Calendar No. 515

105TH CONGRESS
2D SESSION

S. 2279

[Report No. 105–278]

A BILL

To amend title 49, United States Code, to authorize the programs of the Federal Aviation Administration for fiscal years 1999, 2000, 2001, and 2002, and for other purposes.

JULY 30, 1998

Reported with an amendment

AUTHENTICATED
U.S. GOVERNMENT
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[Report No. 105–278]

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IN THE SENATE OF THE UNITED STATES

JULY 9, 1998

Mr. MCCAIN (for himself and Mr. GORTON) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

JULY 30, 1998

Reported by Mr. MCCAIN, with an amendment

[Strike out all after the enacting clause and insert the part printed in italic]

A BILL

To amend title 49, United States Code, to authorize the programs of the Federal Aviation Administration for fiscal years 1999, 2000, 2001, and 2002, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

~~SEC. 1. SHORT TITLE; TABLE OF SECTIONS.~~

~~(a) SHORT TITLE.—This Act may be cited as the "National Air Transportation System Improvement Act of 1998".~~

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

~~Sec. 1. Short title; table of sections.~~
~~Sec. 2. Amendments to title 49, United States Code.~~
~~Title I—Authorizations~~
~~Sec. 101. Federal Aviation Administration operations.~~
~~Sec. 102. Air navigation facilities and equipment.~~
~~Sec. 103. Airport planning and development and noise compatibility planning and programs.~~
~~Sec. 104. Reprogramming notification requirement.~~
~~Title II—Airport Improvement Program Amendments~~
~~Sec. 201. Removal of the cap on discretionary fund.~~
~~Sec. 202. Innovative use of airport grant funds.~~
~~Sec. 203. Matching share.~~
~~Sec. 204. Increase in apportionment for noise compatibility planning and programs.~~
~~Sec. 205. Technical amendments.~~
~~Sec. 206. Repeal of period of applicability.~~
~~Sec. 207. Report on efforts to implement capacity enhancements.~~
~~Sec. 208. Prioritization of discretionary projects.~~
~~Sec. 209. Public notice before grant assurance requirement waived.~~
~~Sec. 210. Definition of public aircraft.~~
~~Sec. 211. Terminal development costs.~~
~~Title III—Amendments to Aviation Law~~
~~Sec. 301. Severable services contracts for periods crossing fiscal years.~~
~~Sec. 302. Foreign carriers eligible for waiver under airport noise and capacity act.~~
~~Sec. 303. Government and industry consortia.~~
~~Sec. 304. Implementation of Article 83 Bis of the Chicago Convention.~~
~~Sec. 305. Foreign aviation services authority.~~
~~Sec. 306. Flexibility to perform criminal history record checks; technical amendments to Pilot Records Improvement Act.~~
~~Sec. 307. Aviation insurance program amendments.~~
~~Sec. 308. technical corrections to civil penalty provisions.~~
~~Title IV—Title 49 Technical Corrections~~
~~Sec. 401. Restatement of 49 U.S.C. 106(g).~~
~~Sec. 402. Restatement of 49 U.S.C. 44909.~~
~~Sec. 403. Typographical errors.~~
~~Title V—Miscellaneous~~
~~Sec. 501. Oversight of FAA response to year 2000 problem as it affects the aviation industry.~~
~~Sec. 502. Cargo collision avoidance systems deadline.~~
~~Sec. 503. Runway safety areas.~~
~~Sec. 504. Airplane emergency locators.~~

~~Sec. 505. Counterfeit aircraft parts.~~
~~Sec. 506. FAA may fine unruly passengers.~~
~~Sec. 507. Higher international standards for handicapped access.~~
~~Sec. 508. Conveyances of United States Government land.~~
~~Sec. 509. Flight operations quality assurance rules.~~
~~Sec. 510. Wide area augmentation system.~~
~~Sec. 511. Regulation of Alaska air guides.~~
~~Sec. 512. Application of FAA regulations.~~
~~Sec. 513. Advanced qualification program.~~
~~Sec. 514. Independent validation of FAA costs and allocations.~~
~~Sec. 515. Whistleblower protection for FAA employees.~~
~~Sec. 516. Report on modernization of oceanic ATC system.~~
~~Sec. 517. Report on air transportation oversight system.~~
~~Title VI—Aviation Competition Promotion~~
~~Sec. 601. Purpose.~~
~~Sec. 602. Establishment of small community aviation development program.~~
~~Sec. 603. Community-carrier air service program.~~
~~Sec. 604. Funding authority.~~
~~Sec. 605. Marketing practices.~~
~~Sec. 606. Slot exemptions for nonstop regional jet service.~~
~~Sec. 607. Secretary shall grant exemptions to perimeter rule.~~
~~Sec. 608. Additional slots at Chicago's O'hare Airport.~~
~~Sec. 609. Consumer notification of e-ticket expiration dates.~~
~~Title VII—Park Overflights~~
~~Sec. 701. Findings.~~
~~Sec. 702. Air tour management plans for national parks.~~
~~Sec. 703. Advisory group.~~
~~Sec. 704. Exemption.~~
~~Sec. 705. Overflight fee report.~~
~~Title VIII—Aviation Trust Fund Amendments~~
~~Sec. 801. Amendments to the Airport and Airway Trust Fund.~~

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

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

~~TITLE I—AUTHORIZATIONS~~

~~SEC. 101. FEDERAL AVIATION ADMINISTRATION OPERATIONS.~~

~~Section 106(k) is amended to read as follows:~~

~~"(k) AUTHORIZATION OF APPROPRIATIONS FOR OPERATIONS.—~~

~~"(1) IN GENERAL.—There are authorized to be appropriated to the Secretary of Transportation for operations of the Administration $5,631,000,000 for fiscal year 1999, $5,784,000,000 for fiscal year 2000, $5,946,000,000 for fiscal year 2001, and $6,112,000,000 for fiscal year 2002. Of the amounts authorized to be appropriated for fiscal year 1999, not more than $9,100,000 shall be used to support air safety efforts through payment of United States membership obligations, to be paid as soon as practicable.~~

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

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

~~and United States air carriers. Funds authorized under this paragraph—~~

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

~~"(B) shall be awarded on the basis of open competition.".~~

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

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

~~"(1) for fiscal year 1999—~~

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

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

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

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

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

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

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

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

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

~~"(J) $14,500,000 for training and equipment facilities programs;~~

~~"(K) $280,800,000 for mission support programs;~~

~~"(L) $235,210,000 for personnel and related expenses;~~

~~"(2) $2,189,000,000 for fiscal year 2000;~~

~~"(3) $2,250,000,000 for fiscal year 2001; and~~

~~"(4) $2,313,000,000 for fiscal year 2002.".~~

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

~~(1) by striking "fiscal years 1995 and 1996" and inserting "fiscal year 1999"; and~~

~~(2) by inserting "under new or existing contracts" after "including acquisition".~~

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

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

~~(a) EXTENSION AND AUTHORIZATION.—Section 48103 is amended by—~~

~~(1) striking "September 30, 1996," and inserting "September 30, 1998,";~~

~~(2) striking "and $4,627,000,000" and inserting "$3,415,000,000"; and~~

~~(3) striking "October 1, 1998." and inserting "October 1, 1998, $5,825,000,000 for fiscal years ending before October 1, 1999, $8,300,000,000 for fiscal years ending before October 1, 2000, $10,842,000,000 for fiscal years ending before October 1, 2001, and $13,453,000,000 for fiscal years ending before October 1, 2002.".~~

~~(b) PROJECT GRANT AUTHORITY.—Section 47104(c) is amended by striking "1998," and inserting "2002,".~~

SEC. 104. REPROGRAMMING NOTIFICATION REQUIREMENT.

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

TITLE II—AIRPORT IMPROVEMENT PROGRAM AMENDMENTS

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

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

SEC. 202. INNOVATIVE USE OF AIRPORT GRANT FUNDS.

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

"§ 47135. Innovative financing techniques

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

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

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

~~"(d) INNOVATIVE FINANCING TECHNIQUE DEFINED.—In this section, the term 'innovative financing technique' includes methods of financing projects that the Secretary determines may be beneficial to airport development, including—~~

~~"(1) payment of interest;~~

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

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

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

~~"47135. Innovative financing techniques".~~

~~SEC. 203. MATCHING SHARE.~~

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

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

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

~~SEC. 205. TECHNICAL AMENDMENTS.~~

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

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

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

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

~~(2) in paragraph (1) by—~~

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

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

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

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

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

~~(d) DISCRETIONARY FUND DEFINITION.—~~

~~(1) Section 47115 is amended—~~

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

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

~~(2) Section 47116 is amended—~~

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

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

~~"(1) one-seventh for grants for projects at small hub airports (as defined in section 41731 of this title); and~~

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

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

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

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

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

~~(2) inserting after clause (i) the following:~~

~~"(ii) a privately-owned airport that, as a reliever airport, received Federal aid for airport development prior to October 9, 1996, but only if the Administrator issues revised administra-~~

~~tive guidance after July 1, 1998, for the designation of reliever airports; or''.~~

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

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

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

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

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

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

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

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

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

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

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

~~(1) Section 47151 is amended—~~

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

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

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

~~(D) by adding at the end thereof the following:~~

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

~~title) for surplus property described in subsection (a) of this section for use at a public airport.''.~~

~~(2) Section 47152 is amended—~~

~~(A) by striking ''**gifts**'' in the section caption and inserting ''**conveyances**''; and~~

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

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

~~''47152. Terms of conveyances''.~~

~~(4) Section 47153(a) is amended—~~

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

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

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

~~(j) FLEXIBILITY IN PAVEMENT DESIGN STANDARDS.—Section 47114(d) is amended by adding at the end thereof the following:~~

~~''(4) The Secretary may permit the use of State highway specifications for airfield pavement construction using funds made available under this subsection at non-primary airports with runways of 5,000 feet or shorter serving aircraft that do not ex-~~

~~ceed 60,000 pounds gross weight, if the Secretary determines that—~~

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

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

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

~~SEC. 206. REPEAL OF PERIOD OF APPLICABILITY.~~

~~Section 125 of the Federal Aviation Reauthorization Act of 1996 (49 U.S.C. 47114 note) is repealed.~~

~~SEC. 207. REPORT ON EFFORTS TO IMPLEMENT CAPACITY ENHANCEMENTS.~~

~~Within 9 months after the date of enactment of this Act, the Secretary of Transportation shall report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives on efforts by the Federal Aviation Administration to implement capacity enhancements and improvements, such as precision~~

~~runway monitoring systems and the time frame for implementation of such enhancements and improvements.~~

~~SEC. 208. PRIORITIZATION OF DISCRETIONARY PROJECTS.~~

~~Section 47120 is amended by—~~

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

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

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

~~SEC. 209. PUBLIC NOTICE BEFORE GRANT ASSURANCE REQUIREMENT WAIVED.~~

~~Notwithstanding any other provision of law to the contrary, the Secretary of Transportation may not waive any assurance required under section 47107 of title 49, United States Code, unless the Secretary provides notice to the public not less than 30 days before issuing any such waiver. Nothing in this section shall be construed to au-~~

~~thorize the Secretary to issue a waiver of any assurance required under that section.~~

~~SEC. 210. DEFINITION OF PUBLIC AIRCRAFT.~~

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

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

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

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

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

~~SEC. 211. TERMINAL DEVELOPMENT COSTS.~~

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

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

~~TITLE III—AMENDMENTS TO AVIATION LAW~~

~~SEC. 301. SEVERABLE SERVICES CONTRACTS FOR PERIODS CROSSING FISCAL YEARS.~~

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

~~"§ 40125. SEVERABLE SERVICES CONTRACTS FOR PERIODS CROSSING FISCAL YEARS.~~

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

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

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

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

~~SEC. 302. FOREIGN CARRIERS ELIGIBLE FOR WAIVER UNDER AIRPORT NOISE AND CAPACITY ACT.~~

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

~~SEC. 303. GOVERNMENT AND INDUSTRY CONSORTIA.~~

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

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

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

~~Section 44701 is amended—~~

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

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

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

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

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

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

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

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

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

~~"(B) aircraft registered in a foreign country operated under an agreement for the lease, charter, or interchange of the aircraft or any~~

similar arrangement by an operator that has its principal place of business or, if it has no such place of business, its permanent residence in the United States.

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

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

SEC. 305. FOREIGN AVIATION SERVICES AUTHORITY.

