Public Law 100-223
100th Congress

An Act

Dec. 30, 1987
[H.R. 2310]

To amend the Airport and Airway Improvement Act of 1982 for the purpose of extending the authorization of appropriations for airport and airway improvements, and for other purposes.

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

Airport and Airway Safety and Capacity Expansion Act of 1987.
Transportation.
49 USC app. 2201 note.

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Airport and Airway Safety and Capacity Expansion Act of 1987".

(b) TABLE OF CONTENTS.—

Sec. 1. Short title and table of contents.
Sec. 2. Secretary and Administrator defined.

TITLE I—AIRPORT AND AIRWAY IMPROVEMENT ACT AMENDMENTS

Sec. 101. Amendment of Airport and Airway Improvement Act of 1982.
Sec. 102. Declaration of policy.
Sec. 103. Definitions.
Sec. 104. National airport and airway system plans.
Sec. 105. Authorization of appropriations.
Sec. 106. Apportionment of funds.
Sec. 107. Limitations on uses of funds.
Sec. 108. State sponsorship.
Sec. 109. Project sponsorship.
Sec. 110. Grant agreements.
Sec. 111. Project costs.
Sec. 112. Limitation on powers.
Sec. 113. Part-time operation of flight service stations.
Sec. 114. Explosive detection K-9 teams.
Sec. 115. Denial of funds for projects using products or services of foreign countries that deny fair market opportunities.
Sec. 116. State block grant pilot program.

TITLE II—FEDERAL AVIATION ACT AMENDMENTS

Sec. 201. Amendment of Federal Aviation Act of 1958.
Sec. 202. Essential air service.
Sec. 203. Aircraft collision avoidance systems.
Sec. 204. Civil penalties.
Sec. 205. Indemnification of Federal Aviation Administration employees.
Sec. 206. Hazards to safe and efficient air commerce and the preservation of navigable airspace and airport traffic capacity.
Sec. 207. Public aircraft defined.

TITLE III—MISCELLANEOUS PROVISIONS

Sec. 301. Noise abatement.
Sec. 302. Air traffic controller workforce.
Sec. 303. Safety rulemaking proceedings.
Sec. 304. Inflation adjustment on collection of certain aviation fees.
Sec. 305. Amendments to the National Driver Register Act.
Sec. 306. Low activity level I air traffic control tower contract program.
Sec. 307. Eligibility of Dermott, Arkansas, municipal airport.
Sec. 308. Standards for navigational aids.
Sec. 309. Long-term airport capacity needs.
Sec. 310. Radio navigation systems.
Sec. 311. Reporting of accidents to NTSB.
Sec. 312. Atlantic City Airport.

AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

Sec. 313. Release of certain conditions.
Sec. 314. Flight service station in Juneau, Alaska.
Sec. 315. Grand Canyon Airport.

TITLE IV—EXTENSION OF AVIATION-RELATED TAXES AND AIRPORT AND AIRWAY TRUST FUND SPENDING AUTHORITY

Sec. 401. Short title.
Sec. 402. 3-year extension of aviation-related taxes.
Sec. 403. Extension of Airport and Airway Trust Fund spending authority.
Sec. 404. Exemption for certain emergency medical transportation by helicopter.
Sec. 405. Reduction in aviation-related taxes where appropriations are significantly below authorizations.

SEC. 2. SECRETARY AND ADMINISTRATOR DEFINED. 49 USC app. 2202 note.

As used in this Act—

(1) the term "Secretary" means the Secretary of Transportation; and

(2) the term "Administrator" means the Administrator of the Federal Aviation Administration.

TITLE I—AIRPORT AND AIRWAY IMPROVEMENT ACT AMENDMENTS

SEC. 101. AMENDMENT OF AIRPORT AND AIRWAY IMPROVEMENT ACT OF 1982.

Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Airport and Airway Improvement Act of 1982 (49 U.S.C. App. 2201-2225).

SEC. 102. DECLARATION OF POLICY.

(a) COMPREHENSIVE AIR SPACE PLAN.—Section 502(a)(4) is amended— 49 USC app. 2201.

(1) by inserting ", a vertical visual guidance system," after "precision approach system"; and

(2) by inserting "distance-to-go signs for each primary and secondary runway, a surface movement radar system at each category III airport, a taxiway lighting and sign system," after "vertical guidance on all runways,".

(b) CARGO HUB AIRPORTS.—Section 502(a) is amended—

(1) by redesignating paragraphs (7), (8), and (9) as paragraphs (8), (9), and (10), respectively; and

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

"(7) cargo hub airports play a critical role in the movement of commerce through the airport and airway system and appropriate provisions should be made to facilitate the development and enhancement of such airports;".

(c) INCREASING AIRPORT CAPACITY; NONAVIATION USE OF AIRSPACE; LIMITATION ON ARTIFICIAL RESTRICTIONS ON AIRPORT CAPACITY.—Section 502(a) is amended—

(1) by striking out "and" at the end of paragraph (9), as redesignated by subsection (b);

(2) by striking out the period at the end of paragraph (10), as so redesignated, and by inserting in lieu thereof a semicolon; and

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

"(11) airport construction and improvement projects which increase the capacity of facilities to accommodate passenger and cargo traffic, thereby increasing safety and efficiency and reducing delays, should be undertaken to the maximum feasible extent;

"(12) it is in the national interest to ensure that nonaviation usage of navigable airspace be accommodated but not allowed to decrease the safety and capacity of the airspace and airport system; and

"(13) artificial restrictions on airport capacity are not in the public interest and should not be imposed to alleviate air traffic delays unless other reasonably available and less burdensome alternatives have first been attempted.".

49 USC app. 1348 note.

(d) SENSE OF CONGRESS.—It is the sense of Congress that any regulation under which the Administrator limits the number of instrument flight rule takeoffs and landings of aircraft at certain airports should be phased out and eliminated at the earliest practicable date the Administrator finds that such phaseout or elimination is consistent with aviation safety.

SEC. 103. DEFINITIONS.

49 USC app. 2202.

(a) INCLUSION OF HELIPORTS AS AIRPORTS.—Section 503(a)(1) is amended—

(1) by inserting "(A)" before "means"; and

(2) by inserting "; and (B) includes any heliport" before the period at the end thereof.

(b) ACQUISITION OF FIRE FIGHTING EQUIPMENT AS AIRPORT DEVELOPMENT.—Section 503(a)(2)(B) is amended—

(1) by striking out "or" at the end of clause (iv);

(2) by striking out "and" at the end of clause (v) and inserting in lieu thereof "or"; and

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

"(vi) fire fighting and rescue equipment at any airport which serves scheduled passenger operations of air carrier aircraft designed for more than 20 passenger seats; and".

(c) LANDED WEIGHT DEFINED.—Section 503(a) is amended—

(1) by redesignating paragraphs (9) through (24), and any references thereto, as paragraphs (10) through (25); and

(2) by inserting after paragraph (8) the following new paragraph:

"(9) 'Landed weight' means the weight of aircraft providing scheduled and nonscheduled service of only property (including mail) in intrastate, interstate, and foreign air transportation, as shall be determined by the Secretary pursuant to such regulations as the Secretary may prescribe.".

(d) INCLUSION OF CERTAIN INTERNATIONAL PASSENGERS AS PASSENGERS ENPLANED.—Paragraph (10) of section 503(a), as redesignated by subsection (c), is amended by inserting before the period at the end thereof the following: "and includes passengers on board international flights which transit an airport located in the 48 contiguous States for nontraffic purposes".

(e) DEFINITION OF PRIMARY AIRPORT.—Paragraph (12) of section 503(a), as redesignated by subsection (c), is amended by striking out ".01 percent" and all that follows through the period at the end

thereof and inserting in lieu thereof the following: "more than 10,000 passengers enplaned annually.".

(f) CONFORMING AMENDMENT.—Section 101(1) of the Aviation Safety and Noise Abatement Act of 1979 (49 U.S.C. App. 2101(1)) is amended by striking out section "503(17)" and inserting in lieu thereof "503(18)".

SEC. 104. NATIONAL AIRPORT AND AIRWAY SYSTEM PLANS.

(a) REVIEW OF PLAN.—

(1) IN GENERAL.—Section 504(a) is amended— 49 USC app. 2203.

(A) by inserting "(1) PUBLICATION, CONTENTS, AND REVIEW OF PLAN.—" before "Not later than two"; and

(B) by adding at the end thereof the following new paragraph:

"(2) SPECIAL REVIEW.—As soon as feasible following the date of the enactment of this paragraph, the Secretary shall, in reviewing and revising the plan, take into account tall structures which reduce safety or airport capacity and make every reasonable effort to address the legitimate needs of air cargo operations, STOL/VSTOL aircraft operations, and rotary wing aircraft operations.".

(2) CONFORMING AMENDMENT.—Such section is further amended by indenting paragraph (1), as designated by paragraph (1)(A) of this subsection, and aligning such paragraph (1) with paragraph (2), as added by paragraph (1)(B) of this subsection.

(b) STUDY OF SPECIAL USE AIRSPACE.—

(1) IN GENERAL.—Section 504(d) is amended by striking out paragraphs (2) and (3) and inserting in lieu thereof the following new paragraph:

"(2) SPECIAL USE AIRSPACE.—

"(A) REVIEW.—The Secretary and the Secretary of Defense, in consultation with aviation users, shall jointly conduct a national review of the need and utilization of special use airspace with a view to determining its impact on civil aviation operations and on the quality of the environment.

"(B) REPORT.—Not later than 18 months after the date of the enactment of the Airport and Airway Safety and Capacity Expansion Act of 1987, the Secretary and the Secretary of Defense shall report to Congress the results of the review conducted under subparagraph (A), together with their recommendations.".

(2) CONFORMING AMENDMENTS.—Section 504(d) is further amended—

(A) in paragraph (1) by inserting "CIVIL USE OF DOMESTIC MILITARY AIRPORTS.—" before "The Department"; and

(B) by indenting paragraph (1) and aligning such paragraph with paragraph (2), as inserted by paragraph (1) of this subsection.

SEC. 105. AUTHORIZATION OF APPROPRIATIONS.

(a) AIRWAY FACILITIES AND EQUIPMENT.—Section 506(a) is amended— 49 USC app. 2205.

(1) by redesignating paragraph (2) (and any reference thereto) as paragraph (3); and

(2) by striking out "For the purposes of" and all that follows through "remain available until expended." and inserting in lieu thereof the following:

"(1) GENERAL AUTHORIZATION.—For the purposes of acquiring, establishing, and improving air navigation facilities under section 307(b) of the Federal Aviation Act of 1958 (49 U.S.C. App. 1348(b)), there are authorized to be appropriated from the Trust Fund for fiscal years beginning after September 30, 1981, aggregate amounts not to exceed $6,327,000,000 for fiscal years ending before October 1, 1987, $7,704,000,000 for fiscal years ending before October 1, 1988, $9,434,000,000 for fiscal years ending before October 1, 1989, and $11,625,200,000 for fiscal years ending before October 1, 1990. Amounts appropriated under this subsection shall remain available until expended.

"(2) PURCHASE AND INSTALLATION OF INSTRUMENT LANDING SYSTEMS.—

"(A) MINIMUM OBLIGATION LEVEL.—Of amounts made available under paragraph (1) after September 30, 1987, the Secretary shall obligate not less than $27,000,000 in fiscal year 1988, $30,000,000 in fiscal year 1989, and $35,000,000 in fiscal year 1990 for the purposes of purchasing and installing instrument landing systems at airports under section 307(b) of the Federal Aviation Act of 1958.

"(B) PRIMARY AND RELIEVER AIRPORTS.—75 percent of amounts obligated pursuant to subparagraph (A) in a fiscal year shall be made available for the purchase and installation of instrument landing systems at primary airports and reliever airports.

"(C) OTHER AIRPORTS.—25 percent of amounts obligated pursuant to subparagraph (A) in a fiscal year shall be made available for the purchase and installation of instrument landing systems at airports other than primary airports and reliever airports.".

(b) RESEARCH, ENGINEERING AND DEVELOPMENT, AND DEMONSTRATIONS.—

49 USC app. 2205.

(1) IN GENERAL.—Section 506(b) is amended to read as follows:

"(b) RESEARCH, ENGINEERING AND DEVELOPMENT, AND DEMONSTRATIONS.—

"(1) DEMONSTRATION PROJECTS.—The Secretary is authorized to carry out under section 312 of the Federal Aviation Act of 1958 (49 U.S.C. App. 1353) such demonstration projects as the Secretary determines necessary in connection with research and development activities under such section.

"(2) GENERAL AUTHORIZATION.—For research, engineering and development, and demonstration projects and activities under section 312 of the Federal Aviation Act of 1958 and paragraph (1) of this subsection, there is authorized to be appropriated from the Trust Fund—

"(A) for fiscal year 1988—

"(i) $127,192,000 solely for air traffic control projects and activities;

"(ii) $7,743,000 solely for air traffic control advanced computer projects and activities;

"(iii) $9,818,000 solely for navigation projects and activities;

"(iv) $21,957,000 solely for aviation weather projects and activities;

"(v) $6,307,000 solely for aviation medicine projects and activities of which not less than $250,000 shall be made available for research and development relating to equipment designed to provide improved access by handicapped persons to commercial aircraft;

"(vi) $24,988,000 solely for aircraft safety projects and activities; and

"(vii) $3,000,000 solely for environmental projects and activities;

"(B) for fiscal year 1989—

"(i) $135,866,000 solely for air traffic control projects and activities;

"(ii) $15,716,000 solely for air traffic control advanced computer projects and activities;

"(iii) $11,395,000 solely for navigation projects and activities;

"(iv) $21,797,000 solely for aviation weather projects and activities;

"(v) $6,613,000 solely for aviation medicine projects and activities;

"(vi) $21,013,000 solely for aircraft safety projects and activities; and

"(vii) $2,600,000 solely for environmental projects and activities; and

"(C) for fiscal year 1990, $222,000,000.

"(3) AUTHORITY TO TRANSFER FUNDS.—

"(A) UNLIMITED.—Funds may be transferred among the projects and activities listed in paragraph (2), except that the net funds transferred to or from any category of such projects and activities listed in paragraph (2) in any fiscal year may not exceed 10 percent of the amount authorized for such category by paragraph (2) for such fiscal year.

"(B) AFTER NOTICE.—In addition, the Secretary may propose transfers to or from any category of projects and activities listed in paragraph (2) exceeding 10 percent of the amount authorized for such category. An explanation of the proposed transfer must be transmitted in writing to the Committee on Science, Space, and Technology and the Committee on Appropriations of the House of Representatives and the Committee on Commerce, Science, and Transportation and the Committee on Appropriations of the Senate. The proposed transfer may be made only when—

"(i) 30 calendar days have passed after transmission of such explanation; or

"(ii) each such Committee has transmitted to the Secretary written notice that such Committee has no objection to the proposed transfer.

"(4) FUNDING FOR ENHANCING AIRPORT CAPACITY.—

"(A) GENERAL RULE.—Notwithstanding any other provision of this subsection, of funds made available under paragraph (2) in each of fiscal years 1988, 1989, and 1990, not less than $25,000,000 per fiscal year is authorized to be appropriated for research and development on preserving and enhancing airport capacity (including research and

development on improvements to airport design standards, airport maintenance, airport safety, airport operations, and airport environmental concerns) under section 312 of the Federal Aviation Act of 1958.

"(B) REPORT.—Not later than 60 days after the last day of each of fiscal years 1988, 1989, and 1990, the Administrator of the Federal Aviation Administration shall transmit to the Committee on Science, Space, and Technology and the Committee on Public Works and Transportation of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report on expenditures made by the Administrator for research and development under subparagraph (A) in such fiscal year.

"(5) PERIOD OF AVAILABILITY.—Amounts appropriated under this subsection shall remain available until expended.".

