions from being administered by the Federal Highway Administration. Such a prohibition could be of grave consequence to the road traveling public and is shortsighted at best.

Last year an attempt was made by the House Appropriations Committee to strip FHWA from its authority over

motor carrier safety matters. As Chairman of the Senate Committee on Commerce, Science, and Transportation, which has jurisdiction over most federal transportation safety policies, including motor carrier and passenger vehicle safety, I opposed this proposal, in part because it had never been considered by the authorizing committees of jurisdiction. The provision was ultimately not enacted and I pledged that I would work to address motor carrier safety concerns in this Congress. I have lived up to this commitment.

At my request, the Inspector General of the Department of Transportation conducted a comprehensive analysis of federal motor carrier safety activities. Serious safety gaps have been identified, and as such, the authorizing Committees of jurisdiction have been working to move legislation to improve motor carrier safety. The Commerce Committee held a hearing on my specific safety proposal and we expect to mark up that measure during the next Executive session. Indeed, we are working to move legislation through the regular legislative process.

In my opinion, it is very short-sighted and a serious jeopardy to public safety if Congress shuts off funds for motor carrier safety activities within the Department of Transportation. For example, under the conference agreement, the Department would not be permitted to access civil penalties for motor carrier safety violations. According to DOT, "this provision would effectively shut down our safety enforcement program." While I am aware safety improvements are necessary and am working to accomplish those needed improvements, stripping critical authority is not in the interest of truck safety. I would urge the President to veto this legislation due to this unwise and unsound provisions and permit the authorization process to proceed responsibly.●

● Mr. REED. Madam President, I rise to address an issue of great importance for our Nation's environment and economic security.

Today the Senate will pass the fiscal year 2000 Transportation Appropriations bill. In that bill, for the fifth year in a row, is a House-passed rider that would block the Department of Transportation from conducting a legislatively-mandated study of Corporate Average Fuel Economy Standards.

The current CAFE standard for passenger cars is 27.5 miles per gallon, while the standard for so-called "light trucks", including SUVs and minivans, remains at just 20.7 miles per gallon. Today, with SUVs and minivans accounting for almost half of all new cars sold in the United States, we need to give serious consideration to improving fuel economy standards for these vehicles. By doing so, we could cut harmful air pollution, help curb global warming, and reduce the amount of gasoline we consume. The existing CAFE standards save more than 3 million barrels of oil every day. Improving these

standards, particularly for light trucks, is especially important when our nation is importing increasing amounts of oil every year.

For the past four years, Congress has denied the American people access to existing technologies that could save them thousands of dollars at the gas pump, technologies that the auto industry could implement with no reduction in safety, power, or performance.

The House rider blocking consideration of improved CAFE standards was attached to the DOT spending bill without any hearings or debate. While I will not object to passage of this important appropriations measure today, I want to state in the strongest terms my disappointment, shared by many of my colleagues, that the statutory requirement to study ways to improve fuel efficiency standards is being blocked.

We should lift this gag order and give the Department of Transportation the opportunity to consider this important issue.●

The PRESIDING OFFICER. The Senator from Washington.

Mr. GORTON. Mr. President, I now withdraw the committee amendments.

The committee amendments were withdrawn.

#### AMENDMENT NO. 1891

(Purpose: To authorize appropriations for the Federal Aviation Administration, and for other purposes)

Mr. GORTON. Mr. President, I send a substitute amendment to the desk for Senator McCain, myself, and Senator Rockefeller and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The bill clerk read as follows:

The Senator from Washington [Mr. GORTON], for Mr. McCain, for himself, Mr. GORTON, and Mr. Rockefeller, proposes an amendment numbered 1891.

Mr. GORTON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The text of the amendment is printed in today's RECORD under "Amendments Submitted.")

Mr. FITZGERALD addressed the Chair.

The PRESIDING OFFICER. Will the Senator withhold for a moment.

The Senator from Washington.

Mr. GORTON. Mr. President, I ask unanimous consent that the amendment be agreed to and considered as original text for the purpose of further amendment.

Mr. FITZGERALD. I object.

The PRESIDING OFFICER. An objection is heard.

Mr. GORTON. Mr. President, we will take such measures as are necessary to see whether or not the objection can be withdrawn or we will simply go ahead and debate the substitute amendment. Let me add three other matters.

First, we will attempt to get a unanimous consent agreement on the filing

of amendments as early and as promptly as we possibly can so debate can be carried forward.

Second, as Senator ROCKEFELLER pointed out, there are two additional amendments to this substitute amendment that can be put up whether or not the substitute amendment has been agreed to. One has to do with the air traffic control system and its modernization.