(a) RECIPROCAL WAIVER OF OVERFLIGHT FEES.—Section 45301(a)(1) is amended to read as follows:

"(1) Air traffic control and related services provided to aircraft that neither take off from, nor land in, the United States, other than military and civil-

~~ian aircraft of the United States Government or of a foreign government, except that such fees shall not be imposed on overflights operated by citizens of a country contiguous to the United States if—~~

~~"(A) both the origin and destination of such flights are within that other country;~~

~~"(B) that country exempts similar categories of flights operated by citizens of the United States from such fees; and~~

~~"(C) that country exchanges responsibility for air traffic control services with the United States.".~~

~~(b) TECHNICAL CORRECTIONS.—Section 45301 is amended—~~

~~(1) by striking "government." in subsection (a)(2) and inserting "government or to any entity obtaining services outside the United States.";~~

~~(2) by striking "directly" in subsection (b)(1)(B); and~~

~~(3) by striking "rendered." in subsection (b)(1)(B) and inserting "rendered, including value to the recipient and both direct and indirect costs of overflight-related services, as determined by the Administrator, using generally accepted accounting~~

~~principles and internationally accepted principles of setting fees for overflight-related services.''.~~

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

~~Section 44936 is amended—~~

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

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

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

~~SEC. 307. AVIATION INSURANCE PROGRAM AMENDMENTS.~~

~~(a) REIMBURSEMENT OF INSURED PARTY'S SUBROGEE.—Subsection (a) of 44309 is amended—~~

~~(1) by striking the subsection caption and the first sentence, and inserting the following:~~

~~''(a) LOSSES.—~~

~~''(1) A person may bring a civil action in a district court of the United States or in the United~~

~~States Court of Federal Claims against the United States Government when—~~

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

~~"(B)(i) the person is subrogated to the rights against the United States Government of a party insured under this chapter (other than under subsection 44305(b) of this title), under a contract between the person and such insured party; and~~

~~"(ii) the person has paid to such insured party, with the approval of the Secretary of Transportation, an amount for a physical damage loss that the Secretary of Transportation has determined is a loss covered under insurance issued under this chapter (other than insurance issued under subsection 44305(b) of this title)."; and~~

~~(2) by resetting the remainder of the subsection as a new paragraph and inserting "(2)" before "A civil action".~~

~~(b) EXTENSION OF AVIATION INSURANCE PROGRAM.—Section 44310 is amended by striking "1998." and inserting "2003.".~~

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

~~Section 46301 is amended—~~

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

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

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

~~TITLE IV—TITLE 49 TECHNICAL CORRECTIONS~~

~~SEC. 401. RESTATEMENT OF 49 U.S.C. 106(G).~~

~~(a) IN GENERAL.—Section 106(g) is amended by striking ", 40113(a), (c), and (d), 40114(a), 40119, 44501(a) and (c), 44502(a)(1), (b) and (c), 44504, 44505, 44507, 44508, 44511-44513, 44701-44716, 44718(c), 44721(a), 44901, 44902, 44903(a)-(c) and (c), 44906, 44912, 44935-44937, and 44938(a) and (b), chapter 451, sections 45302-45304," and inserting "40113(a), (c)-(e), 40114(a), and 40119, and chapter 445 (except sections 44501(b), 44502(a)(2)-(4), 44503, 44506, 44509, 44510, 44514, and 44515), chapter 447 (except sections 44717, 44718(a) and (b), 44719, 44720, 44721(b), 44722, and 44723), chapter 449 (except sections 44903(d), 44904,~~

~~44905, 44907-44911, 44913, 44915, and 44931-44934), chapter 451, chapter 453, sections''.~~

~~(b) TECHNICAL CORRECTION.—The amendment made by this section may not be construed as making a substantive change in the language replaced.~~

~~SEC. 402. RESTATEMENT OF 49 U.S.C. 44909.~~

~~Section 44909(a)(2) is amended by striking ''shall'' and inserting ''should''.~~

~~SEC. 403. TYPOGRAPHICAL ERRORS.~~

~~(a) SECTION 15904.— Section 15904(c)(1) is amended by inserting ''section'' before 15901(b)''.~~

~~(b) CHAPTER 491.—Chapter 491 is amended—~~

~~(1) by striking ''1996'' in section 49106(b)(1)(F) and inserting ''1986'';~~

~~(2) by striking ''by the board'' in section 49106(c)(3) and inserting ''to the board'';~~

~~(3) by striking ''subchapter II'' in section 49107(b) and inserting ''subchapter III''; and~~

~~(4) by striking ''retention of'' in section 49111(b) and inserting ''retention by''.~~

~~(c) SCHEDULE OF REPEALED LAWS.—The Schedule of Laws Repealed in section 5(b) of the Act of November 20, 1997 (Public Law 105-102; 111 Stat. 2217), is amended by striking ''1996'' the first place it appears and inserting ''1986''.~~

~~(d) AMENDMENTS EFFECTIVE AS OF EARLIER DATE OF ENACTMENT.—The amendments made by subsections (a), (b), and (c) are effective as of November 20, 1997.~~

~~(e) CORRECTION OF ERROR IN TECHINICAL CORRECTIONS ACT.—Effective October 11, 1996, section 5(45)(A) of the Act of October 11, 1996 (Public Law 104-287, 110 Stat. 3393), is amended by striking "ENFORCEMENT," and inserting "ENFORCEMENT:".~~

~~TITLE V—MISCELLANEOUS~~

~~SEC. 501. OVERSIGHT OF FAA RESPONSE TO YEAR 2000 PROBLEM AS IT AFFECTS THE AVIATION INDUSTRY.~~

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

~~SEC. 502. CARGO COLLISION AVOIDANCE SYSTEMS DEADLINE.~~

~~(a) IN GENERAL.—The Administrator of the Federal Aviation Administration shall require by regulation that, not later than December 31, 2002, collision avoidance~~

equipment be installed on each cargo aircraft with a payload capacity of 15,000 kilograms or more.

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

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

(2) other safety or public interest objectives.

(c) COLLISION AVOIDANCE EQUIPMENT.—For purposes of this section, the term ''collision avoidance equipment'' means TCAS II equipment (as defined by the Administrator), or any other similar system approved by the Administration for collision avoidance purposes.

SEC. 503. RUNWAY SAFETY AREAS.

Within 6 months after the date of enactment of this Act, the Administrator of the Federal Aviation Administration shall initiate rulemaking to amend the regulations in part 139 of title 14, Code of Federal Regulation—

(1) to improve runway safety areas; and

(2) to require the installation of precision approach path indicators.

~~SEC. 504. AIRPLANE EMERGENCY LOCATORS.~~

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

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

~~"(1) flight operations related to the design and testing, manufacture, preparation, and delivery of aircraft; or~~

~~"(2) the aerial application of a substance for an agricultural purpose.".~~

~~(b) EFFECTIVE DATE; REGULATIONS.—~~

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

~~(2) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on January 1, 2002.~~

~~SEC. 505. COUNTERFEIT AIRCRAFT PARTS.~~

~~(a) DENIAL OF CERTIFICATE.—Section 44703 is amended by adding at the end thereof the following:~~

~~"(g) CERTIFICATE DENIED FOR DEALING IN COUNTERFEIT PARTS.—The Administrator may not issue an airman certificate or an airframe and powerplant certificate under subpart D of part 65 of title 14, Code of Federal Regulations, to any person convicted of a violation~~

~~of any Federal or State law relating to the installation, production, repair, or sale of a counterfeit or falsely-represented aviation part or material.''.~~

~~(b) REVOCATION OF CERTIFICATE.—Section 44710 is amended by adding at the end thereof the following:~~

~~''(g) REVOCATION FOR DEALING IN COUNTERFEIT PARTS.—The Administrator shall revoke an airman certificate or an airframe and powerplant certificate under subpart D of part 65 of title 14, Code of Federal Regulations, issued to any person convicted of a violation of any Federal or State law relating to the installation, production, repair, or sale of a counterfeit or falsely-represented aviation part or material.''.~~

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

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

~~SEC. 506. FAA MAY FINE UNRULY PASSENGERS.~~

~~(a) IN GENERAL.—Chapter 463 is amended by redesignating section 46316 as section 46317, and by inserting after section 46315 the following:~~

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

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

~~"(b) COMPROMISE AND SETOFF.—~~

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

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

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

~~"46316. Interference with cabin or flight crew~~
~~"46317. General criminal penalty when specific penalty not provided".~~

~~SEC. 507. HIGHER INTERNATIONAL STANDARDS FOR HANDICAPPED ACCESS.~~

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

~~SEC. 508. CONVEYANCES OF UNITED STATES GOVERNMENT LAND.~~

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

~~"(a) CONVEYEANCES TO PUBLIC AGENCIES.—Except as provided in subsection (b) of this section, the Secretary of Transportation—~~

~~"(1) shall request the head of the department, agency, or instrumentality owning or controlling land or airspace to convey a property interest in the land or airspace to the public agency sponsoring the project or owning or controlling the airport when necessary to carry out a project under this subchapter at a public airport, to operate a public airport, or for the future development of an airport~~

~~under the national plan of integrated airport systems; and~~

~~"(2) may request the head of such a department, agency, or instrumentality to convey a property interest in the land or airspace to a public agency for a use that will complement, facilitate, or augment airport development, including the development of additional revenue from both aviation and non-aviation sources if the Secretary—~~

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

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

~~"(C) provides preliminary notice to the head of such department, agency, or instrumentality at least 30 days before making the request;~~

~~"(D) provides an opportunity for notice to the public and public comment on the request; and~~

~~"(E) includes in the request a written justification for the conveyance.".~~

~~(b) APPLICATION TO EXISTING CONVEYANCES.—The provisions of section 47125(a)(2), as amended by subsection (a) apply to property interests conveyed under sec-~~

~~tion 47125 of that title before, on, or after the date of enactment of this Act, section 516 of the Airport and Airway Improvement Act of 1982, section 23 of the Airport and Airway Development Act of 1970, or section 16 of the Federal Airport Act. For purposes of this section, the Secretary of Transportation (or the predecessor of the Secretary) shall be deemed to have met the requirements of subparagraphs (C), (D), and (E) of section 47125(a)(2) of such title, as so amended, for any such conveyance before the date of enactment of this Act.~~

~~SEC. 509. FLIGHT OPERATIONS QUALITY ASSURANCE RULES.~~

~~Not later than 90 days after the date of enactment of this Act, the Administrator shall issue a notice of proposed rulemaking to develop procedures to protect air carriers and their employees from civil enforcement action under the program known as Flight Operations Quality Assurance. Not later than 1 year after the last day of the period for public comment provided for in the notice of proposed rulemaking, the Administrator shall issue a final rule establishing those procedures.~~

~~SEC. 510. WIDE AREA AUGMENTATION SYSTEM.~~

~~(a) PLAN.—The Administrator shall identify or develop a plan to implement WAAS to provide navigation and landing approach capabilities for civilian use and~~

~~make a determmination as to whether a backup system is necessary. Until the Administrator determines that WAAS is the sole means of navigation, the Administration shall continue to develop and maintain a backup system.''.~~

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

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

~~(2) submit a timetable for implementing WAAS. and~~

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

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

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

~~SEC. 511. REGULATION OF ALASKA AIR GUIDES.~~

~~The Administrator shall reissue the notice to operators originally published in the Federal Register on Janu-~~

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

~~SEC. 512. APPLICATION OF FAA REGULATIONS.~~

~~Section 40113 is amended by adding at the end thereof the following:~~

~~"(f) APPLICATION OF CERTAIN REGULATIONS TO ALASKA.—In amending title 14, Code of Federal Regulations, in a manner affecting intrastate aviation in Alaska, the Administrator of the Federal Aviation Administration shall consider the extent to which Alaska is not served by transportation modes other than aviation, and shall establish such regulatory distinctions as the Administrator considers appropriate.".~~

~~SEC. 513. ADVANCED QUALIFICATION PROGRAM.~~

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

“§ 44516. Human factors program

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

“(b) HUMAN FACTORS TRAINING.—

“(1) AIR TRAFFIC CONTROLLERS.—The Administrator shall—

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

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

“(2) PILOTS AND FLIGHT CREWS.—The Administrator shall work with the aviation industry to develop specific training curricula, within 12 months after the date of enactment of the National Air Transportation System Improvement Act of 1998, to address critical safety problems, including problems of pilots—

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

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

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

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

~~"(c) ACCIDENT INVESTIGATIONS.—The Administrator, working with the National Transportation Safety Board and representatives of the aviation industry, shall establish a process to assess human factors training as part of accident and incident investigations.~~

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

~~"(e) ADVANCED QUALIFICATION PROGRAM DEFINED.—For purposes of this section, the term 'advanced qualification program' means an alternative method for~~

~~qualifying, training, certifying, and ensuring the competency of flight crews and other commercial aviation operations personnel subject to the training and evaluation requirements of Parts 121 and 135 of title 14, Code of Federal Regulations.''.~~

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

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

~~''44516. Advanced qualification program''.~~

~~SEC. 514. INDEPENDENT VALIDATION OF FAA COSTS AND ALLOCATIONS.~~

~~(a) INDEPENDENT ASSESSMENT.—~~

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

~~or may contract with independent entities to conduct the analyses.~~

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

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

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

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

~~(iv) An assessment of the Federal Aviation Administration's system of internal controls for ensuring the consistency and reliability of re-~~

~~ported data to begin immediately after full operational capability of the cost accounting system.~~

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

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

~~(b) DEADLINE.—The independent analyses described in this section shall be completed no later than 270 days after the contracts are awarded to the outside independent~~

~~contractors. The Inspector General shall submit a final report combining the analyses done by its staff with those of the outside independent contractors to the Secretary of Transportation, the Administrator, the Committee on Commerce, Science, and Transportation of the Senate, and the Committee on Transportation and Infrastructure of the House of Representatives. The final report shall be submitted by the Inspector General not later than 300 days after the award of contracts.~~

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

~~SEC. 515. WHISTLEBLOWER PROTECTION FOR FAA EMPLOYEES.~~

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

~~SEC. 516. REPORT ON MODERNIZATION OF OCEANIC ATC SYSTEM.~~

~~The Administrator of the Federal Aviation Administration shall report to the Congress on plan to modernize the oceanic air traffic control system, including a budget for the program, a determination of the requirements for~~

~~modernization, and, if necessary, a proposal to fund the program.~~

~~SEC. 517. REPORT ON AIR TRANSPORTATION OVERSIGHT SYSTEM.~~

~~Beginning in 1999, the Administrator of the Federal Aviation Administration shall report biannually to the Congress on the air transportation oversight system program announced by the Administration on May 13, 1998, in detail on the training of inspectors, the number of inspectors using the system, air carriers subject to the system, and the budget for the system.~~

~~TITLE VI—AVIATION COMPETITION PROMOTION~~

~~SEC. 601. PURPOSE.~~

~~The purpose of this title is to facilitate, through a 5-year pilot program, incentives and projects that will help up to 40 communities or consortia of communities to improve their access to the essential airport facilities of the national air transportation system through public-private partnerships and to identify and establish ways to overcome the unique policy, economic, geographic, and marketplace factors that may inhibit the availability of quality, affordable air service to small communities.~~

~~SEC. 602. ESTABLISHMENT OF SMALL COMMUNITY AVIATION DEVELOPMENT PROGRAM.~~

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

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

~~"(1) ESTABLISHMENT.—The Secretary shall establish a 5-year pilot aviation development program to be administered by a program director designated by the Secretary.~~

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

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

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

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

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

~~"(E) work with and coordinate efforts with other Federal, State, and local agencies to increase the viability of service to small commu-~~

~~nities and the creation of aviation development zones; and~~

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

~~"(3) REPORTS.—The program director shall provide an annual report to the Secretary and the Congress beginning in 1999 that—~~

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

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

~~"(C) provides policy recommendations to address the policy, economic, geographic, and~~

~~marketplace factors inhibiting the availability of quality, affordable air transportation services to small communities.''.~~

~~SEC. 603. COMMUNITY-CARRIER AIR SERVICE PROGRAM.~~

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

~~''§ 41743. Air service program for small communities~~

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

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

~~''(c) CARRIERS PROGRAM.—The program director shall invite part 121 air carriers and regional/commuter carriers (as such terms are defined in section 41715(d) of this title) to offer service proposals in response to, or~~

