

Public Law 104–264  
104th Congress

An Act

To amend title 49, United States Code, to reauthorize programs of the Federal Aviation Administration, and for other purposes.

Oct. 9, 1996

[H.R. 3539]

*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 CONTENTS.**

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

(b) **TABLE OF CONTENTS.**—

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Federal Aviation  
Reauthorization  
Act of 1996.  
49 USC 40101  
note.

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

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

**SEC. 3. APPLICABILITY.**

49 USC 106 note.

(a) **IN GENERAL.**—Except as otherwise specifically provided, this Act and the amendments made by this Act apply only to fiscal years beginning after September 30, 1996.

(b) **LIMITATION ON STATUTORY CONSTRUCTION.**—Nothing in this Act or any amendment made by this Act shall be construed as

affecting funds made available for a fiscal year ending before October 1, 1996.

## TITLE I—AIRPORT AND AIRWAY IMPROVEMENTS

### Subtitle A—Reauthorization of FAA Programs

#### SEC. 101. AIRPORT IMPROVEMENT PROGRAM.

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

(1) by striking “September 30, 1981” and inserting “September 30, 1996”; and

(2) by striking “\$17,583,500,000” and all that follows through the period at the end and inserting the following: “\$2,280,000,000 for fiscal years ending before October 1, 1997, and \$4,627,000,000 for fiscal years ending before October 1, 1998.”.

(b) OBLIGATIONAL AUTHORITY.—Section 47104(c) is amended by striking “1996” and inserting “1998”.

#### SEC. 102. AIRWAY FACILITIES IMPROVEMENT PROGRAM.

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 48101(a) is amended by striking paragraphs (1) through (4) and inserting the following:

“(1) \$2,068,000,000 for fiscal year 1997.

“(2) \$2,129,000,000 for fiscal year 1998.”.

(b) CLERICAL AMENDMENTS.—Chapter 481 is amended—

(1) by striking the heading for section 48101 and inserting the following:

**“§ 48101. Air navigation facilities and equipment”;** and

(2) in the table of sections by striking the item relating to section 48101 and inserting the following:

“48101. Air navigation facilities and equipment.”.

#### SEC. 103. FAA OPERATIONS.

(a) AUTHORIZATION OF APPROPRIATIONS FROM GENERAL FUND.—Section 106(k) is amended by striking “\$4,088,000,000” and all that follows through the period at the end and inserting the following: “\$5,158,000,000 for fiscal year 1997 and \$5,344,000,000 for fiscal year 1998.”.

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

(1) in the subsection heading by striking “1996” and inserting “1998”;

(2) in the matter preceding paragraph (1) by striking “1994, 1995, and 1996” and inserting “1994 through 1998”; and

(3) in paragraph (2)(A) by striking “70 percent” and inserting “72.5 percent”.

(c) LIMITATION ON OBLIGATING OR EXPENDING AMOUNTS.—Section 48108(c) is amended by striking “1996” and inserting “1998”.

(d) CLERICAL AMENDMENTS.—Chapter 481 is amended—

(1) by striking the heading for section 48104 and inserting the following:

**“§ 48104. Operations and maintenance”;** and

(2) in the table of sections by striking the item relating to section 48104 and inserting the following:

“48104. Operations and maintenance.”.

## **Subtitle B—Airport Development Financing**

### **SEC. 121. APPORTIONMENTS.**

(a) AMOUNTS APPORTIONED TO SPONSORS.—

(1) PRIMARY AIRPORTS.—Section 47114(c)(1)(A) is amended—

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

(B) in clause (iv) by striking “additional passenger boarding” and inserting “of the next 500,000 passenger boardings”;

(C) by striking the period at the end of clause (iv) and inserting “; and”; and

(D) by adding at the end the following:

“(v) \$.50 for each additional passenger boarding at the airport during the prior calendar year.”.

(2) CARGO ONLY AIRPORTS.—Section 47114(c)(2) of such title is amended to read as follows:

“(2) CARGO ONLY AIRPORTS.—

“(A) APPORTIONMENT.—Subject to subparagraph (D), the Secretary shall apportion an amount equal to 2.5 percent of the amount subject to apportionment each fiscal year to the sponsors of airports served by aircraft providing air transportation of only cargo with a total annual landed weight of more than 100,000,000 pounds.

“(B) SUBALLOCATION FORMULA.—Any funds apportioned under subparagraph (A) to sponsors of airports described in subparagraph (A) shall be allocated among those airports in the proportion that the total annual landed weight of aircraft described in subparagraph (A) landing at each of those airports bears to the total annual landed weight of those aircraft landing at all those airports.

“(C) LIMITATION.—Not more than 8 percent of the amount apportioned under subparagraph (A) may be apportioned for any one airport.

“(D) DISTRIBUTION TO OTHER AIRPORTS.—Before apportioning amounts to the sponsors of airports under subparagraph (A) for a fiscal year, the Secretary may set-aside a portion of such amounts for distribution to the sponsors of other airports, selected by the Secretary, that the Secretary finds will be served primarily by aircraft providing air transportation of only cargo.

“(E) DETERMINATION OF LANDED WEIGHT.—Landed weight under this paragraph is the landed weight of aircraft landing at each airport described in subparagraph (A) during the prior calendar year.”.

(3) REPEAL OF LIMITATION.—Section 47114(c)(3) is repealed.

(b) AMOUNTS APPORTIONED TO STATES.—Section 47114(d)(2) of such title is amended—

- (1) by striking “12” and inserting “18.5”;
- (2) in subparagraph (A) by striking “one” and inserting “0.66”;
- (3) in each of subparagraphs (B) and (C) by striking “49.5” and inserting “49.67”; and
- (4) in each of subparagraphs (B) and (C) by striking “except” the second place it appears and all that follows through “title,” and inserting “excluding primary airports but including reliever and nonprimary commercial service airports,”.

**SEC. 122. DISCRETIONARY FUND.**

Section 47115 is amended by striking the second subsection (f), relating to minimum amounts to be credited, and inserting the following:

“(g) MINIMUM AMOUNT TO BE CREDITED.—

“(1) GENERAL RULE.—In a fiscal year, there shall be credited to the fund, out of amounts made available under section 48103 of this title, an amount that is at least equal to the sum of—

“(A) \$148,000,000; plus

“(B) the total amount required from the fund to carry out in the fiscal year letters of intent issued before January 1, 1996, under section 47110(e) of this title or the Airport and Airway Improvement Act of 1982.

The amount credited is exclusive of amounts that have been apportioned in a prior fiscal year under section 47114 of this title and that remain available for obligation.

“(2) REDUCTION OF APPORTIONMENTS.—In a fiscal year in which the amount credited under subsection (a) is less than the minimum amount to be credited under paragraph (1), the total amount calculated under paragraph (3) shall be reduced by an amount that, when credited to the fund, together with the amount credited under subsection (a), equals such minimum amount.

“(3) AMOUNT OF REDUCTION.—For a fiscal year, the total amount available to make a reduction to carry out paragraph (2) is the total of the amounts determined under sections 47114(c)(1)(A), 47114(c)(2), 47114(d), and 47117(e) of this title. Each amount shall be reduced by an equal percentage to achieve the reduction.

“(4) SPECIAL RULE.—For a fiscal year in which the amount credited to the fund under this subsection exceeds \$300,000,000, the Secretary shall allocate the amount of such excess as follows:

“(A)  $\frac{1}{3}$  shall be made available to airports for which apportionments are made under section 47114(d) of this title.

“(B)  $\frac{1}{3}$  shall be made available for airport noise compatibility planning under section 47505(a)(2) of this title and for carrying out noise compatibility programs under section 47504(c)(1) of this title.

“(C)  $\frac{1}{3}$  shall be made available to current or former military airports for which grants may be made under section 47117(e)(1)(B) of this title.”.

**SEC. 123. USE OF APPORTIONED AMOUNTS.**

(a) **PERIOD OF AVAILABILITY.**—Section 47117(b) is amended by inserting before the period at the end of the first sentence the following: “or the 3 fiscal years immediately following that year in the case of a primary airport that had less than .05 percent of the total boardings in the United States in the preceding calendar year”.

(b) **SPECIAL APPORTIONMENT CATEGORIES.**—Section 47117(e)(1) is amended—

(1) by striking “made available under section 48103” and inserting “available to the discretionary fund under section 47115”;

(2) by striking subparagraphs (A), (C), and (D);

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

(4) in subparagraph (A), as so redesignated, by striking “at least 12.5” and inserting “At least 31”;

(5) by adding at the end of subparagraph (A), as so redesignated, the following: “The Secretary may count the amount of grants made for such planning and programs with funds apportioned under section 47114 in that fiscal year in determining whether or not such 31 percent requirement is being met in that fiscal year.”;

(6) in subparagraph (B), as so redesignated, by striking “at least 2.25” and all that follows through “1996,” and inserting “At least 4 percent for each fiscal year thereafter”; and

(7) by inserting before the period at the end of subparagraph (B), as so redesignated, the following: “and to sponsors of noncommercial service airports for grants for operational and maintenance expenses at any such airport if the amount of such grants to the sponsor of the airport does not exceed \$30,000 in that fiscal year, if the Secretary determines that the airport is adversely affected by the closure or realignment of a military base, and if the sponsor of the airport certifies that the airport would otherwise close if the airport does not receive the grant”.

(c) **CONFORMING AMENDMENTS.**—Section 47117(e) is amended—

(1) by striking paragraph (2); and

(2) by redesignating paragraph (3) as paragraph (2).

**SEC. 124. DESIGNATING CURRENT AND FORMER MILITARY AIRPORTS.**

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

“(a) **GENERAL REQUIREMENTS.**—The Secretary of Transportation shall designate current or former military airports for which grants may be made under section 47117(e)(1)(B) of this title. The maximum number of airports bearing such designation at any time is 12. The Secretary may only so designate an airport (other than an airport so designated before August 24, 1994) if—

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

“(A) section 2687 of title 10;

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

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

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

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

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

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

(c) **PARKING LOTS, FUEL FARMS, UTILITIES, AND HANGARS.**—Section 47118(f) is amended—

(1) in the heading by striking “AND UTILITIES” and inserting “UTILITIES, AND HANGARS”;

(2) by striking “for the fiscal years ending September 30, 1993–1996,” and inserting “for fiscal years beginning after September 30, 1992,”; and

(3) by striking “and utilities” and inserting “utilities, and hangars”.

(d) **2-YEAR EXTENSION.**—Section 47117(e)(1)(B), as redesignated by section 123(b) of this Act, is amended by striking “and 1996,” and inserting “1996, 1997, and 1998”.

49 USC 47114  
note.

**SEC. 125. PERIOD OF APPLICABILITY OF AMENDMENTS.**

The amendments made by this subtitle shall cease to be effective on September 30, 1998. On and after such date, sections 47114, 47115, 47117, and 47118 of title 49, United States Code, shall read as if such amendments had not been enacted.

## **Subtitle C—Airport Improvement Program Modifications**

**SEC. 141. INTERMODAL PLANNING.**

Section 47101(g) is amended to read as follows:

“(g) **INTERMODAL PLANNING.**—To carry out the policy of subsection (a)(5) of this section, the Secretary of Transportation shall take each of the following actions:

“(1) **COORDINATION IN DEVELOPMENT OF AIRPORT PLANS AND PROGRAMS.**—Cooperate with State and local officials in developing airport plans and programs that are based on overall transportation needs. The airport plans and programs shall be developed in coordination with other transportation planning and considering comprehensive long-range land-use plans and overall social, economic, environmental, system performance, and energy conservation objectives. The process of developing airport plans and programs shall be continuing, cooperative, and comprehensive to the degree appropriate to the complexity of the transportation problems.

“(2) **GOALS FOR AIRPORT MASTER AND SYSTEM PLANS.**—Encourage airport sponsors and State and local officials to develop airport master plans and airport system plans that—

“(A) foster effective coordination between aviation planning and metropolitan planning;



“(B) include an evaluation of aviation needs within the context of multimodal planning; and

“(C) are integrated with metropolitan plans to ensure that airport development proposals include adequate consideration of land use and ground transportation access.

“(3) REPRESENTATION OF AIRPORT OPERATORS ON MPO’S.—

Encourage metropolitan planning organizations, particularly in areas with populations greater than 200,000, to establish membership positions for airport operators.”.

**SEC. 142. PAVEMENT MAINTENANCE PROGRAM.**

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

**“§ 47132. Pavement maintenance**

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

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

(b) COMPLIANCE WITH FEDERAL MANDATES.—

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

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

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

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

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

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

(C) by striking subparagraph (F).

(c) CONFORMING AMENDMENT.—The table of sections for such subchapter is amended by inserting after the item relating to section 47131 the following:

“47132. Pavement maintenance.”.

**SEC. 143. ACCESS TO AIRPORTS BY INTERCITY BUSES.**

Section 47107(a) is amended—

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

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

(3) by adding at the end the following:

“(20) the airport owner or operator will permit, to the maximum extent practicable, intercity buses or other modes of transportation to have access to the airport, but the sponsor

does not have any obligation under this paragraph, or because of it, to fund special facilities for intercity bus service or for other modes of transportation.”.

**SEC. 144. COST REIMBURSEMENT FOR PROJECTS COMMENCED PRIOR TO GRANT AWARD.**

(a) **COST REIMBURSEMENT.**—Section 47110(b)(2)(C) is amended to read as follows:

“(C) if the Government’s share is paid only with amounts apportioned under paragraphs (1) and (2) of section 47114(c) of this title and if the cost is incurred—

“(i) after September 30, 1996;

“(ii) before a grant agreement is executed for the project; and

“(iii) in accordance with an airport layout plan approved by the Secretary and with all statutory and administrative requirements that would have been applicable to the project if the project had been carried out after the grant agreement had been executed;”.

(b) **USE OF DISCRETIONARY FUNDS.**—Section 47110 is amended by adding at the end the following:

“(g) **USE OF DISCRETIONARY FUNDS.**—A project for which cost reimbursement is provided under subsection (b)(2)(C) shall not receive priority consideration with respect to the use of discretionary funds made available under section 47115 of this title even if the amounts made available under paragraphs (1) and (2) of section 47114(c) are not sufficient to cover the Government’s share of the cost of project.”.

**SEC. 145. SELECTION OF PROJECTS FOR GRANTS FROM DISCRETIONARY FUND.**

(a) **SELECTION OF PROJECTS FOR GRANTS.**—Section 47115(d) is amended—

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

(2) by striking the period at the end of paragraph (3) and inserting a semicolon; and

(3) by adding at the end the following:

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

“(5) the projected growth in the number of passengers that will be using the airport at which the project will be carried out; and

“(6) any increase in the number of passenger boardings in the preceding 12-month period at the airport at which the project will be carried out, with priority consideration to be given to projects at airports at which the number of passenger boardings increased by at least 20 percent as compared to the number of passenger boardings in the 12-month period preceding such period.”.

(b) **PRIORITY FOR LETTERS OF INTENT.**—Section 47115, as amended by section 122 of this Act, is further amended by adding at the end the following:

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

**SEC. 146. SMALL AIRPORT FUND.**

Section 47116 is amended by adding at the end the following:

“(d) PRIORITY CONSIDERATION FOR CERTAIN PROJECTS.—In making grants to sponsors described in subsection (b)(2), the Secretary shall give priority consideration to multi-year projects for construction of new runways that the Secretary finds are cost beneficial and would increase capacity in a region of the United States.”.