49 USC app. 2205 note.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect October 1, 1987.

(c) OTHER EXPENSES.—

49 USC app. 2205.

(1) GENERAL LIMITATIONS.—Section 506(c) is amended by adding at the end thereof the following new paragraph:

"(3) FISCAL YEARS 1988–1990.—

"(A) MAXIMUM AMOUNT APPROPRIATED.—Subject to subparagraph (B) of this paragraph, the amount appropriated from the Trust Fund for the purposes of clauses (A) and (B) of paragraph (1) of this subsection for each of fiscal years 1988, 1989, and 1990 may not exceed 50 percent of the amount of funds made available under section 505 and subsections (a) and (b) of this section for such fiscal year.

"(B) REDUCTION IN MAXIMUM AMOUNT.—The maximum amount which may be appropriated from the Trust Fund for the purposes of clauses (A) and (B) of paragraph (1) for any fiscal year, as determined under subparagraph (A) of this paragraph, shall be reduced by an amount equal to 2 times the excess, if any, of—

"(i) $3,278,000,000 in the case of fiscal year 1988, $3,445,000,000 in the case of fiscal year 1989, $3,863,000,000 in the case of fiscal year 1990, $3,770,000,000 in the case of fiscal year 1991, and $3,778,000,000 in the case of fiscal year 1992, over

"(ii) the amount made available under section 505 and subsections (a) and (b) of this section for such fiscal year.

"(C) INCREASE IN MAXIMUM AMOUNT.—Subject to subparagraph (D), the amount authorized to be appropriated from the Trust Fund under this paragraph for any fiscal year shall be increased by an amount equal to 2 times the excess, if any, of—

"(i) the amount made available under section 505 and subsections (a) and (b) of this section for such fiscal year, over

"(ii) the portion of the amount authorized under such section and subsections for such fiscal year which was not authorized for any previous fiscal year.

"(D) LIMITATION ON INCREASES.—The aggregate amount of increases in the amount authorized to be appropriated from the Trust Fund under this paragraph may not exceed the

aggregate amount of reductions made under subparagraph (B) of this paragraph.".

(2) LIMITATION ON FUNDING FOR WEATHER SERVICES.—Section 506(d) is amended— 49 USC app. 2205.

(A) by striking out "$26,700,000" and all that follows through "1986; and"; and

(B) by inserting before the period at the end thereof the following: "and $30,000,000 per fiscal year for each of fiscal years 1988, 1989, and 1990".

(d) LIMITATION ON USES OF TRUST FUND.—

(1) FUNDING OF AIRPORT IMPROVEMENT PROGRAM.—Section 506(e)(1) is amended by inserting "and section 505" before the period.

(2) EXTENSION.—Section 506(e)(5) is amended by striking out "1987" and inserting in lieu thereof "1992".

(e) AIRPORT DEVELOPMENT AND PLANNING.—Section 505(a) is amended by striking out the second sentence and inserting in lieu thereof the following: "The aggregate amounts which shall be available after September 30, 1981, to the Secretary for such grants and for grants for airport noise compatibility planning under section 103(b) of the Aviation Safety and Noise Abatement Act of 1979 and for carrying out noise compatibility programs or parts thereof under section 104(c) of such Act shall be $5,116,700,000 of which $475,000,000 shall be credited to the supplementary discretionary fund established by section 507(a)(3)(B) for fiscal years ending before October 1, 1987, $6,816,700,000 for fiscal years ending before October 1, 1988, $8,516,700,000 for fiscal years ending before October 1, 1989, $10,216,700,000 for fiscal years ending before October 1, 1990, $12,016,700,000 for fiscal years ending before October 1, 1991, and $13,816,700,000 for fiscal years ending before October 1, 1992.". 49 USC app. 2204.

(f) DISADVANTAGED BUSINESS ENTERPRISES.—Section 505 is amended by adding at the end thereof the following new subsection:

"(d) DISADVANTAGED BUSINESS ENTERPRISES.—

"(1) GENERAL RULE.—Except to the extent that the Secretary determines otherwise, not less than 10 percent of the amounts made available under subsection (a) in a fiscal year beginning after September 30, 1987, shall be expended with small business concerns owned and controlled by socially and economically disadvantaged individuals.

"(2) DEFINITIONS.—For purposes of this subsection—

"(A) SMALL BUSINESS CONCERN.—The term 'small business concern' has the meaning such term has under section 3 of the Small Business Act (15 U.S.C. 632); except that such term shall not include any concern or group of concerns controlled by the same socially and economically disadvantaged individual or individuals which has average annual gross receipts over the preceding 3 fiscal years in excess of $14,000,000, as adjusted by the Secretary for inflation.

"(B) SOCIALLY AND ECONOMICALLY DISADVANTAGED INDIVIDUALS.—The term 'socially and economically disadvantaged individuals' has the meaning such term has under section 8(d) of the Small Business Act (15 U.S.C. 637(d)) and relevant subcontracting regulations promulgated pursuant thereto; except that women shall be presumed to be socially and economically disadvantaged for purposes of this subsection.

"(3) ANNUAL LISTING OF DISADVANTAGED BUSINESS ENTERPRISES.—Each State or airport sponsor shall annually survey and compile a list of the small business concerns referred to in paragraph (1) and the location of such concerns in the State.

"(4) UNIFORM CERTIFICATION.—The Secretary shall establish minimum uniform criteria for State governments and airport sponsors to use in certifying whether a concern qualifies for purposes of this subsection. Such minimum uniform criteria shall include but not be limited to on-site visits, personal interviews, licenses, analysis of stock ownership, listing of equipment, analysis of bonding capacity, listing of work completed, resume of principal owners, financial capacity, and type of work preferred.".

49 USC app. 2205.

(g) CONFORMING AMENDMENTS.—(1) Section 506(a) is further amended—

(A) in paragraph (3), as redesignated by subsection (a)(1) of this section, by inserting "SITE PREPARATION WORK.—" before "The costs of"; and

(B) aligning such paragraph (3) with paragraph (1), as inserted by subsection (a)(2) of this section.

(2) Section 506(c) is further amended—

(A) in paragraph (1) by inserting "DESCRIPTION.—" before "The balance";

(B) in paragraph (2) by inserting "FISCAL YEARS 1982–1987.—" before "The amount appropriated"; and

(C) by indenting paragraph (1) and aligning such paragraph and paragraph (2) with paragraph (3) of such section, as added by subsection (c) of this section.

(3) Section 506(e)(2) is amended by striking out "and (d) and the third sentence of section (c)" and inserting in lieu thereof "(c), and (d)".

(h) SPECIAL RULE FOR HAWAII.—Notwithstanding any other provision of law, funds made available to the State of Hawaii under section 505 of the Airport and Airway Improvement Act of 1982 may be used to acquire properties referred to as areas 46A and 46B of the United States General Services Administration Facility Site in Moanalua, Honolulu, Oahu, Hawaii, or to reimburse the State of Hawaii for such acquisition.

SEC. 106. APPORTIONMENT OF FUNDS.

(a) GENERAL RULES.—Section 507 is amended to read as follows:

49 USC app. 2206.

"SEC. 507. APPORTIONMENT OF FUNDS.

"(a) APPORTIONMENT.—On the first day of each fiscal year for which any amount is authorized to be obligated for the purposes of section 505 of this title, the amount made available for the fiscal year under such section and not previously apportioned shall be apportioned by the Secretary as follows:

"(1) PRIMARY AIRPORTS.—To the sponsor of each primary airport, as follows:

"(A) $7.80 for each of the first 50,000 passengers enplaned at the airport;

"(B) $5.20 for each of the next 50,000 passengers enplaned at the airport;

"(C) $2.60 for each of the next 400,000 passengers enplaned at the airport; and

"(D) $0.65 for each additional passenger enplaned at the airport.

"(2) CARGO SERVICE AIRPORTS.—To the sponsors of airports which are served by aircraft providing air transportation of only property (including mail) with an aggregate annual landed weight in excess of 100,000,000 pounds, 3 percent of the amount made available under section 505 for such fiscal year (but not to exceed $50,000,000) as follows: In the proportion which the aggregate annual landed weight of all such aircraft landing at each such airport bears to the total aggregate annual landed weight of all such aircraft landing at all such airports.

"(3) STATES.—To the States, 12 percent of the amount made available under section 505 for such fiscal year, as follows:

"(A) INSULAR AREAS.—For airports, 1 percent of such amounts to Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and the Virgin Islands.

Guam.
American Samoa.
Northern Mariana Islands.
Trust Territory of the Pacific Islands.
Virgin Islands.

"(B) STATES.—For airports, other than primary airports and airports described in section 508(d)(3), ½ of the remaining 99 percent in the proportion which the population of each State (other than a State to which subparagraph (A) applies) bears to the total population of all such States and ½ of the remaining 99 percent in the proportion which the area of each such State bears to the total area of all such States.

"(b) SPECIAL RULES.—

"(1) MAXIMUM AND MINIMUM AMOUNTS FOR PRIMARY AIRPORTS.—The Secretary shall not apportion less than $300,000 nor more than $16,000,000 under subsection (a)(1) to an airport sponsor for any primary airport for any fiscal year.

"(2) LIMITATION ON TOTAL APPORTIONMENTS TO PRIMARY AND CARGO SERVICE AIRPORTS.—

"(A) GENERAL RULE.—In no event shall the total amount of all apportionments under subsections (a)(1) and (a)(2) for any fiscal year exceed 49.5 percent of the amount authorized to be obligated for such fiscal year for the purposes of section 505 of this title.

"(B) DISTRIBUTION.—In any case in which apportionments in a fiscal year would be reduced by subparagraph (A), the Secretary shall for such fiscal year reduce the apportionment to each sponsor of an airport under subsections (a)(1) and (a)(2) proportionately so that such 49.5 percent amount is achieved.

"(3) EFFECT OF OBLIGATION CEILING ON PRIMARY AND CARGO SERVICE APPORTIONMENTS.—

"(A) OVERALL LIMIT.—If any Act of Congress has the effect of limiting or reducing the amount authorized or available to be obligated for any fiscal year for the purposes of section 505 of this title, the total amount of all apportionments under subsections (a)(1) and (a)(2) for such fiscal year shall not exceed 49.5 percent of such limited or reduced amount.

"(B) DISTRIBUTION.—In any case in which apportionments in a fiscal year would be reduced by subparagraph (A), the Secretary shall for such fiscal year reduce the apportionment to each sponsor of an airport under subsections (a)(1)

and (a)(2) proportionately so that such 49.5 percent amount is achieved.

"(4) MAXIMUM PERCENTAGE OF APPORTIONMENTS TO ANY CARGO SERVICE AIRPORT.—The Secretary shall not apportion to the sponsor of any airport more than 8 percent of the total amount of apportionments under subsection (a)(2) for any fiscal year.

"(5) TREATMENT OF ALASKA.—

"(A) APPORTIONMENT FORMULA.—Notwithstanding any other provision of subsection (a), for any fiscal year for which funds are made available under section 505 of this title the Secretary may apportion funds for airports in the State of Alaska in the same manner in which funds were apportioned in fiscal year 1980 under section 15(a) of the Airport and Airway Development Act of 1970.

"(B) MINIMUM APPORTIONMENT.—In no event shall the total amount apportioned for such airports under this paragraph for any fiscal year be less than the minimum amounts that were required to be apportioned to such airports in fiscal year 1980 under section 15(a)(3)(A) of such Act.

"(C) HOLD HARMLESS.—In no event shall a primary airport be apportioned less under this paragraph for a fiscal year than it would be apportioned for such fiscal year under subsection (a)(1).

"(D) EXPENDITURES AT COMMERCIAL SERVICE AIRPORTS.—In no event shall the amount of funds apportioned under this paragraph which are expended at any commercial service airport in the State of Alaska during a fiscal year exceed 110 percent of the amount apportioned to such airport for such fiscal year.

"(E) DISCRETIONARY FUNDING.—Nothing in this paragraph shall be construed as prohibiting the Secretary from making additional project grants to airports in the State of Alaska from the discretionary fund established by subsection (c).

"(6) ELIGIBILITY.—

"(A) ALASKA.—Notwithstanding subsection (a)(3)(B), funds apportioned under such subsection for airports in the State of Alaska may be made available by the Secretary for public airports described in section 508(d)(3)(C) in such State.

"(B) PUERTO RICO.—Notwithstanding subsection (a)(3)(B), funds apportioned under such subsection for airports in the Commonwealth of Puerto Rico may be made available by the Secretary for primary airports and airports described in section 508(d)(3) in such Commonwealth.

Grants.

"(c) DISCRETIONARY FUND.—

"(1) ESTABLISHMENT.—Subject to section 508(d) and paragraph (2) of this subsection any amounts—

"(A) which are made available for a fiscal year under section 505,

"(B) which have not been previously apportioned by the Secretary, and

"(C) which are not apportioned under subsections (a) and (b)(5) of this subsection,

shall constitute a discretionary fund to be distributed at the discretion of the Secretary. Such discretionary fund shall be

used for making grants for any of the purposes for which funds are made available under section 505 as the Secretary considers most appropriate for carrying out the purposes of this title.

"(2) LEVEL OF FUNDING FOR PRESERVING AND ENHANCING CAPACITY, SAFETY, AND SECURITY.—Subject to section 508(d) and paragraph (4) of this subsection, not less than 75 percent of the funds in the discretionary fund pursuant to paragraph (1) and distributed by the Secretary under this subsection in a fiscal year beginning after September 30, 1987, shall be used for making grants for any of the following purposes: preserving and enhancing capacity, safety, and security at primary airports and reliever airports and carrying out airport noise compatibility planning and programs at primary airports and reliever airports.

"(3) SELECTION CRITERIA.—In selecting projects for grants described in paragraph (2) for preserving and enhancing capacity at airports, the Secretary shall consider each proposed project's effect on overall national air transportation system capacity, project benefit and cost, and the financial commitment of the airport operator or other non-Federal funding sources to preserve or enhance airport capacity.

"(4) LIMITATION.—If the Secretary determines that the Secretary will not be able to comply with the percentage requirement established by paragraph (2) in any fiscal year because the number of qualified applications submitted in compliance with this title is insufficient to meet such percentages, the portion of funds which the Secretary determines will not be so distributed shall be available for obligation during such fiscal year without regard to such requirement.

"(d) CALENDAR YEAR AS BASIS FOR DETERMINING CERTAIN APPORTIONMENTS.—

"(1) PASSENGERS ENPLANED.—For purposes of determining apportionments for any fiscal year under subsection (a)(1), the number of passengers enplaned at an airport shall be based on the number of passengers enplaned at such airport during the preceding calendar year.

"(2) LANDED WEIGHT.—For purposes of determining apportionments for any fiscal year under subsection (a)(2), the landed weight of aircraft landing at an airport referred to in subsection (a)(2) shall be based on the landed weight of aircraft landing at such airport and all such airports during the preceding calendar year.

"(e) DEFINITIONS.—As used in subsection (a)(3)—

"(1) POPULATION.—The term 'population' means the population according to the latest decennial census of the United States.

"(2) AREA.—The term 'area' includes both land and water.".

(b) CONFORMING AMENDMENTS.—

(1) SECTION 505.—Section 505(a) is amended by striking out "sections 507(a)(1), (2), (3)(A), or" and inserting in lieu thereof "sections 507(a)(1), 507(a)(2), 507(a)(3), 507(c), and". 49 USC app. 2204.

(2) SECTION 508.—Section 508 is amended— 49 USC app. 2207.