~~in conjunction with, community aircraft service assessments submitted to the office under subsection (a). A service proposal under this paragraph shall include—~~

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

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

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

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

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

~~"(2) may obligate funds available to carry out this section;~~

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

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

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

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

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

~~"(c) LIMITATIONS.—~~

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

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

~~"(B) the community will make a substantial financial contribution that is appropriate for that community's resources, but of not less~~

~~than 25 percent of the cost of the project in any event;~~

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

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

~~"(2) AMOUNT.—The program director may not obligate more than $20,000,000 over the 5 years of the program.~~

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

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

~~"§ 41744. Pilot program project authority~~

~~"(a) IN GENERAL.—The program director designated by the Secretary of Transportation under section 102(g)(1) shall establish a 5-year pilot program—~~

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

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

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

~~"(1) provide financial assistance by way of grants to small communities or consortia of small communities under section 41743 of up to $500,000 per year; and~~

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

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

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

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

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

“§ 41745. Assistance to communities for service

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

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

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

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

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

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

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

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

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

~~"(c) COORDINATION WITH OTHER PROVISIONS OF SUBCHAPTER.—The Secretary shall carry out the 5-year pilot program authorized by this subchapter in such a manner as to complement action taken under the other provisions of this subchapter. To the extent the Secretary determines to be appropriate, the Secretary may adopt criteria for implementation of the 5-year pilot program that are the same as, or similar to, the criteria developed under the preceding sections of this subchapter for determining which airports are eligible under those sections. The Secretary shall also, to the extent possible, provide incentives where no direct, viable, and feasible alternative service exists, taking into account geographical diversity and appropriate market definitions.~~

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

~~"(1) permit the participation of the maximum feasible number of communities and States over a 5-~~

~~year period by limiting the number of years of participation or otherwise; and~~

~~"(2) obtain the greatest possible leverage from the financial resources available to the Secretary and the applicant by—~~

~~"(A) progressively decreasing, on a project-by-project basis, any Federal financial incentives provided under this chapter over the 5-year period; and~~

~~"(B) terminating as early as feasible Federal financial incentives for any project determined by the Secretary after its implementation to be—~~

~~"(i) viable without further support under this subchapter; or~~

~~"(ii) failing to meet the purposes of this chapter or criteria established by the Secretary under the pilot program.~~

~~"(e) SUCCESS BONUS.—If Federal financial incentives to a community are terminated under subsection (d)(2)(B) because of the success of the program in that community, then that community may receive a one-time incentive grant to ensure the continued success of that program.~~

~~"(f) PROGRAM TO TERMINATE IN 5 YEARS.—No new financial assistance may be provided under this subchapter for any fiscal year beginning more than 5 years after the date of enactment of the National Air Transportation System Improvement Act of 1998.~~

~~"§ 41746. Additional authority~~

~~"In carrying out this chapter, the Secretary—~~

~~"(1) may provide assistance to States and communities in the design and application phase of any project under this chapter, and oversee the implementation of any such project;~~

~~"(2) may assist States and communities in putting together projects under this chapter to utilize private sector resources, other Federal resources, or a combination of public and private resources;~~

~~"(3) may accord priority to service by jet aircraft;~~

~~"(4) take such action as may be necessary to ensure that financial resources, facilities, and administrative arrangements made under this chapter are used to carry out the purposes of the Air Service Restoration Title; and~~

~~"(5) shall work with the Federal Aviation Administration on airport and air traffic control needs of communities in program.~~

“§ 41747. Air traffic control services pilot program

“(a) IN GENERAL.—To further facilitate the use of, and improve the safety at, small airports, the Administrator of the Federal Aviation Administration shall establish a pilot program to contract for Level I air traffic control services at 20 facilities not eligible for participation in the Federal Contract Tower Program.

“(b) PROGRAM COMPONENTS.—In carrying out the pilot program established under subsection (a), the Administrator may—

“(1) utilize current, actual, site-specific data, forecast estimates, or airport system plan data provided by a facility owner or operator;

“(2) take into consideration unique aviation safety, weather, strategic national interest, disaster relief, medical and other emergency management relief services, status of regional airline service, and related factors at the facility;

“(3) approve for participation any facility willing to fund a pro rata share of the operating costs used by the Federal Aviation Administration to calculate, and, as necessary, a 1:1 benefit-to-cost ratio, as required for eligibility under the Federal Contract Tower Program; and

“(4) approve for participation no more than 3 facilities willing to fund a pro rata share of con-

~~struction costs for an air traffic control tower so as to achieve, at a minimum, a 1:1 benefit-to-cost ratio, as required for eligibility under the Federal Contract Tower Program, and for each of such facilities the Federal share of construction costs does not exceed $1,000,000.~~

~~"(c) REPORT.—One year before the pilot program established under subsection (a) terminates, the Administrator shall report to the Congress on the effectiveness of the program, with particular emphasis on the safety and economic benefits provided to program participants and the national air transportation system.".~~

~~(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 417 is amended by inserting after the item relating to section 41742 the following:~~

~~"41743. Air service program for small communities~~
~~"41744. Pilot program project authority~~
~~"41745. Assistance to communities for service~~
~~"41746. Additional authority~~
~~"41747. Air traffic control services pilot program".~~

~~(c) WAIVER OF LOCAL CONTRIBUTION.—Section 41736(b) is amended by inserting after paragraph (4) the following:~~

~~"Paragraph (4) does not apply to any community approved for service under this section during the period beginning October 1, 1991, and ending December 31, 1997.".~~

~~SEC. 604. FUNDING AUTHORITY.~~

~~The Secretary of Transportation may obligate not more than $20,000,000 for the 5 fiscal year period beginning with fiscal year 1999 to carry out sections 41743 through 41746 of chapter 417 of title 49, United States Code, out of the account established under section 45303.~~

~~SEC. 605. MARKETING PRACTICES.~~

~~Section 41712 is amended by—~~

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

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

~~"(b) MARKETING PRACTICES THAT ADVERSELY AFFECT SERVICE TO SMALL OR MEDIUM COMMUNITIES.—Within 180 days after the date of enactment of the National Air Transportation System Improvement Act of 1998, the Secretary shall review the marketing practices of air carriers that may inhibit the availability of quality, affordable air transportation services to small and medium-sized communities, including—~~

~~"(1) marketing arrangements between airlines and travel agents;~~

~~"(2) code-sharing partnerships;~~

~~"(3) computer reservation system displays;~~

~~"(4) gate arrangements at airports; and~~

~~"(5) any other marketing practice that may have the same effect.~~

~~"(c) REGULATIONS.—If the Secretary finds, after conducting the review required by subsection (b), that marketing practices inhibit the availability of such service to such communities, then, after public notice and an opportunity for comment, the Secretary shall promulgate regulations that address the problem.".~~

~~SEC. 606. SLOT EXEMPTIONS FOR NONSTOP REGIONAL JET SERVICE.~~

~~(a) IN GENERAL.—Section 41714 is amended—~~

~~(1) by redesignating subsection (h) as subsection (i); and~~

~~(2) by inserting after subsection (g) the following:~~

~~"(h) SLOTS FOR NONSTOP JET SERVICE EXEMPTION.—~~

~~"(1) IN GENERAL.—Within 90 days after receiving an application for an exemption to provide nonstop regional jet air service between—~~

~~"(A) a nonhub airport (as defined in section 41731(a)(4)) or a small hub airport (as defined in section 41731(a)(5)); and~~

~~"(B) a high density airport subject to the exemption authority under subsection (a),~~

~~the Secretary shall grant or deny the exemption in accordance with established principles of safety and the promotion of competition.~~

~~"(2) EXISTING SLOTS TAKEN IN ACCOUNT.—In deciding to grant or deny the exemption, the Secretary may take into consideration the slots already used by the applicant.~~

~~"(3) CONDITIONS.—The Secretary may grant an exemption to an air carrier under paragraph (1)—~~

~~"(A) for a period of not less than 12 months;~~

~~"(B) for a minimum of 2 daily roundtrip flights; and~~

~~"(C) for a maximum of 3 daily roundtrip flights.~~

~~"(4) CHANGE OF NONHUB OR SMALL HUB AIRPORT; JET AIRCRAFT.—The Secretary may, upon application made by an air carrier operating under an exemption granted under paragraph (1)—~~

~~"(A) authorize the air carrier to upgrade its service under the exemption to a larger jet aircraft; and~~

~~"(B) authorize an air carrier operating under such an exemption to change the nonhub~~

~~airport or small hub airport for which the exemption was granted to provide the same service to a different nonhub or small hub airport if—~~

~~"(i) the air carrier has been operating under the exemption for a period of not less than 12 months; and~~

~~"(ii) the air carrier can demonstrate unmitigatable losses.~~

~~"(5) FOREFEITURE FOR MISUSE.—Any exemption granted under paragraph (1) shall be terminated immediately by the Secretary if the air carrier to which it was granted uses the slot for any purpose other than the purpose for which it was granted or in violation of the conditions under which it was granted.~~

~~"(6) RESTORATION OF AIR SERVICE.—To the extent that—~~

~~"(A) slots were withdrawn from an air carrier under subsection (b) of this section;~~

~~"(B) the withdrawal of slots under that subsection resulted in a net loss of slots; and~~

~~"(C) the net loss of slots resulting from the withdrawal had an adverse effect on service~~

~~to nonhub airports and in other domestic markets,~~

~~the Secretary shall give priority consideration to the request of any air carrier from which slots were withdrawn under that section for an equivalent number of slots at the airport where the slots were withdrawn.~~

~~"(7) PRIORITY TO NEW ENTRANTS AND LIMITED INCUMBENT CARRIERS.—In assigning slots under this subsection the Secretary shall, in conjunction with paragraph (5), give priority consideration to an application from an air carrier that, as of July 1, 1998, held fewer than 20 slots at the high density airport for which it filed an exemption application.".~~

~~(b) DEFINITIONS.—Subsection (i) of section 41714 as redesignated by subsection (a), is amended by—~~

~~(1) by striking "The term" in paragraph (1) and inserting "Except as provided in paragraph (5), the term"; and~~

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

~~"(5) NONSTOP JET EXEMPTION DEFINITIONS.—Any term used in subsection (h) that is defined in section 41762 has the meaning given that term by section 41762.".~~

~~(c) SLOT WITHDRAWAL NOT TO AFFECT NONHUB SERVICE.—Section 41714, as amended by subsection (a), is amended—~~

~~(1) by redesignating subsection (i) as subsection (j); and~~

~~(2) by inserting after subsection (h) the following:~~

~~"(i) SLOT WITHDRAWAL MAY NOT AFFECT NONHUB SERVICE.—The Secretary may not withdraw a slot from a United States air carrier under this section in order to provide a slot to a foreign air carrier for purposes of international air transportation unless the Secretary finds that—~~

~~"(1) the withdrawal of that slot from the United States air carrier will not adversely affect air service to nonhub airports; and~~

~~"(2) United States air carriers seeking slots for purposes of international air transportation at an airport in the home country of that foreign air carrier receive reciprocal treatment by the government of that country.".~~

~~SEC. 607. SECRETARY SHALL GRANT EXEMPTIONS TO PERIMETER RULE.~~

~~(a) IN GENERAL.—The Secretary of Transportation shall by order grant exemptions from the application of~~

~~section 49109 of title 49, United States Code, to air carriers to operate limited frequencies and aircraft on select routes between Ronald Reagan Washington National Airport and other airports if the Secretary finds that the exemption will—~~

~~(1) provide air transportation service with domestic network benefits in areas beyond the perimeter described in that section; and~~

~~(2) increase competition in multiple markets.~~

~~(b) LIMITATIONS.—~~

~~(1) AIRCRAFT.—An exemption granted under subsection (a) may not be granted with respect to any aircraft that is not a Stage 3 aircraft (as defined by the Secretary).~~

~~(2) NUMBER AND TYPE OF OPERATION.—An exemption granted under subsection (a) may not—~~

~~(A) result in more than 12 new daily air carrier slots at such airport for long-haul service beyond the perimeter;~~

~~(B) result in more than 12 new daily commuter slots at such airport; or~~

~~(C) result in new daily commuter slots for service to any within-the-perimeter market that is not an underserved market.~~

~~(3) HOURS OF OPERATION.—In granting exemptions under subsection (a), the Secretary shall distribute the 24 new daily slots fairly evenly across the hours between 7:00 a.m. and 9:59 p.m., except that—~~

~~(A) 2 slots per hour shall be added during 9 of the hours beginning during that period; and~~

~~(B) 1 slot per hour shall be added during 6 of the hours beginning during that period.~~

~~(4) PROTECTION OF INCUMBENT CARRIERS.—An exemption granted under subsection (a) may not result in the withdrawal of a slot from any incumbent air carrier at that airport.~~

~~(c) WITHIN-PERIMETER SLOT DISTRIBUTION.—The Secretary shall develop criteria for distributing slots for flights within the perimeter to airports other than large hubs (as defined in section 47134(d)(2) of title 49, United States Code) in a manner consistent with promoting competition.~~

~~(d) REPORT.—Within 1 year after the date of enactment of this Act, and biannually thereafter, the Secretary shall certify to the United States Senate Committee on Commerce, Science, and Transportation, the United States House of Representatives Committee on Transpor-~~

~~tation and Infrastructure, and the Governments of Maryland and Virginia that noise standards, air traffic congestion, airport-related vehicular congestion, safety standards, and adequate air service to communities served by small hub airports and medium hub airports within the perimeter described in section 49109 of title 49, United States Code, have been maintained at appropriate levels.~~

~~(d) FORFEITURE FOR MISUSE.—The Secretary shall terminate an exemption granted under subsection (a) if the air carrier to which it was granted violates subsection (b)(5), and reallocate the exemption under subsection (a) to another air carrier.~~

~~(f) CERTAIN TITLE 49 DEFINITIONS APPLY.—Any term used in this section that is defined in chapter 417 of title 49, United States Code, has the meaning given that term in that chapter.~~

~~SEC. 608. ADDITIONAL SLOTS AT CHICAGO'S O'HARE AIRPORT.~~

~~(a) IN GENERAL.—The Secretary of Transportation may grant 100 additional slots under section 41714 of title 49, United States Code, over a 3-year period to air carriers to operate limited frequencies and aircraft on select routes between O'Hare Airport in Chicago, Illinois, and other airports if the Secretary—~~