**SEC. 147. STATE BLOCK GRANT PROGRAM.**

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

(1) in subsection (a) by striking “7 qualified States” and inserting “8 qualified States for fiscal year 1997 and 9 qualified States for each fiscal year thereafter”;

(2) in subsection (b)(1)—

(A) by striking “(1)”; and

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

(3) by striking subsection (b)(2).

(b) USE OF STATE PRIORITY SYSTEM.—Section 47128(c) is amended—

(1) by striking “(b)(1)(B) or (C)” and inserting “(b)(2) or (b)(3)”; and

(2) by adding at the end the following: “In carrying out this subsection, the Secretary shall permit a State to use the priority system of the State if such system is not inconsistent with the national priority system.”.

(c) REPEAL OF EXPIRATION DATE.—

(1) IN GENERAL.—Section 47128 is amended—

(A) by striking “pilot” in the section heading;

(B) by striking “pilot” in subsection (a); and

(C) by striking subsection (d).

(2) CONFORMING AMENDMENT.—The table of sections for chapter 471 is amended by striking the item relating to section 47128 and inserting the following:

“47128. State block grant program.”.

**SEC. 148. 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 subchapter I of chapter 471 of title 49, United States Code, for not more than 10 projects for which grants received under such 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 to Congress and the National Civil Aviation Review Commission.

(c) LIMITATION.—In no case shall the implementation of an innovative financing technique under the demonstration program result in a direct or indirect guarantee of any airport debt instrument by the Federal Government.

(d) INNOVATIVE FINANCING TECHNIQUE DEFINED.—In this section, the term “innovative financing technique” shall be limited to the following:

49 USC 47101  
note.

- (1) Payment of interest.
- (2) Commercial bond insurance and other credit enhancement associated with airport bonds for eligible airport development.
- (3) Flexible non-Federal matching requirements.
- (e) EXPIRATION OF AUTHORITY.—The authority of the Secretary to carry out the demonstration program shall expire on September 30, 1998.

**SEC. 149. PILOT PROGRAM ON PRIVATE OWNERSHIP OF AIRPORTS.**

(a) ESTABLISHMENT OF PROGRAM.—

(1) IN GENERAL.—Subchapter I of chapter 471, as amended by section 804 of this Act, is further amended by adding after section 47133 the following:

**“§ 47134. Pilot program on private ownership of airports**

“(a) SUBMISSION OF APPLICATIONS.—If a sponsor intends to sell or lease a general aviation airport or lease any other type of airport for a long term to a person (other than a public agency), the sponsor and purchaser or lessee may apply to the Secretary of Transportation for exemptions under this section.

“(b) APPROVAL OF APPLICATIONS.—The Secretary may approve, with respect to not more than 5 airports, applications submitted under subsection (a) granting exemptions from the following provisions:

“(1) USE OF REVENUES.—

“(A) IN GENERAL.—The Secretary may grant an exemption to a sponsor from the provisions of sections 47107(b) and 47133 of this title (and any other law, regulation, or grant assurance) to the extent necessary to permit the sponsor to recover from the sale or lease of the airport such amount as may be approved—

“(i) by at least 65 percent of the air carriers serving the airport; and

“(ii) by air carriers whose aircraft landing at the airport during the preceding calendar year had a total landed weight during the preceding calendar year of at least 65 percent of the total landed weight of all aircraft landing at the airport during such year.

Regulations.

“(B) LANDED WEIGHT DEFINED.—In this paragraph, the term ‘landed weight’ means the weight of aircraft transporting passengers or cargo, or both, in intrastate, interstate, and foreign air transportation, as the Secretary determines under regulations the Secretary prescribes.

“(2) REPAYMENT REQUIREMENTS.—The Secretary may grant an exemption to a sponsor from the provisions of sections 47107 and 47152 of this title (and any other law, regulation, or grant assurance) to the extent necessary to waive any obligation of the sponsor to repay to the Federal Government any grants, or to return to the Federal Government any property, received by the airport under this title, the Airport and Airway Improvement Act of 1982, or any other law.

“(3) COMPENSATION FROM AIRPORT OPERATIONS.—The Secretary may grant an exemption to a purchaser or lessee from the provisions of sections 47107(b) and 47133 of this title (and any other law, regulation, or grant assurance) to the extent

necessary to permit the purchaser or lessee to earn compensation from the operations of the airport.

“(c) TERMS AND CONDITIONS.—The Secretary may approve an application under subsection (b) only if the Secretary finds that the sale or lease agreement includes provisions satisfactory to the Secretary to ensure the following:

“(1) The airport will continue to be available for public use on reasonable terms and conditions and without unjust discrimination.

“(2) The operation of the airport will not be interrupted in the event that the purchaser or lessee becomes insolvent or seeks or becomes subject to any State or Federal bankruptcy, reorganization, insolvency, liquidation, or dissolution proceeding or any petition or similar law seeking the dissolution or reorganization of the purchaser or lessee or the appointment of a receiver, trustee, custodian, or liquidator for the purchaser or lessee or a substantial part of the purchaser or lessee’s property, assets, or business.

“(3) The purchaser or lessee will maintain, improve, and modernize the facilities of the airport through capital investments and will submit to the Secretary a plan for carrying out such maintenance, improvements, and modernization.

“(4) Every fee of the airport imposed on an air carrier on the day before the date of the lease of the airport will not increase faster than the rate of inflation unless a higher amount is approved—

“(A) by at least 65 percent of the air carriers serving the airport; and

“(B) by air carriers whose aircraft landing at the airport during the preceding calendar year had a total landed weight during the preceding calendar year of at least 65 percent of the total landed weight of all aircraft landing at the airport during such year.

“(5) The percentage increase in fees imposed on general aviation aircraft at the airport will not exceed the percentage increase in fees imposed on air carriers at the airport.

“(6) Safety and security at the airport will be maintained at the highest possible levels.

“(7) The adverse effects of noise from operations at the airport will be mitigated to the same extent as at a public airport.

“(8) Any adverse effects on the environment from airport operations will be mitigated to the same extent as at a public airport.

“(9) Any collective bargaining agreement that covers employees of the airport and is in effect on the date of the sale or lease of the airport will not be abrogated by the sale or lease.

“(d) PARTICIPATION OF CERTAIN AIRPORTS.—

“(1) GENERAL AVIATION AIRPORTS.—If the Secretary approves under subsection (b) applications with respect to 5 airports, one of the airports must be a general aviation airport.

“(2) LARGE HUB AIRPORTS.—The Secretary may not approve under subsection (b) more than 1 application submitted by an airport that had 1 percent or more of the total passenger boardings (as defined in section 47102) in the United States in the preceding calendar year.

“(e) REQUIRED FINDING THAT APPROVAL WILL NOT RESULT IN UNFAIR METHODS OF COMPETITION.—The Secretary may approve an application under subsection (b) only if the Secretary finds that the approval will not result in unfair and deceptive practices or unfair methods of competition.

“(f) INTERESTS OF GENERAL AVIATION USERS.—In approving an application of an airport under this section, the Secretary shall ensure that the interests of general aviation users of the airport are not adversely affected.

“(g) PASSENGER FACILITY FEES; APPORTIONMENTS; SERVICE CHARGES.—Notwithstanding that the sponsor of an airport receiving an exemption under subsection (b) is not a public agency, the sponsor shall not be prohibited from—

“(1) imposing a passenger facility fee under section 40117 of this title;

“(2) receiving apportionments under section 47114 of this title; or

“(3) collecting reasonable rental charges, landing fees, and other service charges from aircraft operators under section 40116(e)(2) of this title.

“(h) EFFECTIVENESS OF EXEMPTIONS.—An exemption granted under subsection (b) shall continue in effect only so long as the facilities sold or leased continue to be used for airport purposes.

“(i) REVOCATION OF EXEMPTIONS.—The Secretary may revoke an exemption issued to a purchaser or lessee of an airport under subsection (b)(3) if, after providing the purchaser or lessee with notice and an opportunity to be heard, the Secretary determines that the purchaser or lessee has knowingly violated any of the terms specified in subsection (c) for the sale or lease of the airport.

“(j) NONAPPLICATION OF PROVISIONS TO AIRPORTS OWNED BY PUBLIC AGENCIES.—The provisions of this section requiring the approval of air carriers in determinations concerning the use of revenues, and imposition of fees, at an airport shall not be extended so as to apply to any airport owned by a public agency that is not participating in the program established by this section.

“(k) AUDITS.—The Secretary may conduct periodic audits of the financial records and operations of an airport receiving an exemption under this section.

“(l) REPORT.—Not later than 2 years after the date of the initial approval of an application under this section, the Secretary shall transmit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report on implementation of the program under this section.

“(m) GENERAL AVIATION AIRPORT DEFINED.—In this section, the term ‘general aviation airport’ means an airport that is not a commercial service airport.”

(2) CONFORMING AMENDMENT.—The table of sections for such chapter is amended by inserting after the item relating to section 47133, as added by section 804 of this Act, the following:

“47134. Pilot program on private ownership of airports.”

(b) TAXATION.—Section 40116(b) is amended—

(1) by striking “a State or” and inserting “a State, a”; and

(2) by inserting after “of a State” the following: “, and any person that has purchased or leased an airport under section 47134 of this title”.

(c) FEDERAL SHARE.—Section 47109(a) is amended—

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

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

(3) by adding at the end the following:

“(3) 40 percent for a project funded by the Administrator from the discretionary fund under section 47115 at an airport receiving an exemption under section 47134.”.

(d) RESOLUTION OF AIRPORT-AIR CARRIER DISPUTES CONCERNING AIRPORT FEES.—Section 47129(a) is amended by adding at the end the following:

“(4) FEES IMPOSED BY PRIVATELY-OWNED AIRPORTS.—In evaluating the reasonableness of a fee imposed by an airport receiving an exemption under section 47134 of this title, the Secretary shall consider whether the airport has complied with section 47134(c)(4).”.

## TITLE II—FAA REFORM

### SEC. 201. SHORT TITLE.

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

### SEC. 202. DEFINITIONS.

In this title, the following definitions apply:

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

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

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

### SEC. 203. EFFECTIVE DATE.

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

## Subtitle A—General Provisions

### SEC. 221. FINDINGS.

Congress finds the following:

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

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

Air Traffic  
Management  
System  
Performance  
Improvement Act  
of 1996.  
49 USC 40101  
note.  
49 USC 106 note.

49 USC 106 note.

49 USC 106 note.

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

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

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

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

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

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

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

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

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

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

(13) An independent, thorough, and complete study and assessment must be performed of the costs to the Administration and the costs driven by each segment of the aviation system for safety and operational services, including the use of the air traffic control system and the Nation's airports.

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

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



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

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

**SEC. 222. PURPOSES.**

49 USC 106 note.

The purposes of this title are—

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

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

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

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

**SEC. 223. REGULATION OF CIVILIAN AIR TRANSPORTATION AND RELATED SERVICES BY THE FEDERAL AVIATION ADMINISTRATION AND DEPARTMENT OF TRANSPORTATION.**

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

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

(2) in subsection (f)—

(A) by striking “(f) The Secretary” and inserting the following:

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

“(1) AUTHORITY OF THE SECRETARY.—Except as provided in paragraph (2), the Secretary”;

(B) in subsection (f)(1), as so designated—

(i) by moving the remainder of the text 2 ems to the right;

(ii) by striking “The Secretary may not” and inserting “Neither the Secretary nor the Administrator may”; and

(iii) by striking “nor” and inserting “or”; and

(C) by adding at the end the following:

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

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

“(i) the appointment and employment of all officers and employees of the Administration (other than Presidential and political appointees);

“(ii) the acquisition and maintenance of property and equipment of the Administration;

“(iii) except as otherwise provided in paragraph (3), the promulgation of regulations, rules, orders,

circulars, bulletins, and other official publications of the Administration; and

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

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

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

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

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

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

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

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

49 USC 106 note.

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

#### SEC. 224. REGULATIONS.

Section 106(f), as amended by section 223 of this Act, is further amended—

(1) by redesignating paragraph (3) as paragraph (4); and  
(2) by inserting after paragraph (2) the following:

“(3) REGULATIONS.—

“(A) IN GENERAL.—In the performance of the functions of the Administrator and the Administration, the Administrator is authorized to issue, rescind, and revise such regulations as are necessary to carry out those functions. The issuance of such regulations shall be governed by the provisions of chapter 5 of title 5. The Administrator shall act upon all petitions for rulemaking no later than 6 months after the date such petitions are filed by dismissing such petitions, by informing the petitioner of an intention to dismiss, or by issuing a notice of proposed rulemaking

or advanced notice of proposed rulemaking. The Administrator shall issue a final regulation, or take other final action, not later than 16 months after the last day of the public comment period for the regulations or, in the case of an advanced notice of proposed rulemaking, if issued, not later than 24 months after the date of publication in the Federal Register of notice of the proposed rulemaking.

“(B) APPROVAL OF SECRETARY OF TRANSPORTATION.—

(i) The Administrator may not issue a proposed regulation or final regulation that is likely to result in the expenditure by State, local, and tribal governments in the aggregate, or by the private sector, of \$100,000,000 or more (adjusted annually for inflation beginning with the year following the date of the enactment of the Air Traffic Management System Performance Improvement Act of 1996) in any year, or any regulation which is significant, unless the Secretary of Transportation approves the issuance of the regulation in advance. For purposes of this paragraph, a regulation is significant if the Administrator, in consultation with the Secretary (as appropriate), determines that the regulation is likely to—

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

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

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

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

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

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

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

“(C) PERIODIC REVIEW.—(i) Beginning on the date which is 3 years after the date of the enactment of the Air Traffic Management System Performance Improvement Act of 1996, the Administrator shall review any unusually

burdensome regulation issued by the Administrator after such date of enactment beginning not later than 3 years after the effective date of the regulation to determine if the cost assumptions were accurate, the benefit of the regulations, and the need to continue such regulations in force in their present form.

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

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

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

#### SEC. 225. PERSONNEL AND SERVICES.

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

“(1) PERSONNEL AND SERVICES.—

“(1) OFFICERS AND EMPLOYEES.—Except as provided in section 40122(a) of this title and section 347 of Public Law 104-50, the Administrator is authorized, in the performance of the functions of the Administrator, to appoint, transfer, and fix the compensation of such officers and employees, including attorneys, as may be necessary to carry out the functions of the Administrator and the Administration. In fixing compensation and benefits of officers and employees, the Administrator shall not engage in any type of bargaining, except to the extent provided for in section 40122(a), nor shall the Administrator be bound by any requirement to establish such compensation or benefits at particular levels.

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

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

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

“(5) VOLUNTARY SERVICES.—

“(A) GENERAL RULE.—In exercising the authority to accept gifts and voluntary services under section 326 of this title, and without regard to section 1342 of title 31, the Administrator may not accept voluntary and uncompensated services if such services are used to displace Federal

employees employed on a full-time, part-time, or seasonal basis.

“(B) INCIDENTAL EXPENSES.—The Administrator is authorized to provide for incidental expenses, including transportation, lodging, and subsistence, for volunteers who provide voluntary services under this subsection.