(A) in subsection (a) by striking out "paragraph (1), (2), or (4) of section 507(a)" and inserting in lieu thereof "subsection (a) or (b)(5) of section 507";

(B) in subsection (a) by striking out "507(a)(3)" and inserting in lieu thereof "507(c)";

(C) in subsection (c) by striking out "507(a)(2)" each place it appears and inserting in lieu thereof "507(a)(3)";

(D) in subsection (d)(3) by striking out "paragraph (4) of section 507(a)" and inserting in lieu thereof "section 507(b)(5)"; and

(E) in subsection (e)(1) by striking out "507(a)" and inserting in lieu thereof "507(a) or 507(b)(5)".

49 USC app. 2208.

(3) SECTION 509.—Section 509 is amended—

(A) in subsection (a)(2) by striking out "507(a)" and inserting in lieu thereof "507"; and

(B) in subsection (e) by striking out "507(a)(1)" and inserting in lieu thereof "507(a)(1) or 507(a)(2)".

49 USC app. 2211.

(4) SECTION 512.—Section 512(a) is amended by striking out "507(a)(1)" and inserting in lieu thereof "507(a)(1) or 507(a)(2)".

49 USC app. 2212.

(5) SECTION 513.—Section 513(b) is amended—

(A) in paragraph (2) by striking out "507(a)(3)" and inserting in lieu thereof "507(c)"; and

(B) in paragraph (4) by striking out "507(a)" and inserting in lieu thereof "507(a) or 507(b)(5)".

49 USC app. 2204 note.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect October 1, 1987, and apply to fiscal years beginning on and after such date.

49 USC app. 2207.

SEC. 107. LIMITATIONS ON USES OF FUNDS.

(a) NOISE COMPATIBILITY PLANNING AND PROGRAMS.—Section 508(d)(2) is amended by striking out "8 percent" and inserting in lieu thereof "10 percent".

(b) REDUCTION IN SET ASIDE FOR SMALL AIRPORTS.—Section 508(d)(3) is amended by striking out "5.5 percent" each place it appears and inserting in lieu thereof "2.5 percent".

(c) INTEGRATED AIRPORT SYSTEM PLANNING.—Section 508(d)(4) is amended by striking out "one percent" and inserting in lieu thereof "½ of 1 percent".

(d) CONFORMING AMENDMENT.—Section 508(d)(2) is amended—

(1) by striking out "(A)"; and

(2) by striking out ", and (B) in the case of fiscal year 1982, for any of the purposes set forth in section 505(c) of this title".

SEC. 108. STATE SPONSORSHIP.

49 USC app. 2208.

Section 509(a) is amended by adding at the end thereof the following new paragraph:

"(3) STATE SPONSORSHIP.—Nothing in this title shall preclude a State from submitting, as sole sponsor, a project application under this title for an airport development project benefitting 2 or more airports in the State or airport planning for similar projects at 2 or more airports in the State if—

"(A) the sponsors of such airports consent in writing to State sponsorship of such projects or planning;

"(B) the Secretary is satisfied that there is administrative merit and aeronautical benefit to State sponsorship of such projects or planning; and

"(C) an acceptable agreement exists to ensure compliance by the State with appropriate grant conditions and other assurances required by the Secretary.".

SEC. 109. PROJECT SPONSORSHIP.

(a) NONDISCRIMINATION ASSURANCE.—Section 511(a)(1)(A) is amended— 49 USC app. 2210.

(1) by inserting "with respect to facilities directly and substantially related to providing air transportation" after "and other charges";

(2) by striking out "and combined passenger and cargo flights or all cargo flights," and inserting in lieu thereof "and signatory carriers and nonsignatory carriers,";

(3) by inserting "or signatory" after "or status as tenant"; and

(4) by striking out "on tenant air carriers," and inserting in lieu thereof "on air carriers in such classification or status,".

(b) APPROVAL OF NONAERONAUTICAL CLOSING OF AIRPORTS.—Section 511(a)(3) is amended by inserting before the semicolon at the end thereof the following: ", and any proposal to temporarily close the airport for nonaeronautical purposes must first be approved by the Secretary".

(c) TERMINAL AIRSPACE ASSURANCE.—Section 511(a)(4) is amended to read as follows:

"(4) appropriate action will be taken to assure that such terminal airspace as is required to protect instrument and visual operations to the airport (including established minimum flight altitudes) will be adequately cleared and protected by removing, lowering, relocating, marking, or lighting or otherwise mitigating existing airport hazards and by preventing the establishment or creation of future airport hazards;".

(d) REVENUE ASSURANCE.—Section 511(a)(12) is amended to read as follows:

"(12) all revenues generated by the airport, if it is a public airport, and any local taxes on aviation fuel (other than taxes in effect on the date of the enactment of the Airport and Airway Safety and Capacity Expansion Act of 1987) will be expended for the capital or operating costs of the airport, the local airport system, or other local facilities which are owned or operated by the owner or operator of the airport and directly and substantially related to the actual air transportation of passengers or property; except that if covenants or assurances in debt obligations issued before September 3, 1982, by the owner or operator of the airport, or provisions enacted before September 3, 1982, in the governing statutes controlling the owner or operator's financing, provide for the use of the revenues from any of the airport owner or operator's facilities, including the airport, to support not only the airport but also the airport owner or operator's general debt obligations or other facilities, then this limitation on the use of all other revenues generated by the airport (and, in the case of a public airport, local taxes on aviation fuel) shall not apply;". Taxes.

(e) DISPOSAL OF LAND ASSURANCES.—Section 511(a) is amended by striking out paragraph (13) and inserting in lieu thereof the following new paragraphs:

"(13) if the airport operator or owner receives a grant before, on, or after the date of the enactment of this paragraph for the purchase of land for airport noise compatibility purposes—

"(A) the owner or operator will, when the land is no longer needed for such purposes, dispose of such land at fair market value at the earliest practicable time;

"(B) such disposition will be subject to the retention or reservation of any interest or right therein necessary to ensure that such land will only be used for purposes which are compatible with noise levels associated with the operation of the airport; and

"(C) that portion of the proceeds of such disposition which is proportionate to the United States share of the cost of acquisition of such land will, at the discretion of the Secretary—

"(i) be paid to the Secretary for deposit in the Trust Fund; or

"(ii) be reinvested in an approved noise compatibility project as prescribed by the Secretary;

"(14) if the airport operator or owner receives a grant before, on, or after the date of the enactment of this paragraph for the purchase of land for airport purposes (other than noise compatibility purposes)—

"(A) the owner or operator will, when the land is no longer needed for airport purposes, dispose of such land at fair market value;

"(B) such disposition will be subject to the retention or reservation of any interest or right therein necessary to ensure that such land will only be used for purposes which are compatible with noise levels associated with the operation of the airport; and

"(C) that portion of the proceeds of such disposition which is proportionate to the United States share of the cost of acquisition of such land will be paid to the Secretary for deposit in the Trust Fund;".

49 USC app. 2210.

(f) AIRPORT LAYOUT PLAN ASSURANCE.—Section 511(a) is further amended by adding at the end thereof the following new paragraph:

"(15) the airport owner or operator will keep up to date at all times a layout plan of the airport which meets the following requirements:

"(A) the plan will be in a form prescribed by the Secretary;

"(B) before the plan and an amendment, revision, or modification thereof may take effect, the plan, amendment, revision, or modification will be submitted to, and receive approval of, the Secretary;

"(C) the owner or operator will not make or permit any changes or alterations in the airport or in any of its facilities which are not in conformity with the airport layout plan as approved by the Secretary and which might, in the opinion of the Secretary, adversely affect the safety, utility, or efficiency of the airport;

"(D) if a change or alteration in the airport or its facilities is made which the Secretary determines adversely affects the safety, utility, or efficiency of any federally owned, leased, or funded property on or off the airport and which is not in conformity with the airport layout plan as approved by the Secretary, the owner or operator will, if requested by the Secretary—

"(i) eliminate such adverse effect in a manner approved by the Secretary; or

"(ii) bear all costs of relocating such property (or replacement thereof) to a site acceptable to the Sec-

retary and all costs of restoring such property (or replacement thereof) to the level of safety, utility, efficiency, and cost of operation existing before the unapproved change in the airport or its facilities;".

(g) ASSURANCE RELATING TO CONTRACTING FOR ENGINEERING AND DESIGN SERVICES.—Section 511(a) is further amended by adding at the end thereof the following new paragraph:

"(16) each contract or subcontract for program management, construction management, planning studies, feasibility studies, architectural services, preliminary engineering, design, engineering, surveying, mapping, or related services with respect to the project will be awarded in the same manner as a contract for architectural and engineering services is negotiated under title IX of the Federal Property Administrative Services Act of 1949 or an equivalent qualifications-based requirement prescribed for or by the sponsor of the airport; and".

(h) ASSURANCE RELATING TO DISADVANTAGED BUSINESS ENTERPRISES.—Section 511(a) is further amended by adding at the end thereof the following new paragraph:

"(17) the airport owner or operator will take such action as may be necessary to ensure that, to the maximum extent practicable, at least 10 percent of all businesses at the airport which sell food, beverages, printed materials, or other consumer products to the public are small business concerns (as defined by the Secretary by regulation) owned and controlled by socially and economically disadvantaged individuals (as defined under section 505(d)(2)(B))."

(i) USE OF STATE TAXES ON AVIATION FUEL.—Section 511 is further amended by adding at the end thereof the following new subsection:

"(d) USE OF STATE TAXES ON AVIATION FUEL.—Nothing in subsection (a)(12) of this section shall preclude the use of State taxes on aviation fuel to support a State aviation program or preclude use of airport revenue on or off the airport for noise mitigation purposes."

(j) USE OF LAND DISPOSAL FUNDS.—Section 511 is further amended by adding at the end thereof the following new subsection:

"(e) USE OF LAND DISPOSAL FUNDS.—

"(1) AIRPORT NOISE COMPATIBILITY LANDS.—Amounts deposited in the Trust Fund in accordance with subsection (a)(13) of this section shall be available to the Secretary for making grants for airport development and airport planning under section 505(a). Such amounts shall be in addition to amounts made available to the Secretary under section 505 and not subject to the apportionment provisions of sections 507(a) and 507(b)(5).

"(2) OTHER AIRPORT LANDS.—Amounts deposited in the Trust Fund in accordance with subsection (a)(14) of this section—

"(A) shall be available to the Secretary for making grants at the discretion of the Secretary for the purposes described in section 507(c)(2) at primary airports and reliever airports; and

"(B) shall be available to the Secretary for use in accordance with section 507(a)(3) at other airports in the State in which the land disposition occurred under subsection (a)(14).

Such amounts shall be in addition to amounts made available to the Secretary under section 505 and not subject to the apportionment provisions of sections 507(a) and 507(b)(5).".

49 USC app. 2210.

(k) PROCEDURES FOR MODIFYING ASSURANCES.—Section 511 is further amended by adding at the end thereof the following new subsection:

"(f) PROCEDURES FOR MODIFYING ASSURANCES.—If the Secretary proposes to modify any assurance required of a person receiving a grant under this Act and in effect on or after the date of the enactment of this subsection or proposes to require compliance with any additional assurance from such person, the Secretary shall first—

Federal Register, publication.

"(1) publish notice of such proposal in the Federal Register, and

"(2) provide an opportunity for comment on such proposal.".

SEC. 110. GRANT AGREEMENTS.

49 USC app. 2211.

(a) MAXIMUM OBLIGATION OF THE UNITED STATES.—Section 512(b) is amended to read as follows:

"(b) MAXIMUM OBLIGATION OF THE UNITED STATES.—

"(1) GENERAL RULE.—Subject to paragraphs (2) and (3) of this subsection, when an offer is accepted in writing by a sponsor, the amount stated in the offer as the maximum obligation of the United States may not be increased.

"(2) EXCEPTIONS FOR FISCAL YEARS 1987 AND BEFORE.—The maximum obligation of the United States under this subsection with respect to a project receiving assistance under a grant approved under this title on or before September 30, 1987, may be increased—

"(A) by not more than 10 percent in the case of a project for airport development (other than a project for land acquisition); and

"(B) by an amount not to exceed 50 percent of the total increase in allowable project costs attributable to an acquisition of land or interests in land, based upon current credible appraisals.

Any increase under this section may be paid only from funds recovered by the United States from other grants made under this title.

"(3) EXCEPTIONS FOR FISCAL YEARS 1988 AND THEREAFTER.—The maximum obligation of the United States under this subsection with respect to a project receiving assistance under a grant approved under this title or the Aviation Safety and Noise Abatement Act of 1979 after September 30, 1987, may be increased by not more than 15 percent in the case of a project for airport development.".

(b) WORKSCOPE.—Section 512 is amended by adding at the end thereof the following new subsection:

"(d) WORKSCOPE.—The Secretary may amend, with the consent of the grant recipient, a grant agreement entered into under this title to change the workscope of a project funded under such grant if such amendment does not result in any increase in the maximum obligation of the United States authorized under subsection (b) of this section.".

(c) CONFORMING AMENDMENT.—Section 512(c) is amended by inserting "MAXIMUM OBLIGATION FOR GRANTS UNDER THE AIRPORT AND AIRWAY DEVELOPMENT OF 1970.—" before "Notwithstanding".

SEC. 111. PROJECT COSTS.

(a) AUTHORITY TO MODIFY CERTAIN LIMITATIONS ON EXPENDITURES FOR TERMINAL DEVELOPMENT.—

(1) OBLIGATION LIMITATION.—The first sentence of section 513(b)(2) is amended by striking out "Not more" and all that follows through "60 percent" and inserting in lieu thereof "All or any portion". 49 USC app. 2212.

(2) MAXIMUM FEDERAL SHARE.—Section 513(b)(5) is amended by striking out "50 percent" and inserting in lieu thereof "75 percent".

(b) COSTS NOT ALLOWED.—Section 513(c) is amended—

(1) by striking out "or" the first place it appears; and

(2) by inserting before the period at the end thereof the following: "; or (3) the cost of decorative landscaping or the provision or installation of sculpture or art works".

(c) REIMBURSEMENT FOR CERTAIN ADVANCE EXPENDITURES.—Section 513 is amended by adding at the end thereof the following new subsection:

"(d) REIMBURSEMENT FOR CERTAIN ADVANCE EXPENDITURES.—

"(1) LETTERS OF INTENT.—

"(A) ANNOUNCEMENT OF INTENTION.—The Secretary is authorized to announce an intention to obligate for an airport development project (including formulation of the project) at a primary airport or a reliever airport under this subsection through the issuance of a letter of intent to the applicant.

"(B) SCHEDULE OF REIMBURSEMENT.—Subject to the provisions of this paragraph, a letter of intent issued under this paragraph shall establish a schedule under which the Secretary will make payments under paragraph (2) of this subsection to the sponsor of the airport at which the airport development project will be carried out.

"(C) LIMITATION ON PROJECTS ELIGIBLE FOR ADVANCE FUNDING.—The provisions of this subsection only apply to an airport development project—

"(i) regarding which the sponsor notifies the Secretary of the sponsor's intent to carry out such project before commencement of such project;

"(ii) which will be carried out in accordance with all applicable statutory and administrative requirements that would be applicable to the project if the project were being carried out with funds made available under this title; and

"(iii) which the Secretary determines will result in a significant enhancement of system-wide airport capacity and meets the criteria of section 507(c)(3).

Clause (i) shall not apply to a project which is commenced on or after November 20, 1987, and for which a letter of intent is signed under this subsection in the 90-day period beginning on the date of the enactment of this subsection.

"(D) LIMITATION ON EFFECT.—An action under subparagraph (A) shall not be deemed an obligation of the United States Government under section 1501 of title 31, United States Code, and a letter of intent issued under this paragraph shall not be deemed to be an administrative commitment for funding.

"(E) TREATMENT OF LETTER.—A letter of intent under this paragraph shall be regarded as an intention to obligate from future budget authority not to exceed an amount stipulated as the United States share of allowable project costs for the project under this subsection. No obligation or administrative commitment may be made pursuant to such a letter of intent except as funds are provided in authorization and appropriation Acts.