~~(1) first converts unused military slots at that airport to air carrier slots;~~

~~(2) before granting the additional slots, finds that the additional capacity—~~

~~(A) is available; and~~

~~(B) can be used safely; and~~

~~(3) limits the use of the additional slots to Stage 3 aircraft (as defined by the Secretary).~~

~~(b) CERTAIN TITLE 49 DEFINITIONS APPLY.—Any term used in this section that is defined in chapter 417 of title 49, United States Code, has the meaning given that term in that chapter.~~

~~SEC. 609. CONSUMER NOTIFICATION OF E-TICKET EXPIRATION DATES.~~

~~Section 41712 is amended by—~~

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

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

~~"(b) E-TICKET EXPIRATION NOTICE.—It shall be an unfair or deceptive practice under subsection (a) for any air carrier utilizing electronically transmitted tickets to fail to notify the purchaser of such a ticket of its expiration date, if any.".~~

~~TITLE VII—PARK OVERFLIGHTS~~

~~SEC. 701. FINDINGS.~~

~~The Congress finds that—~~

~~(1) the Federal Aviation Administration has sole authority to control airspace over the United States;~~

~~(2) the Federal Aviation Administration has the authority to preserve, protect, and enhance the environment by minimizing, mitigating, or preventing the adverse effects of aircraft overflights on the public and tribal lands;~~

~~(3) the National Park Service has the responsibility of conserving the scenery and natural and historic objects and wildlife in national parks and of providing for the enjoyment of the national parks in ways that leave the national parks unimpaired for future generations;~~

~~(4) the protection of tribal lands from aircraft overflights is consistent with protecting the public health and welfare and is essential to the maintenance of the natural and cultural resources of Indian tribes;~~

~~(5) the National Parks Overflights Working Group, composed of general aviation, air tour, environmental, and Native American representatives,~~

~~recommended that the Congress enact legislation based on its consensus work product; and~~

~~(6) this title reflects the recommendations made by that Group.~~

~~SEC. 702. AIR TOUR MANAGEMENT PLANS FOR NATIONAL PARKS.~~

~~(a) IN GENERAL.—Chapter 401 is amended by adding at the end the following:~~

~~"§ 40125. Overflights of national parks~~

~~"(a) IN GENERAL.—~~

~~"(1) GENERAL REQUIREMENTS.—A commercial air tour operator may not conduct commercial air tour operations over a national park or tribal lands except—~~

~~"(A) in accordance with this section;~~

~~"(B) in accordance with conditions and limitations prescribed for that operator by the Administrator; and~~

~~"(C) in accordance with any effective air tour management plan for that park or those tribal lands.~~

~~"(2) APPLICATION FOR OPERATING AUTHORITY.—~~

~~"(A) APPLICATION REQUIRED.—Before commencing commercial air tour operations~~

~~over a national park or tribal lands, a commercial air tour operator shall apply to the Administrator for authority to conduct the operations over that park or those tribal lands.~~

~~"(B) COMPETITIVE BIDDING FOR LIMITED CAPACITY PARKS.—Whenever a commercial air tour management plan limits the number of commercial air tour flights over a national park area during a specified time frame, the Administrator, in cooperation with the Director, shall authorize commercial air tour operators to provide such service. The authorization shall specify such terms and conditions as the Administrator and the Director find necessary for management of commercial air tour operations over the national park. The Administrator, in cooperation with the Director, shall develop an open competitive process for evaluating proposals from persons interested in providing commercial air tour services over the national park. In making a selection from among various proposals submitted, the Administrator, in cooperation with the Director, shall consider relevant factors, including—~~

~~"(i) the safety record of the company or pilots;~~

~~"(ii) any quiet aircraft technology proposed for use;~~

~~"(iii) the experience in commercial air tour operations over other national parks or scenic areas;~~

~~"(iv) the financial capability of the company;~~

~~"(v) any training programs for pilots; and~~

~~"(vi) responsiveness to any criteria developed by the National Park Service or the affected national park.~~

~~"(C) NUMBER OF OPERATIONS AUTHORIZED.—In determining the number of authorizations to issue to provide commercial air tour service over a national park, the Administrator, in cooperation with the Director, shall take into consideration the provisions of the air tour management plan, the number of existing commercial air tour operators and current level of service and equipment provided by any such companies, and the financial viability of each commercial air tour operation.~~

~~"(D) COOPERATION WITH NPS.—Before granting an application under this paragraph, the Administrator shall, in cooperation with the Director, develop a air tour management plan in accordance with subsection (b) and implement such plan.~~

~~"(E) TIME LIMIT ON RESPONSE TO ATMP APPLICATIONS.—The Administrator shall act on any such application and issue a decision on the application not later than 24 months after it is received or amended.~~

~~"(3) EXCEPTION.—Notwithstanding paragraph (1), commercial air tour operators may conduct commercial air tour operations over a national park under part 91 of the Federal Aviation Regulations (14 CFR 91.1 et seq.) if—~~

~~"(A) such activity is permitted under part 119 (14 CFR 119.1(e)(2));~~

~~"(B) the operator secures a letter of agreement from the Administrator and the national park superintendent for that national park describing the conditions under which the flight operations will be conducted; and~~

~~"(C) the total number of operations under this exception is limited to not more than 5~~

~~flights in any 30-day period over a particular park.~~

~~"(4) SPECIAL RULE FOR SAFETY REQUIREMENTS.—Notwithstanding subsection (c), an existing commercial air tour operator shall, not later than 90 days after the date of enactment of the National Air Transportation System Improvement Act of 1998, apply for operating authority under part 119, 121, or 135 of the Federal Aviation Regulations (14 CFR Pt. 119, 121, or 135). A new entrant commercial air tour operator shall apply for such authority before conducting commercial air tour operations over a national park or tribal lands.~~

~~"(b) AIR TOUR MANAGEMENT PLANS.—~~

~~"(1) ESTABLISHMENT OF ATMPS.—~~

~~"(A) IN GENERAL.—The Administrator shall, in cooperation with the Director, establish an air tour management plan for any national park or tribal land for which such a plan is not already in effect whenever a person applies for authority to operate a commercial air tour over the park. The development of the air tour management plan is to be a cooperative undertaking between the Federal Aviation Administration and the National Park Service. The air tour~~

~~management plan shall be developed by means of a public process, and the agencies shall develop information and analysis that explains the conclusions that the agencies make in the application of the respective criteria. Such explanations shall be included in the Record of Decision and may be subject to judicial review.~~

~~"(B) OBJECTIVE.—The objective of any air tour management plan shall be to develop acceptable and effective measures to mitigate or prevent the significant adverse impacts, if any, of commercial air tours upon the natural and cultural resources and visitor experiences and tribal lands.~~

~~"(2) ENVIRONMENTAL DETERMINATION.—In establishing an air tour management plan under this subsection, the Administrator and the Director shall each sign the environmental decision document required by section 102 of the National Environmental Policy Act of 1969 (42 U.S.C. 4332) which may include a finding of no significant impact, an environmental assessment, or an environmental impact statement, and the Record of Decision for the air tour management plan.~~

~~"(3) CONTENTS.—An air tour management plan for a national park—~~

~~"(A) may prohibit commercial air tour operations in whole or in part;~~

~~"(B) may establish conditions for the conduct of commercial air tour operations, including commercial air tour routes, maximum or minimum altitudes, time-of-day restrictions, restrictions for particular events, maximum number of flights per unit of time, intrusions on privacy on tribal lands, and mitigation of noise, visual, or other impacts;~~

~~"(C) may apply to all commercial air tours within ½ mile outside the boundary of a national park;~~

~~"(D) shall include incentives (such as preferred commercial air tour routes and altitudes, relief from caps and curfews) for the adoption of quieter aircraft technology by commercial air tour operators conducting commercial air tour operations at the park;~~

~~"(E) shall provide for the initial allocation of opportunities to conduct commercial air tours if the plan includes a limitation on the~~

~~number of commercial air tour flights for any time period; and~~

~~"(F) shall justify and document the need for measures taken pursuant to subparagraphs (A) through (E).~~

~~"(4) PROCEDURE.—In establishing a commercial air tour management plan for a national park, the Administrator and the Director shall—~~

~~"(A) initiate at least one public meeting with interested parties to develop a commercial air tour management plan for the park;~~

~~"(B) publish the proposed plan in the Federal Register for notice and comment and make copies of the proposed plan available to the public;~~

~~"(C) comply with the regulations set forth in sections 1501.3 and 1501.5 through 1501.8 of title 40, Code of Federal Regulations (for purposes of complying with those regulations, the Federal Aviation Administration is the lead agency and the National Park Service is a cooperating agency); and~~

~~"(D) solicit the participation of any Indian tribe whose tribal lands are, or may be, overflown by aircraft involved in commercial air~~

~~tour operations over a national park or tribal lands, as a cooperating agency under the regulations referred to in paragraph (4)(C).~~

~~"(5) AMENDMENTS.—Any amendment of an air tour management plan shall be published in the Federal Register for notice and comment. A request for amendment of an air tour management plan shall be made in such form and manner as the Administrator may prescribe.~~

~~"(e) INTERIM OPERATING AUTHORITY.—~~

~~"(1) IN GENERAL.—Upon application for operating authority, the Administrator shall grant interim operating authority under this paragraph to a commercial air tour operator for a national park or tribal lands for which the operator is an existing commercial air tour operator.~~

~~"(2) REQUIREMENTS AND LIMITATIONS.—Interim operating authority granted under this paragraph—~~

~~"(A) shall provide annual authorization only for the greater of—~~

~~"(i) the number of flights used by the operator to provide such tours within the 12-month period prior to the date of enact-~~

~~ment of the National Air Transportation System Improvement Act of 1998; or~~

~~"(ii) the average number of flights per 12-month period used by the operator to provide such tours within the 36-month period prior to such date of enactment, and, for seasonal operations, the number of flights so used during the season or seasons covered by that 12-month period;~~

~~"(B) may not provide for an increase in the number of operations conducted during any time period by the commercial air tour operator to which it is granted unless the increase is agreed to by the Administrator and the Director;~~

~~"(C) shall be published in the Federal Register to provide notice and opportunity for comment;~~

~~"(D) may be revoked by the Administrator for cause;~~

~~"(E) shall terminate 180 days after the date on which an air tour management plan is established for that park or those tribal lands; and~~

~~"(F) shall—~~

~~"(i) promote protection of national park resources, visitor experiences, and tribal lands;~~

~~"(ii) promote safe operations of the commercial air tour;~~

~~"(iii) promote the adoption of quiet technology, as appropriate; and~~

~~"(iv) allow for modifications of the operation based on experience if the modification improves protection of national park resources and values and of tribal lands.~~

~~"(3) NEW ENTRANT AIR TOUR OPERATORS.—~~

~~"(A) IN GENERAL.—The Administrator, in cooperation with the Director, may grant interim operating authority under this paragraph to an air tour operator for a national park for which that operator is a new entrant air tour operator if the Administrator determines the authority is necessary to ensure competition in the provision of commercial air tours over that national park or those tribal lands.~~

~~"(B) SAFETY LIMITATION.—The Administrator may not grant interim operating authority under subparagraph (A) if the Adminis-~~

~~trator determines that it would create a safety problem at that park or on tribal lands, or the Director determines that it would create a noise problem at that park or on tribal lands.~~

~~"(C) ATMP LIMITATION.—The Administrator may grant interim operating authority under subparagraph (A) of this paragraph only if the air tour management plan for the park or tribal lands to which the application relates has not been developed within 24 months after the date of enactment of the National Air Transportation System Improvement Act of 1998.~~

~~"(d) DEFINITIONS.—In this section, the following definitions apply:~~

~~"(1) COMMERCIAL AIR TOUR.—The term 'commercial air tour' means any flight conducted for compensation or hire in a powered aircraft where a purpose of the flight is sightseeing. If the operator of a flight asserts that the flight is not a commercial air tour, factors that can be considered by the Administrator in making a determination of whether the flight is a commercial air tour, include, but are not limited to—~~

~~"(A) whether there was a holding out to the public of willingness to conduct a sightseeing flight for compensation or hire;~~

~~"(B) whether a narrative was provided that referred to areas or points of interest on the surface;~~

~~"(C) the area of operation;~~

~~"(D) the frequency of flights;~~

~~"(E) the route of flight;~~

~~"(F) the inclusion of sightseeing flights as part of any travel arrangement package; or~~

~~"(G) whether the flight or flights in question would or would not have been canceled based on poor visibility of the surface.~~

~~"(2) COMMERCIAL AIR TOUR OPERATOR.—The term 'commercial air tour operator' means any person who conducts a commercial air tour.~~

~~"(3) EXISTING COMMERCIAL AIR TOUR OPERATOR.—The term 'existing commercial air tour operator' means a commercial air tour operator that was actively engaged in the business of providing commercial air tours over a national park at any time during the 12-month period ending on the date of enactment of the National Air Transportation System Improvement Act of 1998.~~

~~"(4) NEW ENTRANT COMMERCIAL AIR TOUR OPERATOR.—The term 'new entrant commercial air tour operator' means a commercial air tour operator that—~~

~~"(A) applies for operating authority as a commercial air tour operator for a national park; and~~

~~"(B) has not engaged in the business of providing commercial air tours over that national park or those tribal lands in the 12-month period preceding the application.~~

~~"(5) COMMERCIAL AIR TOUR OPERATIONS.—The term 'commercial air tour operations' means commercial air tour flight operations conducted—~~

~~"(A) over a national park or within ½ mile outside the boundary of any national park;~~

~~"(B) below a minimum altitude, determined by the Administrator in cooperation with the Director, above ground level (except solely for purposes of takeoff or landing, or necessary for safe operation of an aircraft as determined under the rules and regulations of the Federal Aviation Administration requiring the pilot-in-command to take action to ensure the safe operation of the aircraft); and~~

~~"(C) less than 1 mile laterally from any geographic feature within the park (unless more than ½ mile outside the boundary).~~

~~"(6) NATIONAL PARK.—The term 'national park' means any unit of the National Park System.~~

~~"(7) TRIBAL LANDS.—The term 'tribal lands' means 'Indian country', as defined by section 1151 of title 18, United States Code, that is within or abutting a national park.~~