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

**SEC. 226. CONTRACTS.**

Section 106(l), as added by section 225 of this Act, is further amended by adding at the end the following:

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

**SEC. 227. FACILITIES.**

Section 106, as amended by section 225 of this Act, is further amended by adding at the end the following:

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

**SEC. 228. PROPERTY.**

Section 106, as amended by section 227 of this Act, is further amended by adding at the end the following:

“(n) ACQUISITION.—

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

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

“(i) air traffic control facilities and equipment;

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

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

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

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

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

**SEC. 229. TRANSFERS OF FUNDS FROM OTHER FEDERAL AGENCIES.**

Section 106, as amended by section 228 of this Act, is further amended by adding at the end the following:

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

**SEC. 230. MANAGEMENT ADVISORY COUNCIL.**

Section 106, as amended by section 229 of this Act, is further amended by adding at the end the following:

“(p) MANAGEMENT ADVISORY COUNCIL.—

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

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

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

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

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

“(3) QUALIFICATIONS.—No member appointed under paragraph (2)(C) may serve as an officer or employee of the United States Government while serving as a member of the Council.

“(4) FUNCTIONS.—

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

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

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

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

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

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

“(6) ADMINISTRATIVE MATTERS.—

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

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

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

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

and

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

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

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

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

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

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

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

49 USC 40110  
note.

### **SEC. 251. REVIEW OF ACQUISITION MANAGEMENT SYSTEM.**

Reports.

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

### **SEC. 252. AIR TRAFFIC CONTROL MODERNIZATION REVIEWS.**

Chapter 401 is amended by adding at the end the following:

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

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

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

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

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

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

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

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

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

“(c) **EXCEPTIONS AND REPORT.**—

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

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



Law 104-50 when engaged in joint actions to improve or replenish the national air traffic control system. The Administration may acquire real property, goods, and services through the Department of Defense, or other appropriate agencies, but is bound by the acquisition laws and regulations governing those cases.

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

**SEC. 253. FEDERAL AVIATION ADMINISTRATION PERSONNEL MANAGEMENT SYSTEM.**

Chapter 401, as amended by section 252 of this Act, is further amended by adding at the end the following:

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

“(a) IN GENERAL.—

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

“(2) MEDIATION.—If the Administrator does not reach an agreement under paragraph (1) with the exclusive bargaining representatives, the services of the Federal Mediation and Conciliation Service shall be used to attempt to reach such agreement. If the services of the Federal Mediation and Conciliation Service do not lead to an agreement, the Administrator’s proposed change to the personnel management system shall not take effect until 60 days have elapsed after the Administrator has transmitted the proposed change, along with the objections of the exclusive bargaining representatives to the change, and the reasons for such objections, to Congress.

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

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

“(b) EXPERT EVALUATION.—On the date that is 3 years after the personnel management system is implemented, the Administration shall employ outside experts to provide an independent evaluation of the effectiveness of the system within 3 months after such date. For this purpose, the Administrator may utilize the services

of experts and consultants under section 3109 of title 5 without regard to the limitation imposed by the last sentence of section 3109(b) of such title, and may contract on a sole source basis, notwithstanding any other provision of law to the contrary.

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

“(d) ETHICS.—The Administration shall be subject to Executive Order No. 12674 and regulations and opinions promulgated by the Office of Government Ethics, including those set forth in section 2635 of title 5 of the Code of Federal Regulations.

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

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

#### SEC. 254. CONFORMING AMENDMENT.

The table of sections for chapter 401 is amended by adding at the end the following:

“40121. Air traffic control modernization reviews.

“40122. Federal Aviation Administration personnel management system.”.

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

49 USC 40101  
note.

#### SEC. 271. FINDINGS.

Congress finds the following:

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

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

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

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

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

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

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

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

(9) The Administration's certification means that the product meets world-wide recognized standards of safety and reliability.

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

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

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

(13) The Administration also is a major purchaser of computers, radars, and other systems needed to run the air traffic control system. The Administration's design, acceptance, commissioning, or certification of such equipment enables the private sector to market those products around the world, and as such confers a benefit on the manufacturer.

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

**SEC. 272. PURPOSES.**

The purposes of this subtitle are—

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

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

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

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

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

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

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

**SEC. 273. USER FEES FOR VARIOUS FEDERAL AVIATION ADMINISTRATION SERVICES.**

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

**“§ 45301. General provisions**

“(a) SCHEDULE OF FEES.—The Administrator shall establish a schedule of new fees, and a collection process for such fees, for the following services provided by the Administration:

49 USC 40101  
note.

“(1) Air traffic control and related services provided to aircraft other than military and civilian aircraft of the United States government or of a foreign government that neither take off from, nor land in, the United States.

“(2) Services (other than air traffic control services) provided to a foreign government.

“(b) LIMITATIONS.—

“(1) AUTHORIZATION AND IMPACT CONSIDERATIONS.—In establishing fees under subsection (a), the Administrator—

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

“(B) shall ensure that each of the fees required by subsection (a) is directly related to the Administration’s costs of providing the service rendered. Services for which costs may be recovered include the costs of air traffic control, navigation, weather services, training and emergency services which are available to facilitate safe transportation over the United States, and other services provided by the Administrator or by programs financed by the Administrator to flights that neither take off nor land in the United States.

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

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

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

“45301. General provisions.”

**SEC. 274. INDEPENDENT ASSESSMENT OF FAA FINANCIAL REQUIREMENTS; ESTABLISHMENT OF NATIONAL CIVIL AVIATION REVIEW COMMISSION.**

(a) INDEPENDENT ASSESSMENT.—

(1) INITIATION.—Not later than 30 days after the date of the enactment of this Act, the Administrator shall contract with an entity independent of the Administration and the Department of Transportation to conduct a complete independent assessment of the financial requirements of the Administration through the year 2002.

(2) ASSESSMENT CRITERIA.—The Administrator shall provide to the independent entity estimates of the financial requirements of the Administration for the period described in paragraph (1), using as a base the fiscal year 1997 appropriation levels established by Congress. The independent assess-

Federal Register,  
publication.

49 USC 40101  
note.

ment shall be based on an objective analysis of agency funding needs.

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

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

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

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

(b) NATIONAL CIVIL AVIATION REVIEW COMMISSION.—

(1) ESTABLISHMENT.—There is established a commission to be known as the National Civil Aviation Review Commission (hereinafter in this section referred to as the “Commission”).

(2) MEMBERSHIP.—The Commission shall consist of 21 members to be appointed as follows:

(A) 13 members to be appointed by the Secretary, in consultation with the Secretary of the Treasury, from among individuals who have expertise in the aviation industry and who are able, collectively, to represent a balanced view of the issues important to general aviation, major air carriers, air cargo carriers, regional air carriers, business aviation, airports, aircraft manufacturers, the financial community, aviation industry workers, and airline passengers. At least one member appointed under this subparagraph shall have detailed knowledge of the congressional budgetary process.

(B) Two members appointed by the Speaker of the House of Representatives.

(C) Two members appointed by the minority leader of the House of Representatives.

(D) Two members appointed by the majority leader of the Senate.

(E) Two members appointed by the minority leader of the Senate.

(3) TASK FORCES.—The Commission shall establish an aviation funding task force and an aviation safety task force to carry out the responsibilities of the Commission under this subsection.

(4) FIRST MEETING.—The Commission may conduct its first meeting as soon as a majority of the members of the Commission are appointed.

(5) HEARINGS AND CONSULTATION.—

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

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

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

(6) DUTIES OF AVIATION FUNDING TASK FORCE.—

(A) REPORT TO SECRETARY.—

(i) IN GENERAL.—The aviation funding task force established pursuant to paragraph (3) shall submit a report setting forth a comprehensive analysis of the Administration's budgetary requirements through fiscal year 2002, based upon the independent assessment under subsection (a), that analyzes alternative financing and funding means for meeting the needs of the aviation system through the year 2002. The task force shall submit a preliminary report of that analysis to the Secretary not later than 6 months after the independent assessment is completed under subsection (a). The Secretary shall provide comments on the preliminary report to the task force within 30 days after receiving the report. The task force shall issue a final report of such comprehensive analysis within 30 days after receiving the Secretary's comments on its preliminary report.

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

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

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

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

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

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

(i) proposals for off-budget treatment of the Airport and Airway Trust Fund;

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

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

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

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

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

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

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

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

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

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

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

(iv) the elimination of unneeded programs; and

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

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

(i) safety;

(ii) administrative costs;

(iii) the congressional budget process;

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

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

(vi) the funding needs of the Administration.

(E) TRUST FUND TAX RECOMMENDATIONS.—If the task force's report includes a recommendation that the existing

Airport and Airways Trust Fund tax structure be modified, the report shall—

- (i) state the specific rates for each group affected by the proposed modifications;
- (ii) consider the impact such modifications shall have on specific users and the public (including passengers); and
- (iii) state the basis for the recommendations.

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

- (i) the impact such a recommendation would have on passengers, air fares (including low-fare, high frequency service), service, and competition;
- (ii) existing contributions provided by individual air carriers toward funding the Administration and the air traffic control system through contributions to the Airport and Airways Trust Fund;
- (iii) continuing the promotion of fair and competitive practices;
- (iv) the unique circumstances associated with interisland air carrier service in Hawaii and rural air service in Alaska;
- (v) the impact such a recommendation would have on service to small communities;
- (vi) the impact such a recommendation would have on services provided by regional air carriers;
- (vii) alternative methodologies for calculating fees so as to achieve a fair and reasonable distribution of costs of service among users;
- (viii) the usefulness of phased-in approaches to implementing such a financing system;
- (ix) means of assuring the provision of general fund contributions, as appropriate, toward the support of the Administration; and
- (x) the provision of incentives to encourage greater efficiency in the provision of air traffic services by the Administration and greater efficiency in the use of air traffic services by aircraft operators.

(7) DUTIES OF AVIATION SAFETY TASK FORCE.—

(A) REPORT TO ADMINISTRATOR.—Not later than 1 year after the date of the enactment of this Act, the aviation safety task force established pursuant to paragraph (3) shall submit to the Administrator a report setting forth a comprehensive analysis of aviation safety in the United States and emerging trends in the safety of particular sectors of the aviation industry.

(B) CONTENTS.—The report to be submitted under subparagraph (A) shall include an assessment of—

- (i) the adequacy of staffing and training resources for safety personnel of the Administration, including safety inspectors;
- (ii) the Administration's processes for ensuring the public safety from fraudulent parts in civil aviation and the extent to which use of suspected unapproved



parts requires additional oversight or enforcement action; and

(iii) the ability of the Administration to anticipate changes in the aviation industry and to develop policies and actions to ensure the highest level of aviation safety in the 21st century.

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

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

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

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

(c) REPORTS TO CONGRESS.—

(1) REPORT BY THE SECRETARY BASED ON FINAL REPORT OF AVIATION FUNDING TASK FORCE.—

(A) CONSIDERATION OF TASK FORCE’S PRELIMINARY REPORT.—Not later than 30 days after receiving the preliminary report of the aviation funding task force, the Secretary, in consultation with the Secretary of the Treasury, shall furnish comments on the report to the task force.

(B) REPORT TO CONGRESS.—Not later than 30 days after receiving the final report of the aviation funding task force, and in no event more than 1 year after the date of the enactment of this Act, the Secretary, after consulting the Secretary of the Treasury, shall transmit a report to the Committee on Commerce, Science, and Transportation and the Committee on Finance of the Senate, and the Committee on Transportation and Infrastructure and the Committee on Ways and Means of the House of Representatives. Such report shall be based upon the final report of the task force and shall contain the Secretary’s recommendations for funding the needs of the aviation system through the year 2002.

(C) CONTENTS.—The Secretary shall include in the report to Congress under subparagraph (B)—

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

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publication.

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

(D) PUBLICATION.—The Secretary shall cause a copy of the report to be printed in the Federal Register upon its transmittal to Congress under subparagraph (B).

(2) REPORT BY THE ADMINISTRATOR BASED ON FINAL REPORT OF AVIATION SAFETY TASK FORCE.—Not later than 30 days after receiving the report of the aviation safety task force, the Administrator shall transmit the report to Congress, together with the Administrator's recommendations for improving aviation safety in the United States.

(d) GAO AUDIT OF COST ALLOCATION.—The Comptroller General shall conduct an assessment of the manner in which costs for air traffic control services are allocated between the Administration and the Department of Defense. The Comptroller General shall report the results of the assessment, together with any recommendations the Comptroller General may have for reallocation of costs and for opportunities to increase the efficiency of air traffic control services provided by the Administration and by the Department of Defense, to the Commission, the Administrator, the Secretary of Defense, the Committee on Transportation and Infrastructure of the House of Representatives, and the Committee on Commerce, Science, and Transportation of the Senate not later than 180 days after the date of the enactment of this Act.

(e) GAO ASSESSMENT.—Not later than 180 days after the date of the enactment of this Act, the Comptroller General shall transmit to the Commission and Congress an independent assessment of airport development needs.

**SEC. 275. PROCEDURE FOR CONSIDERATION OF CERTAIN FUNDING PROPOSALS.**

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

**“§ 48111. Funding proposals**

“(a) INTRODUCTION IN THE SENATE.—Within 15 days (not counting any day on which the Senate is not in session) after a funding proposal is submitted to the Senate by the Secretary of Transportation under section 274(c) of the Air Traffic Management System Performance Improvement Act of 1996, an implementing bill with respect to such funding proposal shall be introduced in the Senate by the majority leader of the Senate, for himself and the minority leader of the Senate, or by Members of the Senate designated by the majority leader and minority leader of the Senate.

“(b) CONSIDERATION IN THE SENATE.—An implementing bill introduced in the Senate under subsection (a) shall be referred to the Committee on Commerce, Science, and Transportation. The Committee on Commerce, Science, and Transportation shall report the bill with its recommendations within 60 days following the date of introduction of the bill. Upon the reporting of the bill by the Committee on Commerce, Science, and Transportation, the reported bill shall be referred sequentially to the Committee on Finance for a period of 60 legislative days.

“(c) DEFINITIONS.—For purposes of this section, the following definitions apply:

“(1) IMPLEMENTING BILL.—The term ‘implementing bill’ means only a bill of the Senate which is introduced as provided

in subsection (a) with respect to one or more Federal Aviation Administration funding proposals which contain changes in existing laws or new statutory authority required to implement such funding proposal or proposals.

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

“(d) RULES OF THE SENATE.—The provisions of this section are enacted—

“(1) as an exercise of the rulemaking power of the Senate and as such they are deemed a part of the rules of the Senate and they supersede other rules only to the extent that they are inconsistent therewith; and

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

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

“48111. Funding proposals.”.

#### SEC. 276. ADMINISTRATIVE PROVISIONS.

(a) IN GENERAL.—Chapter 453 is amended—

- (1) by redesignating section 45303 as section 45304; and
- (2) by inserting after section 45302 the following:

##### “§ 45303. Administrative provisions

“(a) FEES PAYABLE TO ADMINISTRATOR.—All fees imposed and amounts collected under this chapter for services performed, or materials furnished, by the Federal Aviation Administration are payable to the Administrator of the Federal Aviation Administration.