"(F) LIMITATIONS ON AGGREGATE AMOUNT.—The total estimated amount of future Federal obligations covered by all outstanding letters of intent under this paragraph shall not exceed the amount authorized to carry out section 505(a), less an amount reasonably estimated by the Secretary to be necessary for grants under section 505(a) which are not covered by a letter of intent.

"(2) REIMBURSEMENT.—If the Secretary issues under paragraph (1) a letter of intent to obligate funds for an airport development project (including formulation of the project) at a primary airport or reliever airport and if the sponsor of such airport proceeds with such project without the aid of funds under this title, the Secretary shall pay, as funds become available, the sponsor for the United States share of allowable project costs payable on account of such project in accordance with such letter of intent.".

SEC. 112. LIMITATION ON POWERS.

49 USC app. 2218.

Section 519 is amended—

(1) by inserting "(a) GENERAL RULE.—" before "The Secretary"; and

(2) by adding at the end thereof the following new subsection:

"(b) LIMITATIONS.—

"(1) WITHHOLDING OF APPROVAL.—The Secretary may not withhold approval of a grant application for funds apportioned under sections 507(a)(1), 507(a)(2), and 507(b)(5) for a violation of an assurance or other requirement of this title unless—

"(A) the Secretary provides the applicant with an opportunity for a hearing; and

"(B) within 180 days after the date of such application or the date the Secretary first knows of such noncompliance, whichever is later, the Secretary makes a determination that the violation has occurred.

"(2) WITHHOLDING OF PAYMENT.—The Secretary may not withhold a payment under any grant agreement entered into under this title for more than 180 days after the date such payment is due—

"(A) without providing the recipient of such payment with notice and an opportunity for a hearing; and

"(B) without determining that the grant recipient has violated such agreement.

"(3) EXTENSION OF TIME LIMITS.—The time limits established by paragraphs (1) and (2) of this section may be extended—

"(A) by mutual agreement of the Secretary and the grant applicant or recipient, as the case may be; or

"(B) at the discretion of the hearing officer if the hearing officer determines that such extension is necessary as a result of a failure of the applicant or recipient to adhere to the hearing schedule established by such officer.

"(4) JUDICIAL REVIEW.—A person aggrieved by an order of the Secretary withholding (A) approval of a grant application under paragraph (1), and (B) a payment under a grant agreement under paragraph (2), may obtain review of the order by petition to the Court of Appeals for the District of Columbia Circuit or the court of appeals for the circuit in which the project is located. Such petition shall be filed not later than 60 days after the date on which the order is served on the petitioner.".

SEC. 113. PART-TIME OPERATION OF FLIGHT SERVICE STATIONS.

Section 528 is amended to read as follows:

"SEC. 528. PART-TIME OPERATION OF FLIGHT SERVICE STATIONS. 49 USC app. 2224.

"(a) GENERAL RULE.—On or after July 15, 1987, the Secretary shall not close, or reduce the hours of operation of, any flight service station in any area unless the service provided in such area after the closure of such station or during the hours such station is not in operation will be provided by an automated flight service station with model 1 or better equipment.

"(b) RULE FOR CERTAIN CLOSED STATIONS.—As soon as practicable after the date of the enactment of the Airport and Airway Safety and Capacity Expansion Act of 1987, the Secretary shall reopen any flight service station closed between March 25, 1987, and July 14, 1987, if the service provided in the area in which such station is located since the date of such closure has not been provided by an automated flight service station with model 1 or better equipment. The hours of operation for such station shall be the same as the hours of operation of such station on March 25, 1987. After reopening such station, the Secretary may only close or reduce the hours of operation of such station in accordance with subsection (a).".

SEC. 114. EXPLOSIVE DETECTION K-9 TEAMS. 49 USC app. 2225.

Section 529 is amended—

(1) in the first sentence by striking out "shall" and inserting in lieu thereof "may"; and

(2) by striking out the second sentence.

SEC. 115. DENIAL OF FUNDS FOR PROJECTS USING PRODUCTS OR SERVICES OF FOREIGN COUNTRIES THAT DENY FAIR MARKET OPPORTUNITIES.

The Airport and Airway Improvement Act of 1982 is amended by adding at the end thereof the following new section:

"SEC. 533. DENIAL OF FUNDS FOR PROJECTS USING PRODUCTS OR SERVICES OF FOREIGN COUNTRIES THAT DENY FAIR MARKET OPPORTUNITIES. Commerce and trade. 49 USC app. 2226.

"(a) IN GENERAL.—

"(1) PROHIBITION ON FUNDING.—No funds made available under this Act may be used to fund any project which uses any product or service of a foreign country during any period in which such foreign country is listed by the United States Trade Representative under subsection (c).

"(2) LIMITATION ON APPLICABILITY.—Paragraph (1) shall not apply with respect to the use of a product or service in a project if the Secretary determines that—

"(A) the application of paragraph (1) to such product, service, or project would not be in the public interest,

"(B) products of the same class or kind as such product or service are not produced or offered in the United States, or in any foreign country that is not listed under subsection (c), in sufficient and reasonably available quantities and of a satisfactory quality, or

"(C) exclusion of such product or service from the project would increase the cost of the overall project contract by more than 20 percent.

"(b) DETERMINATIONS.—

"(1) DEADLINE.—By no later than the date which is 30 days after the date on which each report is submitted to the Congress under section 181(b) of the Trade Act of 1974 (19 U.S.C. 2241(b)), the United States Trade Representative shall make a determination with respect to each foreign country of whether or not such foreign country—

"(A) denies fair and equitable market opportunities for products and suppliers of the United States in procurement, or

"(B) denies fair and equitable market opportunities for United States bidders,

for construction projects that cost more than $500,000 and are funded (in whole or in part) by the government of such foreign country.

"(2) INFORMATION CONSIDERED.—In making determinations under paragraph (1), the United States Trade Representative shall take into account information obtained in preparing the report submitted under section 181 of the Trade Act of 1974 and such other information as the United States Trade Representative considers to be relevant.

"(c) LISTING OF FOREIGN COUNTRIES.—

"(1) GENERAL RULE.—The United States Trade Representative shall maintain a list of each foreign country with respect to which an affirmative determination is made under subsection (b).

"(2) REMOVAL FROM LIST.—Any foreign country that is added to the list maintained under paragraph (1) shall remain on the list until the United States Trade Representative determines that such foreign country does permit the fair and equitable market opportunities described in subparagraphs (A) and (B) of subsection (b)(1).

Federal Register, publication.

"(3) PUBLICATION.—The United States Trade Representative shall annually publish in the Federal Register the entire list required under paragraph (1) and shall publish in the Federal Register any modifications to such list that are made between annual publications of the entire list.

"(d) SPECIAL RULES.—

"(1) For purposes of this section, each foreign instrumentality, and each territory or possession of a foreign country, that is administered separately for customs purposes shall be treated as a separate foreign country.

"(2) For purposes of this section, any article that is produced or manufactured (in whole or in substantial part) in a foreign country shall be considered to be a product of such foreign country.

"(3) For purposes of this section, any service provided by a person that is a national of a foreign country, or is controlled by

nationals of a foreign country, shall be considered to be a service of such foreign country.".

SEC. 116. STATE BLOCK GRANT PILOT PROGRAM.

The Airport and Airway Improvement Act of 1982 is further amended by adding at the end the following new section:

"SEC. 534. STATE BLOCK GRANT PILOT PROGRAM. 49 USC app. 2227.

"(a) PROMULGATION OF REGULATIONS; EFFECTIVE PERIOD.—Not later than 180 days after the date of the enactment of this section, the Secretary shall promulgate regulations to implement a State block grant pilot program to become effective on October 1, 1989. Such program shall not be effective after September 30, 1991. Termination date.

"(b) ASSUMPTION OF CERTAIN RESPONSIBILITIES.—Such regulations shall provide that the Secretary may designate not more than 3 qualified States to assume administrative responsibility for all airport grant funding available under this title, other than funding which has been designated for use at primary airports.

"(c) SELECTION OF STATE PARTICIPANTS.—The Secretary shall select States for participation in such program on the basis of applications submitted to the Secretary. The Secretary shall select a State only if the Secretary determines that the State—

"(1) has an agency or organization capable of administering effectively any block grant made under this section;

"(2) uses a satisfactory airport system planning process;

"(3) uses a programming process acceptable to the Secretary;

"(4) has agreed to comply with Federal procedural and other standard requirements for administering any such block grant; and

"(5) has agreed to provide the Secretary with such program information as the Secretary may require.

Before determining that any planning process is satisfactory or any programming process is acceptable, the Secretary shall ensure that such process provides for meeting critical safety and security needs and that the programming process ensures that the needs of the national airport system will be addressed in deciding to which projects funds will be provided.

"(d) REVIEW AND REPORT.—The Secretary shall conduct an ongoing review of the program established under this section, and shall, not later than 90 days before its scheduled termination, report to Congress the results of such review, together with recommendations for further action relating to the program.".

TITLE II—FEDERAL AVIATION ACT AMENDMENTS

SEC. 201. AMENDMENT OF FEDERAL AVIATION ACT OF 1958.

Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Federal Aviation Act of 1958 (49 U.S.C. App. 1301-1551).

SEC. 202. ESSENTIAL AIR SERVICE.

(a) FISCAL YEAR 1987.—

49 USC app. 1389.

(1) TRANSFER OF OPERATIONAL AUTHORITY.—Section 419 is amended by adding at the end of subsection (a) the following new paragraph:

"(12) If an air carrier which is providing on or after October 1, 1987, essential air transportation under this subsection between an eligible point and an airport at which the Administrator limits the number of instrument flight rule takeoffs and landings of aircraft provides notice to the Secretary of its intention to suspend, terminate, or reduce such transportation and another air carrier is secured to provide such transportation on a continuing basis, the Secretary shall require the carrier suspending, terminating, or reducing such service to transfer any operational authority which such carrier has to conduct a landing or takeoff at such airport with respect to such service to the carrier secured to provide such service unless the carrier secured to provide such service does not need such authority or such authority is being used to provide air service with respect to more than 1 eligible point.".

(2) TERMINATION DATE.—Section 419(g) is amended by striking out "the last day" and all that follows through the period at the end thereof and inserting in lieu thereof "September 30, 1988.".

49 USC app. 1389 note.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall take effect October 1, 1987.

(b) FISCAL YEARS 1988–1998.—

(1) GENERAL RULES.—Section 419 is amended to read as follows:

"SEC. 419. SMALL COMMUNITY AIR SERVICE.

"(a) ELIGIBLE POINT DEFINED.—For the purposes of this section, the term 'eligible point' means any point in the United States—

"(1) which is defined as an eligible point under this section as in effect before October 1, 1988, and which, at any time in the 12-month period ending on such date, received scheduled air transportation, and

"(2) which the Secretary determines is 45 highway miles or more from the nearest hub airport.

State and local governments.

"(b) BASIC ESSENTIAL AIR SERVICE.—

"(1) LEVEL OF SERVICE.—

"(A) DETERMINATION FOR ESSENTIAL AIR SERVICE POINTS.—With respect to each eligible point for which a determination of what constitutes essential air transportation was made under this section before October 1, 1988, the Secretary shall determine what is basic essential air service for such point. Such determination shall be made no later than the last day of the 1-year period beginning on the date of the enactment of the Airport and Airway Safety and Capacity Expansion Act of 1987 and only after consideration of the views of any interested community and the State agency of the State in which such community is located.

"(B) DETERMINATION FOR OTHER POINTS.—With respect to each eligible point for which a determination of what constitutes essential air transportation was not made before October 1, 1988, the Secretary shall determine what is basic essential air service to such point if the Secretary receives notice that service to such point will be provided by only 1 air carrier. Such determination shall be made no later than the last day of the 6-month period beginning on the date on which the Secretary receives such notice and only after the

Secretary considers the views of any interested community and the State agency of the State in which such community is located. The Secretary may impose such notice requirements as may be necessary to implement this subparagraph.

"(C) CONTINUATION OF REQUIREMENT; TRANSITION PROVISIONS.—An air carrier required to provide essential air transportation before October 1, 1988, to an eligible point shall be required to continue to provide such transportation to such point after such date and the level of such transportation shall be deemed to be basic essential air service for purposes of this subsection until a determination is made under subparagraph (A) with respect to such point. The rate of compensation in effect for essential air transportation before such date shall continue in effect until a new rate is determined in accordance with the guidelines under subsection (f) of this section.

"(D) REVIEW.—The Secretary shall periodically review the basic essential air service level for each eligible point, and may, based upon such review and consultations with the interested community and the State agency of the State in which such community is located, make appropriate adjustments to the basic essential air service level.

"(2) NOTICE REQUIRED BEFORE TERMINATION, SUSPENSION, OR REDUCTION IN SERVICE.—An air carrier may not terminate, suspend, or reduce air transportation to any eligible point below the level of basic essential air service established under paragraph (1) unless such air carrier has given the Secretary, the appropriate State agency or agencies, and the communities affected at least 90 days notice before such termination, suspension, or reduction.

"(3) DETERMINATION OF NEED FOR COMPENSATION.—

"(A) SELECTION OF CARRIER.—Whenever the Secretary determines that basic essential air service will not be provided to an eligible point without compensation, the Secretary shall provide notice that applications may be submitted by any air carrier that is willing to provide such service to such point for compensation under this subsection. In selecting an applicant to provide basic essential air service to a point for compensation the Secretary shall, among other factors, consider—

"(i) the applicant's demonstrated reliability in providing scheduled air service;

"(ii) the contractual and marketing arrangements that the applicant has made with a larger air carrier to assure service beyond the hub airport;

"(iii) the interline arrangements which the applicant has made with a larger air carrier which allow passengers and cargo of the applicant at the hub airport to be transported by such large carrier through one reservation, one ticket, and one baggage check-in;

"(iv) the preferences of the actual and potential users of air transportation at the eligible point, giving substantial weight to the views of elected officials representing such users; and

"(v) with respect to any eligible point in the State of Alaska, the experience of an applicant in providing Alaska.

scheduled air service, or significant patterns of non-scheduled air service pursuant to an exemption granted pursuant to section 416 of this title, in Alaska.

"(B) RATE OF COMPENSATION.—The Secretary shall establish, in accordance with the guidelines promulgated under subsection (f), the rate of compensation to be paid for providing basic essential air service under this subsection.

"(4) PAYMENT OF COMPENSATION.—The Secretary shall make payments of compensation under this subsection at times and in a manner determined by the Secretary to be appropriate. The Secretary shall continue to pay compensation to any air carrier to provide basic essential air service to an eligible point only for so long as the Secretary determines it is necessary in order to maintain basic essential air service to such point.

"(5) REQUIREMENT TO CONTINUE SERVICE.—If an air carrier has provided notice to the Secretary under paragraph (2) of such air carrier's intention to suspend, terminate, or reduce service to any eligible point below the level of basic essential air service to such point, and if at the conclusion of the applicable period of notice the Secretary has not been able to find another air carrier to provide basic essential air service to such point, the Secretary shall require the carrier which provided such notice to continue such service to such point for an additional 30-day period, or until another air carrier has begun to provide basic essential air service to such point, whichever first occurs. If at the end of such 30-day period the Secretary determines that no other air carrier can be secured to provide basic essential air service to such eligible point on a continuing basis, either with or without compensation, then the Secretary shall extend such requirement for such additional 30-day periods (making the same determination at the end of each such period) as may be necessary to continue basic essential air service to such eligible point until an air carrier can be secured to provide basic essential air service to such eligible point on a continuing basis.