~~"(8) ADMINISTRATOR.—The term 'Administrator' means the Administrator of the Federal Aviation Administration.~~

~~"(9) DIRECTOR.—The term 'Director' means the Director of the National Park Service.".~~

~~(b) CLERICAL AMENDMENT.—The table of sections for chapter 401 is amended by adding at the end thereof the following:~~

~~"40125. Overflights of national parks".~~

~~SEC. 703. ADVISORY GROUP.~~

~~(a) ESTABLISHMENT.—Not later than 1 year after the date of enactment of this Act, the Administrator of the Federal Aviation Administration and the Director of the National Park Service shall jointly establish an advisory group to provide continuing advice and counsel with respect to the operation of commercial air tours over and near national parks.~~

~~(b) MEMBERSHIP.—~~

~~(1) IN GENERAL.—The advisory group shall be composed of—~~

~~(A) a balanced group of —~~

~~(i) representatives of general aviation;~~

~~(ii) representatives of commercial air tour operators;~~

~~(iii) representatives of environmental concerns; and~~

~~(iv) representatives of Indian tribes;~~

~~(B) a representative of the Federal Aviation Administration; and~~

~~(C) a representative of the National Park Service.~~

~~(2) EX-OFFICIO MEMBERS.—The Administrator and the Director shall serve as ex-officio members.~~

~~(3) CHAIRPERSON.—The representative of the Federal Aviation Administration and the representative of the National Park Service shall serve alternating 1-year terms as chairman of the advisory group, with the representative of the Federal Aviation Administration serving initially until the end of the calendar year following the year in which the advisory group is first appointed.~~

~~(c) DUTIES.—The advisory group shall provide advice, information, and recommendations to the Administrator and the Director—~~

~~(1) on the implementation of this title;~~

~~(2) on the designation of commonly accepted quiet aircraft technology for use in commercial air tours of national parks or tribal lands, which will receive preferential treatment in a given air tour management plan;~~

~~(3) on other measures that might be taken to accommodate the interests of visitors to national parks; and~~

~~(4) on such other national park or tribal lands-related safety, environmental, and air touring issues as the Administrator and the Director may request.~~

~~(d) COMPENSATION; SUPPORT; FACA.—~~

~~(1) COMPENSATION AND TRAVEL.—Members of the advisory group who are not officers or employees of the United States, while attending conferences or meetings of the group or otherwise engaged in its business, or while serving away from their homes or regular places of business, each member may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5,~~

~~United States Code, for persons in the Government service employed intermittently.~~

~~(2) ADMINISTRATIVE SUPPORT.—The Federal Aviation Administration and the National Park Service shall jointly furnish to the advisory group clerical and other assistance.~~

~~(3) NONAPPLICATION OF FACA.—Section 14 of the Federal Advisory Committee Act (5 U.S.C. App.) does not apply to the advisory group.~~

~~(e) REPORT.—The Administrator and the Director shall jointly report to the Congress within 24 months after the date of enactment of this Act on the success of this title in providing incentives for quiet aircraft technology.~~

~~SEC. 704. EXEMPTION.~~

~~Section 40125 of title 49, United States Code, as added by section 702 of this Act, does not apply to—~~

~~(1) the Grand Canyon National Park;~~

~~(2) Indian country within or abutting the Grand Canyon National Park;~~

~~(3) any unit of the National Park System located in Alaska; or~~

~~(4) Indian country located in Alaska.~~

~~SEC. 705. OVERFLIGHT FEE REPORT.~~

~~Not later than 180 days after the date of enactment of this Act, the Administrator of the Federal Aviation Ad-~~

~~ministration shall transmit to Congress a report on the effects proposed overflight fees are likely to have on the commercial air tour industry. The report shall include, but shall not be limited to—~~

~~(1) the viability of a tax credit for the commercial air tour operators equal to the amount of the proposed fee charged by the National Park Service; and~~

~~(2) the financial effects proposed offsets are likely to have on Federal Aviation Administration budgets and appropriations.~~

~~TITLE VIII—AVIATION TRUST FUND AMENDMENTS~~

~~SEC. 801. AMENDMENTS TO THE AIRPORT AND AIRWAY TRUST FUND.~~

~~Section 9502(d)(1) of the Internal Revenue Code of 1986 (relating to expenditures from Airport and Airway Trust Fund) is amended—~~

~~(1) by striking "1998," and inserting "2002,";~~

~~(2) by striking "1996;" in subparagraph (A) and inserting "1996, or the National Air Transportation System Improvement Act of 1998,";~~

~~(3) by striking "or" at the end of subparagraph (B); and~~

~~(4) by striking "(B)." in subparagraph (C) and inserting "(B); or".~~

SECTION 1. SHORT TITLE; TABLE OF SECTIONS.

(a) SHORT TITLE.—This Act may be cited as the "Wendell H. Ford National Air Transportation System Improvement Act of 1998".

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

Sec. 1. Short title; table of sections.
Sec. 2. Amendments to title 49, United States Code.

TITLE I—AUTHORIZATIONS

Sec. 101. Federal Aviation Administration operations.
Sec. 102. Air navigation facilities and equipment.
Sec. 103. Airport planning and development and noise compatibility planning and programs.
Sec. 104. Reprogramming notification requirement.
Sec. 105. Airport security program.
Sec. 106. Contract tower program.

TITLE II—AIRPORT IMPROVEMENT PROGRAM AMENDMENTS

Sec. 201. Removal of the cap on discretionary fund.
Sec. 202. Innovative use of airport grant funds.
Sec. 203. Matching share.
Sec. 204. Increase in apportionment for noise compatibility planning and programs.
Sec. 205. Technical amendments.
Sec. 206. Repeal of period of applicability.
Sec. 207. Report on efforts to implement capacity enhancements.
Sec. 208. Prioritization of discretionary projects.
Sec. 209. Public notice before grant assurance requirement waived.
Sec. 210. Definition of public aircraft.
Sec. 211. Terminal development costs.

TITLE III—AMENDMENTS TO AVIATION LAW

Sec. 301. Severable services contracts for periods crossing fiscal years.
Sec. 302. Foreign carriers eligible for waiver under Airport Noise and Capacity Act.
Sec. 303. Government and industry consortia.
Sec. 304. Implementation of Article 83 Bis of the Chicago Convention.
Sec. 305. Foreign aviation services authority.
Sec. 306. Flexibility to perform criminal history record checks; technical amendments to Pilot Records Improvement Act.
Sec. 307. Aviation insurance program amendments.

Sec. 308. Technical corrections to civil penalty provisions.

TITLE IV—TITLE 49 TECHNICAL CORRECTIONS

Sec. 401. Restatement of 49 U.S.C. 106(g).
Sec. 402. Restatement of 49 U.S.C. 44909.
Sec. 403. Typographical errors.

TITLE V—MISCELLANEOUS

Sec. 501. Oversight of FAA response to year 2000 problem.
Sec. 502. Cargo collision avoidance systems deadline.
Sec. 503. Runway safety areas.
Sec. 504. Airplane emergency locators.
Sec. 505. Counterfeit aircraft parts.
Sec. 506. FAA may fine unruly passengers.
Sec. 507. Higher international standards for handicapped access.
Sec. 508. Conveyances of United States Government land.
Sec. 509. Flight operations quality assurance rules.
Sec. 510. Wide area augmentation system.
Sec. 511. Regulation of Alaska air guides.
Sec. 512. Application of FAA regulations.
Sec. 513. Human factors program.
Sec. 514. Independent validation of FAA costs and allocations.
Sec. 515. Whistleblower protection for FAA employees.
Sec. 516. Report on modernization of oceanic ATC system.
Sec. 517. Report on air transportation oversight system.
Sec. 518. Recycling of EIS.
Sec. 519. Protection of employees providing air safety information.

TITLE VI—AVIATION COMPETITION PROMOTION

Sec. 601. Purpose.
Sec. 602. Establishment of small community aviation development program.
Sec. 603. Community-carrier air service program.
Sec. 604. Authorization of appropriations.
Sec. 605. Marketing practices.
Sec. 606. Slot exemptions for nonstop regional jet service.
Sec. 607. Secretary shall grant exemptions to perimeter rule.
Sec. 608. Additional slots at Chicago's O'Hare Airport.
Sec. 609. Consumer notification of e-ticket expiration dates.
Sec. 610. Joint venture agreements.
Sec. 611. Regional air service incentive options.
Sec. 612. GAO study of rural air transportation needs.

TITLE VII—NATIONAL PARK OVERFLIGHTS

Sec. 701. Findings.
Sec. 702. Air tour management plans for national parks.
Sec. 703. Advisory group.
Sec. 704. Overflight fee report.

TITLE VIII—AVIATION TRUST FUND AMENDMENTS

Sec. 801. Amendments to the Airport and Airway Trust Fund.

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

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

TITLE I—AUTHORIZATIONS

SEC. 101. FEDERAL AVIATION ADMINISTRATION OPERATIONS.

Section 106(k) is amended to read as follows:

"(k) AUTHORIZATION OF APPROPRIATIONS FOR OPERATIONS.—

"(1) IN GENERAL.—There are authorized to be appropriated to the Secretary of Transportation for operations of the Administration $5,631,000,000 for fiscal year 1999, $5,784,000,000 for fiscal year 2000, $5,946,000,000 for fiscal year 2001, and $6,112,000,000 for fiscal year 2002. Of the amounts authorized to be appropriated for fiscal year 1999, not more than $9,100,000 shall be used to support air safety efforts through payment of United States membership obligations, to be paid as soon as practicable.

"(2) AUTHORIZED EXPENDITURES.—Of the amounts appropriated under paragraph (1) $450,000 may be used for wildlife hazard mitigation measures

and management of the wildlife strike database of the Federal Aviation Administration.

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

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

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

SEC. 102. AIR NAVIGATION FACILITIES AND EQUIPMENT.

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

"(1) for fiscal year 1999—

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

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

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

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

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

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

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

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

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

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

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

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

"(2) $2,189,000,000 for fiscal year 2000;

"(3) $2,250,000,000 for fiscal year 2001; and

"(4) $2,313,000,000 for fiscal year 2002.".

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

(1) by striking "fiscal years 1995 and 1996" and inserting "fiscal years 1999, 2000, 2001, and 2002"; and

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

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

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

(a) EXTENSION AND AUTHORIZATION.—Section 48103 is amended by—

(1) striking "September 30, 1996," and inserting "September 30, 1998,"; and

(2) striking "$2,280,000,000 for fiscal years ending before October 1, 1997, and $4,627,000,000 for fiscal years ending before October 1, 1998." and inserting "$2,410,000,000 for fiscal years ending before October 1, 1999, $4,885,000,000 for fiscal years ending

before October 1, 2000, $7,427,000,000 for fiscal years ending before October 1, 2001, and $10,038,000,000 for fiscal years ending before October 1, 2002.".

(b) PROJECT GRANT AUTHORITY.—Section 47104(c) is amended by striking "1998," and inserting "2002,".

SEC. 104. REPROGRAMMING NOTIFICATION REQUIREMENT.

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

SEC. 105. AIRPORT SECURITY PROGRAM.

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

"§ 47136. Airport security program

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

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

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

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

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

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

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

conduct the testing and evaluation of airport and aircraft related security systems.

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

(b) CONFORMING AMENDMENT.—The analysis for subchapter I of such chapter (as amended by section 202(b) of this Act) is amended by adding at the end the following:

"47136. Airport security program.".

SEC. 106. CONTRACT TOWER PROGRAM.

There are authorized to be appropriated to the Secretary of Transportation such sums as may be necessary to carry out the Federal Contract Tower Program under title 49, United States Code.

TITLE II—AIRPORT IMPROVEMENT PROGRAM AMENDMENTS

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

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

SEC. 202. INNOVATIVE USE OF AIRPORT GRANT FUNDS.

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

"§ 47135. Innovative financing techniques

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

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

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

"(d) INNOVATIVE FINANCING TECHNIQUE DEFINED.—In this section, the term 'innovative financing technique' includes methods of financing projects that the Secretary determines may be beneficial to airport development, including—

"(1) payment of interest;

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

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

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

"47135. Innovative financing techniques.".

SEC. 203. MATCHING SHARE.

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

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

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

SEC. 205. TECHNICAL AMENDMENTS.

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

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

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

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

(2) in paragraph (1) by—

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

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

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

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

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

(d) DISCRETIONARY FUND DEFINITION.—

(1) Section 47115 is amended—

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

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

(2) Section 47116 is amended—

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

(B) by redesignating paragraphs (1) and (2) in subsection (b) as subparagraphs (A) and

(B), respectively, and inserting before subparagraph (A), as so redesignated, the following:

"(1) one-seventh for grants for projects at small hub airports (as defined in section 41731 of this title); and

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

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

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

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

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

(2) inserting after clause (i) the following:

"(ii) a privately-owned airport that, as a reliever airport, received Federal aid for

airport development prior to October 9, 1996, but only if the Administrator issues revised administrative guidance after July 1, 1998, for the designation of reliever airports; or".

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

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

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

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

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

"(D) in Alaska aboard an aircraft having a seating capacity of less than 20 passengers.".

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

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

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

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

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

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

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

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

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

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

(1) Section 47151 is amended—

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

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

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

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

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

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

(2) Section 47152 is amended—

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

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

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

"47152. Terms of conveyances.".

(4) Section 47153(a) is amended—

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

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

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

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

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

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

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

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

An airport may not seek funds under this subchapter for runway rehabilitation or reconstruction of any such airfield pavement constructed using State high-

way specifications for a period of 10 years after construction is completed.".

SEC. 206. REPEAL OF PERIOD OF APPLICABILITY.

Section 125 of the Federal Aviation Reauthorization Act of 1996 (49 U.S.C. 47114 note) is repealed.

SEC. 207. REPORT ON EFFORTS TO IMPLEMENT CAPACITY ENHANCEMENTS.

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

SEC. 208. PRIORITIZATION OF DISCRETIONARY PROJECTS.

Section 47120 is amended by—

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

(2) adding at the end thereof the following:

"(b) DISCRETIONARY FUNDING TO BE USED FOR HIGHER PRIORITY PROJECTS.—The Administrator of the Federal Aviation Administration shall discourage airport sponsors and airports from using entitlement funds for

lower priority projects by giving lower priority to discretionary projects submitted by airport sponsors and airports that have used entitlement funds for projects that have a lower priority than the projects for which discretionary funds are being requested.".