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

“(c) RECEIPTS CREDITED TO ACCOUNT.—Notwithstanding section 3302 of title 31, all fees and amounts collected by the Administration, except insurance premiums and other fees charged for the provision of insurance and deposited in the Aviation Insurance Revolving Fund and interest earned on investments of such Fund, and except amounts which on September 30, 1996, are required to be credited to the general fund of the Treasury (whether imposed under this section or not)—

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

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

“(3) shall remain available until expended.

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

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

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

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

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

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

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

Regulations.

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

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

“45303. Administrative provisions.

“45304. Maximum fees for private person services.”

**SEC. 277. ADVANCE APPROPRIATIONS FOR AIRPORT AND AIRWAY TRUST FUND ACTIVITIES.**

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

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

“Sec.

“48201. Advance appropriations.

**“§ 48201. Advance appropriations**

“(a) MULTIYEAR AUTHORIZATIONS.—Beginning with fiscal year 1999, any authorization of appropriations for an activity for which amounts are to be appropriated from the Airport and Airway Trust Fund established under section 9502 of the Internal Revenue Code of 1986 shall provide funds for a period of not less than 3 fiscal years unless the activity for which appropriations are authorized is to be concluded before the end of that period.

“(b) MULTIYEAR APPROPRIATIONS.—Beginning with fiscal year 1999, amounts appropriated from the Airport and Airway Trust Fund shall be appropriated for periods of 3 fiscal years rather than annually.”

(b) CONFORMING AMENDMENT.—The analysis for subtitle VII is amended by inserting after the item relating to chapter 481 the following:

“482. ADVANCE APPROPRIATIONS FOR AIRPORT AND AIRWAY TRUST FACILITIES .....48201.”

SEC. 278. RURAL AIR SERVICE SURVIVAL ACT.

(a) SHORT TITLE.—This section may be cited as the “Rural Air Service Survival Act”. 49 USC 40101 note.

(b) FINDINGS.—Congress finds that— 49 USC 41742 note.

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

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

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

(4) rural air service has suffered since deregulation;

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

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

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

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

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

and

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

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

“§ 41742. Essential air service authorization

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

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

“(c) SPECIAL RULE FOR FISCAL YEAR 1997.—Notwithstanding subsections (a) and (b), in fiscal year 1997, amounts in excess of \$75,000,000 that are collected in fees pursuant to section 45301(a)(1) of this title shall be available for the essential air service program under this subchapter, in addition to amounts specifically provided for in appropriations Acts.”

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

“41742. Essential air service authorization.”.

## TITLE III—AVIATION SECURITY

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

(a) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act, the Administrator of the Federal Aviation Administration, in cooperation with other appropriate persons, shall conduct a study and submit to Congress a report on whether, and if so how, to transfer certain responsibilities of air carriers under Federal law for security activities conducted onsite at commercial service airports to airport operators or to the Federal Government or to provide for shared responsibilities between air carriers and airport operators or the Federal Government.

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

(1) examine potential sources of Federal and non-Federal revenue that may be used to fund security activities, including providing grants from funds received as fees collected under a fee system established under subtitle C of title II of this Act and the amendments made by that subtitle; and

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

49 USC 44935  
note.

### SEC. 302. CERTIFICATION OF SCREENING COMPANIES.

The Administrator of the Federal Aviation Administration is directed to certify companies providing security screening and to improve the training and testing of security screeners through development of uniform performance standards for providing security screening services.

49 USC 44913  
note.

### SEC. 303. WEAPONS AND EXPLOSIVE DETECTION STUDY.

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

(b) PANEL OF EXPERTS.—

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

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

(c) STUDY.—The panel, in consultation with the National Science and Technology Council, representatives of appropriate

Federal agencies, and appropriate members of the private sector, shall—

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

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

(3) assess the cost and advisability of requiring hardened cargo containers as a way to enhance aviation security and reduce the required sensitivity of bomb detection equipment; and

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

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

(1) expertise; and

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

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

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

#### **SEC. 304. REQUIREMENT FOR CRIMINAL HISTORY RECORDS CHECKS.**

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

(1) by redesignating subparagraphs (A) and (B) as clauses

(i) and (ii), respectively;

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

(3) by adding at the end the following:

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

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

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

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

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

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

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

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

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

“(D) If an individual requires a criminal history record check under subparagraph (C), the individual may be employed as a screener until the check is completed if the individual is subject to supervision.”

49 USC 44936  
note.

(b) **APPLICABILITY.**—The amendment made by subsection (a)(3) shall apply to individuals hired to perform functions described in section 44936(a)(1)(B) of title 49, United States Code, after the date of the enactment of this Act; except that the Administrator of the Federal Aviation Administration may, as the Administrator determines to be appropriate, require such employment investigations or criminal history records checks for individuals performing those functions on the date of the enactment of this Act.

**SEC. 305. INTERIM DEPLOYMENT OF COMMERCIALY AVAILABLE EXPLOSIVE DETECTION EQUIPMENT.**

(a) **IN GENERAL.**—Section 44913(a) is amended—

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

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

“(3) Until such time as the Administrator determines that equipment certified under paragraph (1) is commercially available and has successfully completed operational testing as provided in paragraph (1), the Administrator shall facilitate the deployment of such approved commercially available explosive detection devices as the Administrator determines will enhance aviation security significantly. The Administrator shall require that equipment deployed under this paragraph be replaced by equipment certified under paragraph (1) when equipment certified under paragraph (1) becomes commercially available. The Administrator is authorized, based on operational considerations at individual airports, to waive the required installation of commercially available equipment under paragraph (1) in the interests of aviation security. The Administrator may permit the requirements of this paragraph to be met at airports by the deployment of dogs or other appropriate animals to supplement equipment for screening passengers, baggage, mail, or cargo for explosives or weapons.”

49 USC 44901  
note.

(b) **AGREEMENTS.**—The Administrator is authorized to use non-competitive or cooperative agreements with air carriers and airport authorities that provide for the Administrator to purchase and assist in installing advanced security equipment for the use of such entities.

**SEC. 306. AUDIT OF PERFORMANCE OF BACKGROUND CHECKS FOR CERTAIN PERSONNEL.**

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

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



**SEC. 307. PASSENGER PROFILING.**49 USC 44901  
note.

The Administrator of the Federal Aviation Administration, the Secretary of Transportation, the intelligence community, and the law enforcement community should continue to assist air carriers in developing computer-assisted passenger profiling programs and other appropriate passenger profiling programs which should be used in conjunction with other security measures and technologies.

**SEC. 308. AUTHORITY TO USE CERTAIN FUNDS FOR AIRPORT SECURITY PROGRAMS AND ACTIVITIES.**49 USC 44901  
note.

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

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

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

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

**SEC. 309. DEVELOPMENT OF AVIATION SECURITY LIAISON AGREEMENT.**49 USC 44931  
note.

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

**SEC. 310. REGULAR JOINT THREAT ASSESSMENTS.**49 USC 44904  
note.

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

**SEC. 311. BAGGAGE MATCH REPORT.**

(a) **REPORT.**—If a bag match pilot program is carried out as recommended by the White House Conference on Aviation Safety and Security, not later than the 30th day following the date of completion of the pilot program, the Administrator of the Federal Aviation Administration shall submit to Congress a report on the safety, effectiveness, and operational effectiveness of the pilot program. The report shall also assess the extent to which implementation of baggage match requirements (coupled with the best available technologies and methodologies, such as passenger profiling) enhance domestic aviation security.

(b) **SENSE OF THE SENATE.**—It is the sense of the Senate that the Administrator should work with airports and air carriers to develop, to the extent feasible, effective domestic bag matching proposals.

**SEC. 312. ENHANCED SECURITY PROGRAMS.**

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

**“§ 44916. Assessments and evaluations**

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

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

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

“44916. Assessments and evaluations.”.

**SEC. 313. REPORT ON AIR CARGO.**

(a) REPORT.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Transportation shall transmit to Congress a report on any changes recommended and implemented as a result of the White House Commission on Aviation Safety and Security to enhance and supplement screening and inspection of cargo, mail, and company-shipped materials transported in air commerce.

(b) CONTENTS.—The report shall include—

(1) an assessment of the effectiveness of the changes referred to in subsection (a);

(2) an assessment of the oversight by the Federal Aviation Administration of inspections of shipments of mail and cargo by domestic and foreign air carriers;

(3) an assessment of the need for additional security measures with respect to such inspections;

(4) an assessment of the adequacy of inspection and screening of cargo on passenger air carriers; and

(5) any additional recommendations, and if necessary any legislative proposals, necessary to carry out additional changes.

(c) SENSE OF THE SENATE.—It is the sense of the Senate that the inspection of cargo, mail, and company-shipped materials can be enhanced.

**SEC. 314. SENSE OF THE SENATE REGARDING ACTS OF INTERNATIONAL TERRORISM.**

(a) FINDINGS.—The Senate finds that—

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

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

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

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

## TITLE IV—AVIATION SAFETY

### SEC. 401. ELIMINATION OF DUAL MANDATE.

(a) SAFETY CONSIDERATIONS IN PUBLIC INTEREST.—

(1) SAFETY AS HIGHEST PRIORITY.—Section 40101(d) is amended—

(A) by redesignating paragraphs (1) through (6) as paragraphs (2) through (7), respectively; and

(B) by inserting before paragraph (2), as so redesignated, the following:

“(1) assigning, maintaining, and enhancing safety and security as the highest priorities in air commerce.”.

(2) ELIMINATION OF PROMOTION.—Section 40101(d) is further amended—

(A) in paragraph (2), as redesignated by paragraph (1)(A) of this subsection, by striking “its development and”; and

(B) in paragraph (3), as so redesignated—

(i) by striking “promoting, encouraging,” and inserting “encouraging”; and

(ii) by inserting before the period at the end “, including new aviation technology”.

(b) FAA SAFETY MISSION.—

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

(A) by inserting “**safety of**” before “**air commerce**” in the section heading;

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

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

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

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

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

(a) IN GENERAL.—Chapter 401, as amended by section 253 of this Act, is further amended by adding at the end the following:

#### “§ 40123. Protection of voluntarily submitted information

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

“(1) the disclosure of the information would inhibit the voluntary provision of that type of information and that the

receipt of that type of information aids in fulfilling the Administrator's safety and security responsibilities; and

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

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

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

"40123. Protection of voluntarily submitted information."

**SEC. 403. SUPPLEMENTAL TYPE CERTIFICATES.**

Section 44704 is amended—

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

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

"(b) SUPPLEMENTAL TYPE CERTIFICATES.—

"(1) ISSUANCE.—The Administrator may issue a type certificate designated as a supplemental type certificate for a change to an aircraft, aircraft engine, propeller, or appliance.

"(2) CONTENTS.—A supplemental type certificate issued under paragraph (1) shall consist of the change to the aircraft, aircraft engine, propeller, or appliance with respect to the previously issued type certificate for the aircraft, aircraft engine, propeller, or appliance.

"(3) REQUIREMENT.—If the holder of a supplemental type certificate agrees to permit another person to use the certificate to modify an aircraft, aircraft engine, propeller, or appliance, the holder shall provide the other person with written evidence, in a form acceptable to the Administrator, of that agreement. A person may change an aircraft, aircraft engine, propeller, or appliance based on a supplemental type certificate only if the person requesting the change is the holder of the supplemental type certificate or has permission from the holder to make the change."

**SEC. 404. CERTIFICATION OF SMALL AIRPORTS.**

(a) IN GENERAL.—Section 44706(a) is amended—

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

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

"(2) that is not located in the State of Alaska and serves any scheduled passenger operation of an air carrier operating aircraft designed for more than 9 passenger seats but less than 31 passenger seats; and";

(3) by striking "and" at the end of paragraph (3), as redesignated by paragraph (1) of this subsection;

(4) by striking "(3) when" and inserting "if"; and

(5) by moving the matter following paragraph (3), as redesignated by paragraph (1) of this subsection, to the left flush full measure.

(b) COMMUTER AIRPORTS.—Section 44706 is amended by adding at the end the following:

"(d) COMMUTER AIRPORTS.—In developing the terms required by subsection (b) for airports covered by subsection (a)(2), the Administrator shall identify and consider a reasonable number of regulatory alternatives and select from such alternatives the least costly, most cost-effective or the least burdensome alternative

that will provide comparable safety at airports described in subsections (a)(1) and (a)(2).”.

(c) EFFECTIVE DATE.—Section 44706 is further amended by adding at the end the following:

“(e) EFFECTIVE DATE.—Any regulation establishing the terms required by subsection (b) for airports covered by subsection (a)(2) shall not take effect until such regulation, and a report on the economic impact of the regulation on air service to the airports covered by the rule, has been submitted to Congress and 120 days have elapsed following the date of such submission.”.

(d) LIMITATION ON STATUTORY CONSTRUCTION.—Section 44706 is further amended by adding at the end the following:

“(f) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this title may be construed as requiring a person to obtain an airport operating certificate if such person does not desire to operate an airport described in subsection (a).”.

#### **SEC. 405. AUTHORIZATION OF APPROPRIATIONS FOR STATE-SPECIFIC SAFETY MEASURES.**

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

#### **SEC. 406. AIRCRAFT ENGINE STANDARDS.**

(a) STANDARDS AND REGULATIONS.—Subsection (a)(1) of section 44715 is amended to read as follows:

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

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

“(ii) regulations to control and abate aircraft noise and sonic boom.

“(B) The Administrator, as the Administrator deems appropriate, shall provide for the participation of a representative of the Environmental Protection Agency on such advisory committees or associated working groups that advise the Administrator on matters related to the environmental effects of aircraft and aircraft engines.”.

(b) INTERAGENCY COOPERATION.—Section 231(a)(2) of the Clean Air Act (42 U.S.C. 7571(a)(2)) is amended—

(1) by inserting “(A)” before “The Administrator”; and

(2) by adding at the end the following:

“(B)(i) The Administrator shall consult with the Administrator of the Federal Aviation Administration on aircraft engine emission standards.

“(ii) The Administrator shall not change the aircraft engine emission standards if such change would significantly increase noise and adversely affect safety.”.

#### **SEC. 407. ACCIDENT AND SAFETY DATA CLASSIFICATION; REPORT ON EFFECTS OF PUBLICATION AND AUTOMATED SURVEILLANCE TARGETING SYSTEMS.**

(a) ACCIDENT AND SAFETY DATA CLASSIFICATION.—

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

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

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

“(b) REQUIREMENTS FOR CLASSIFICATION SYSTEM.—

“(1) IN GENERAL.—The system developed under this section shall provide for the classification of accident and safety data in a manner that, in comparison to the system in effect on the date of the enactment of this section, provides for safety-related categories that provide clearer descriptions of accidents associated with air transportation, including a more refined classification of accidents which involve fatalities, injuries, or substantial damage and which are only related to the operation of an aircraft.

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

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

“(4) PUBLICATION.—The Board shall publish on a periodic basis accident and safety data in accordance with the final classifications issued under paragraph (3).

“(5) RECOMMENDATIONS OF THE ADMINISTRATOR.—The Administrator may, from time to time, request the Board to consider revisions (including additions to the classification system developed under this section). The Board shall respond to any request made by the Administrator under this section not later than 90 days after receiving that request.”.