"(6) COMPENSATION FOR CONTINUED SERVICE.—

"(A) CARRIERS RECEIVING COMPENSATION.—If an air carrier (i) which is providing air transportation to any eligible point, and (ii) which is receiving compensation under this subsection for providing such transportation, is required by the Secretary to continue service to such point beyond the date on which such carrier would, but for paragraph (5), be able to suspend, terminate, or reduce such service below the level of basic essential air service to such point, then after such date such carrier shall continue to receive such compensation until the Secretary secures another air carrier to provide basic essential air service to such point or the 90th day following such date, whichever is earlier. If, after such 90th day, the Secretary has not secured another air carrier to provide such service, the carrier required to continue to provide such service shall receive compensation in an amount sufficient—

"(i) to cover the carrier's fully allocated actual cost of performing the basic essential air service that was being provided at the time the 90-day notice of termination, suspension, or reduction of service is given to the Secretary under paragraph (2) plus a fair and

reasonable return on investment which shall not be less than 5 percent of operating costs; and

"(ii) to provide the carrier an additional return which recognizes the demonstrated additional lost profits from opportunities foregone and the likelihood that such lost profits increase as the duration of the required basic essential air service increases.

"(B) CARRIERS NOT RECEIVING COMPENSATION.—If the Secretary requires an air carrier which is providing air transportation to an eligible point without compensation pursuant to paragraph (4) to continue to provide basic essential air service to such point beyond the 90-day notice period after which, but for paragraph (5) of this subsection, such air carrier would be able to suspend, terminate, or reduce service to such point below basic essential air service for such point, then the Secretary shall compensate such air carrier in an amount sufficient—

"(i) to cover the carrier's fully allocated actual cost of performing the basic essential air service that was being provided at the time the 90-day notice of termination, suspension, or reduction of service is given to the Secretary under paragraph (2) plus a fair and reasonable return on investment which shall not be less than 5 percent of operating costs; and

"(ii) to provide the carrier an additional return which recognizes the demonstrated additional lost profits from opportunities foregone and the likelihood that such lost profits increase as the duration of the required basic essential air service increases.

"(7) TRANSFER OF OPERATIONAL AUTHORITY AT CERTAIN HIGH-DENSITY AIRPORTS.—If an air carrier which is providing basic essential air service under this subsection between an eligible point and an airport at which the Administrator limits the number of instrument flight rule takeoffs and landings of aircraft provides notice to the Secretary of its intention to suspend, terminate, or reduce such service and another air carrier is secured to provide such service on a continuing basis, the Secretary shall require the carrier suspending, terminating, or reducing such service to transfer any operational authority which such carrier has to conduct a landing or takeoff at such airport with respect to such service to the carrier secured to provide such service unless the carrier secured to provide such service does not need such authority or such authority is being used to provide air service with respect to more than 1 eligible point.

"(8) EFFORT TO SECURE CARRIERS.—During any period for which the Secretary requires an air carrier to continue providing air transportation to an eligible point which such air carrier has proposed to terminate, reduce, or suspend, the Secretary shall continue to make every effort to secure an air carrier to provide at least basic essential air service to such eligible point, on a continuing basis.

"(9) PROHIBITION ON CERTAIN REDUCTIONS IN SERVICE.—Unless the Secretary has determined what is basic essential air service for any eligible point pursuant to paragraph (1) of this subsection, the Secretary shall, upon petition of any appropriate representative of such point prohibit any termination, suspen-

sion, or reduction of air transportation which reasonably appears to deprive such point of basic essential air service, until the Secretary has completed such determination.

State and local governments. Contracts.

"(c) ENHANCED ESSENTIAL AIR SERVICE.—

"(1) PROPOSAL.—

"(A) SUBMISSION.—A State or local government may submit a proposal to the Secretary for enhanced essential air service to an eligible point with respect to which basic essential air service is being provided under subsection (b).

"(B) CONTENTS.—A proposal submitted under this subsection shall specify the level and type of enhanced essential air service which the State or local government considers appropriate. Such proposal shall also include an agreement relating to compensation required for the proposed enhanced essential air service. Such agreement shall be subject to the requirements of subparagraph (C).

"(C) COMPENSATION AGREEMENT.—The agreement relating to compensation included in the proposal submitted by a State or local government under this subsection shall either—

"(i) provide for the State or local government or any person to pay 50 percent of the compensation required for the proposed enhanced essential air service and for the Federal share of such compensation to be 50 percent; or

"(ii) provide for the Federal share for such compensation to be 100 percent and provide that, if the proposed service is not successful in terms of the criteria established under paragraph (3)(C) for not less than a 2-year period, the eligible point shall not be eligible for air service for which compensation is payable by the Secretary under this section.

"(2) ESTABLISHMENT OF SERVICE.—Not later than 90 days after receiving a proposal under paragraph (1), the Secretary shall issue a decision on the proposal. The Secretary shall approve such proposal unless the Secretary determines that such proposal is not reasonable. If the Secretary determines that such proposal is not reasonable, the Secretary shall disapprove such proposal and notify the State or local government submitting such proposal of such disapproval and the reasons therefor.

"(3) REVIEW.—

"(A) PROPOSALS FOR 50 PERCENT FEDERAL SHARE.—If the enhanced essential air service approved under this subsection is to be at a 50 percent Federal share, the Secretary shall periodically review the level and type of such service to an eligible point and may, based upon such review and consultations with the community and the government or person paying the non-Federal share, make appropriate adjustments to the level and type of enhanced essential air service to such point.

"(B) PROPOSALS FOR 100 PERCENT FEDERAL SHARE.—If the enhanced essential air service approved under this subsection is to be at a 100 percent Federal share, the Secretary shall periodically review air service provided to an eligible point under this subsection. If the Secretary finds, after consultation with the State or local government which submitted the proposal, that such service has not been

successful in terms of the criteria established under subparagraph (C) for not less than a 2-year period, such eligible point shall not be eligible for air service for which compensation is payable by the Secretary under this section.

"(C) CRITERIA OF SUCCESS.—The Secretary shall establish, by regulation, objective criteria for determining whether or not enhanced essential air service to an eligible point provided under this subsection is successful in terms of increasing passenger usage of the airport facilities at such point and reducing the amount of compensation provided by the Secretary under this subsection for such service. Regulations.

"(4) NOTICE BEFORE TERMINATION, SUSPENSION, OR REDUCTION OF SERVICE.—An air carrier may not terminate, suspend, or reduce air transportation to an eligible point for which a determination of enhanced essential air service has been made below the level of such service approved by the Secretary under this subsection unless such carrier has given the Secretary, the community affected, and the government or person paying the non-Federal share at least 30 days' notice before such termination, suspension, or reduction. Nothing in this paragraph relieves an air carrier of its obligations under subsection (b).

"(5) PAYMENT OF COMPENSATION.—The Secretary shall make payments of compensation under this subsection at times and in a manner determined by the Secretary to be appropriate. The Secretary shall continue to pay the compensation to an air carrier to provide enhanced essential air service to an eligible point only for so long as such carrier maintains the level of enhanced essential air service and the government or person agreeing to pay any non-Federal share continues to pay such share and only for so long as the Secretary determines it is necessary in order to maintain such service to such point.

"(6) PAYMENT OF NON-FEDERAL SHARE.—The Secretary may require appropriate payment in advance or such other security to assure that non-Federal payments for enhanced essential air service under this subsection are made on a timely basis.

"(7) COMPENSATION FOR ENHANCED ESSENTIAL AIR SERVICE DEFINED.—For purposes of this subsection, compensation for enhanced essential air service to an eligible point covers only those costs incurred for providing air service to such point which are in addition to the costs incurred for providing basic essential air service to such point under this section.

"(d) COMPENSATION FOR SERVICE TO OTHER SMALL COMMUNITIES.— State and local governments.

"(1) PROPOSAL.—A State or local government may make a proposal to the Secretary for compensated air transportation in accordance with this subsection to a point that is not an eligible point under this section.

"(2) DETERMINATION OF ELIGIBILITY.—

"(A) DESIGNATION OF POINTS.—Not later than 90 days after the submission of a proposal under this subsection, the Secretary—

"(i) shall determine whether or not to designate the point for which such proposal is made as eligible to receive compensation under this subsection; and

"(ii) shall approve or disapprove such proposal and notify the State or local government submitting such proposal of such decision.

The Secretary shall approve such proposal if the State or local government submitting the proposal or any other person is willing and able to pay 50 percent of the cost of providing the proposed compensated air transportation; except that the Secretary shall disapprove such proposal if the Secretary determines that such proposal is not reasonable. In the case of disapproval of a proposal, the notification of such disapproval must include the reasons for such disapproval.

"(B) SMALL COMMUNITY SERVICE.—Notwithstanding subparagraph (A)(ii), the Secretary shall approve a proposal submitted under this subsection for compensated air transportation to a point in the 48 contiguous States and designate such point as eligible for compensation under this subsection—

"(i) if, at any time before October 23, 1978, the point was served by an air carrier that held a certificate issued under section 401;

"(ii) if the point is more than 50 miles from the nearest small hub airport or an eligible point;

"(iii) if the point is more than 150 miles from the nearest hub airport; and

"(iv) if the State or local government submitting the proposal or any other person is willing and able to pay 25 percent of the cost of providing the proposed compensated air transportation.

"(C) CRITERIA FOR DETERMINING REASONABLENESS.—In determining whether or not a proposal submitted under this subsection is reasonable, the Secretary shall consider, among other factors, the traffic generating potential of the point, the cost to the Federal Government of providing the proposed service, and the distance of the point from the closest hub airport.

"(D) WITHDRAWAL OF DESIGNATION.—After notice and an opportunity for any interested person to comment, the Secretary may withdraw the designation of a point under subparagraph (A) as eligible to receive compensation under this subsection if the point has received air service under this subsection for at least 2 years and the Secretary determines that withdrawal of that designation would be in the public interest. The Secretary shall establish, by regulation, standards for determining whether or not withdrawal of a designation under this paragraph is in the public interest. Such standards shall include, but not be limited to, the factors set forth in subparagraph (C).

Regulations.

"(3) LEVEL OF SERVICE.—

"(A) INITIAL DETERMINATION.—If the Secretary designates a point under paragraph (2), the Secretary shall determine the level of service to be provided under this subsection. The Secretary shall determine such level after considering the views of any interested community, the State agency of the State in which the point is located, and the government or person agreeing to pay the non-Federal share of the cost of the proposed service. The Secretary shall determine such level not later than 6 months after the date on which the Secretary designates such point under paragraph (2).

"(B) REVIEW.—The Secretary shall periodically review the level of air service provided under this subsection and may, based upon such review and consultation with any interested community, any State agency of the State in which the community is located, and any government or person providing the non-Federal share of the compensation for the service, make appropriate adjustments in the level of service.

"(4) SELECTION OF CARRIER.—After making the determinations required by paragraph (3) with respect to a designated point, the Secretary shall provide notice that applications may be submitted by any air carrier that is willing to provide the level of air service determined under paragraph (3) with respect to such point. In selecting an applicant to provide such service the Secretary shall, among other factors, consider the factors set forth in subsection (b)(3)(A) and shall also consider the views of the government or person paying the non-Federal share of the cost of the service.

"(5) NON-FEDERAL SHARE.—Except as provided in paragraph (2)(B), the non-Federal share for compensation required for providing air service under this subsection shall be 50 percent.

"(6) NOTICE BEFORE TERMINATION, SUSPENSION, OR REDUCTION OF SERVICE.—An air carrier may not terminate, suspend, or reduce air transportation to an eligible point for which compensation is paid under this subsection below the level of such service established by the Secretary under paragraph (3) unless such carrier has given the Secretary, the community affected, and the government or person paying the non-Federal share at least 30 days' notice before such termination, suspension, or reduction.

"(7) PAYMENT OF COMPENSATION.—The Secretary shall make payments of compensation under this subsection at times and in a manner determined by the Secretary to be appropriate. The Secretary shall continue to pay compensation to an air carrier to provide service to a point designated under this subsection only for so long as such carrier maintains such service and the government or person agreeing to pay the non-Federal share continues to pay such share and only for so long as the Secretary determines it is necessary in order to maintain such service to such point.

"(8) PAYMENT OF NON-FEDERAL SHARE.—The Secretary may require appropriate payment in advance or such other security to assure that the non-Federal payments for air service under this subsection are timely made.

"(e) FITNESS.—

"(1) GENERAL RULE.—Notwithstanding section 416(b) of this title, the Secretary shall prohibit any air carrier from providing service to an eligible point and from providing service to a point designated under subsection (d), unless the Secretary determines that such air carrier—

"(A) is fit, willing, and able to perform such service; and

"(B) that all aircraft which will be used to perform such service and all operations relating to such service will conform to the safety standards established by the Administrator.

"(2) LIMITATION ON COMPENSATION.—The Secretary may not pay compensation to any air carrier for providing air service

under this section unless the Secretary finds that such carrier is able to provide the air service in a reliable manner.

"(f) GUIDELINES FOR COMPENSATION.—The Secretary shall establish guidelines to be used in computing the fair and reasonable amount of compensation required to ensure the continuation of air service under this section. Such guidelines shall provide for a reduction in compensation in any case in which an air carrier fails to perform any agreed upon air service. Such guidelines shall take into account amounts needed by air carriers to promote public use of the service for which compensation is to be made and shall include expense elements based upon representative costs of air carriers providing scheduled air transportation of persons, property, and mail, using aircraft of the type determined by the Secretary to be appropriate for providing such service. Amounts needed for promotion of such service shall be a special, segregated element of the required compensation.

"(g) DEADLINE FOR PAYMENT OF COMPENSATION.—Not later than 15 days after receiving a written claim for compensation from an air carrier for providing air service under this section, the Secretary shall pay the Federal share of such claim or deny payment of the Federal share of such claim and notify the carrier of such denial and the reasons therefor.

"(h) INSURANCE.—An air carrier shall not receive compensation under this section unless such air carrier complies with regulations or orders issued by the Secretary governing the filing and approval of policies of insurance or plans for self-insurance in the amount prescribed by the Secretary which are conditioned to pay, within the amount of such insurance, amounts for which such air carrier may become liable for bodily injuries to or the death of any person, or for loss of or damage to property of others, resulting from the operation or maintenance of aircraft.

"(i) CARRIER OBLIGATIONS.—If 2 or more air carriers enter into an agreement to operate under or use a single air carrier designator code to provide air transportation, the air carrier whose code is being used under such agreement shall share responsibility with the other carriers for the quality of service provided under such code to the public by such other carriers.

"(j) ENCOURAGEMENT OF JOINT AIR SERVICE PROPOSALS.—The Secretary shall encourage the submission of joint proposals by 2 or more air carriers for providing air service under this section through arrangements which will maximize service to and from major destinations beyond the hub.

"(k) DEFINITIONS.—For purposes of this section—

"(1) BASIC ESSENTIAL AIR SERVICE.—The term 'basic essential air service' means scheduled air transportation of persons and cargo to a hub airport (or, in any case in which the nearest hub airport is more than 400 miles and in the case of Alaska, to a small hub or nonhub airport) which has convenient connecting or single-plane air service to a substantial number of destinations beyond such airport. Such transportation shall include, at least, the following elements:

"(A)(i) with respect to a point not in the State of Alaska, 2 daily round trips 6 days per week, with not more than 1 intermediate stop on each flight; or

"(ii) with respect to a point in the State of Alaska, a level of service that is not less than that which existed in calendar year 1976, or 2 round trips per week, whichever is

greater, unless otherwise specified under an agreement between the Secretary and the State agency of the State of Alaska, after consultation with the community affected;

"(B) flights at reasonable times taking into account the needs of passengers with connecting flights at such airport and at rates, fares, and charges which are not excessive when compared to the generally prevailing fares of other air carriers for like service between similar pairs of points;

"(C) with respect to a point not in the State of Alaska, service provided in an aircraft with an effective capacity of at least 15 passengers if the average daily enplanements at such point in any calendar year beginning after December 31, 1975, and ending on or before December 31, 1986, exceeded 11 passengers unless—

"(i) requiring such service would require the payment of compensation in a fiscal year under subsection (b)(4) or (b)(6) with respect to such point when no compensation under such subsection would otherwise be paid with respect to such point in such fiscal year; or

"(ii) the community concerned agrees in writing with the Secretary to the use of smaller aircraft to provide service to such point;

"(D) service which accommodates the estimated passenger and cargo traffic at an average load factor of not greater than—

"(i) 50 percent, or

"(ii) in any case in which such service is being provided with aircraft with 15 passenger seats or more, 60 percent,

for each class of traffic taking into account seasonal demands for such service;

"(E) service provided in an aircraft with at least 2 engines and using 2 pilots, unless scheduled air transportation in aircraft with at least 2 engines and using 2 pilots has not been provided with respect to the point on each of 60 consecutive operating days at any time since October 31, 1978; and

"(F) in the case of service which regularly exceeds 8,000 feet in altitude, service provided with pressurized aircraft.