SEC. 209. PUBLIC NOTICE BEFORE GRANT ASSURANCE REQUIREMENT WAIVED.

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

SEC. 210. DEFINITION OF PUBLIC AIRCRAFT.

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

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

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

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

"(III) transporting persons aboard the aircraft if the aircraft is

operated for the purpose of prisoner transport.".

SEC. 211. TERMINAL DEVELOPMENT COSTS.

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

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

TITLE III—AMENDMENTS TO AVIATION LAW

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

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

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

"(a) IN GENERAL.—The Administrator of the Federal Aviation Administration may enter into a contract for procurement of severable services for a period that begins in one fiscal year and ends in the next fiscal year if (without

regard to any option to extend the period of the contract) the contract period does not exceed one year.

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

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

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

SEC. 302. FOREIGN CARRIERS ELIGIBLE FOR WAIVER UNDER AIRPORT NOISE AND CAPACITY ACT.

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

SEC. 303. GOVERNMENT AND INDUSTRY CONSORTIA.

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

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

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

Section 44701 is amended—

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

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

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

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

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

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

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

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

"(A) aircraft registered in the United States operated pursuant to an agreement for the lease,

charter, or interchange of the aircraft or any similar arrangement by an operator that has its principal place of business or, if it has no such place of business, its permanent residence in another country; or

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

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

"(4) The Administrator may, in the agreement under paragraph (1), predicate the transfer of these

functions and duties on any conditions the Administrator deems necessary and prudent.".

SEC. 305. FOREIGN AVIATION SERVICES AUTHORITY.

(a) RECIPROCAL WAIVER OF OVERFLIGHT FEES.—Section 45301(a)(1) is amended to read as follows:

"(1) Air traffic control and related services provided to aircraft that neither take off from, nor land in, the United States, other than military and civilian aircraft of the United States Government or of a foreign government, except that such fees shall not be imposed on overflights that take off and land in a country contiguous to the United States if—

"(A) both the origin and destination of such flights are within that other country;

"(B) that country exempts similar categories of flights operated by citizens of the United States from such fees; and

"(C) that country exchanges responsibility for air traffic control services with the United States.".

(b) TECHNICAL CORRECTIONS.—Section 45301 is amended—

(1) by striking "government." in subsection (a)(2) and inserting "government or to any entity obtaining services outside the United States.";

(2) by striking "directly" in subsection (b)(1)(B); and

(3) by striking "rendered." in subsection (b)(1)(B) and inserting "rendered, including value to the recipient and both direct and indirect costs of overflight-related services, as determined by the Administrator, using generally accepted accounting principles and internationally accepted principles of setting fees for overflight-related services.".

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

Section 44936 is amended—

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

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

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

SEC. 307. AVIATION INSURANCE PROGRAM AMENDMENTS.

(a) REIMBURSEMENT OF INSURED PARTY'S SUBROGEE.—Subsection (a) of 44309 is amended—

(1) by striking the subsection caption and the first sentence, and inserting the following:

"(a) LOSSES.—

"(1) A person may bring a civil action in a district court of the United States or in the United States Court of Federal Claims against the United States Government when—

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

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

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

and

(2) by resetting the remainder of the subsection as a new paragraph and inserting "(2)" before "A civil action".

(b) EXTENSION OF AVIATION INSURANCE PROGRAM.—Section 44310 is amended by striking "1998." and inserting "2003.".

SEC. 308. TECHNICAL CORRECTIONS TO CIVIL PENALTY PROVISIONS.

Section 46301 is amended—

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

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

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

TITLE IV—TITLE 49 TECHNICAL CORRECTIONS

SEC. 401. RESTATEMENT OF 49 U.S.C. 106(g).

(a) IN GENERAL.—Section 106(g) is amended by striking "40113(a), (c), and (d), 40114(a), 40119, 44501(a) and (c), 44502(a)(1), (b) and (c), 44504, 44505, 44507, 44508, 44511–44513, 44701–44716, 44718(c), 44721(a), 44901, 44902, 44903(a)–(c) and (e), 44906, 44912, 44935–44937, and 44938(a) and (b), chapter 451, sections 45302–45304,"

and inserting "40113(a), (c)–(e), 40114(a), and 40119, and chapter 445 (except sections 44501(b), 44502(a)(2)–(4), 44503, 44506, 44509, 44510, 44514, and 44515), chapter 447 (except sections 44717, 44718(a) and (b), 44719, 44720, 44721(b), 44722, and 44723), chapter 449 (except sections 44903(d), 44904, 44905, 44907–44911, 44913, 44915, and 44931–44934), chapter 451, chapter 453, sections".

(b) TECHNICAL CORRECTION.—The amendment made by this section may not be construed as making a substantive change in the language replaced.

SEC. 402. RESTATEMENT OF 49 U.S.C. 44909.

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

SEC. 403. TYPOGRAPHICAL ERRORS.

(a) SECTION 15904.— Section 15904(c)(1) is amended by inserting "section" before "15901(b)".

(b) CHAPTER 491.—Chapter 491 is amended—

(1) by striking "1996" in section 49106(b)(1)(F) and inserting "1986";

(2) by striking "by the board" in section 49106(c)(3) and inserting "to the board";

(3) by striking "subchapter II" in section 49107(b) and inserting "subchapter III"; and

(4) by striking "retention of" in section 49111(b) and inserting "retention by".

(c) SCHEDULE OF REPEALED LAWS.—The Schedule of Laws Repealed in section 5(b) of the Act of November 20, 1997 (Public Law 105–102; 111 Stat. 2217), is amended by striking "1996" the first place it appears and inserting "1986".

(d) AMENDMENTS EFFECTIVE AS OF EARLIER DATE OF ENACTMENT.—The amendments made by subsections (a), (b), and (c) are effective as of November 20, 1997.

(e) CORRECTION OF ERROR IN TECHNICAL CORRECTIONS ACT.—Effective October 11, 1996, section 5(45)(A) of the Act of October 11, 1996 (Public Law 104–287, 110 Stat. 3393), is amended by striking "ENFORCEMENT;" and inserting "ENFORCEMENT:".

TITLE V—MISCELLANEOUS

SEC. 501. OVERSIGHT OF FAA RESPONSE TO YEAR 2000 PROBLEM.

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

SEC. 502. CARGO COLLISION AVOIDANCE SYSTEMS DEADLINE.

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

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

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

(2) other safety or public interest objectives.

(c) COLLISION AVOIDANCE EQUIPMENT.—For purposes of this section, the term "collision avoidance equipment" means TCAS II equipment (as defined by the Administrator), or any other similar system approved by the Administration for collision avoidance purposes.

SEC. 503. RUNWAY SAFETY AREAS.

Within 6 months after the date of enactment of this Act, the Administrator of the Federal Aviation Administration shall initiate rulemaking to amend the regulations in part 139 of title 14, Code of Federal Regulation—

(1) to improve runway safety areas; and

(2) to require the installation of precision approach path indicators.

SEC. 504. AIRPLANE EMERGENCY LOCATORS.

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

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

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

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

(b) EFFECTIVE DATE; REGULATIONS.—

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

(2) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on January 1, 2002.

SEC. 505. COUNTERFEIT AIRCRAFT PARTS.

(a) DENIAL OF CERTIFICATE.—Section 44703 is amended by adding at the end thereof the following:

"(g) CERTIFICATE DENIED FOR DEALING IN COUNTERFEIT PARTS.—The Administrator may not issue a certificate to anyone convicted of a violation of any Federal

or State law relating to the installation, production, repair, or sale of a counterfeit or falsely-represented aviation part or material.".

(b) REVOCATION OF CERTIFICATE.—Section 44710 is amended by adding at the end thereof the following:

"(g) REVOCATION FOR DEALING IN COUNTERFEIT PARTS.—The Administrator shall revoke a certificate issued to anyone convicted of a violation of any Federal or State law relating to the installation, production, repair, or sale of a counterfeit or falsely-represented aviation part or material.".

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

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

SEC. 506. FAA MAY FINE UNRULY PASSENGERS.

(a) IN GENERAL.—Chapter 463 is amended by redesignating section 46316 as section 46317, and by inserting after section 46315 the following:

"§ 46316. Interference with cabin or flight crew

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

"(b) COMPROMISE AND SETOFF.—

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

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

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

"46316. Interference with cabin or flight crew.
"46317. General criminal penalty when specific penalty not provided.".

SEC. 507. HIGHER INTERNATIONAL STANDARDS FOR HANDICAPPED ACCESS.

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

SEC. 508. CONVEYANCES OF UNITED STATES GOVERNMENT LAND.

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

"(a) CONVEYANCES TO PUBLIC AGENCIES.—Except as provided in subsection (b) of this section, the Secretary of Transportation—

"(1) shall request the head of the department, agency, or instrumentality owning or controlling land or airspace to convey a property interest in the land or airspace to the public agency sponsoring the project or owning or controlling the airport when necessary to carry out a project under this subchapter at a public airport, to operate a public airport, or for

the future development of an airport under the national plan of integrated airport systems; and

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

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

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

"(C) provides preliminary notice to the head of such department, agency, or instrumentality at least 30 days before making the request;

"(D) provides an opportunity for notice to the public on the request; and

"(E) includes in the request a written justification for the conveyance.".

(b) APPLICATION TO EXISTING CONVEYANCES.—The provisions of section 47125(a)(2), as amended by subsection (a) apply to property interests conveyed under section 47125 of that title before, on, or after the date of enactment of this Act, section 516 of the Airport and Airway Improve-

ment Act of 1982, section 23 of the Airport and Airway Development Act of 1970, or section 16 of the Federal Airport Act. For purposes of this section, the Secretary of Transportation (or the predecessor of the Secretary) shall be deemed to have met the requirements of subparagraphs (C), (D), and (E) of section 47125(a)(2) of such title, as so amended, for any such conveyance before the date of enactment of this Act.

SEC. 509. FLIGHT OPERATIONS QUALITY ASSURANCE RULES.

Not later than 90 days after the date of enactment of this Act, the Administrator shall issue a notice of proposed rulemaking to develop procedures to protect air carriers and their employees from civil enforcement action under the program known as Flight Operations Quality Assurance. Not later than 1 year after the last day of the period for public comment provided for in the notice of proposed rulemaking, the Administrator shall issue a final rule establishing those procedures.

SEC. 510. WIDE AREA AUGMENTATION SYSTEM.

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

the sole means of navigation, the Administration shall continue to develop and maintain a backup system.''.

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

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

(2) submit a timetable for implementing WAAS; and

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

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

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

SEC. 511. REGULATION OF ALASKA AIR GUIDES.

The Administrator shall reissue the notice to operators originally published in the Federal Register on January 2, 1998, which advised Alaska guide pilots of the applicability of part 135 of title 14, Code of Federal Regulations, to guide pilot operations. In reissuing the notice, the Administrator

shall provide for not less than 60 days of public comment on the Federal Aviation Administration action. If, notwithstanding the public comments, the Administrator decides to proceed with the action, the Administrator shall publish in the Federal Register a notice justifying the Administrator's decision and providing at least 90 days for compliance.

SEC. 512. APPLICATION OF FAA REGULATIONS.

Section 40113 is amended by adding at the end thereof the following:

"(f) APPLICATION OF CERTAIN REGULATIONS TO ALASKA.—In amending title 14, Code of Federal Regulations, in a manner affecting intrastate aviation in Alaska, the Administrator of the Federal Aviation Administration shall consider the extent to which Alaska is not served by transportation modes other than aviation, and shall establish such regulatory distinctions as the Administrator considers appropriate.".

SEC. 513. HUMAN FACTORS PROGRAM.

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

"§ 44516. Human factors program

"(a) OVERSIGHT COMMITTEE.—The Administrator of the Federal Aviation Administration shall establish an advanced qualification program oversight committee to advise the Administrator on the development and execution of Ad-

vanced Qualification Programs for air carriers under this section, and to encourage their adoption and implementation.

"(b) HUMAN FACTORS TRAINING.—

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

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

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

"(2) PILOTS AND FLIGHT CREWS.—The Administrator shall work with the aviation industry to develop specific training curricula, within 12 months after the date of enactment of the Wendell H. Ford National Air Transportation System Improvement Act of 1998, to address critical safety problems, including problems of pilots—

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

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

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

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

"(c) ACCIDENT INVESTIGATIONS.—The Administrator, working with the National Transportation Safety Board and representatives of the aviation industry, shall establish a process to assess human factors training as part of accident and incident investigations.

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

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

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

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

"44516. Advanced qualification program.".

SEC. 514. INDEPENDENT VALIDATION OF FAA COSTS AND ALLOCATIONS.

(a) INDEPENDENT ASSESSMENT.—

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

(2) ASSESSMENT OF ADEQUACY AND ACCURACY OF FAA COST DATA AND ATTRIBUTIONS.—To ensure that the method for capturing and distributing the

overall costs of the Federal Aviation Administration is appropriate and reasonable, the Inspector General shall conduct an assessment that includes the following:

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

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

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

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

(B) A review and validation of the Federal Aviation Administration's definition of the services to which the Federal Aviation Administration ultimately attributes its costs, and the meth-

ods used to identify direct costs associated with the services.

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

(b) DEADLINE.—The independent analyses described in this section shall be completed no later than 270 days after the contracts are awarded to the outside independent contractors. The Inspector General shall submit a final report combining the analyses done by its staff with those of the outside independent contractors to the Secretary of Transportation, the Administrator, the Committee on Commerce, Science, and Transportation of the Senate, and the Committee on Transportation and Infrastructure of the House of Representatives. The final report shall be submit-

ted by the Inspector General not later than 300 days after the award of contracts.

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

SEC. 515. WHISTLEBLOWER PROTECTION FOR FAA EMPLOYEES.

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

SEC. 516. REPORT ON MODERNIZATION OF OCEANIC ATC SYSTEM.

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

SEC. 517. REPORT ON AIR TRANSPORTATION OVERSIGHT SYSTEM.

Beginning in 1999, the Administrator of the Federal Aviation Administration shall report biannually to the Congress on the air transportation oversight system pro-

gram announced by the Administration on May 13, 1998, in detail on the training of inspectors, the number of inspectors using the system, air carriers subject to the system, and the budget for the system.