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

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

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

“(e) AUTOMATED SURVEILLANCE TARGETING SYSTEMS.—

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

“(2) DEADLINES FOR DEPLOYMENT.—

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

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

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

## TITLE V—PILOT RECORD SHARING

### SEC. 501. SHORT TITLE.

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

### SEC. 502. EMPLOYMENT INVESTIGATIONS OF PILOT APPLICANTS.

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

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

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

“(A) FAA RECORDS.—From the Administrator of the Federal Aviation Administration, records pertaining to the individual that are maintained by the Administrator concerning—

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

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

“(B) AIR CARRIER AND OTHER RECORDS.—From any air carrier or other person that has employed the individual at any time during the 5-year period preceding the date of the employment application of the individual, or from the trustee in bankruptcy for such air carrier or person—

“(i) records pertaining to the individual that are maintained by an air carrier (other than records relating to flight time, duty time, or rest time) under regulations set forth in—

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

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

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

“(IV) section 125.401 of such title; and

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

Pilot Records  
Improvement Act  
of 1996.  
49 USC 40101  
note.

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

“(I) the training, qualifications, proficiency, or professional competence of the individual, including comments and evaluations made by a check airman designated in accordance with section 121.411, 125.295, or 135.337 of such title;

“(II) any disciplinary action taken with respect to the individual that was not subsequently overturned; and

“(III) any release from employment or resignation, termination, or disqualification with respect to employment.

“(C) NATIONAL DRIVER REGISTER RECORDS.—In accordance with section 30305(b)(7), from the chief driver licensing official of a State, information concerning the motor vehicle driving record of the individual.

“(2) WRITTEN CONSENT; RELEASE FROM LIABILITY.—An air carrier making a request for records under paragraph (1)—

“(A) shall be required to obtain written consent to the release of those records from the individual that is the subject of the records requested; and

“(B) may, notwithstanding any other provision of law or agreement to the contrary, require the individual who is the subject of the records to request to execute a release from liability for any claim arising from the furnishing of such records to or the use of such records by such air carrier (other than a claim arising from furnishing information known to be false and maintained in violation of a criminal statute).

“(3) 5-YEAR REPORTING PERIOD.—A person shall not furnish a record in response to a request made under paragraph (1) if the record was entered more than 5 years before the date of the request, unless the information concerns a revocation or suspension of an airman certificate or motor vehicle license that is in effect on the date of the request.

“(4) REQUIREMENT TO MAINTAIN RECORDS.—The Administrator shall maintain pilot records described in paragraph (1)(A) for a period of at least 5 years.

“(5) RECEIPT OF CONSENT; PROVISION OF INFORMATION.—A person shall not furnish a record in response to a request made under paragraph (1) without first obtaining a copy of the written consent of the individual who is the subject of the records requested. A person who receives a request for records under this paragraph shall furnish a copy of all of such requested records maintained by the person not later than 30 days after receiving the request.

“(6) RIGHT TO RECEIVE NOTICE AND COPY OF ANY RECORD FURNISHED.—A person who receives a request for records under paragraph (1) shall provide to the individual who is the subject of the records—

“(A) on or before the 20th day following the date of receipt of the request, written notice of the request and of the individual’s right to receive a copy of such records; and



“(B) in accordance with paragraph (10), a copy of such records, if requested by the individual.

“(7) REASONABLE CHARGES FOR PROCESSING REQUESTS AND FURNISHING COPIES.—A person who receives a request under paragraph (1) or (6) may establish a reasonable charge for the cost of processing the request and furnishing copies of the requested records.

“(8) STANDARD FORMS.—The Administrator shall promulgate—

“(A) standard forms that may be used by an air carrier to request records under paragraph (1); and

“(B) standard forms that may be used by an air carrier to—

“(i) obtain the written consent of the individual who is the subject of a request under paragraph (1); and

“(ii) inform the individual of—

“(I) the request; and

“(II) the individual right of that individual to receive a copy of any records furnished in response to the request.

“(9) RIGHT TO CORRECT INACCURACIES.—An air carrier that maintains or requests and receives the records of an individual under paragraph (1) shall provide the individual with a reasonable opportunity to submit written comments to correct any inaccuracies contained in the records before making a final hiring decision with respect to the individual.

“(10) RIGHT OF PILOT TO REVIEW CERTAIN RECORDS.—Notwithstanding any other provision of law or agreement, an air carrier shall, upon written request from a pilot employed by such carrier, make available, within a reasonable time of the request, to the pilot for review, any and all employment records referred to in paragraph (1)(B) (i) or (ii) pertaining to the employment of the pilot.

“(11) PRIVACY PROTECTIONS.—An air carrier that receives the records of an individual under paragraph (1) may use such records only to assess the qualifications of the individual in deciding whether or not to hire the individual as a pilot. The air carrier shall take such actions as may be necessary to protect the privacy of the pilot and the confidentiality of the records, including ensuring that information contained in the records is not divulged to any individual that is not directly involved in the hiring decision.

“(12) PERIODIC REVIEW.—Not later than 18 months after the date of the enactment of the Pilot Records Improvement Act of 1996, and at least once every 3 years thereafter, the Administrator shall transmit to Congress a statement that contains, taking into account recent developments in the aviation industry—

“(A) recommendations by the Administrator concerning proposed changes to Federal Aviation Administration records, air carrier records, and other records required to be furnished under subparagraphs (A) and (B) of paragraph (1); or

“(B) reasons why the Administrator does not recommend any proposed changes to the records referred to in subparagraph (A).

“(13) REGULATIONS.—The Administrator may prescribe such regulations as may be necessary—

“(A) to protect—

“(i) the personal privacy of any individual whose records are requested under paragraph (1); and

“(ii) the confidentiality of those records;

“(B) to preclude the further dissemination of records received under paragraph (1) by the person who requested those records; and

“(C) to ensure prompt compliance with any request made under paragraph (1).

“(g) LIMITATION ON LIABILITY; PREEMPTION OF STATE LAW.—

“(1) LIMITATION ON LIABILITY.—No action or proceeding may be brought by or on behalf of an individual who has applied for or is seeking a position with an air carrier as a pilot and who has signed a release from liability, as provided for under paragraph (2), against—

“(A) the air carrier requesting the records of that individual under subsection (f)(1);

“(B) a person who has complied with such request;

“(C) a person who has entered information contained in the individual’s records; or

“(D) an agent or employee of a person described in subparagraph (A) or (B);

in the nature of an action for defamation, invasion of privacy, negligence, interference with contract, or otherwise, or under any Federal or State law with respect to the furnishing or use of such records in accordance with subsection (f).

“(2) PREEMPTION.—No State or political subdivision thereof may enact, prescribe, issue, continue in effect, or enforce any law (including any regulation, standard, or other provision having the force and effect of law) that prohibits, penalizes, or imposes liability for furnishing or using records in accordance with subsection (f).

“(3) PROVISION OF KNOWINGLY FALSE INFORMATION.—Paragraphs (1) and (2) shall not apply with respect to a person who furnishes information in response to a request made under subsection (f)(1), that—

“(A) the person knows is false; and

“(B) was maintained in violation of a criminal statute of the United States.

“(h) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in subsection (f) shall be construed as precluding the availability of the records of a pilot in an investigation or other proceeding concerning an accident or incident conducted by the Administrator, the National Transportation Safety Board, or a court.”.

(b) CONFORMING AMENDMENTS.—Section 30305(b) is amended—

(1) by redesignating paragraph (7) as paragraph (8); and

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

“(7) An individual who is seeking employment by an air carrier as a pilot may request the chief driver licensing official of a State to provide information about the individual under paragraph (2) to the prospective employer of the individual or to the Secretary of Transportation. Information may not be obtained from the National Driver Register under this subsection if the information was entered in the Register more than 5 years before the request unless the information is about

a revocation or suspension still in effect on the date of the request.”

(c) CIVIL PENALTIES.—Section 46301, as amended by section 1220(b) of this Act, is further amended—

(1) in each of subsections (a)(1)(A), (d)(2), and (f)(1)(A)(i) by inserting “44724,” after “44718(d),”; and

(2) in subsection (a)(2)(A) by inserting “44724,” after “44716,”.

(d) APPLICABILITY.—The amendments made by this section shall apply to any air carrier hiring an individual as a pilot whose application was first received by the carrier on or after the 120th day following the date of the enactment of this Act.

Effective date.  
49 USC 30305  
note.

**SEC. 503. STUDIES OF MINIMUM STANDARDS FOR PILOT QUALIFICATIONS AND OF PAY FOR TRAINING.**

49 USC 44935  
note.

(a) STUDY.—The Administrator of the Federal Aviation Administration shall appoint a task force consisting of appropriate representatives of the aviation industry to conduct—

(1) a study directed toward the development of—

(A) standards and criteria for preemployment screening tests measuring the psychomotor coordination, general intellectual capacity, instrument and mechanical comprehension, and physical and mental fitness of an applicant for employment as a pilot by an air carrier; and

(B) standards and criteria for pilot training facilities to be licensed by the Administrator and which will assure that pilots trained at such facilities meet the preemployment screening standards and criteria described in subparagraph (A); and

(2) a study to determine if the practice of some air carriers to require employees or prospective employees to pay for the training or experience that is needed to perform flight check duties for an air carrier is in the public interest.

(b) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Administrator shall transmit to Congress a report on the results of the study conducted under subsection (a)(2).

**SEC. 504. STUDY OF MINIMUM FLIGHT TIME.**

49 USC 44935  
note.

(a) STUDY.—The Administrator of the Federal Aviation Administration shall conduct a study to determine whether current minimum flight time requirements applicable to individuals seeking employment as a pilot with an air carrier are sufficient to ensure public safety.

(b) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Administrator shall transmit to Congress a report on the results of the study.

## TITLE VI—CHILD PILOT SAFETY

Child Pilot Safety  
Act.

**SEC. 601. SHORT TITLE.**

This title may be cited as the “Child Pilot Safety Act”.

49 USC 40101  
note.

**SEC. 602. CHILD PILOT SAFETY.**

(a) MANIPULATION OF FLIGHT CONTROLS.—

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

**“§ 44724. Manipulation of flight controls**

“(a) PROHIBITION.—No pilot in command of an aircraft may allow an individual who does not hold—

“(1) a valid private pilots certificate issued by the Administrator of the Federal Aviation Administration under part 61 of title 14, Code of Federal Regulations; and

“(2) the appropriate medical certificate issued by the Administrator under part 67 of such title, to manipulate the controls of an aircraft if the pilot knows or should have known that the individual is attempting to set a record or engage in an aeronautical competition or aeronautical feat, as defined by the Administrator.

“(b) REVOCATION OF AIRMEN CERTIFICATES.—The Administrator shall issue an order revoking a certificate issued to an airman under section 44703 of this title if the Administrator finds that while acting as a pilot in command of an aircraft, the airman has permitted another individual to manipulate the controls of the aircraft in violation of subsection (a).

“(c) PILOT IN COMMAND DEFINED.—In this section, the term ‘pilot in command’ has the meaning given such term by section 1.1 of title 14, Code of Federal Regulations.”.

(2) CONFORMING AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following:

“44724. Manipulation of flight controls.”.

(b) CHILDREN FLYING AIRCRAFT.—

(1) STUDY.—The Administrator of the Federal Aviation Administration shall conduct a study of the impacts of children flying aircraft.

(2) CONSIDERATIONS.—In conducting the study, the Administrator shall consider the effects of imposing any restrictions on children flying aircraft on safety and on the future of general aviation in the United States.

(3) REPORT.—Not later than 6 months after the date of the enactment of this Act, the Administrator shall issue a report containing the results of the study, together with recommendations on—

(A) whether the restrictions established by the amendment made by subsection (a)(1) should be modified or repealed; and

(B) whether certain individuals or groups should be exempt from any age, altitude, or other restrictions that the Administrator may impose by regulation.

(4) REGULATIONS.—As a result of the findings of the study, the Administrator may issue regulations imposing age, altitude, or other restrictions on children flying aircraft.

**TITLE VII—FAMILY ASSISTANCE****SEC. 701. SHORT TITLE.**

This title may be cited as the “Aviation Disaster Family Assistance Act of 1996”.

**SEC. 702. ASSISTANCE BY NATIONAL TRANSPORTATION SAFETY BOARD  
TO FAMILIES OF PASSENGERS INVOLVED IN AIRCRAFT  
ACCIDENTS.**

(a) **AUTHORITY TO PROVIDE ASSISTANCE.**—

(1) **IN GENERAL.**—Subchapter III of chapter 11 is amended by adding at the end the following:

**“§ 1136. Assistance to families of passengers involved in aircraft accidents**

“(a) **IN GENERAL.**—As soon as practicable after being notified of an aircraft accident within the United States involving an air carrier or foreign air carrier and resulting in a major loss of life, the Chairman of the National Transportation Safety Board shall—

“(1) designate and publicize the name and phone number of a director of family support services who shall be an employee of the Board and shall be responsible for acting as a point of contact within the Federal Government for the families of passengers involved in the accident and a liaison between the air carrier or foreign air carrier and the families; and

“(2) designate an independent nonprofit organization, with experience in disasters and posttrauma communication with families, which shall have primary responsibility for coordinating the emotional care and support of the families of passengers involved in the accident.

“(b) **RESPONSIBILITIES OF THE BOARD.**—The Board shall have primary Federal responsibility for facilitating the recovery and identification of fatally-injured passengers involved in an accident described in subsection (a).

“(c) **RESPONSIBILITIES OF DESIGNATED ORGANIZATION.**—The organization designated for an accident under subsection (a)(2) shall have the following responsibilities with respect to the families of passengers involved in the accident:

“(1) To provide mental health and counseling services, in coordination with the disaster response team of the air carrier or foreign air carrier involved.

“(2) To take such actions as may be necessary to provide an environment in which the families may grieve in private.

“(3) To meet with the families who have traveled to the location of the accident, to contact the families unable to travel to such location, and to contact all affected families periodically thereafter until such time as the organization, in consultation with the director of family support services designated for the accident under subsection (a)(1), determines that further assistance is no longer needed.

“(4) To communicate with the families as to the roles of the organization, government agencies, and the air carrier or foreign air carrier involved with respect to the accident and the post-accident activities.

“(5) To arrange a suitable memorial service, in consultation with the families.

“(d) **PASSENGER LISTS.**—

“(1) **REQUESTS FOR PASSENGER LISTS.**—

“(A) **REQUESTS BY DIRECTOR OF FAMILY SUPPORT SERVICES.**—It shall be the responsibility of the director of family support services designated for an accident under subsection (a)(1) to request, as soon as practicable, from the air carrier or foreign air carrier involved in the accident

a list, which is based on the best available information at the time of the request, of the names of the passengers that were aboard the aircraft involved in the accident.

“(B) REQUESTS BY DESIGNATED ORGANIZATION.—The organization designated for an accident under subsection (a)(2) may request from the air carrier or foreign air carrier involved in the accident a list described in subparagraph (A).

“(2) USE OF INFORMATION.—The director of family support services and the organization may not release to any person information on a list obtained under paragraph (1) but may provide information on the list about a passenger to the family of the passenger to the extent that the director of family support services or the organization considers appropriate.

“(e) CONTINUING RESPONSIBILITIES OF THE BOARD.—In the course of its investigation of an accident described in subsection (a), the Board shall, to the maximum extent practicable, ensure that the families of passengers involved in the accident—

“(1) are briefed, prior to any public briefing, about the accident, its causes, and any other findings from the investigation; and

“(2) are individually informed of and allowed to attend any public hearings and meetings of the Board about the accident.