"(2) ENHANCED ESSENTIAL AIR SERVICE.—The term 'enhanced essential air service' means scheduled air transportation to an eligible point of a higher level or quality than basic essential air service.

"(3) HUB AIRPORT.—The term 'hub airport' means an airport that annually has 0.25 percent or more of the total annual enplanements in the United States.

"(4) NONHUB AIRPORT.—The term 'nonhub airport' means an airport that annually has less than 0.05 percent of the total annual enplanements in the United States.

"(5) SMALL HUB AIRPORT.—The term 'small hub airport' means an airport that annually has 0.05 percent or more, but less than 0.25 percent, of the total annual enplanements in the United States.

"(l) DURATION OF PROGRAM.—This section shall not be in effect after September 30, 1998.". Termination date.

(2) CONFORMING AMENDMENT.—The table of contents contained in the first section of the Federal Aviation Act of 1958 is

amended by striking out the item relating to section 419 and inserting in lieu thereof the following:

"Sec. 419. Small community air service.
"(a) Eligible point defined.
"(b) Basic essential air service.
"(c) Enhanced essential air service.
"(d) Compensation for service to other small communities.
"(e) Fitness.
"(f) Guidelines for compensation.
"(g) Deadline for payment of compensation.
"(h) Insurance.
"(i) Carrier obligations.
"(j) Encouragement of joint air service proposals.
"(k) Definitions.
"(l) Duration of program.".

49 USC app. 1389 note.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall take effect October 1, 1988.

49 USC app. 1421 note.

SEC. 203. AIRCRAFT COLLISION AVOIDANCE SYSTEMS.

(a) FINDINGS.—Congress finds that—

(1) the number of near midair collisions is an indication that additional measures must be taken to assure the highest level of air safety in the United States;

(2) public health and safety requirements necessitate the timely completion and installation of a collision avoidance system for use by commercial aircraft flying in the United States;

(3) the Traffic Alert and Collision Avoidance System promises to reduce the threat to life caused by midair collisions, particularly collisions between general aviation aircraft and commercial aircraft;

(4) the Traffic Alert and Collision Avoidance System will succeed only to the degree that other aircraft posing a collision threat use operating transponders with automatic altitude reporting capability; and

(5) the Federal Aviation Administration should continue at a deliberate pace the development of additional technologies, including the collision avoidance system known as TCAS–III, to ensure the safe separation of aircraft.

49 USC app. 1421.

(b) GENERAL RULES.—Section 601 is amended by adding at the end the following new subsection:

"(f) COLLISION AVOIDANCE SYSTEMS.—

"(1) DEVELOPMENT AND CERTIFICATION.—

"(A) STANDARDS.—The Administrator shall complete development of the collision avoidance system known as TCAS–II so that such system will be operable under visual and instrument flight rules and will be upgradable to the performance standards applicable to the collision avoidance system known as TCAS–III.

"(B) SCHEDULE.—The Administrator shall develop and implement a schedule for development and certification of the collision avoidance system known as TCAS–II which will result in completion of such certification not later than 18 months after the date of the enactment of this subsection.

"(C) MONTHLY REPORTS.—The Administrator shall transmit to Congress monthly reports on the progress being

made in development and certification of the collision avoidance system known as TCAS–II.

"(2) INSTALLATION.—The Administrator shall require by regulation that, not later than 30 months after the date of certification of the collision avoidance system known as TCAS–II, such system be installed and operated on each civil aircraft which has a maximum passenger capacity of more than 30 seats and which is used to provide air transportation of passengers, including intrastate air transportation of passengers. Regulations.

"(3) TRANSPONDERS.—Not later than 6 months after the date of the enactment of this subsection, the Administrator shall promulgate a final rule requiring the installation and use of operating transponders with automatic altitude reporting capability for aircraft operating in designated terminal airspace where radar service is provided for separation of aircraft. For such terminal airspace, other than Terminal Control Areas and Airport Radar Service Areas, the Administrator may provide for access to such airspace by nonequipped aircraft if the Administrator determines that such access will not interfere with the normal traffic flow. Such final rule shall require the installation and use of such transponders not later than 36 months after the date of the enactment of this subsection.". Regulations.

(c) CONFORMING AMENDMENT.—That portion of table of contents contained in the first section of the Federal Aviation Act of 1958 which appears under the heading

"Sec. 601. General safety powers and duties."

is amended by adding at the end the following:

"(f) Collision avoidance systems.".

(d) COMPLETION OF RESEARCH AND DEVELOPMENT.—

(1) GENERAL RULE.—The Administrator shall complete the research and the development on, and the certification of, the collision avoidance system known as TCAS–III as soon as possible. 49 USC app. 1421 note.

(2) AUTHORIZATION OF APPROPRIATION.—There are authorized to be appropriated such sums as may be necessary from the Airport and Airway Trust Fund to carry out this subsection.

SEC. 204. CIVIL PENALTIES.

(a) FOR HAZARDS TO COMMERCE.—Section 901(a)(1)(A) is amended by striking out "1114," and inserting in lieu thereof "1101 or 1114,". 49 USC app. 1471.

(b) INCREASED PENALTY FOR AIR CARRIERS.—The first sentence of section 901(a)(1) is amended by inserting after "$1,000 for each such violation," the following: "except that a person who operates aircraft for the carriage of persons or property for compensation or hire (other than an airman serving in the capacity of an airman) shall be subject to a civil penalty not to exceed $10,000 for each violation of title III, VI, or XII of this Act, or any rule, regulation, or order issued thereunder, occurring after the date of the enactment of the Airport and Airway Safety and Capacity Expansion Act of 1987, and".

(c) CLARIFICATION OF DETERMINATION OF PENALTY.—The second sentence of section 901(a)(1) is amended by inserting ", or each flight with respect to which such violation is committed, if applicable," after "each day of such violation".

(d) COMPROMISE.—Section 901(a)(2) is amended by inserting ", or of section 1101, 1114, or 1115(e)(2)(B)," after "XII".

49 USC app. 1472.

(e) PENALTY FOR INTERFERENCE WITH AIRCRAFT ACCIDENT INVESTIGATIONS.—Section 902(p) is amended by striking out "shall be subject to a fine of no less than $100 nor more than $5,000, or imprisonment for not more than one year, or both" and inserting in lieu thereof "shall be fined in accordance with title 18, United States Code, or imprisoned not more than 10 years, or both".

(f) SECURED AREAS OF AIRPORTS.—Section 902 is amended—

(1) in subsection (o) by inserting "and subsection (r)" after "inclusive,"; and

(2) by adding at the end thereof the following new subsection:

"(r) SECURED AREAS OF AIRPORTS.—

"(1) VIOLATION.—It shall be unlawful for any person to knowingly and willfully enter an aircraft or an airport area that serves air carriers or foreign air carriers contrary to security requirements established pursuant to section 315 or 316 of this Act.

"(2) GENERAL PENALTY.—Upon conviction of a violation of paragraph (1), a person shall be subject to imprisonment for a term not to exceed 1 year or a fine not to exceed $1,000, or both.

"(3) PENALTY FOR VIOLATIONS IN CONNECTION WITH FELONIES.—If any person violates paragraph (1) of this subsection with the intent to commit in the aircraft or secured area an act punishable as a felony under Federal or State law, such person shall be subject to imprisonment for a term not to exceed 10 years or a fine not to exceed $10,000, or both.".

(g) DEMONSTRATION PROGRAM.—Title IX is amended by adding at the end thereof the following new section:

49 USC app. 1475.

"SEC. 905. CIVIL PENALTY ASSESSMENT DEMONSTRATION PROGRAM.

"(a) CIVIL PENALTY.—The Administrator, or his delegate, may assess a civil penalty for a violation arising under this Act or a rule, regulation, or order issued thereunder, upon written notice and finding of violation by the Administrator.

"(b) NO REEXAMINATION OF LIABILITY OR AMOUNT.—In the case of a civil penalty assessed by the Administrator in accordance with this section, the issue of liability or amount of civil penalty shall not be reexamined in any subsequent suit for collection of such civil penalty.

"(c) CONTINUING JURISDICTION OF DISTRICT COURTS.—Notwithstanding subsection (a) of this section, the United States district courts shall have exclusive jurisdiction of any civil penalty action initiated by the Administrator (1) which involves an amount in controversy in excess of $50,000; (2) which is an in rem action or in which an in rem action based on the same violation has been brought; (3) regarding which an aircraft subject to lien has been seized by the United States; and (4) in which a suit for injunctive relief based on the violation giving rise to the civil penalty has also been brought.

"(d) LIMITATIONS.—

"(1) HEARING.—A civil penalty may be assessed under this section only after notice and opportunity for a hearing on the record in accordance with section 554 of title 5, United States Code.

"(2) VIOLATIONS.—This section only applies to civil penalties initiated by the Administrator after the date of the enactment of this section.

"(3) MAXIMUM AMOUNT.—The maximum amount of a civil penalty which may be assessed under this section in any case may not exceed $50,000.

"(4) EFFECTIVE PERIOD.—The provisions of this section shall only be in effect for the 2-year period beginning on the date of the enactment of this section.".

(h) CONFORMING AMENDMENTS.—That portion of the table of contents contained in section 1 of the Federal Aviation Act of 1958 relating to title IX of the Federal Aviation Act of 1958 is amended—

(1) by inserting

"(r) Secured areas of airports."

after

"(q) Transporting controlled substances without airman certificate."; and

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

"Sec. 905. Civil penalty assessment demonstration program.".

(i) EFFECTIVENESS REVIEWED.— 49 USC app. 1475 note.

(1) STUDY.—The Administrator shall conduct a study on the effectiveness of the amendments made by this section to the Federal Aviation Act of 1958.

(2) REPORT.—Not later than 18 months after the date of enactment of this section, the Administrator shall transmit to Congress a report on the results of the study conducted under this subsection. The report shall include (A) the Administrator's views concerning the effectiveness of civil penalty levels established by the amendments made by this section and whether additional changes to the civil penalty program conducted under title IX of such Act are necessary to provide an adequate safety deterrence; and (B) the Administrator's recommendation as to the effectiveness of the civil penalty assessment demonstration program authorized by section 905 of the Federal Aviation Act of 1958 and whether it should be continued.

SEC. 205. INDEMNIFICATION OF FEDERAL AVIATION ADMINISTRATION EMPLOYEES.

Section 313 is amended by adding at the end thereof the following new subsection: 49 USC app. 1354.

"(e) INDEMNIFICATION.—The Administrator is empowered to indemnify any officer or employee of the Federal Aviation Administration against any claim or judgment against such person if such claim or judgment arises out of an act or acts committed, as determined by the Administrator, within the scope of such person's official duties. The Administrator may issue such regulations as may be necessary to implement this subsection.".

SEC. 206. HAZARDS TO SAFE AND EFFICIENT AIR COMMERCE AND THE PRESERVATION OF NAVIGABLE AIRSPACE AND AIRPORT TRAFFIC CAPACITY.

Section 1101 is amended to read as follows: 49 USC app. 1501.

"SEC. 1101. HAZARDS TO SAFE AND EFFICIENT AIR COMMERCE AND THE PRESERVATION OF NAVIGABLE AIRSPACE AND AIRPORT TRAFFIC CAPACITY.

"(a) NOTICE OF CONSTRUCTION.—The Secretary of Transportation (hereinafter in this section referred to as the 'Secretary') shall, by rules and regulations, or by order where necessary, require all persons to give adequate public notice, in the form and manner Regulations.

prescribed by the Secretary, of the construction or alteration, or of the proposed construction or alteration, of any structure where notice will promote safety in air commerce as well as the efficient use and preservation of the navigable airspace and of airport traffic capacity at public-use airports.

"(b) AERONAUTICAL STUDIES.—

"(1) REQUIREMENT.—Where the Secretary determines, according to rules and regulations, that the construction or alteration of any structure may constitute an obstruction of navigable airspace or an interference with air navigation facilities and equipment or navigable airspace, the Secretary shall conduct an aeronautical study to determine the extent of the adverse impact, if any, on the safe and efficient use of such airspace, facilities, or equipment.

"(2) FACTORS TO CONSIDER.—When conducting an aeronautical study under this subsection to determine the impact of the construction or alteration of a structure, the Secretary shall thoroughly consider, according to rules and regulations, all factors relevant to the efficient and effective use of the navigable airspace, and shall consider the following:

"(A) The impact on arrival, departure, and en route procedures for aircraft operating under visual flight rules.

"(B) The impact on arrival, departure, and en route procedures for aircraft operating under instrument flight rules.

"(C) The impact on all existing public-use airports and aeronautical facilities.

"(D) The impact on all planned public-use airports and aeronautical facilities.

"(E) The cumulative impact resulting from the proposed construction or alteration of a structure when combined with the impact of other existing or proposed structures.

"(3) REPORT.—Upon completion of an aeronautical study under this subsection, the Secretary shall issue a report fully disclosing the extent of the adverse impact on the safe and efficient use of the navigable airspace which the Secretary determines will result from the construction or alteration of a structure.

Communications and telecommunications.

"(c) COORDINATION.—In the administration of laws relating to broadcast applications and the conduct of aeronautical studies relating to broadcast towers, the Federal Communications Commission and the Federal Aviation Administration shall take such action as may be necessary to efficiently coordinate the receipt, consideration of, and action upon such applications and the completion of associated aeronautical studies.".

(b) CONFORMING AMENDMENT.—That portion of table of contents contained in the first section of the Federal Aviation Act of 1958 is amended by striking out

"Sec. 1101. Hazards to air commerce."

and inserting in lieu thereof

"Sec. 1101. Hazards to safe and efficient air commerce and the preservation of navigable airspace and airport traffic capacity.".

SEC. 207. PUBLIC AIRCRAFT DEFINED.

Section 101(36) is amended by adding at the end thereof the following new sentence: "For purposes of this paragraph, 'used exclusively in the service of' means, for other than the Federal Government, an aircraft which is owned and operated by a governmental entity for other than commercial purposes or which is exclusively leased by such governmental entity for not less than 90 continuous days.". 49 USC app. 1301.

TITLE III—MISCELLANEOUS PROVISIONS

SEC. 301. NOISE ABATEMENT. State and local governments.

(a) NOTICE AND HEARING REQUIREMENT.—The first sentence of section 104(a) of the Aviation Safety and Noise Abatement Act of 1979 (49 U.S.C. App. 2104(a)) is amended by inserting after "any air carriers using such airport" the following: "and after notice and an opportunity for a public hearing".

(b) FEDERAL SHARE.—Section 104(c)(1) of the Aviation Safety and Noise Abatement Act of 1979 (49 U.S.C. App. 2104(c)(1)) is amended by inserting before the period at the end of the fourth sentence the following: "or the Federal share which would be applicable to such project if the funds made available for such project were being made available under the Airport and Airway Improvement Act of 1982 for a project at the airport, whichever percentage is greater".