Senator ROCKEFELLER and I and many others, as the Senator from West Virginia pointed out, have worked diligently in that connection, and we believe that proposal now is not controversial, though it is of vital importance and we hope it can be agreed to promptly.

The other amendment, of course, is the amendment dealing with slots at the four or five busiest airports in the country. There may be some controversy in connection with that amendment. In any event, we hope that each of those amendments will be adopted relatively promptly. Members are urged to bring their amendments to the floor or to speak to the managers about concerns they have that may be solved relatively easily.

Under the statement made earlier today when this session of the Senate began, it is at least possible there will be further votes on this bill today after the vote on the Transportation appropriations bill at 5:30 p.m. In any event, there certainly will be by tomorrow. I yield the floor.

The PRESIDING OFFICER. The distinguished Senator from Illinois is recognized.

Mr. FITZGERALD. Mr. President, I appreciate the comments of the manager of the bill and also the distinguished Senator from West Virginia. One thing I want to make clear, contrary to the statement of the Senator from West Virginia, is that at least this Senator from Illinois does not believe he was involved in any of the negotiations, certainly not with respect to this last-minute attempt to entirely lift the high density rule that has governed three of our Nation's most crowded and congested airports since the late 1960s.

Going back to the 1960s, the FAA has had a rule in effect that limits operations at Chicago O'Hare International Airport to 155 operations an hour. The reason for that rule was that the airport was at capacity and adding more operations per hour would add to delays and jeopardize the safety of the flying public.

This original bill had an exemption for 30 new slots that the FAA could grant at O'Hare. I had misgivings about even those 30 exemptions for new flights at O'Hare, and I had been working with the chairman of the Commerce Committee on that issue, going back several months. But this was at the last minute. In fact, I read it in the newspaper today that a deal had been cut behind the scenes to go ahead and lift the high density rule altogether.

I think that is a grave mistake that could jeopardize the safety of our flying public in the United States. I fly out of O'Hare International Airport every week. In fact, I live 12 miles from it. As I grew up, that airport grew up. It grew into the busiest airport in the world. Anybody who has been there this year knows that it is so crowded and congested that there are constant delays at O'Hare. In fact, a report that came out earlier this year suggested there are more delays at O'Hare International Airport than at any other major airport in the country.

In 1995, when Congress considered lifting the high density rule, the FAA commissioned a study to look into what would happen if they lifted the high density rule. That study concluded it would be a great mistake to lift the high density rule because it would further add to delays at O'Hare and some of the Nation's other slot-controlled airports.

When there are massive delays at O'Hare, it pressures the air traffic controllers to hurry up and get more flights in the air to alleviate those delays. Sometimes there are 100 flights waiting to take off at O'Hare International Airport. Lifting the high density rule says that maybe sometimes we will have 200 flights waiting to take off on the runways at O'Hare. With that kind of pressure on the air traffic controllers, certainly there is the possibility to do something unwise and to make too many flights take off too close to each other, which could risk the lives of passengers in this country.

I am here to tell you that if one passenger dies in the United States because this Congress, going along with pressure from United and American Airlines, which already have 80 percent of the market in Chicago O'Hare and want more of it and are trying to block the construction of a third airport in Chicago because they do not want anybody else to have any of the market in Chicago, if in responding to pressure from those airlines, we are going to add so many more flights at O'Hare that we jeopardize the life of just one passenger in this country, then we have made a horrible, grave mistake.

Thus, I will be here everyday this bill is up, and I will fight doing that. I look forward to working with the managers of the bill to possibly address my concerns.

I was elected, in part, on this issue, and my predecessor, Carol Moseley-Braun, in fact, last year when there was a proposal to add just 100 more slots at O'Hare, fought that. She thought she had an agreement to lower that to 30 more slots that could be sparingly granted by the FAA, if all sorts of certain criteria were met.

Now it appears there is an effort on the part of those who have negotiated this bill to run roughshod over all those conversations with Senators from Illinois and go ahead and say the sky is the limit at O'Hare.

It is interesting; last week, Mayor Daley from Chicago was trying to fly

to Washington. We had a Taste of Chicago party on the House side of the Capitol. It was a huge party. There were 500 people from Chicago willing to celebrate the Taste of Chicago in Washington. Unfortunately, the mayor of Chicago was stuck on the tarmac at O'Hare for 4 hours because of delays. It is too crowded and it is too congested.

Fortunately, thus far, the air traffic controllers have managed the traffic and the delays there, and they have not felt pressured into doing something unwise. But it is very possible that we could put so much pressure on those air traffic controllers and those pilots that a mistake could be made and we could jeopardize the safety of the flying public.