“(f) USE OF AIR CARRIER RESOURCES.—To the extent practicable, the organization designated for an accident under subsection (a)(2) shall coordinate its activities with the air carrier or foreign air carrier involved in the accident so that the resources of the carrier can be used to the greatest extent possible to carry out the organization’s responsibilities under this section.

“(g) PROHIBITED ACTIONS.—

“(1) ACTIONS TO IMPEDE THE BOARD.—No person (including a State or political subdivision) may impede the ability of the Board (including the director of family support services designated for an accident under subsection (a)(1)), or an organization designated for an accident under subsection (a)(2), to carry out its responsibilities under this section or the ability of the families of passengers involved in the accident to have contact with one another.

“(2) UNSOLICITED COMMUNICATIONS.—In the event of an accident involving an air carrier providing interstate or foreign air transportation, no unsolicited communication concerning a potential action for personal injury or wrongful death may be made by an attorney or any potential party to the litigation to an individual injured in the accident, or to a relative of an individual involved in the accident, before the 30th day following the date of the accident.

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

“(1) AIRCRAFT ACCIDENT.—The term ‘aircraft accident’ means any aviation disaster regardless of its cause or suspected cause.

“(2) PASSENGER.—The term ‘passenger’ includes an employee of an air carrier aboard an aircraft.”.

(2) CONFORMING AMENDMENT.—The table of sections for such chapter is amended by inserting after the item relating to section 1135 the following:

“1136. Assistance to families of passengers involved in aircraft accidents.”.

- (b) PENALTIES.—Section 1155(a)(1) of such title is amended—
- (1) by striking “or 1134(b) or (f)(1)” and inserting “, section 1134(b), section 1134(f)(1), or section 1136(g)”; and
  - (2) by striking “either of” and inserting “any of”.

**SEC. 703. AIR CARRIER PLANS TO ADDRESS NEEDS OF FAMILIES OF PASSENGERS INVOLVED IN AIRCRAFT ACCIDENTS.**

(a) IN GENERAL.—Chapter 411 is amended by adding at the end the following:

**“§ 41113. Plans to address needs of families of passengers involved in aircraft accidents**

“(a) SUBMISSION OF PLANS.—Not later than 6 months after the date of the enactment of this section, each air carrier holding a certificate of public convenience and necessity under section 41102 of this title shall submit to the Secretary and the Chairman of the National Transportation Safety Board a plan for addressing the needs of the families of passengers involved in any aircraft accident involving an aircraft of the air carrier and resulting in a major loss of life.

“(b) CONTENTS OF PLANS.—A plan to be submitted by an air carrier under subsection (a) shall include, at a minimum, the following:

“(1) A plan for publicizing a reliable, toll-free telephone number, and for providing staff, to handle calls from the families of the passengers.

“(2) A process for notifying the families of the passengers, before providing any public notice of the names of the passengers, either by utilizing the services of the organization designated for the accident under section 1136(a)(2) of this title or the services of other suitably trained individuals.

“(3) An assurance that the notice described in paragraph (2) will be provided to the family of a passenger as soon as the air carrier has verified that the passenger was aboard the aircraft (whether or not the names of all of the passengers have been verified) and, to the extent practicable, in person.

“(4) An assurance that the air carrier will provide to the director of family support services designated for the accident under section 1136(a)(1) of this title, and to the organization designated for the accident under section 1136(a)(2) of this title, immediately upon request, a list (which is based on the best available information at the time of the request) of the names of the passengers aboard the aircraft (whether or not such names have been verified), and will periodically update the list.

“(5) An assurance that the family of each passenger will be consulted about the disposition of all remains and personal effects of the passenger within the control of the air carrier.

“(6) An assurance that if requested by the family of a passenger, any possession of the passenger within the control of the air carrier (regardless of its condition) will be returned to the family unless the possession is needed for the accident investigation or any criminal investigation.

“(7) An assurance that any unclaimed possession of a passenger within the control of the air carrier will be retained by the air carrier for at least 18 months.

“(8) An assurance that the family of each passenger will be consulted about construction by the air carrier of any monument to the passengers, including any inscription on the monument.

“(9) An assurance that the treatment of the families of nonrevenue passengers (and any other victim of the accident) will be the same as the treatment of the families of revenue passengers.

“(10) An assurance that the air carrier will work with any organization designated under section 1136(a)(2) of this title on an ongoing basis to ensure that families of passengers receive an appropriate level of services and assistance following each accident.

“(11) An assurance that the air carrier will provide reasonable compensation to any organization designated under section 1136(a)(2) of this title for services provided by the organization.

“(12) An assurance that the air carrier will assist the family of a passenger in traveling to the location of the accident and provide for the physical care of the family while the family is staying at such location.

“(13) An assurance that the air carrier will commit sufficient resources to carry out the plan.

“(c) CERTIFICATE REQUIREMENT.—After the date that is 6 months after the date of the enactment of this section, the Secretary may not approve an application for a certificate of public convenience and necessity under section 41102 of this title unless the applicant has included as part of such application a plan that meets the requirements of subsection (b).

“(d) LIMITATION ON LIABILITY.—An air carrier shall not be liable for damages in any action brought in a Federal or State court arising out of the performance of the air carrier in preparing or providing a passenger list pursuant to a plan submitted by the air carrier under subsection (b), unless such liability was caused by conduct of the air carrier which was grossly negligent or which constituted intentional misconduct.

“(e) AIRCRAFT ACCIDENT AND PASSENGER DEFINED.—In this section, the terms ‘aircraft accident’ and ‘passenger’ have the meanings such terms have in section 1136 of this title.”

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

“41113. Plans to address needs of families of passengers involved in aircraft accidents.”

49 USC 41113  
note.

**SEC. 704. ESTABLISHMENT OF TASK FORCE.**

(a) ESTABLISHMENT.—The Secretary of Transportation, in cooperation with the National Transportation Safety Board, the Federal Emergency Management Agency, the American Red Cross, air carriers, and families which have been involved in aircraft accidents shall establish a task force consisting of representatives of such entities and families, representatives of air carrier employees, and representatives of such other entities as the Secretary considers appropriate.

(b) GUIDELINES AND RECOMMENDATIONS.—The task force established pursuant to subsection (a) shall develop—



(1) guidelines to assist air carriers in responding to aircraft accidents;

(2) recommendations on methods to ensure that attorneys and representatives of media organizations do not intrude on the privacy of families of passengers involved in an aircraft accident;

(3) recommendations on methods to ensure that the families of passengers involved in an aircraft accident who are not citizens of the United States receive appropriate assistance;

(4) recommendations on methods to ensure that State mental health licensing laws do not act to prevent out-of-state mental health workers from working at the site of an aircraft accident or other related sites;

(5) recommendations on the extent to which military experts and facilities can be used to aid in the identification of the remains of passengers involved in an aircraft accident; and

(6) recommendations on methods to improve the timeliness of the notification provided by air carriers to the families of passengers involved in an aircraft accident, including—

(A) an analysis of the steps that air carriers would have to take to ensure that an accurate list of passengers on board the aircraft would be available within 1 hour of the accident and an analysis of such steps to ensure that such list would be available within 3 hours of the accident;

(B) an analysis of the added costs to air carriers and travel agents that would result if air carriers were required to take the steps described in subparagraph (A);

(C) an analysis of any inconvenience to passengers, including flight delays, that would result if air carriers were required to take the steps described in subparagraph (A); and

(D) an analysis of the implications for personal privacy that would result if air carriers were required to take the steps described in subparagraph (A).

(c) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall transmit to Congress a report containing the model plan and recommendations developed by the task force under subsection (b).

**SEC. 705. LIMITATION ON STATUTORY CONSTRUCTION.**

49 USC 41113  
note.

Nothing in this title or any amendment made by this title may be construed as limiting the actions that an air carrier may take, or the obligations that an air carrier may have, in providing assistance to the families of passengers involved in an aircraft accident.

**TITLE VIII—AIRPORT REVENUE  
PROTECTION**

Airport Revenue  
Protection Act of  
1996.

**SEC. 801. SHORT TITLE.**

49 USC 40101  
note.

This title may be cited as the “Airport Revenue Protection Act of 1996”.

49 USC 47107  
note.

**SEC. 802. FINDINGS; PURPOSE.**

(a) **IN GENERAL.**—Congress finds that—

(1) section 47107 of title 49, United States Code, prohibits the diversion of certain revenue generated by a public airport as a condition of receiving a project grant;

(2) a grant recipient that uses airport revenue for purposes that are not airport related in a manner inconsistent with chapter 471 of title 49, United States Code, illegally diverts airport revenues;

(3) any diversion of airport revenues in violation of the condition referred to in paragraph (1) undermines the interest of the United States in promoting a strong national air transportation system that is responsive to the needs of airport users;

(4) the Secretary and the Administrator have not enforced airport revenue diversion rules adequately and must have additional regulatory tools to increase enforcement efforts; and

(5) sponsors who have been found to have illegally diverted airport revenues—

(A) have not reimbursed or made restitution to airports in a timely manner; and

(B) must be encouraged to do so.

(b) **PURPOSE.**—The purpose of this title is to ensure that airport users are not burdened with hidden taxation for unrelated municipal services and activities by—

(1) eliminating the ability of any State or political subdivision thereof that is a recipient of a project grant to divert airport revenues for purposes that are not related to an airport, in violation of section 47107 of title 49, United States Code;

(2) imposing financial reporting requirements that are designed to identify instances of illegal diversions referred to in paragraph (1);

(3) establishing a statute of limitations for airport revenue diversion actions;

(4) clarifying limitations on revenue diversion that are permitted under chapter 471 of title 49, United States Code; and

(5) establishing clear penalties and enforcement mechanisms for identifying and prosecuting airport revenue diversion.

49 USC 47107  
note.

**SEC. 803. DEFINITIONS.**

For purposes of this title, the following definitions apply:

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

(2) **AIRPORT.**—The term “airport” has the meaning provided that term in section 47102(2) of title 49, United States Code.

(3) **PROJECT GRANT.**—The term “project grant” has the meaning provided that term in section 47102(14) of title 49, United States Code.

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

(5) **SPONSOR.**—The term “sponsor” has the meaning provided that term in section 47102(19) of title 49, United States Code.

**SEC. 804. RESTRICTION ON USE OF AIRPORT REVENUES.**

(a) **IN GENERAL.**—Subchapter I of chapter 471, as amended by section 142 of this Act, is further amended by adding after section 47132 the following:

**“§ 47133. Restriction on use of revenues**

“(a) **PROHIBITION.**—Local taxes on aviation fuel (except taxes in effect on December 30, 1987) or the revenues generated by an airport that is the subject of Federal assistance may not be expended for any purpose other than the capital or operating costs of—

“(1) the airport;

“(2) the local airport system; or

“(3) any other local facility that is owned or operated by the person or entity that owns or operates the airport that is directly and substantially related to the air transportation of passengers or property.

“(b) **EXCEPTIONS.**—Subsection (a) shall not apply if a provision enacted not later than September 2, 1982, in a law controlling financing by the airport owner or operator, or a covenant or assurance in a debt obligation issued not later than September 2, 1982, by the owner or operator, provides that the revenues, including local taxes on aviation fuel at public airports, from any of the facilities of the owner or operator, including the airport, be used to support not only the airport but also the general debt obligations or other facilities of the owner or operator.

“(c) **RULE OF CONSTRUCTION.**—Nothing in this section may be construed to prevent the use of a State tax on aviation fuel to support a State aviation program or the use of airport revenue on or off the airport for a noise mitigation purpose.”.

(b) **PENALTIES.**—Section 46301(a)(5) is amended to read as follows:

“(5) **PENALTY FOR DIVERSION OF AVIATION REVENUES.**—The amount of a civil penalty assessed under this section for a violation of section 47107(b) of this title (or any assurance made under such section) or section 47133 of this title may be increased above the otherwise applicable maximum amount under this section to an amount not to exceed 3 times the amount of revenues that are used in violation of such section.”.

(c) **CONFORMING AMENDMENT.**—The table of sections for such subchapter is amended by inserting after the item relating to section 47132, as added by section 142 of this Act, the following:

“47133. Restriction on use of revenues.”.

**SEC. 805. REGULATIONS; AUDITS AND ACCOUNTABILITY.**

(a) **IN GENERAL.**—Section 47107 is amended by adding at the end the following:

“(m) **AUDIT CERTIFICATION.**—

“(1) **IN GENERAL.**—The Secretary of Transportation, acting through the Administrator of the Federal Aviation Administration, shall promulgate regulations that require a recipient of a project grant (or any other recipient of Federal financial assistance that is provided for an airport) to include as part of an annual audit conducted under sections 7501 through 7505 of title 31, a review and opinion of the review concerning the funding activities with respect to an airport that is the subject of the project grant (or other Federal financial

assistance) and the sponsors, owners, or operators (or other recipients) involved.

“(2) CONTENT OF REVIEW.—A review conducted under paragraph (1) shall provide reasonable assurances that funds paid or transferred to sponsors are paid or transferred in a manner consistent with the applicable requirements of this chapter and any other applicable provision of law (including regulations promulgated by the Secretary or the Administrator).

“(3) REQUIREMENTS FOR AUDIT REPORT.—The report submitted to the Secretary under this subsection shall include a specific determination and opinion regarding the appropriateness of the disposition of airport funds paid or transferred to a sponsor.

“(n) RECOVERY OF ILLEGALLY DIVERTED FUNDS.—

“(1) IN GENERAL.—Not later than 180 days after the issuance of an audit or any other report that identifies an illegal diversion of airport revenues (as determined under subsections (b) and (l) and section 47133), the Secretary, acting through the Administrator, shall—

“(A) review the audit or report;

“(B) perform appropriate factfinding; and

“(C) conduct a hearing and render a final determination concerning whether the illegal diversion of airport revenues asserted in the audit or report occurred.

“(2) NOTIFICATION.—Upon making such a finding, the Secretary, acting through the Administrator, shall provide written notification to the sponsor and the airport of—

“(A) the finding; and

“(B) the obligations of the sponsor to reimburse the airport involved under this paragraph.

“(3) ADMINISTRATIVE ACTION.—The Secretary may withhold any amount from funds that would otherwise be made available to the sponsor, including funds that would otherwise be made available to a State, municipality, or political subdivision thereof (including any multimodal transportation agency or transit authority of which the sponsor is a member entity) as part of an apportionment or grant made available pursuant to this title, if the sponsor—

“(A) receives notification that the sponsor is required to reimburse an airport; and

“(B) has had an opportunity to reimburse the airport, but has failed to do so.

“(4) CIVIL ACTION.—If a sponsor fails to pay an amount specified under paragraph (3) during the 180-day period beginning on the date of notification and the Secretary is unable to withhold a sufficient amount under paragraph (3), the Secretary, acting through the Administrator, may initiate a civil action under which the sponsor shall be liable for civil penalty in an amount equal to the illegal diversion in question plus interest (as determined under subsection (o)).

“(5) DISPOSITION OF PENALTIES.—

“(A) AMOUNTS WITHHELD.—The Secretary or the Administrator shall transfer any amounts withheld under paragraph (3) to the Airport and Airway Trust Fund.