(c) SOUNDPROOFING OF SCHOOLS AND HOSPITALS.—Section 104(c) of the Aviation Safety and Noise Abatement Act of 1979 (49 U.S.C. App. 2104(c)) is amended by adding at the end thereof the following new paragraph:

"(3) The Secretary is authorized under this section to make grants to operators of airports and to units of local government referred to in paragraph (1) for any project to soundproof any public building (A) which is used primarily for educational or medical purposes in the noise impact area surrounding such airport, and (B) which is determined to be adversely affected by airport noise.". Grants.

(d) PROCEDURES FOR PREPARATION AND SUBMISSION OF NOISE COMPATIBILITY PROGRAMS.— 49 USC app. 2104 note.

(1) STUDY.—The Secretary shall conduct a study of the procedures established under the Aviation Safety and Noise Abatement Act of 1979 for the preparation and submission of noise compatibility programs. The objectives of such study shall be to determine whether or not such procedures could be revised to provide a more simplified process which meet the objectives of such Act and to determine whether or not expedited and simplified procedures which meet the objectives of such Act could be developed to take into account special circumstances at certain airports.

(2) CONSULTATION REQUIREMENT.—In undertaking the study under this subsection, the Secretary shall consult airports, airport users (including air carriers), representatives of persons residing in areas surrounding airports, concerned Federal, State, and local officials, and other interested persons.

(3) REPORT.—Not later than 18 months after the date of the enactment of this Act, the Secretary shall transmit to Congress a report on the results of the study conducted under paragraph (1) together with recommendations.

Grants.

(4) FUNDING DURING STUDY.—

(A) CONGRESSIONAL INTENT.—It is the intention of Congress that the authority of the Secretary to make grants under section 104(c)(2) of the Aviation Safety and Noise Abatement Act of 1979 to airport operators and units of local government to implement noise compatibility programs that were developed prior to the promulgation of implementing regulations under such Act if the Secretary determines that such programs would further the purposes of such Act shall continue until such programs are fully implemented but not later than the last day of the 18-month period beginning on the date of the enactment of this Act, notwithstanding any other provision of law and any rule or regulation promulgated pursuant to any other provision of law.

(B) CONTINUATION.—In order to carry out the intent specified in subparagraph (A), grants may continue to be made under section 104(c)(2) of the Aviation Safety and Noise Abatement Act of 1979 for noise compatibility programs or projects previously approved under such program during the 18-month period beginning on the date of the enactment of this Act, if—

(i) the operator of the airport involved submits updated noise exposure contours, as required by the Secretary; and

(ii) the Secretary determines that such programs or projects are compatible with the purposes of such Act.

(e) EXISTING NOISE ABATEMENT PROPOSALS.—

(1) REVIEW.—The Administrator shall conduct a study of noise abatement proposals under consideration by airport operators and local governments for the purpose of identifying those proposals which, under existing law or administrative policy, are not currently eligible for Federal assistance and determining whether or not such proposals should be made eligible for Federal assistance.

(2) REPORT.—Not later than 180 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 paragraph (1), together with recommendations concerning modifications in existing law and administrative policy for making additional noise abatement proposals eligible for Federal assistance.

49 USC app. 1348 note.

SEC. 302. AIR TRAFFIC CONTROLLER WORKFORCE.

(a) MINIMUM NUMBER OF AIR TRAFFIC CONTROLLERS.—The Administrator shall hire such additional persons as are necessary to make the number of persons employed in the air traffic control workforce on September 30, 1988, not less than 15,900.

(b) AIR TRAFFIC CONTROL WORKFORCE DEFINED.—For purposes of this section, the term "air traffic control workforce" means persons employed by the Federal Aviation Administration (including persons employed as traffic management coordinators and air traffic control first line supervisors) a substantial part of whose duties

include separating and controlling air traffic. Such term does not include any air traffic assistant and any student at an air traffic control academy.

SEC. 303. SAFETY RULEMAKING PROCEEDINGS.

49 USC app. 1421 note.

(a) FLOATATION EQUIPMENT.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall initiate a rulemaking proceeding to consider requiring (1) adequate, uniform life preservers, life rafts, and floatation devices for passengers, including small children and infants, on any flight of an air carrier which the Secretary determines a part of which flight will occur over water, and (2) adequate information and instructions as to the use of such preservers, rafts, and floatation devices.

(b) IMPROVED CRASHWORTHINESS STANDARDS FOR AIRCRAFT SEATS.—Not later than 120 days after the date of the enactment of this Act, the Secretary shall initiate a rulemaking proceeding to consider requiring all seats on board all air carrier aircraft to meet improved crashworthiness standards based upon the best available testing standards for crashworthiness.

(c) COCKPIT VOICE RECORDERS AND FLIGHT DATA RECORDERS.—Not later than 120 days after the date of the enactment of this Act, the Secretary shall initiate a rulemaking proceeding to consider the use of cockpit voice recorders and flight data recorders on commuter aircraft and other aircraft, commensurate with the recommendations of the National Transportation Safety Board.

(d) MONTHLY STATUS REPORTS.—The Secretary shall transmit to Congress monthly status reports on the rulemaking proceedings being conducted under subsections (a), (b), and (c) of this section.

(e) AIRCRAFT DESIGN AND EQUIPMENT.—

(1) STUDY.—The Secretary shall conduct a study pertaining to aircraft design and equipment which minimize the incidence of fire or explosion, including fuel tanks (including crash resistant inner fuel tanks and breakaway, self-closing fittings throughout the fuel system).

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

(f) REPORT ON MODERNIZATION RECOMMENDATIONS.—Not later than 90 days after the date of the enactment of this Act, the Secretary shall report to Congress on specific regulations the Secretary has adopted or intends to adopt to modernize and improve the oversight and inspection of air carrier maintenance and safety-related procedures.

SEC. 304. INFLATION ADJUSTMENT ON COLLECTION OF CERTAIN AVIATION FEES.

Section 334 of title 49, United States Code, is amended by inserting before the period at the end of the first sentence the following: ", adjusted in proportion to changes in the Consumer Price Index for All Urban Consumers published by the Bureau of Labor Statistics of the Department of Labor between January 1, 1973, and the date the charge is imposed".

SEC. 305. AMENDMENTS TO THE NATIONAL DRIVER REGISTER ACT.

(a) EXPANSION OF COVERAGE.—Section 206(a)(1) of the National Driver Register Act of 1982 (23 U.S.C. 401 note) is amended by

striking out "highway" and inserting in lieu thereof "transportation".

23 USC 401 note.

(b) APPLICANTS FOR AIRMEN'S CERTIFICATES.—Section 206(b) of such Act is amended—

(1) by redesignating paragraphs (3) and (4), and any reference thereto, as paragraphs (4) and (5), respectively; and

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

"(3) Any individual who has applied for or received an airman's certificate may request the chief driver licensing official of a State to transmit information regarding the individual under subsection (a) of this section to the Administrator of the Federal Aviation Administration. The Administrator of the Federal Aviation Administration may receive such information and shall make such information available to the individual for review and written comment. The Administrator shall not otherwise divulge or use such information, except to verify information required to be reported to the Administrator by an airman applying for an airman medical certificate and to evaluate whether the airman meets the minimum standards as prescribed by the Administrator to be issued an airman medical certificate. There shall be no access to information in the Register under this paragraph if such information was entered in the Register more than 3 years before the date of such request, unless such information relates to revocations or suspensions which are still in effect on the date of the request. Information submitted to the Register by States under the Act of July 14, 1960 (74 Stat. 526), or under this Act shall be subject to access for the purpose of this paragraph during the transition to the Register established under section 203(a) of this Act.".

(c) CONFORMING AMENDMENTS.—Section 206(b) of such Act is further amended by adding at the end of each of paragraphs (1), (2), and (4) (as redesignated by subsection (b) of this section) the following new sentence: "Information submitted to the Register by States under the Act of July 14, 1960 (74 Stat. 526), and under this Act shall be subject to access for the purpose of this paragraph during the transition to the Register established under section 203(a) of this Act.".

49 USC app. 222 note.

SEC. 306. LOW ACTIVITY LEVEL I AIR TRAFFIC CONTROL TOWER CONTRACT PROGRAM.

The Secretary shall continue in effect the low activity (VFR) Level I air traffic control tower contract program established under section 526 of the Airport and Airway Improvement Act of 1982 with respect to existing contract towers and shall extend such program to other towers as practicable.

Contracts.

SEC. 307. ELIGIBILITY OF DERMOTT, ARKANSAS, MUNICIPAL AIRPORT.

In the administration of the provisions of the Airport and Airway Improvement Act of 1982, the municipal airport of the city of Dermott, Arkansas, shall not be denied eligibility for assistance under such Act on the basis that such airport is located on leased land, if such lease is for a period of at least 99 years, and if the land so leased consists of at least 25 acres.

Regulations. 49 USC app. 1348 note.

SEC. 308. STANDARDS FOR NAVIGATIONAL AIDS.

Not later than December 31, 1988, the Secretary shall promulgate regulations to establish criteria for the installation of airport control

towers and other navigational aids. For each type of facility, the regulations shall, at a minimum, consider traffic density (number of aircraft operations without consideration of aircraft size), terrain and other obstacles to navigation, weather characteristics, passengers served, and potential aircraft operating efficiencies.

SEC. 309. LONG-TERM AIRPORT CAPACITY NEEDS.

49 USC app. 2203 note.

(a) STUDY.—The Secretary shall conduct a study for the purpose of developing an overall airport system plan through the year 2010 which will assure the long-term availability of adequate airport system capacity.

(b) REPORTS.—

(1) PRELIMINARY REPORT.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall transmit to Congress a preliminary report on the status of the plan being developed under subsection (a).

(2) FINAL REPORT.—Not later than January 1, 1990, the Secretary shall transmit to Congress a final report on the results of the study conducted under subsection (a), together with the plan developed under such subsection.

(c) FUNDING.—There shall be available to the Secretary from the Airport and Airway Trust Fund $250,000 per fiscal year for each of fiscal years 1988 and 1989 for carrying out this section. Such funds shall remain available until expended.

SEC. 310. RADIO NAVIGATION SYSTEMS.

49 USC app. 1348 note.

(a) SYNCHRONIZATION.—

(1) LORAN-C MASTER TRANSMITTERS.—Not later than September 30, 1989, the Secretary shall take such action as may be necessary to synchronize all loran-C master transmitters located in the United States and all loran-C master transmitters subject to the jurisdiction of the United States. Each such master transmitter shall be synchronized to within approximately 100 nanoseconds of universal time.

(2) OTHER LORAN-C TRANSMITTERS.—

(A) IMPACT STUDY.—The Secretary shall conduct a study of the impact on users of loran-C transmitted signals of synchronizing time of signal transmissions among all secondary loran-C transmitters in the United States in accordance with the standard set forth in the second sentence of paragraph (1).

(B) REPORT.—Not later than September 30, 1989, the Secretary shall transmit to Congress a report on the results of the study conducted under subparagraph (A).

(3) AUTHORIZATION.—There shall be available for carrying out this subsection from the Airport and Airway Trust Fund $750,000 for fiscal year 1988 and $500,000 for fiscal year 1989. Such funds shall remain available until expended.

(b) INTEROPERABILITY OF RADIO NAVIGATION SYSTEMS.—

(1) STUDY.—The Secretary shall study and evaluate methods of coordinating the time references of the loran-C transmitter system and the global positioning satellite system to within approximately 30 nanoseconds of each other for the purpose of making possible the interchange of positioning data between the 2 systems.

(2) REPORT.—Not later than September 30, 1989, the Secretary shall transmit to Congress a report on the results of the study conducted under paragraph (1).

(3) AUTHORIZATION.—There shall be available for carrying out this subsection from the Airport and Airway Trust Fund $500,000 for fiscal year 1988. Such funds shall remain available until expended.

Regulations.

(c) DEVELOPMENT OF MINIMUM STANDARDS.—Not later than September 30, 1989, the Administrator shall establish by regulation minimum standards under which a radio navigation system may be certified as the sole radio navigation system required in an aircraft for operation in airspace of the United States.

SEC. 311. REPORTING OF ACCIDENTS TO NTSB.

(a) GENERAL RULE.—Section 304(a)(6) of the Independent Safety Board Act of 1974 (49 U.S.C. App. 1903(a)(6)) is amended to read as follows:

Regulations.

"(6) establish by regulation requirements binding on persons reporting (A) accidents and aviation incidents subject to the Board's investigatory jurisdiction under this subsection, and (B) accidents and aviation incidents involving public aircraft other than aircraft of the Armed Forces and the Intelligence Agencies;".

49 USC app. 1903 note.

(b) REPORT TO CONGRESS.—Not later than 18 months after the date of the enactment of this Act, the National Transportation Safety Board shall report to the Congress its findings on public aircraft accidents and incidents.

New Jersey.

SEC. 312. ATLANTIC CITY AIRPORT.

(a) LIMITATION ON FUNDING OR TRANSFERS OF PROPERTY.—Notwithstanding any other provision of law, with regard to the Atlantic City Airport, at Pomona, New Jersey, the Federal Aviation Administration shall not convey any interest in property (pursuant to section 516 of the Airport and Airway Improvement Act of 1982) to any municipality or any other entity operating such airport, nor shall any funds authorized to be appropriated for fiscal year 1987 by such Act be available to such municipality or entity for any planning, study, design, engineering, or construction of a runway extension, new runway, new passenger terminal, or improvements to or expansion of the existing passenger terminal at such airport, until such time as—

(1) the master plan update for Atlantic City Airport and Bader Field, prepared pursuant to Federal Aviation Administration Contract FA-EA-2656, is completed and released; and

(2) the Administrator finds that a public entity has been created to operate and manage the Atlantic City Airport, which entity has the following characteristics:

Contracts.

(A) the authority to enter into contracts and other agreements, including contracts, leases, cooperative agreements, or other transactions with any agency or instrumentality of the United States;

(B) the standing to sue and be sued in its own name;

(C) the authority to hire and dismiss officers and employees;

(D) the power to adopt, amend, and repeal bylaws, rules, and regulations governing the manner in which its business

may be conducted and the powers vested in it may be exercised;

(E) the authority to acquire, in its own name, an interest in such real or personal property as is necessary or appropriate for the operation and maintenance of the airport; Real property.

(F) the power to acquire property by the exercise of the right of eminent domain;

(G) the power to borrow money by issuing marketable obligations, or such other means as is permissible for public authorities under the laws of the State of New Jersey; Securities.

(H) adequate financial resources to carry out all activities which are ordinarily necessary and appropriate to operate and maintain an airport;

(I) a governing board which includes (but need not be limited to) voting representatives of the city of Atlantic City, the county of Atlantic, and the municipalities which are adjacent to or are directly impacted by the airport;

(J) a charter which includes (i) a requirement that members of the governing board have expertise in transportation, finance, law, public administration, aviation, or such other qualifications as would be appropriate to oversee the planning, management, and operation of an airport, and (ii) procedures which protect the research and development mission of the Federal Aviation Technical Center at Pomona, New Jersey, and the defense functions of the Air National Guard; and

(K) the authority to carry out comprehensive transportation planning to minimize the traffic congestion and facilitate access to and from the airport.

(b) SAFETY FUNDS NOT SUBJECT TO LIMITATION.—The limitation on funds set forth in subsection (a) shall not apply to any expenditure which the Administrator determines is needed for safety purposes.

(c) AVAILABILITY OF RESTRICTED FUNDS.—Notwithstanding any other provision of law, the funds restricted under subsection (a) shall become available at such time as the conditions set forth in subsection (a) are satisfied.

SEC. 313. RELEASE OF CERTAIN CONDITIONS. Real property. State and local governments.