So I will be here to fight the lifting of those caps at O'Hare. We have to come up with some other solutions. I do agree we want competition amongst our airlines. Certainly with the situation at O'Hare, where you have two airlines, United and American, that control 80 percent of the slots, they don't want anybody else to cut into their monopoly there. Thus, they don't want any more air capacity outside of O'Hare in Chicago. I understand that. That has created problems. I want to work to solve those problems with the Members of this body. But I do not think we should do it in such a way that we cause more delays at O'Hare, which puts more pressure on our air traffic controllers, our pilots, and our whole infrastructure in aviation, and potentially jeopardizes the safety of the flying public.

Mr. President, thank you very much.

Mr. ROCKEFELLER. I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. KYL). The clerk will call the roll.

The legislative assistant proceeded to call the roll.

Mr. FITZGERALD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### PRIVILEGE OF THE FLOOR

Mr. FITZGERALD. Mr. President, I ask unanimous consent that Stanley Bach of the Congressional Research Service be granted the privilege of the floor during the Senate's consideration of S. 82.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FITZGERALD. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative assistant proceeded to call the roll.

Mr. FITZGERALD. Mr. President, I ask unanimous consent that the order for the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### PRIVILEGE OF THE FLOOR

Mr. FITZGERALD. Mr. President, I ask unanimous consent that Evelyn Fortier of my office be granted the

privilege of the floor during the Senate's consideration of S. 82.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FITZGERALD. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative assistant proceeded to call the roll.

Mr. AKAKA. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. FITZGERALD. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

The clerk will continue to call the roll.

The legislative clerk continued to call the roll.

Mr. AKAKA. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. AKAKA. Mr. President, I am pleased to rise in support of S. 82, the Air Transportation Improvement Act of 1999. This measure will enhance the safety and efficiency of our air transportation system. The residents of Hawaii, a State that is perhaps more dependent on air transportation than any other, stand to benefit significantly from this legislation.

Today I want to speak to title VI of the bill which addresses the issue of air tour operations at national parks. Title VI establishes a comprehensive regulatory framework for controlling air tour traffic in and near units of the National Park System. The legislation requires the Federal Aviation Administration, in cooperation with the National Park Service and with public input from stakeholders, to develop an air tour management plan for parks currently or potentially affected by air tour flights.

Under this process, routes, altitudes, time restrictions, limitations on the number of flights, and other operating parameters could be prescribed in order to protect sensitive park resources as well as to enhance the safety of air tour operations. An air tour plan could prohibit air tours at a park entirely, regulate air tours within half a mile outside the boundaries of a park, regulate air tour operations that impact tribal lands, and offer incentives for the adoption of quieter air technology.

S. 82 also creates an advisory group comprising representatives of the FAA, the Park Service, the aviation industry, the environmental community, and tribes to provide advice, information, and recommendations on over-flight issues.

As embodied in the air tour management plan process, this bill treats over-flights issues on a park-by-park basis. Rather than a one-size-fits-all approach, the legislation establishes a fair and rational mechanism through which environmental and commercial aviation needs can be addressed in the

context of the unique circumstances that exist at individual national parks.

In other words, an air tour management plan for Yosemite in California may differ significantly from a plan for the Florida Everglades, in order to take into account differences in terrain, weather, types of resources to be protected, and other factors. What is important about this bill is that it establishes a uniform procedure, with common regulatory elements, that will address overflight issues on a consistent basis across the nation, while allowing for local variations.

I am pleased that this procedural approach, in addition to requirements for meaningful public consultation and a mechanism for promoting dialogue among diverse stakeholders, mirrors key elements of legislation—the National Parks Airspace Management Act, cosponsored by my colleagues Senator INOUE and Senator FRIST—that I promoted in several previous Congresses.

Title VI also reflects the hard-won consensus developed by the National Parks Overflights Working Group, a group comprising industry, environmental, and tribal representatives, which worked for many months to hammer out critical details embodied in the pending measure.

Adoption of this bill is essential if we are to address effectively the detrimental impacts of air tour activities on the National Park System. Air tourism has significantly increased in the last decade, nowhere more so than at high profile units such as Grand Canyon, Great Smoky Mountains, as well as Haleakala and Hawaii Volcanoes national parks in my own State. A major 1994 Park Service study indicated that nearly 100 parks experienced adverse park impacts. That number has assuredly risen since then. Such growth has inevitably conflicted with attempts to preserve the natural qualities and values that characterize many national parks, in some instances seriously.