“(B) CIVIL PENALTIES.—With respect to any amount collected by a court in a civil action under paragraph (4), the court shall cause to be transferred to the Airport and

Airway Trust Fund any amount collected as a civil penalty under paragraph (4).

“(6) REIMBURSEMENT.—The Secretary, acting through the Administrator, shall, as soon as practicable after any amount is collected from a sponsor under paragraph (4), cause to be transferred from the Airport and Airway Trust Fund to an airport affected by a diversion that is the subject of a civil action under paragraph (4), reimbursement in an amount equal to the amount that has been collected from the sponsor under paragraph (4) (including any amount of interest calculated under subsection (o)).

“(7) STATUTE OF LIMITATIONS.—No person may bring an action for the recovery of funds illegally diverted in violation of this section (as determined under subsections (b) and (1)) or section 47133 after the date that is 6 years after the date on which the diversion occurred.

“(o) INTEREST.—

“(1) IN GENERAL.—Except as provided in paragraph (2), the Secretary, acting through the Administrator, shall charge a minimum annual rate of interest on the amount of any illegal diversion of revenues referred to in subsection (n) in an amount equal to the average investment interest rate for tax and loan accounts of the Department of the Treasury (as determined by the Secretary of the Treasury) for the applicable calendar year, rounded to the nearest whole percentage point.

“(2) ADJUSTMENT OF INTEREST RATES.—If, with respect to a calendar quarter, the average investment interest rate for tax and loan accounts of the Department of the Treasury exceeds the average investment interest rate for the immediately preceding calendar quarter, rounded to the nearest whole percentage point, the Secretary of the Treasury may adjust the interest rate charged under this subsection in a manner that reflects that change.

“(3) ACCRUAL.—Interest assessed under subsection (n) shall accrue from the date of the actual illegal diversion of revenues referred to in subsection (n).

“(4) DETERMINATION OF APPLICABLE RATE.—The applicable rate of interest charged under paragraph (1) shall—

“(A) be the rate in effect on the date on which interest begins to accrue under paragraph (3); and

“(B) remain at a rate fixed under subparagraph (A) during the duration of the indebtedness.

“(p) PAYMENT BY AIRPORT TO SPONSOR.—If, in the course of an audit or other review conducted under this section, the Secretary or the Administrator determines that an airport owes a sponsor funds as a result of activities conducted by the sponsor or expenditures by the sponsor for the benefit of the airport, interest on that amount shall be determined in the same manner as provided in paragraphs (1) through (4) of subsection (o), except that the amount of any interest assessed under this subsection shall be determined from the date on which the Secretary or the Administrator makes that determination.”

(b) REVISION OF POLICIES AND PROCEDURES; DEADLINES.—

(1) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act, the Secretary, acting through the Administrator, shall revise the policies and procedures established under section 47107(l) of title 49, United States

49 USC 47107  
note.

Code, to take into account the amendments made to that section by this title.

(2) STATUTE OF LIMITATIONS.—Section 47107(l) is amended by adding at the end the following:

“(5) STATUTE OF LIMITATIONS.—In addition to the statute of limitations specified in subsection (n)(7), with respect to project grants made under this chapter—

“(A) any request by a sponsor to any airport for additional payments for services conducted off of the airport or for reimbursement for capital contributions or operating expenses shall be filed not later than 6 years after the date on which the expense is incurred; and

“(B) any amount of airport funds that are used to make a payment or reimbursement as described in subparagraph (A) after the date specified in that subparagraph shall be considered to be an illegal diversion of airport revenues that is subject to subsection (n).”.

**SEC. 806. CONFORMING AMENDMENTS TO THE INTERNAL REVENUE CODE OF 1986.**

26 USC 9502.

Section 9502 of the Internal Revenue Code of 1986 is amended—

(1) by striking “and” at the end of subsection (b)(3);

(2) by striking the period at the end of subsection (b)(4) and inserting “, and”; and

(3) by adding at the end of subsection (b) the following:

“(5) amounts determined by the Secretary of the Treasury to be equivalent to the amounts of civil penalties collected under section 47107(n) of title 49, United States Code.”; and

(4) by adding at the end of subsection (d) the following:

“(5) TRANSFERS FROM THE AIRPORT AND AIRWAY TRUST FUND ON ACCOUNT OF CERTAIN AIRPORTS.—The Secretary of the Treasury may transfer from the Airport and Airway Trust Fund to the Secretary of Transportation or the Administrator of the Federal Aviation Administration an amount to make a payment to an airport affected by a diversion that is the subject of an administrative action under paragraph (3) or a civil action under paragraph (4) of section 47107(n) of title 49, United States Code.”.

**TITLE IX—METROPOLITAN  
WASHINGTON AIRPORTS**

Metropolitan  
Washington  
Airports  
Amendments Act  
of 1996.

**SEC. 901. SHORT TITLE.**

This title may be cited as the “Metropolitan Washington Airports Amendments Act of 1996”.

**SEC. 902. USE OF LEASED PROPERTY.**

Section 6005(c)(2) of the Metropolitan Washington Airports Act of 1986 (49 U.S.C. App. 2454(c)(2)) is amended by inserting before the period at the end of the second sentence the following: “which are not inconsistent with the needs of aviation”.

**SEC. 903. BOARD OF DIRECTORS.**

(a) **APPOINTMENT OF ADDITIONAL MEMBERS.**—Section 6007(e)(1) of the Metropolitan Washington Airports Act of 1986 (49 U.S.C. App. 2456(e)(1)) is amended—

(1) in the matter preceding subparagraph (A) by striking “11” and inserting “13”;

(2) in subparagraph (D) by striking “one member” and inserting “three members”.

(b) **RESTRICTIONS.**—Section 6007(e)(2) of the Metropolitan Washington Airports Act of 1986 (49 U.S.C. App. 2456(e)(2)) is amended by striking “except that” and all that follows through the period and inserting “except that the members appointed by the President shall be registered voters of States other than Maryland, Virginia, or the District of Columbia.”

(c) **TERMS.**—Section 6007(e)(3) of the Metropolitan Washington Airports Act of 1986 (49 U.S.C. App. 2456(e)(3)) is amended—

(1) in subparagraph (B) by striking “and” at the end;

(2) in subparagraph (C) by striking the period at the end and inserting “; and”; and

(3) by adding at the end the following:

“(D) by the President after the date of the enactment of this subparagraph, 1 shall be appointed for 4 years. A member may serve after the expiration of that member’s term until a successor has taken office.”

President.

(d) **VACANCIES.**—Section 6007(e) of the Metropolitan Washington Airports Act of 1986 (49 U.S.C. App. 2456(e)) is amended by redesignating paragraphs (4) and (5) as paragraphs (8) and (9), respectively, and by inserting after paragraph (3) the following:

“(4) **VACANCIES.**—A vacancy in the board of directors shall be filled in the manner in which the original appointment was made. Any member appointed to fill a vacancy occurring before the expiration of the term for which the member’s predecessor was appointed shall be appointed only for the remainder of such term.”

(e) **POLITICAL PARTIES OF PRESIDENTIAL APPOINTEES.**—Section 6007(e) of the Metropolitan Washington Airports Act of 1986 (49 U.S.C. App. 2456(e)) is amended by inserting after paragraph (4), as inserted by subsection (d) of this section, the following:

“(5) **POLITICAL PARTIES OF PRESIDENTIAL APPOINTEES.**—Not more than 2 of the members of the board appointed by the President may be of the same political party.”

(f) **DUTIES OF PRESIDENTIAL APPOINTEES.**—Section 6007(e) of the Metropolitan Washington Airports Act of 1986 (49 U.S.C. App. 2456(e)) is amended by inserting after paragraph (5), as inserted by subsection (e) of this section, the following:

“(6) **DUTIES OF PRESIDENTIAL APPOINTEES.**—In carrying out their duties on the board, members of the board appointed by the President shall ensure that adequate consideration is given to the national interest.”

(g) **DEADLINE FOR PRESIDENTIAL APPOINTMENTS.**—Section 6007(e) of the Metropolitan Washington Airports Act of 1986 (49 U.S.C. App. 2456(e)) is amended by inserting after paragraph (6), as inserted by subsection (f) of this section, the following:

“(7) **DEADLINE FOR PRESIDENTIAL APPOINTMENTS.**—

“(A) **DEADLINE.**—The members to be appointed to the board by the President under section 6007(e)(1)(D) shall be appointed on or before September 30, 1997.

“(B) APPLICABILITY OF LIMITATIONS.—If the deadline of subparagraph (A) is not met, the Secretary and the Airports Authority shall be subject to the limitations described in subsection (i) for the period beginning on October 1, 1997, and ending on the first day on which all of the members referred to in subparagraph (A) have been appointed.”.

(h) REQUIRED NUMBER OF VOTES.—Section 6007(e)(9) of the Metropolitan Washington Airports Act of 1986 (49 U.S.C. App. 2456(e)(9)), as redesignated by subsection (d) of this section, is amended by striking “Seven” and inserting “Eight”.

#### SEC. 904. TERMINATION OF BOARD OF REVIEW.

(a) IN GENERAL.—Section 6007 of the Metropolitan Washington Airports Act of 1986 (49 U.S.C. App. 2456) is amended by striking subsections (f) and (h) and redesignating subsections (g) and (i) as subsections (f) and (g), respectively.

(b) STAFF.—Section 6007 of the Metropolitan Washington Airports Act of 1986 (49 U.S.C. App. 2456) is amended—

(1) by inserting paragraph (8) of subsection (f), as in effect before the amendment made by subsection (a) of this section, after subsection (g), as redesignated by such subsection (a);

(2) by moving such paragraph 2 ems to the left and redesignating such paragraph as subsection (h); and

(3) in subsection (h), as so redesignated—

(A) in the first sentence by striking “The Board of Review” and inserting “To assist the Secretary in carrying out this Act, the Secretary”; and

(B) in the second sentence by striking “Board” and inserting “Secretary”.

(c) CONFORMING AMENDMENTS.—The Metropolitan Washington Airports Act of 1986 (49 U.S.C. App. 2451 et seq.) is amended—

(1) in section 6009(b) by striking “or by reason” and all that follows before the period; and

(2) in section 6011 by striking “Except as provided in section 6007(h), if” and inserting “If”.

(d) PROTECTION OF CERTAIN ACTIONS.—Actions taken by the Metropolitan Washington Airports Authority and required to be submitted to the Board of Review pursuant to section 6007(f)(4) of the Metropolitan Washington Airports Act of 1986 before the date of the enactment of this Act shall remain in effect and shall not be set aside solely by reason of a judicial order invalidating certain functions of the Board of Review.

#### SEC. 905. LIMITATIONS.

Section 6007 of the Metropolitan Washington Airports Act of 1986 (49 U.S.C. App. 2456) is further amended by adding at the end the following:

“(i) LIMITATIONS.—After October 1, 2001—

“(1) the Secretary may not approve an application of the Airports Authority for an airport development project grant under subchapter I of chapter 471 of title 49, United States Code; and

“(2) the Secretary may not approve an application of the Airports Authority to impose a passenger facility fee under section 40117 of such title.”.



**SEC. 906. USE OF DULLES AIRPORT ACCESS HIGHWAY.**

The Metropolitan Washington Airports Act of 1986 (49 U.S.C. App. 2451 et seq.) is further amended by adding at the end the following:

**“SEC. 6013. USE OF DULLES AIRPORT ACCESS HIGHWAY.**

“(a) RESTRICTIONS.—Except as provided by subsection (b), the Airports Authority shall continue in effect and enforce paragraphs (1) and (2) of section 4.2 of the Metropolitan Washington Airports Regulations, as in effect on February 1, 1995.

“(b) ENFORCEMENT.—The district courts of the United States shall have jurisdiction to compel the Airports Authority and its officers and employees to comply with the requirements of this section. An action may be brought on behalf of the United States by the Attorney General or by any aggrieved party.”.

**SEC. 907. EFFECT OF JUDICIAL ORDER.**

The Metropolitan Washington Airports Act of 1986 (49 U.S.C. App. 2451 et seq.) is further amended by adding at the end the following:

**“SEC. 6014. EFFECT OF JUDICIAL ORDER.**

“If any provision of the Metropolitan Washington Airports Amendments Act of 1996 or the amendments made by such Act (or the application of that provision to any person, circumstance, or venue) is held invalid by a judicial order, on the day after the date of the issuance of such order, and thereafter, the Secretary of Transportation and the Metropolitan Washington Airports Authority shall be subject to the limitations described in section 6007(i) of this Act.”.

**SEC. 908. AMENDMENT OF LEASE.**

The Secretary of Transportation shall amend the lease entered into with the Metropolitan Washington Airports Authority under section 6005(a) of the Metropolitan Washington Airports Authority Act of 1986 to secure the Airports Authority’s consent to the amendments made to such Act by this title.

**SEC. 909. SENSE OF THE SENATE.**

It is the sense of the Senate that the Metropolitan Washington Airports Authority—

(1) should not provide any reserved parking areas free of charge to Members of Congress, other Government officials, or diplomats at Washington National Airport or Washington Dulles International Airport; and

(2) should establish a parking policy for such airports that provides equal access to the public, and does not provide preferential parking privileges to Members of Congress, other Government officials, or diplomats.

## TITLE X—EXTENSION OF AIRPORT AND AIRWAY TRUST FUND EXPENDITURES

### SEC. 1001. EXTENSION OF AIRPORT AND AIRWAY TRUST FUND EXPENDITURES.

26 USC 9502. (a) EXTENSION OF EXPENDITURE AUTHORITY.—Paragraph (1) of section 9502(d) of the Internal Revenue Code of 1986 is amended by striking “October 1, 1996” and inserting “October 1, 1998”.

(b) EXTENSION OF TRUST FUND PURPOSES.—Subparagraph (A) of section 9502(d)(1) of such Code is amended by inserting before the semicolon at the end “or the Federal Aviation Reauthorization Act of 1996”.

FAA Research,  
Engineering, and  
Development  
Management  
Reform Act of  
1996.  
49 USC 40101  
note.

## TITLE XI—FAA RESEARCH, ENGINEERING, AND DEVELOPMENT

### SEC. 1101. SHORT TITLE.

This title may be cited as the “FAA Research, Engineering, and Development Management Reform Act of 1996”.

### SEC. 1102. AUTHORIZATION OF APPROPRIATIONS.

Section 48102(a) is amended—

- (1) by striking “and” at the end of paragraph (1)(J);
- (2) by striking the period at the end of paragraph (2)(J) and inserting in lieu thereof “, and”; and
- (3) by adding at the end the following:

“(3) for fiscal year 1997—

“(A) \$13,660,000 for system development and infrastructure projects and activities;

“(B) \$34,889,000 for capacity and air traffic management technology projects and activities;

“(C) \$19,000,000 for communications, navigation, and surveillance projects and activities;

“(D) \$13,000,000 for weather projects and activities;

“(E) \$5,200,000 for airport technology projects and activities;

“(F) \$36,504,000 for aircraft safety technology projects and activities;

“(G) \$57,055,000 for system security technology projects and activities;

“(H) \$23,504,000 for human factors and aviation medicine projects and activities;

“(I) \$3,600,000 for environment and energy projects and activities; and

“(J) \$2,000,000 for innovative/cooperative research projects and activities.”.