(a) STAPLETON INTERNATIONAL AIRPORT, DENVER, COLORADO.—

(1) AUTHORITY TO GRANT RELEASE.—Notwithstanding section 16 of the Federal Airport Act (as in effect on the date of each conveyance referred to in this subsection) with respect to such conveyance, the Secretary is authorized, subject to the provisions of section 4 of the Act of October 1, 1949 (63 Stat. 700; 50 U.S.C. App. 1622c), and the provisions of paragraph (2) of this subsection, to grant release—

(A) from any of the terms, conditions, reservations, and restrictions contained in each deed of conveyance under which the United States conveyed property to the city and county of Denver, Colorado, on which any portion of Stapleton International Airport is located; and

(B) from any assurance made by the sponsor of such airport for a grant under the Airport and Airway Improvement Act of 1982 for a project at such airport.

(2) CONDITIONS.—Any release granted by the Secretary under paragraph (1) of this subsection shall be subject to the following conditions:

(A) The city and county of Denver, Colorado, shall agree that in conveying any interest in the property which the United States conveyed to the city and county by the deeds described in paragraph (1) the city and county will receive an amount for such interest which is equal to the fair market value (as determined pursuant to regulations issued by the Secretary).

(B) Any such amount so received by the city and county shall be used by the city and county for the development, construction, and improvement of (i) a new Denver air carrier airport, and (ii) a reliever airport in the event that the operation of the new air carrier airport severely restricts the operation of the nearby reliever airport. In no event shall such amount be used for operation or maintenance of such airports.

(C) The city and county shall agree not to convey any interest in the property which the United States conveyed to the city and county by the deeds described in paragraph (1) until the opening and initial operation of a primary airport to replace Stapleton International Airport, unless the Secretary determines that any such property is not essential for the operation of Stapleton International Airport.

(b) HAWAII.—

(1) AUTHORITY TO GRANT RELEASE.—Notwithstanding section 23 of the Airport and Airway Development Act of 1970 (as in effect on April 6, 1982), the Secretary is authorized, subject to the provisions of section 4 of the Act of October 1, 1949 (63 Stat. 700; 50 U.S.C. App. 1622c), and the provisions of paragraph (2) of this subsection, to grant releases from any of the terms, conditions, reservations, and restrictions contained in the deed of conveyance, dated April 6, 1982, under which the United States conveyed certain property to the State of Hawaii for airport purposes.

(2) CONDITIONS.—Any release granted by the Secretary under paragraph (1) of this subsection shall be subject to the following conditions:

(A) The property for which a release is granted under this subsection shall not exceed 2.280 acres.

(B) The State of Hawaii shall agree that, in conveying any interest in the property which the United States conveyed to the State by a deed described in paragraph (1), the State will receive an amount for such interest which is equal to the fair market value.

(C) Any amount so received shall be used for airport purposes only.

(D) In the event land or any interest therein is received in exchange for all or part of the 2.280 acres, the deed of conveyance of such land or interest will contain language mandating that—

(i) the land or interest must be used for airport purposes only;

(ii) such land or interest in land received by the State of Hawaii may not be conveyed by the State, except by approval of the Federal Government, pursuant to the authority vested in the Secretary under section 4 of the Act of 1949 (63 Stat. 700; 50 U.S.C. App. 1622c);

(iii) such conveyance by the State of Hawaii shall be subject to receipt of fair market value; and

(iv) the proceeds from such conveyance by the State of Hawaii shall be used for airport purposes only.

(c) LAREDO INTERNATIONAL AIRPORT, LAREDO, TEXAS.—

(1) AUTHORITY TO GRANT RELEASE.—Subject to paragraph (2), in recognition of the benefits to the public, the city of Laredo, Texas, and its successors and assigns are hereby released from all terms, conditions, reservations, and restrictions contained in the instrument of disposal dated February 21, 1975, by which the United States conveyed the property on which the Laredo International Airport, Laredo, Texas, is located to such city to the extent that such terms, conditions, reservations, and restrictions apply to the portion of such property consisting of approximately 680.1586 acres of land which is designated under the 1985 master plan and land use plan for the Laredo International Airport as being available for nonaviation purposes.

(2) CONDITIONS.—The release granted by paragraph (1) shall be subject to the following conditions:

(A) All revenues derived from the property to which such release applies shall be used for development, improvement, operation, and maintenance of the Laredo International Airport.

(B) The use of property to which such release applies shall not interfere with the operation and maintenance of such airport.

(C) Property to which such release applies may only be rented or leased if the term of the rental or lease agreement is 20 years or less and if compensation which is not less than—

(i) ¼ of fair market value is received in the case of a rental or lease agreement for a term of 10 years or less; and

(ii) ½ of fair market value is received in the case of a rental or lease agreement for a term of more than 10 years.

(D) Property to which such release applies may only be transferred if compensation which is equal to or more than fair market value is received.

(E) The city of Laredo, Texas, shall provide to the Administrator—

(i) an accounting and management plan acceptable to the Administrator for managing the Laredo International Airport general fund; and

(ii) an explanation of the management by such city of such general fund in calendar years beginning after December 31, 1977, and ending before the date of the enactment of this Act.

(3) IMPLEMENTATION.—The Administrator shall take such action as may be necessary to carry out the provisions of this subsection.

SEC. 314. FLIGHT SERVICE STATION IN JUNEAU, ALASKA.

Public buildings and grounds.

(a) DESIGNATION.—The Federal Aviation Administration flight service station located in Juneau, Alaska, shall be known and designated as the "Dave Scheytt Flight Service Station".

(b) LEGAL REFERENCE.—Any reference in a law, map, regulation, document, or other paper of the United States to the flight service station referred to in subsection (a) shall be deemed to be a reference to the "Dave Scheytt Flight Service Station".

SEC. 315. GRAND CANYON AIRPORT.

(a) STUDY.—The Secretary shall conduct a study of methods of air traffic control which might be utilized at the Grand Canyon Airport, including the feasibility of installing radar for air traffic control purposes.

(b) REPORT.—Not later than the 180th day following the date of the enactment of this Act, the Secretary shall report to Congress the results of the study conducted under subsection (a), together with recommendations.

Airport and Airway Revenue Act of 1987.

TITLE IV—EXTENSION OF AVIATION-RELATED TAXES AND AIRPORT AND AIRWAY TRUST FUND SPENDING AUTHORITY

26 USC 1 note.

SEC. 401. SHORT TITLE.

This title may be cited as the "Airport and Airway Revenue Act of 1987".

SEC. 402. 3-YEAR EXTENSION OF AVIATION-RELATED TAXES.

(a) IN GENERAL.—The following provisions of the Internal Revenue Code of 1986 are each amended by striking out "January 1, 1988" each place it appears and inserting in lieu thereof "January 1, 1991":

(1) Section 4261(f) (relating to transportation of persons by air).

(2) Section 4271(d) (relating to transportation of property by air).

(3) Section 9502(b) (relating to transfer to Airport and Airway Trust Fund of amounts equivalent to certain taxes).

(b) FUEL USED IN NONCOMMERCIAL AVIATION.—Paragraph (5) of section 4041(c) of such Code (relating to noncommercial aviation) is amended by striking out "December 31, 1987" and inserting in lieu thereof "December 31, 1990".

SEC. 403. EXTENSION OF AIRPORT AND AIRWAY TRUST FUND SPENDING AUTHORITY.

(a) EXPENDITURES FROM TRUST FUND.—The material preceding subparagraph (A) of paragraph (1) of section 9502(d) of the Internal Revenue Code of 1986 (relating to expenditures from Airport and Airway Trust Fund) is amended by striking out "October 1, 1987" and inserting in lieu thereof "October 1, 1992".

(b) TRUST FUND PURPOSES.—Subparagraph (A) of section 9502(d)(1) of such Code is amended by striking out "(as such Acts were in effect on the date of the enactment of the Surface Transportation Assistance Act of 1982)" and inserting in lieu thereof "or the Airport and Airway Safety and Capacity Expansion Act of 1987 (as such Acts were in effect on the date of the enactment of the Airport and Airway Safety and Capacity Expansion Act of 1987)".

SEC. 404. EXEMPTION FOR CERTAIN EMERGENCY MEDICAL TRANSPORTATION BY HELICOPTER.

(a) IN GENERAL.—Section 4261 of the Internal Revenue Code of 1986 (relating to imposition of tax on transportation by air) is amended by redesignating subsection (f) as subsection (g) and by inserting after subsection (e) the following new subsection: 26 USC 4261.

"(f) EXEMPTION FOR CERTAIN EMERGENCY MEDICAL TRANSPORTATION.—No tax shall be imposed under this section or section 4271 on any air transportation by helicopter for the purpose of providing emergency medical services if such helicopter—

"(1) does not take off from, or land at, a facility eligible for assistance under the Airport and Airway Development Act of 1970 during such transportation, and

"(2) does not otherwise use services provided pursuant to the Airport and Airway Improvement Act of 1982 during such transportation."

(b) TAX FREE SALES.—Subsection (l) of section 4041 of such Code (relating to exemption for certain helicopter uses) is amended to read as follows:

"(l) EXEMPTION FOR CERTAIN HELICOPTER USES.—No tax shall be imposed under this section on any liquid sold for use in, or used in, a helicopter for purposes of providing transportation with respect to which the requirements of subsection (e) or (f) of section 4261 are met."

(c) TECHNICAL AMENDMENT.—Subsection (e) of section 4261 of such Code is amended by striking out "System Improvement Act" and inserting in lieu thereof "Improvement Act".

(d) EFFECTIVE DATES.—

(1) SUBSECTION (a).—The amendment made by subsection (a) shall apply to transportation beginning after September 30, 1988, but shall not apply to amounts paid on or before such date. 26 USC 4261 note.

(2) SUBSECTION (b).—The amendment made by subsection (b) shall take effect on October 1, 1988. 26 USC 4041 note.

SEC. 405. REDUCTION IN AVIATION-RELATED TAXES WHERE APPROPRIATIONS ARE SIGNIFICANTLY BELOW AUTHORIZATIONS.

(a) IN GENERAL.—Part III of subchapter C of chapter 33 of the Internal Revenue Code of 1986 (relating to facilities and services) is amended by adding at the end the following new section:

"SEC. 4283. REDUCTION IN AVIATION-RELATED TAXES IN CERTAIN CASES. 26 USC 4283.

"(a) REDUCTION IN RATES.—If the funding percentage is less than 85 percent, with respect to any taxable event occurring during 1990—

"(1) subsections (a) and (b) of section 4261 (relating to tax on transportation of persons by air) shall each be applied by substituting '4 percent' for '8 percent',

"(2) subsection (a) of section 4271 (relating to tax on transportation of property by air) shall be applied by substituting '2.5 percent' for '5 percent',

"(3) paragraph (1) of section 4041(c) (relating to tax on certain fuels used in noncommercial aviation) shall be applied by substituting '7 cents' for '14 cents', and

"(4) paragraph (2) of section 4041(c) (relating to tax on gasoline used in noncommercial aviation) shall not apply.

"(b) FUNDING PERCENTAGE.—

"(1) IN GENERAL.—For purposes of this section, the funding percentage is the percentage (determined by the Secretary) which—

"(A) the sum of—

"(i) the aggregate amounts obligated under section 505 of the Airport and Airway Improvement Act of 1982 for fiscal years 1988 and 1989, and

"(ii) the aggregate amounts appropriated under subsections (a) and (b) of section 506 of such Act for such fiscal years, is of

"(B) the sum of—

"(i) the aggregate amounts authorized to be obligated under such section 505 for such fiscal years, and

"(ii) the aggregate amounts authorized to be appropriated under subsections (a) and (b) of such section 506 for such fiscal years.

"(2) RULES FOR APPLYING PARAGRAPH (1).—

"(A) TREATMENT OF PRIOR YEAR AMOUNTS.—For purposes of paragraph (1), an amount shall be treated as authorized, obligated, or appropriated only for the 1st fiscal year for which it is authorized, obligated, or appropriated, as the case may be.

"(B) TREATMENT OF SEQUESTERED AMOUNTS.—The determination under paragraph (1)(A) shall be made without regard to the sequestration of any amount described therein pursuant to an order under part C of title II of the Balanced Budget and Emergency Deficit Control Act of 1985 (or any successor law).

"(3) DETERMINATION OF FUNDING PERCENTAGE.—

"(A) IN GENERAL.—Not later than December 1, 1989, the Secretary shall determine—

"(i) the funding percentage, and

"(ii) whether the rate reductions under this section shall apply to taxable events occurring during 1990.

"(B) DETERMINATIONS TO BE PUBLISHED IN FEDERAL REGISTER.—As soon as practicable after making the determinations under subparagraph (A), the Secretary shall publish such determinations in the Federal Register.

"(c) TAXABLE EVENT.—For purposes of this section—

"(1) TAXABLE TRANSPORTATION BY AIR.—In the case of the taxes imposed by sections 4261 and 4271, the taxable event shall be treated as occurring when the payment for the taxable transportation is made.

"(2) SALE OR USE OF FUEL.—In the case of the taxes imposed by section 4041(c), the taxable event shall be the sale or use on which tax is imposed."

(b) REFUND OF FUEL TAXES ON NONCOMMERCIAL AVIATION WHERE RATE REDUCTION IN EFFECT.—

(1) IN GENERAL.—Section 6427 of such Code (relating to fuels not used for taxable purposes) is amended by redesignating subsection (p) as subsection (q) and by inserting after subsection (o) the following new subsection:

"(p) GASOLINE USED IN NONCOMMERCIAL AVIATION DURING PERIOD RATE REDUCTION IN EFFECT.—Except as provided in subsection (k), if—

"(1) any tax is imposed by section 4081 on any gasoline,

"(2) such gasoline is used during 1990 as a fuel in any aircraft in noncommercial aviation (as defined in section 4041(c)(4)), and

"(3) no tax is imposed by section 4041(c)(2) on taxable events occurring during 1990 by reason of section 4283,

the Secretary shall pay (without interest) to the ultimate purchaser of such gasoline an amount equal to the excess of the aggregate amount of tax paid under section 4081 on the gasoline so used over an amount equal to 6 cents multiplied by the number of gallons of gasoline so used."

(2) TECHNICAL AMENDMENTS.—

(A) Paragraph (1) of section 6427(i) of such Code is amended by striking out "or (h)" and inserting in lieu thereof "(h), or (p)".

(B) Clause (i) of section 6427(i)(2)(A) of such Code is amended by striking out "and (h)" and inserting in lieu thereof "(h), and (p)".

(3) CROSS REFERENCE.—Subsection (c) of section 4041 of such Code is amended by adding at the end thereof the following new paragraph:

"(6) REDUCTION IN RATES OF TAX IN CERTAIN CIRCUMSTANCES.—For reduction of rates of taxes imposed by paragraphs (1) and (2) in certain circumstances, see section 4283."

(c) CLERICAL AMENDMENT.—The table of sections for part III of subchapter C of chapter 33 of such Code is amended by adding at the end the following new item:

"Sec. 4283. Reduction in aviation-related taxes in certain cases."

Approved December 30, 1987.

LEGISLATIVE HISTORY—H.R. 2310 (S. 1184):

HOUSE REPORTS: No. 100-123, Pt. 1 (Comm. on Science, Space, and Technology) and Pt. 2 (Comm. on Public Works and Transportation) and No. 100-484 (Comm. of Conference).

SENATE REPORTS: No. 100-99 accompanying S. 1184 (Comm. on Commerce, Science, and Transportation).

CONGRESSIONAL RECORD, Vol. 133 (1987):

Oct. 1, considered and passed House.

Oct. 28, considered and passed Senate, amended, in lieu of S. 1184.

Dec. 17, Senate agreed to conference report.

Dec. 18, House agreed to conference report.