While air tour operators often provide important emergency services, enhance park access for special populations such as the handicapped and elderly, and offer an important source of income for local economies—notably tourism-dependent areas such as Hawaii—unregulated overflights have the potential to harm park ecologies, harm wildlife, and impair visitor enjoyment of the park experience. Unrestricted air tour operations can also pose a safety hazard to air and ground visitors alike. The tragic crash of an air tour on the Big Island of Hawaii last week which killed nine people, is a stark reminder of the dangers inherent in air travel.

It is therefore vital that we develop a clear, consistent national policy on this issue, one that equitably and rationally prioritizes the respective interest of the aviation and environmental communities. Congress and the administration have struggled to develop such a policy since enactment of the National Parks Overflights Act of

1987, Congress's initial, but ultimately limited, attempt to come to grips with the overflights issue. S. 82 will finish where the 1987 act left off, providing the FAA and Park Service with the policy guidance and procedural mechanisms that are essential to balancing the needs of air tour operators against the imperative to preserve and protect our natural resources.

The overflights provisions of this bill are the consequence of good faith efforts on the part of many groups and individuals. They include members of the National Parks Overflights Working Group, whose consensus recommendations form the underpinnings of this legislation; representatives of aviation and environmental advocacy organizations such as Helicopter Association International, the U.S. Air Tour Association, the National Parks and Conservation Association, and the Wilderness Society; and, officials of the FAA and Park Service.

From the Park Service, in particular, I recognize Jackie Lowey, Wes Henry, Marv Jensen, Sheridan Steele, Ken Czarnowski, and Dave Emmerson, all of whom worked directly on this legislation. And I would be remiss if I did not recognize the unsung contributions of Ann Choiniere of the Commerce Committee staff and Steve Oppermann, formerly of my staff and more recently a consultant to the Park Service, who spent countless hours shaping the details in this bill.

However, title VI is, above all, the product of the energy and vision of my friend and colleague from Arizona, Senator McCain. As the author of the 1987 National Parks Overflights Act, Senator McCain was the first to recognize the adverse impacts of air tours on national parks, and the first to call for a national policy to address this problem. Since then, he has been relentless in his quest to impel progress on this subject. For his leadership in writing the overflights provisions of this bill, and for his decade-long fight to preserve natural quiet in our national parks, Senator McCain deserves the lasting appreciation of all those who believe in maintaining the integrity of the National Park System.

Mr. President, in conclusion, I am pleased to have been involved in developing legislation that promotes aviation safety, enhances the viability of legitimate air tour operations, and protects national parks from the most egregious visual and noise intrusions by air tour helicopters and other aircraft. Left unchecked, air tour activities can undermine the very qualities and resources that give value to a park, resources that must be protected at all costs. I believe that title VI of the pending measure reasonably and prudently balances these sometimes opposing considerations, and I urge my colleagues to support this legislation.

Thank you, Mr. President. I yield the floor.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. KYL). The clerk will call the roll.

Mr. SMITH of New Hampshire. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SMITH of New Hampshire. Mr. President, I ask unanimous consent to speak as in morning business for not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### THE PANAMA CANAL

Mr. SMITH of New Hampshire. Mr. President, there are a lot of things going on in the world. Sometimes there is so much going on that we forget some of the more important things. What I would like to do is to remind my colleagues and the American people that, as of today, there are 88 more days before the United States of America loses its right to the Panama Canal.

It is also interesting to point out that these little flags on this chart—in case someone may not know what they are—are Communist Chinese flags. So I am going to place another one over October 4 and note that in 88 days the Chinese Communists are going to have control over both ends of the Panama Canal.

It is amazing to me that in the Presidential debates—not formal debates but in the discussions of Presidential politics—we did not even hear anything about this. Yet here we are, the nation that is probably the largest threat to the United States of America is now going to control the Panama Canal and not a whimper comes from this administration.

So I am going to be on the floor of the Senate almost every day I can—at least every day that is a business day—to remind the American people and the administration that we are now going to allow the Communist Chinese flag to be hoisted over that canal, which we once controlled, which we, unfortunately, gave away during the Carter administration.

The Panama Canal Treaty requires the U.S., by the date of December 31, 1999, to relinquish its bases in Panama.

The Panama Canal—a monument to American engineering, American construction, American ingenuity—is among the world's most strategic waterways and remains critical to U.S. trade and national security.

In case anybody is interested, the United States has invested \$32 billion of taxpayer dollars in that canal since its inception. It remains a critical artery for our Navy and Merchant Marine, with an estimated 200 Navy passages a year going through that canal.

On December 31, the Communist Chinese flag will control both ends of that canal.

Mr. President, 15 to 20 percent of total U.S. exports and imports transit