SEC. 518. RECYCLING OF EIS.

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

SEC. 519. PROTECTION OF EMPLOYEES PROVIDING AIR SAFETY INFORMATION.

(a) GENERAL RULE.—Chapter 421 of title 49, United States Code, is amended by adding at the end the following new subchapter:

"SUBCHAPTER III—WHISTLEBLOWER PROTECTION PROGRAM

"§ 42121. Protection of employees providing air safety information

"(a) DISCRIMINATION AGAINST AIRLINE EMPLOYEES.—No air carrier or contractor or subcontractor of an air carrier may discharge an employee of the air carrier or the contractor or subcontractor of an air carrier or otherwise discriminate against any such employee with respect to compensation, terms, conditions, or privileges of employment because the employee (or any person acting pursuant to a request of the employee)—

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

"(2) has filed, caused to be filed, or is about to file or cause to be filed a proceeding relating to any violation or alleged violation of any order, regulation, or standard of the Federal Aviation Administration or any other provision of Federal law relating to air

carrier safety under this subtitle or any other law of the United States;

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

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

"(b) DEPARTMENT OF LABOR COMPLAINT PROCEDURE.—

"(1) FILING AND NOTIFICATION.—

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

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

"(C) NOTIFICATION.—Upon receipt of a complaint submitted under subparagraph (A), the Secretary of Labor shall notify the air car-

rier, contractor, or subcontractor named in the complaint and the Administrator of the Federal Aviation Administration of the—

"(i) filing of the complaint;

"(ii) allegations contained in the complaint;

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

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

"(2) INVESTIGATION; PRELIMINARY ORDER.—

"(A) IN GENERAL.—

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

ing the complainant and the person alleged to have committed a violation of subsection (a) of the Secretary's findings.

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

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

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

"(v) HEARINGS.—Hearings conducted pursuant to a request made under clause (iii) shall be conducted expeditiously. If a

hearing is not requested during the 30-day period prescribed in clause (iii), the preliminary order shall be deemed a final order that is not subject to judicial review.

"(B) REQUIREMENTS.—

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

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

same unfavorable personnel action in the absence of that behavior.

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

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

"(3) FINAL ORDER.—

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

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

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

"(II) denies the complaint.

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

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

"(i) take action to abate the violation;

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

"(iii) provide compensatory damages to the complainant.

"(C) COSTS OF COMPLAINT.—If the Secretary of Labor issues a final order that provides for relief in accordance with this paragraph, the Secretary of Labor, at the request of the complainant, shall assess against the air carrier, contractor, or subcontractor named in the order an amount equal to the aggregate amount of all costs and expenses (including attorney and expert witness fees) reasonably incurred by the complainant (as determined by the Secretary of Labor) for, or in connection with, the bringing of the complaint that resulted in the issuance of the order.

"(D) FRIVOLOUS COMPLAINTS.—If the Secretary of Labor finds that a complaint brought under paragraph (1) is frivolous or was brought in bad faith, the Secretary of Labor may award to the prevailing employer a reasonable attorney fee in an amount not to exceed $5,000.

"(4) REVIEW.—

"(A) APPEAL TO COURT OF APPEALS.—

"(i) IN GENERAL.—Not later than 60 days after a final order is issued under

paragraph (3), a person adversely affected or aggrieved by that order may obtain review of the order in the United States court of appeals for the circuit in which the violation allegedly occurred or the circuit in which the complainant resided on the date of that violation.

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

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

"(5) ENFORCEMENT OF ORDER BY SECRETARY OF LABOR.—

"(A) IN GENERAL.—If an air carrier, contractor, or subcontractor named in an order issued under paragraph (3) fails to comply with the order, the Secretary of Labor may file a civil

action in the United States district court for the district in which the violation occurred to enforce that order.

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

"(6) ENFORCEMENT OF ORDER BY PARTIES.—

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

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

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

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

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 421 of title 49, United States Code, is amended by adding at the end the following:

"SUBCHAPTER III—WHISTLEBLOWER PROTECTION PROGRAM

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

(c) CIVIL PENALTY.—Section 46301(a)(1)(A) of title 49, United States Code, is amended by striking "subchapter II of chapter 421," and inserting "subchapter II or III of chapter 421,".

TITLE VI—AVIATION COMPETITION PROMOTION

SEC. 601. PURPOSE.

The purpose of this title is to facilitate, through a 4-year pilot program, incentives and projects that will help

up to 40 communities or consortia of communities to improve their access to the essential airport facilities of the national air transportation system through public-private partnerships and to identify and establish ways to overcome the unique policy, economic, geographic, and marketplace factors that may inhibit the availability of quality, affordable air service to small communities.

SEC. 602. ESTABLISHMENT OF SMALL COMMUNITY AVIATION DEVELOPMENT PROGRAM.

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

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

"(1) ESTABLISHMENT.—The Secretary shall establish a 4-year pilot aviation development program to be administered by a program director designated by the Secretary.

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

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

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

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

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

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

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

"(3) REPORTS.—The program director shall provide an annual report to the Secretary and the Congress beginning in 1999 that—

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

availability of seats, and scheduling of flights, provided to small communities;

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

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

SEC. 603. COMMUNITY-CARRIER AIR SERVICE PROGRAM.

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

"§ 41743. Air service program for small communities

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

"(b) SELECTION OF PARTICIPANTS.—In selecting community programs for participation in the communities pro-

gram under subsection (a), the program director shall apply criteria, including geographical diversity and the presentation of unique circumstances, that will demonstrate the feasibility of the program.

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

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

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

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

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

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

"(2) may obligate funds appropriated under section 604 of the Wendell H. Ford National Air Transportation System Improvement Act of 1998 to carry out this section;

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

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

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

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

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

"(e) LIMITATIONS.—

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

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

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

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

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

"(2) AMOUNT.—The program director may not obligate more than $30,000,000 of the amounts appropriated under 604 of the Wendell H. Ford National Air Transportation System Improvement Act of 1998 over the 4 years of the program.

"(3) NUMBER OF PARTICIPANTS.—The program established under subsection (a) shall not involve

more than 40 communities or consortia of communities.

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

"§ 41744. Pilot program project authority

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

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

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

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

"(1) out of amounts appropriated under section 604 of the Wendell H. Ford National Air Transportation System Improvement Act of 1998, provide financial assistance by way of grants to small communities or consortia of small communities under section 41743 of up to $500,000 per year; and

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

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

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

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

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

"§ 41745. Assistance to communities for service

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

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

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

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

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

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

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

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

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

"(c) COORDINATION WITH OTHER PROVISIONS OF SUBCHAPTER.—The Secretary shall carry out the 4-year pilot program authorized by this subchapter in such a manner as to complement action taken under the other provisions of this subchapter. To the extent the Secretary determines to be appropriate, the Secretary may adopt criteria

for implementation of the 4-year pilot program that are the same as, or similar to, the criteria developed under the preceding sections of this subchapter for determining which airports are eligible under those sections. The Secretary shall also, to the extent possible, provide incentives where no direct, viable, and feasible alternative service exists, taking into account geographical diversity and appropriate market definitions.

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

"(1) permit the participation of the maximum feasible number of communities and States over a 4-year period by limiting the number of years of participation or otherwise; and

"(2) obtain the greatest possible leverage from the financial resources available to the Secretary and the applicant by—

"(A) progressively decreasing, on a project-by-project basis, any Federal financial incentives provided under this chapter over the 4-year period; and

"(B) terminating as early as feasible Federal financial incentives for any project deter-

mined by the Secretary after its implementation to be—

"(i) viable without further support under this subchapter; or

"(ii) failing to meet the purposes of this chapter or criteria established by the Secretary under the pilot program.

"(e) SUCCESS BONUS.—If Federal financial incentives to a community are terminated under subsection (d)(2)(B) because of the success of the program in that community, then that community may receive a one-time incentive grant to ensure the continued success of that program.

"(f) PROGRAM TO TERMINATE IN 4 YEARS.—No new financial assistance may be provided under this subchapter for any fiscal year beginning more than 4 years after the date of enactment of the Wendell H. Ford National Air Transportation System Improvement Act of 1998.

"§ 41746. Additional authority

"In carrying out this chapter, the Secretary—

"(1) may provide assistance to States and communities in the design and application phase of any project under this chapter, and oversee the implementation of any such project;

"(2) may assist States and communities in putting together projects under this chapter to utilize pri-

vate sector resources, other Federal resources, or a combination of public and private resources;

"(3) may accord priority to service by jet aircraft;

"(4) take such action as may be necessary to ensure that financial resources, facilities, and administrative arrangements made under this chapter are used to carry out the purposes of title VI of the Wendell H. Ford National Air Transportation System Improvement Act of 1998; and

"(5) shall work with the Federal Aviation Administration on airport and air traffic control needs of communities in the program.

"§ 41747. Air traffic control services pilot program

"(a) IN GENERAL.—To further facilitate the use of, and improve the safety at, small airports, the Administrator of the Federal Aviation Administration shall establish a pilot program to contract for Level I air traffic control services at 20 facilities not eligible for participation in the Federal Contract Tower Program.

"(b) PROGRAM COMPONENTS.—In carrying out the pilot program established under subsection (a), the Administrator may—

"(1) utilize current, actual, site-specific data, forecast estimates, or airport system plan data provided by a facility owner or operator;

"(2) take into consideration unique aviation safety, weather, strategic national interest, disaster relief, medical and other emergency management relief services, status of regional airline service, and related factors at the facility;

"(3) approve for participation any facility willing to fund a pro rata share of the operating costs used by the Federal Aviation Administration to calculate, and, as necessary, a 1:1 benefit-to-cost ratio, as required for eligibility under the Federal Contract Tower Program; and

"(4) approve for participation no more than 3 facilities willing to fund a pro rata share of construction costs for an air traffic control tower so as to achieve, at a minimum, a 1:1 benefit-to-cost ratio, as required for eligibility under the Federal Contract Tower Program, and for each of such facilities the Federal share of construction costs does not exceed $1,000,000.

"(c) REPORT.—One year before the pilot program established under subsection (a) terminates, the Administrator shall report to the Congress on the effectiveness of

the program, with particular emphasis on the safety and economic benefits provided to program participants and the national air transportation system.".

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

"41743. Air service program for small communities.
"41744. Pilot program project authority.
"41745. Assistance to communities for service.
"41746. Additional authority.
"41747. Air traffic control services pilot program.".

(c) WAIVER OF LOCAL CONTRIBUTION.—Section 41736(b) is amended by inserting after paragraph (4) the following:

"Paragraph (4) does not apply to any community approved for service under this section during the period beginning October 1, 1991, and ending December 31, 1997.".

SEC. 604. AUTHORIZATION OF APPROPRIATIONS.

To carry out sections 41743 through 41746 of title 49, United States Code, for the 4 fiscal year period beginning with fiscal year 1999, there are authorized to be appropriated to the Secretary of Transportation not more than $10,000,000. To carry out such sections for the 4 fiscal year period beginning with fiscal year 1999, not more than $20,000,000 shall be made available to the Secretary for obligation and expenditure out of the account established under section 45303(a) in addition to the amounts authorized to be appropriated under the preceding sentence.

SEC. 605. MARKETING PRACTICES.

Section 41712 is amended by—

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

(2) adding at the end thereof the following:

"(b) MARKETING PRACTICES THAT ADVERSELY AFFECT SERVICE TO SMALL OR MEDIUM COMMUNITIES.—Within 180 days after the date of enactment of the Wendell H. Ford National Air Transportation System Improvement Act of 1998, the Secretary shall review the marketing practices of air carriers that may inhibit the availability of quality, affordable air transportation services to small and medium-sized communities, including—

"(1) marketing arrangements between airlines and travel agents;

"(2) code-sharing partnerships;

"(3) computer reservation system displays;

"(4) gate arrangements at airports;

"(5) exclusive dealing arrangments; and

"(6) any other marketing practice that may have the same effect.

"(c) REGULATIONS.—If the Secretary finds, after conducting the review required by subsection (b), that marketing practices inhibit the availability of such service to such communities, then, after public notice and an opportunity

for comment, the Secretary shall promulgate regulations that address the problem.".

SEC. 606. SLOT EXEMPTIONS FOR NONSTOP REGIONAL JET SERVICE.

(a) IN GENERAL.—Section 41714 is amended by adding at the end thereof the following:

"(j) SLOTS FOR NONSTOP JET SERVICE EXEMPTION.—

"(1) IN GENERAL.—Within 90 days after receiving an application for an exemption to provide nonstop regional jet air service between—

"(A) an airport that is smaller than a large hub airport (as defined in section 47134(d)(2)); and

"(B) a high density airport subject to the exemption authority under subsection (a),

the Secretary shall grant or deny the exemption in accordance with established principles of safety and the promotion of competition.

"(2) EXISTING SLOTS TAKEN INTO ACCOUNT.—In deciding to grant or deny the exemption, the Secretary may take into consideration the slots already used by the applicant.

"(3) CONDITIONS.—The Secretary may grant an exemption to an air carrier under paragraph (1)—

"(A) for a period of not less than 12 months;

"(B) for a minimum of 2 daily roundtrip flights; and

"(C) for a maximum of 3 daily roundtrip flights.

"(4) CHANGE OF NONHUB, SMALL HUB, OR MEDIUM HUB AIRPORT; JET AIRCRAFT.—The Secretary may, upon application made by an air carrier operating under an exemption granted under paragraph (1)—

"(A) authorize the air carrier to upgrade its service under the exemption to a larger jet aircraft; and

"(B) authorize an air carrier operating under such an exemption to change the nonhub airport or small hub airport for which the exemption was granted to provide the same service to a different airport that is smaller than a large hub airport (as defined in section 47134(d)(2)) if—

"(i) the air carrier has been operating under the exemption for a period of not less than 12 months; and

"(ii) the air carrier can demonstrate unmitigatable losses.

"(5) FOREFEITURE FOR MISUSE.—Any exemption granted under paragraph (1) shall be terminated immediately by the Secretary if the air carrier to which it was granted uses the slot for any purpose other than the purpose for which it was granted or in violation of the conditions under which it was granted.