### SEC. 1103. RESEARCH PRIORITIES.

Section 48102(b) is amended—

- (1) by redesignating paragraph (2) as paragraph (3); and
- (2) by striking “AVAILABILITY FOR RESEARCH.—(1)” and inserting in lieu thereof “RESEARCH PRIORITIES.—(1) The Administrator shall consider the advice and recommendations of the research advisory committee established by section 44508 of this title in establishing priorities among major categories

of research and development activities carried out by the Federal Aviation Administration.

“(2)”.

**SEC. 1104. RESEARCH ADVISORY COMMITTEE.**

Section 44508(a)(1) is amended—

(1) by striking “and” at the end of subparagraph (B);

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

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

“(D) annually review the allocation made by the Administrator of the amounts authorized by section 48102(a) of this title among the major categories of research and development activities carried out by the Administration and provide advice and recommendations to the Administrator on whether such allocation is appropriate to meet the needs and objectives identified under subparagraph (A).”.

**SEC. 1105. NATIONAL AVIATION RESEARCH PLAN.**

Section 44501(c) is amended—

(1) in paragraph (2)(A) by striking “15-year” and inserting in lieu thereof “5-year”;

(2) by amending subparagraph (B) to read as follows:

“(B) The plan shall—

“(i) provide estimates by year of the schedule, cost, and work force levels for each active and planned major research and development project under sections 40119, 44504, 44505, 44507, 44509, 44511–44513, and 44912 of this title, including activities carried out under cooperative agreements with other Federal departments and agencies;

“(ii) specify the goals and the priorities for allocation of resources among the major categories of research and development activities, including the rationale for the priorities identified;

“(iii) identify the allocation of resources among long-term research, near-term research, and development activities; and

“(iv) highlight the research and development activities that address specific recommendations of the research advisory committee established under section 44508 of this title, and document the recommendations of the committee that are not accepted, specifying the reasons for nonacceptance.”; and

(3) in paragraph (3) by inserting “, including a description of the dissemination to the private sector of research results and a description of any new technologies developed” after “during the prior fiscal year”.

## **TITLE XII—MISCELLANEOUS PROVISIONS**

**SEC. 1201. PURCHASE OF HOUSING UNITS.**

Section 40110 is amended—

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

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

“(b) PURCHASE OF HOUSING UNITS.—

“(1) AUTHORITY.—In carrying out this part, the Administrator may purchase a housing unit (including a condominium

or a housing unit in a building owned by a cooperative) that is located outside the contiguous United States if the cost of the unit is \$300,000 or less.

“(2) ADJUSTMENTS FOR INFLATION.—For fiscal years beginning after September 30, 1997, the Administrator may adjust the dollar amount specified in paragraph (1) to take into account increases in local housing costs.

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

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

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

“(B) a certification that the price does not exceed the median price of housing units in the area; and

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

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

**SEC. 1202. CLARIFICATION OF PASSENGER FACILITY REVENUES AS CONSTITUTING TRUST FUNDS.**

Section 40117(g) is amended by adding at the end the following:

“(4) Passenger facility revenues that are held by an air carrier or an agent of the carrier after collection of a passenger facility fee constitute a trust fund that is held by the air carrier or agent for the beneficial interest of the eligible agency imposing the fee. Such carrier or agent holds neither legal nor equitable interest in the passenger facility revenues except for any handling fee or retention of interest collected on unremitted proceeds as may be allowed by the Secretary.”.

49 USC 47101  
note.

**SEC. 1203. AUTHORITY TO CLOSE AIRPORT LOCATED NEAR CLOSED OR REALIGNED MILITARY BASE.**

Notwithstanding any other provision of a law, rule, or grant assurance, an airport that is not a commercial service airport may be closed by its sponsor without any obligation to repay grants made under chapter 471 of title 49, United States Code, the Airport and Airway Improvement Act of 1982, or any other law if the airport is located within 2 miles of a United States Army depot which has been closed or realigned; except that in the case of disposal of the land associated with the airport, the part of the proceeds from the disposal that is proportional to the Government's share of the cost of acquiring the land shall be paid to the Secretary of Transportation for deposit in the Airport and Airway Trust Fund established under section 9502 of the Internal Revenue Code of 1986 (26 U.S.C. 9502).

**SEC. 1204. GADSDEN AIR DEPOT, ALABAMA.**

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

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

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

(2) Any such amount so received by the city shall be used by the city for the development, improvement, operation, or maintenance of a public airport, lands (including any improvements thereto) which produce revenues that are used for airport development purposes, or both.

**SEC. 1205. REGULATIONS AFFECTING INTRASTATE AVIATION IN ALASKA.**

In modifying regulations contained in 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.

**SEC. 1206. WESTCHESTER COUNTY AIRPORT, NEW YORK.**

Notwithstanding sections 47107(b) and 47133 of title 49, United States Code, and any other law, regulation, or grant assurance, all fees received by Westchester County Airport in the State of New York may be paid into the treasury of Westchester County pursuant to section 119.31 of the Westchester County Charter if the Secretary finds that the expenditures from such treasury for the capital and operating costs of the Airport after December 31, 1990, have been and will be equal to or greater than the fees that such treasury receives from the Airport.

**SEC. 1207. BEDFORD AIRPORT, PENNSYLVANIA.**

If the Administrator of the Federal Aviation Administration decommissions an instrument landing system in Pennsylvania, the Administrator may transfer and install the system at Bedford Airport, Pennsylvania.

**SEC. 1208. WORCESTER MUNICIPAL AIRPORT, MASSACHUSETTS.**

The Administrator of the Federal Aviation Administration shall take such actions as may be necessary to improve the safety of aircraft landing at Worcester Municipal Airport, Massachusetts, including, if appropriate, providing air traffic radar service to such airport from the Providence Approach Radar Control in Coventry, Rhode Island.

**SEC. 1209. CENTRAL FLORIDA AIRPORT, SANFORD, FLORIDA.**

The Administrator of the Federal Aviation Administration shall take such actions as may be necessary to improve the safety of aircraft landing at Central Florida Airport, Sanford, Florida, including, if appropriate, providing a new instrument landing system on Runway 27R.

**SEC. 1210. AIRCRAFT NOISE OMBUDSMAN.**

Section 106, as amended by section 230 of this Act, is further amended by adding at the end the following:

“(q) AIRCRAFT NOISE OMBUDSMAN.—

“(1) ESTABLISHMENT.—There shall be in the Administration an Aircraft Noise Ombudsman.

“(2) GENERAL DUTIES AND RESPONSIBILITIES.—The Ombudsman shall—

“(A) be appointed by the Administrator;

“(B) serve as a liaison with the public on issues regarding aircraft noise; and

“(C) be consulted when the Administration proposes changes in aircraft routes so as to minimize any increases in aircraft noise over populated areas.

“(3) NUMBER OF FULL-TIME EQUIVALENT EMPLOYEES.—The appointment of an Ombudsman under this subsection shall not result in an increase in the number of full-time equivalent employees in the Administration.”.

**SEC. 1211. SPECIAL RULE FOR PRIVATELY OWNED RELIEVER AIRPORTS.**

Section 47109 is amended by adding at the end the following:

“(c) SPECIAL RULE FOR PRIVATELY OWNED RELIEVER AIRPORTS.—If a privately owned reliever airport contributes any lands, easements, or rights-of-way to carry out a project under this subchapter, the current fair market value of such lands, easements, or rights-of-way shall be credited toward the non-Federal share of allowable project costs.”.

**SEC. 1212. SENSE OF THE SENATE REGARDING THE FUNDING OF THE FEDERAL AVIATION ADMINISTRATION.**

(a) FINDINGS.—The Senate finds that—

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

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

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

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

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

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

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

**SEC. 1213. RURAL AIR FARE STUDY.**

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

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

(A) between—

(i) nonhub airports located in small communities; and

(ii) large hub airports; and

(B) between large hub airports;

(2) analyze—

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

(i) regional commuter commercial air carriers; or

(ii) major air carriers;

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

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

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

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

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

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

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

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

(6) where such replacement occurred, any corresponding decreases in available seat capacity for consumers at the airports referred to in that subparagraph.

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

Committee on Transportation and Infrastructure of the House of Representatives.

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

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

(2) AIR CARRIER.—The term “air carrier” is defined in section 40102(a)(2) of title 49, United States Code.

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

(4) COMMERCIAL AIR CARRIER.—The term “commercial air carrier” means an air carrier that provides air transportation for commercial purposes (as determined by the Secretary).

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

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

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

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

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

**SEC. 1214. CARRIAGE OF CANDIDATES IN STATE AND LOCAL ELECTIONS.**

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

**SEC. 1215. SPECIAL FLIGHT RULES IN THE VICINITY OF GRAND CANYON NATIONAL PARK.**

The Secretary of Transportation, acting through the Administrator of the Federal Aviation Administration, shall take such action as may be necessary to provide 45 additional days for comment by interested persons on the special flight rules in the vicinity of Grand Canyon National Park and the Draft Environmental Assessment described in the notice of proposed rulemaking issued on July 31, 1996, at 61 Fed. Reg. 40120 et seq.

**SEC. 1216. TRANSFER OF AIR TRAFFIC CONTROL TOWER; CLOSING OF FLIGHT SERVICE STATIONS.**

(a) HICKORY, NORTH CAROLINA TOWER.—

(1) TRANSFER.—The Administrator of the Federal Aviation Administration may transfer any title, right, or interest the United States has in the air traffic control tower located at the Hickory Regional Airport to the City of Hickory, North Carolina, for the purpose of enabling the city to provide air traffic control services to operators of aircraft.

(2) STUDY.—The Administrator shall conduct a study to determine whether the number of operations at Hickory Regional Airport meet the criteria for contract towers and shall



certify in writing to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Commerce and Infrastructure of the House of Representatives whether that airport meets those criteria.

(b) **NEW BERN-CRAVEN COUNTY STATION.**—The Administrator shall not close the New Bern-Craven County flight services station or the Hickory Regional Airport flight service station unless the Administrator certifies in writing to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives that such closure will not result in a degradation of air safety and that it will reduce costs to taxpayers.

(c) **PIERRE, SOUTH DAKOTA STATION.**—The Administrator shall not close the Pierre, South Dakota Regional Airport flight service station unless following the 180th day after the date of the enactment of this Act the Administrator certifies in writing to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives that such closure will not result in a degradation of air safety, air service, or the loss of meteorological services or data that cannot otherwise be obtained in a more cost-effective manner, and that it will reduce costs to taxpayers.

**SEC. 1217. LOCATION OF DOPPLER RADAR STATIONS, NEW YORK.**

(a) **STUDY.**—The Administrator of the Federal Aviation Administration shall conduct a study of the feasibility of constructing 2 offshore platforms to serve as sites for the location of Doppler radar stations for John F. Kennedy International Airport and LaGuardia Airport in New York City, New York.

(b) **REPORT.**—Not later than 90 days after the date of the enactment of this Act, the Administrator shall transmit to Congress a report on the results of the study conducted under subsection (a), including proposed locations for the offshore platforms. Such locations shall be as far as possible from populated areas while providing appropriate safety measures for John F. Kennedy International Airport and LaGuardia Airport.

**SEC. 1218. TRAIN WHISTLE REQUIREMENTS.**

(a) **IN GENERAL.**—Section 20153 is amended by adding at the end the following:

“(i) **REGULATIONS.**—In issuing regulations under this section, the Secretary—

“(1) shall take into account the interest of communities that—

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

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

“(2) shall work in partnership with affected communities to provide technical assistance and shall provide a reasonable amount of time for local communities to install supplementary safety measures, taking into account local safety initiatives (such as public awareness initiatives and highway-rail grade crossing traffic law enforcement programs) subject to such terms and conditions as the Secretary deems necessary, to protect public safety; and

“(3) may waive (in whole or in part) any requirement of this section (other than a requirement of this subsection or subsection (j)) that the Secretary determines is not likely to contribute significantly to public safety.

“(j) EFFECTIVE DATE OF REGULATIONS.—Any regulations under this section shall not take effect before the 365th day following the date of publication of the final rule.”.

**SEC. 1219. INCREASED FEES.**

(a) IN GENERAL.—Notwithstanding any other provision of law, the Surface Transportation Board shall not increase fees for services to be collected from small shippers in connection with rail maximum rate complaints pursuant to part 1002 of title 49, Code of Federal Regulations, Ex Parte No. 542.

Effective date.

(b) APPLICABILITY.—Subsection (a) shall no longer be effective after September 30, 1998.

**SEC. 1220. STRUCTURES INTERFERING WITH AIR COMMERCE.**

(a) LANDFILLS.—Section 44718 is amended by adding at the end the following:

“(d) LANDFILLS.—For the purposes of enhancing aviation safety, in a case in which 2 landfills have been proposed to be constructed or established within 6 miles of a commercial service airport with fewer than 50,000 enplanements per year, no person shall construct or establish either landfill if an official of the Federal Aviation Administration has stated in writing within the 3-year period ending on the date of the enactment of this subsection that 1 of the landfills would be incompatible with aircraft operations at the airport, unless the landfill is already active on such date of enactment or the airport operator agrees to the construction or establishment of the landfill.”.

(b) CIVIL PENALTIES.—Section 46301 is amended by inserting “44718(d),” after “44716,” in each of subsections (a)(1)(A), (d)(2), and (f)(1)(A)(i).

**SEC. 1221. HAWAII CARGO.**

Notwithstanding any other provision of law, and for a period that shall not extend beyond September 30, 1998, an air carrier which commenced all-cargo turnaround service during November 1995 with Stage 2 aircraft with a maximum weight of more than 75,000 pounds may operate no more than one Stage 2 aircraft in all-cargo turnaround service and may also maintain a second such aircraft in reserve. The reserve aircraft may only be used as a replacement aircraft when the first aircraft is not airworthy or is unavailable due to closure of an airport at which the first aircraft is located in the State of Hawaii.

**SEC. 1222. LIMITATION ON AUTHORITY OF STATES TO REGULATE GAMBLING DEVICES ON VESSELS.**

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

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

(B) if such voyage or segment includes or consists of a segment—

- “(i) that begins and ends in the same State;
- “(ii) that is part of a voyage to another State or to a foreign country; and
- “(iii) in which the vessel reaches the other State or foreign country within 3 days after leaving the State in which such segment begins.”.

**SEC. 1223. CLARIFYING AMENDMENT.**

Section 1 of the Railway Labor Act (45 U.S.C. 151) is amended by inserting “, any express company that would have been subject to subtitle IV of title 49, United States Code, as of December 31, 1995,” after “Board” the first place it appears in the first paragraph.

Approved October 9, 1996.

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**LEGISLATIVE HISTORY—H.R. 3539 (S. 1994):**

**HOUSE REPORTS:** Nos. 104–714, Pt. 1 (Comm. on Transportation and Infrastructure) and 104–848 (Comm. of Conference).

**SENATE REPORTS:** No. 104–333 accompanying S. 1994 (Comm. on Commerce, Science, and Transportation).

**CONGRESSIONAL RECORD, Vol. 142 (1996):**

Sept. 10, 11, considered and passed House.

Sept. 18, considered and passed Senate, amended, in lieu of S. 1994.

Sept. 27, House agreed to conference report.

Sept. 30–Oct. 3, Senate considered and agreed to conference report.

**WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 32 (1996):**

Oct. 9, Presidential remarks and statement.