"(6) RESTORATION OF AIR SERVICE.—To the extent that—

"(A) slots were withdrawn from an air carrier under subsection (b) of this section;

"(B) the withdrawal of slots under that subsection resulted in a net loss of slots; and

"(C) the net loss of slots resulting from the withdrawal had an adverse effect on service to nonhub airports and in other domestic markets,

the Secretary shall give priority consideration to the request of any air carrier from which slots were withdrawn under that section for an equivalent number of slots at the airport where the slots were withdrawn.

"(7) PRIORITY TO NEW ENTRANTS AND LIMITED INCUMBENT CARRIERS.—In assigning slots under this subsection the Secretary shall, in conjunction with

paragraph (5), give priority consideration to an application from an air carrier that, as of July 1, 1998, held fewer than 20 slots at the high density airport for which it filed an exemption application.".

(b) DEFINITIONS.—Subsection (h) of section 41714 is amended by—

(1) by striking "The term" in paragraph (1) and inserting "Except as provided in paragraph (5), the term"; and

(2) adding at the end thereof the following:

"(5) NONSTOP JET EXEMPTION DEFINITIONS.—Any term used in subsection (j) that is defined in section 41762 has the meaning given that term by section 41762.".

(c) SLOT WITHDRAWAL NOT TO AFFECT NONHUB SERVICE.—Section 41714, as amended by subsection (a), is amended by adding at the end thereof the following:

"(k) SLOT WITHDRAWAL MAY NOT AFFECT NONHUB SERVICE.—The Secretary may not withdraw a slot from a United States air carrier under this section in order to provide a slot to a foreign air carrier for purposes of international air transportation unless the Secretary finds that—

"(1) the withdrawal of that slot from the United States air carrier will not adversely affect air service to nonhub airports; and

"(2) United States air carriers seeking slots for purposes of international air transportation at an airport in the home country of that foreign air carrier receive reciprocal treatment by the government of that country.".

SEC. 607. SECRETARY SHALL GRANT EXEMPTIONS TO PERIMETER RULE.

(a) IN GENERAL.—Section 41714(d) is amended by adding at the end thereof the following:

"(3) BEYOND-PERIMETER EXEMPTIONS.—The Secretary of Transportation shall by order grant exemptions from the application of sections 49109 and 49111(e) to air carriers to operate limited frequencies and aircraft on select routes between Ronald Reagan Washington National Airport and domestic hub airports of such carriers and exemptions from the requirements of subparts K and S of part 93, Code of Federal Regulations, if the Secretary finds that the exemptions will—

"(A) provide air transportation service with domestic network benefits in areas beyond the perimeter described in that section; and

"(B) increase competition in multiple markets.

"(4) WITHIN-PERIMETER EXEMPTIONS.—The Secretary of Transportation shall by order grant exemptions from the requirements of section 49111(e) and subparts K and S of part 93 of title 14, Code of Federal Regulations, to commuter air carriers for service to airports smaller than large hub airports (as defined in section 47134(d)(2)) within the perimeter established for civil aircraft operations at Ronald Reagan Washington National Airport. The Secretary shall develop criteria for distributing slots for flights within the perimeter to airports other than large hubs under this paragraph in a manner consistent with the promotion of air transportation.

"(5) LIMITATIONS.—

"(A) AIRCRAFT.—An exemption granted under paragraph (3) or (4) may not be granted with respect to any aircraft that is not a Stage 3 aircraft (as defined by the Secretary).

"(B) NUMBER AND TYPE OF OPERATIONS.—The Secretary shall grant exemptions under paragraph (3) and (4) that—

"(i) will result in 12 new daily air carrier slots at such airport for long-haul service beyond the perimeter;

"(ii) will result in 12 new daily commuter slots at such airport; and

"(iii) will not result in new daily commuter slots for service to any within-the-perimeter airport that is not smaller than a large hub airport (as defined in section 47134(d)(2)).

"(C) HOURS OF OPERATION.—In granting exemptions under paragraphs (3) and (4), the Secretary shall distribute the 24 new daily slots fairly evenly across the hours between 7:00 a.m. and 9:59 p.m., so that—

"(i) not more than 2 slots per hour shall be added during 9 of the hours beginning during that period; and

"(ii) 1 slot per hour shall be added during 6 of the hours beginning during that period.

"(6) PROTECTION OF INCUMBENT CARRIERS.—An exemption granted under paragraph (3) or (4) may not result in the withdrawal of a slot from any incumbent air carrier at that airport.

"(7) REVIEW OF SAFETY, ENVIRONMENTAL, AND NOISE IMPACT.—The Secretary—

"(A) shall assess the impact of granting exemptions under paragraphs (3) and (4) on the environment (including noise levels) and safety during the first 90 days after the date of enactment of the Wendell H. Ford National Air Transportation System Improvement Act of 1998; and

"(B) may not grant an exemption under paragraph (3) or (4) or issue the additional slots during that 90-day period unless the Secretary has conducted such an assessment.".

(b) REPORT.—Within 1 year after the date of enactment of this Act, and biannually thereafter, the Secretary shall certify to the United States Senate Committee on Commerce, Science, and Transportation, the United States House of Representatives Committee on Transportation and Infrastructure, and the Governments of Maryland and Virginia that noise standards, air traffic congestion, airport-related vehicular congestion, safety standards, and adequate air service to communities served by small hub airports and medium hub airports within the perimeter described in section 49109 of title 49, United States Code, have been maintained at appropriate levels.

SEC. 608. ADDITIONAL SLOTS AT CHICAGO'S O'HARE AIRPORT.

(a) IN GENERAL.—The Secretary of Transportation may grant 100 additional slots under section 41714 of title 49, United States Code, over a 3-year period to air carriers to operate limited frequencies and aircraft on select routes between O'Hare Airport in Chicago, Illinois, and other airports if the Secretary—

(1) first converts unused military slots at that airport to air carrier slots;

(2) before granting the additional slots, finds that the additional capacity—

(A) is available; and

(B) can be used safely;

(3) before granting the additional slots, conducts an environmental review; and

(4) limits the use of the additional slots to Stage 3 aircraft (as defined by the Secretary).

(b) CERTAIN TITLE 49 DEFINITIONS APPLY.—Any term used in this section that is defined in chapter 417 of title 49, United States Code, has the meaning given that term in that chapter.

SEC. 609. CONSUMER NOTIFICATION OF E-TICKET EXPIRATION DATES.

Section 41712, as amended by section 605 of this Act, is amended by adding at the end thereof the following:

"(d) E-TICKET EXPIRATION NOTICE.—It shall be an unfair or deceptive practice under subsection (a) for any air carrier utilizing electronically transmitted tickets to fail to notify the purchaser of such a ticket of its expiration date, if any.".

SEC. 610. JOINT VENTURE AGREEMENTS.

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

"§ 41716. Joint venture agreements

"(a) DEFINITIONS.—In this section—

"(1) JOINT VENTURE AGREEMENT.—The term 'joint venture agreement' means an agreement entered into by a major air carrier on or after January 1, 1998, with regard to (A) code-sharing, blocked-space arrangements, long-term wet leases (as defined in section 207.1 of title 14, Code of Federal Regulations) of a substantial number (as defined by the Secretary by regulation) of aircraft, or frequent flyer programs, or (B) any other cooperative working arrangement (as defined by the Secretary by regulation) between 2 or more major air carriers that affects more than 15 percent of the total number of available seat miles offered by the major air carriers.

"(2) MAJOR AIR CARRIER.—The term 'major air carrier' means a passenger air carrier that is certifi-

cated under chapter 411 of this title and included in Carrier Group III under criteria contained in section 04 of part 241 of title 14, Code of Federal Regulations.

"(b) SUBMISSION OF JOINT VENTURE AGREEMENT.—At least 30 days before a joint venture agreement may take effect, each of the major air carriers that entered into the agreement shall submit to the Secretary—

"(1) a complete copy of the joint venture agreement and all related agreements; and

"(2) other information and documentary material that the Secretary may require by regulation.

"(c) EXTENSION OF WAITING PERIOD.—

"(1) IN GENERAL.—The Secretary may extend the 30-day period referred to in subsection (b) until—

"(A) in the case of a joint venture agreement with regard to code-sharing, the 150th day following the last day of such period; and

"(B) in the case of any other joint venture agreement, the 60th day following the last day of such period.

"(2) PUBLICATION OF REASONS FOR EXTENSION.—If the Secretary extends the 30-day period referred to in subsection (b), the Secretary shall publish

in the Federal Register the reasons of the Secretary for making the extension.

"(d) TERMINATION OF WAITING PERIOD.—At any time after the date of submission of a joint venture agreement under subsection (b), the Secretary may terminate the waiting periods referred to in subsections (b) and (c) with respect to the agreement.

"(e) REGULATIONS.—The effectiveness of a joint venture agreement may not be delayed due to any failure of the Secretary to issue regulations to carry out this subsection.

"(f) MEMORANDUM TO PREVENT DUPLICATIVE REVIEWS.—Promptly after the date of enactment of this section, the Secretary shall consult with the Assistant Attorney General of the Antitrust Division of the Department of Justice in order to establish, through a written memorandum of understanding, preclearance procedures to prevent unnecessary duplication of effort by the Secretary and the Assistant Attorney General under this section and the United States antitrust laws, respectively.

"(g) PRIOR AGREEMENTS.—With respect to a joint venture agreement entered into before the date of enactment of this section as to which the Secretary finds that—

"(1) the parties have submitted the agreement to the Secretary before such date of enactment; and

"(2) the parties have submitted any information on the agreement requested by the Secretary,

the waiting period described in paragraphs (2) and (3) shall begin on the date, as determined by the Secretary, on which all such information was submitted and end on the last day to which the period could be extended under this section.

"(h) LIMITATION ON STATUTORY CONSTRUCTION.—The authority granted to the Secretary under this subsection shall not in any way limit the authority of the Attorney General to enforce the antitrust laws as defined in the first section of the Clayton Act (15 U.S.C. 12).".

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

"41716. Joint venture agreements.".

SEC. 611. REGIONAL AIR SERVICE INCENTIVE OPTIONS.

(a) PURPOSE.—The purpose of this section is to provide the Congress with an analysis of means to improve service by jet aircraft to underserved markets by authorizing a review of different programs of Federal financial assistance, including loan guarantees like those that would have been provided for by section 2 of S. 1353, 105th Congress, as introduced, to commuter air carriers that would purchase regional jet aircraft for use in serving those markets.

(b) STUDY.—The Secretary of Transportation shall study the efficacy of a program of Federal loan guarantees for the purchase of regional jets by commuter air carriers. The Secretary shall include in the study a review of options for funding, including alternatives to Federal funding. In the study, the Secretary shall analyze—

(1) the need for such a program;

(2) its potential benefit to small communities;

(3) the trade implications of such a program;

(4) market implications of such a program for the sale of regional jets;

(5) the types of markets that would benefit the most from such a program;

(6) the competititve implications of such a program; and

(7) the cost of such a program.

(c) REPORT.—The Secretary shall submit a report of the results of the study to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure not later than 24 months after the date of enactment of this Act.

SEC. 612. GAO STUDY OF RURAL AIR TRANSPORTATION NEEDS.

The General Accounting Office, in conjunction with the Federal Aviation Administration, shall conduct a study of the effectiveness of the national air transportation system and its ability to meet the air transportation needs of the United States over the next 15 years. The study shall include airports located in remote communities and reliever airports, and shall assess the effectiveness of the system by reference to criteria that include whether, under the system, each resident of the United States is within a 1-hour drive on primary roads of an airport that has at least one runway of at least 5,500 feet in length at sea-level, or the equivalent altitude-adjusted length.

TITLE VII—NATIONAL PARKS OVERFLIGHTS

SEC. 701. FINDINGS.

The Congress finds that—

(1) the Federal Aviation Administration has sole authority to control airspace over the United States;

(2) the Federal Aviation Administration has the authority to preserve, protect, and enhance the environment by minimizing, mitigating, or preventing the adverse effects of aircraft overflights on the public and tribal lands;

(3) the National Park Service has the responsibility of conserving the scenery and natural and historic objects and wildlife in national parks and of providing for the enjoyment of the national parks in ways that leave the national parks unimpaired for future generations;

(4) the protection of tribal lands from aircraft overflights is consistent with protecting the public health and welfare and is essential to the maintenance of the natural and cultural resources of Indian tribes;

(5) the National Parks Overflights Working Group, composed of general aviation, air tour, environmental, and Native American representatives, recommended that the Congress enact legislation based on its consensus work product; and

(6) this title reflects the recommendations made by that Group.

SEC. 702. AIR TOUR MANAGEMENT PLANS FOR NATIONAL PARKS.

(a) IN GENERAL.—Chapter 401, as amended by section 301 of this Act, is amended by adding at the end the following:

"§ 40126. Overflights of national parks

"(a) IN GENERAL.—

"(1) GENERAL REQUIREMENTS.—A commercial air tour operator may not conduct commercial air tour operations over a national park or tribal lands except—

"(A) in accordance with this section;

"(B) in accordance with conditions and limitations prescribed for that operator by the Administrator; and

"(C) in accordance with any effective air tour management plan for that park or those tribal lands.

"(2) APPLICATION FOR OPERATING AUTHORITY.—

"(A) APPLICATION REQUIRED.—Before commencing commercial air tour operations over a national park or tribal lands, a commercial air tour operator shall apply to the Administrator for authority to conduct the operations over that park or those tribal lands.

"(B) COMPETITIVE BIDDING FOR LIMITED CAPACITY PARKS.—Whenever a commercial air tour management plan limits the number of commercial air tour flights over a national park area during a specified time frame, the Administrator, in cooperation with the Director, shall

authorize commercial air tour operators to provide such service. The authorization shall specify such terms and conditions as the Administrator and the Director find necessary for management of commercial air tour operations over the national park. The Administrator, in cooperation with the Director, shall develop an open competitive process for evaluating proposals from persons interested in providing commercial air tour services over the national park. In making a selection from among various proposals submitted, the Administrator, in cooperation with the Director, shall consider relevant factors, including—

"(i) the safety record of the company or pilots;

"(ii) any quiet aircraft technology proposed for use;

"(iii) the experience in commercial air tour operations over other national parks or scenic areas;

"(iv) the financial capability of the company;

"(v) any training programs for pilots; and

"(vi) responsiveness to any criteria developed by the National Park Service or the affected national park.

"(C) NUMBER OF OPERATIONS AUTHORIZED.—In determining the number of authorizations to issue to provide commercial air tour service over a national park, the Administrator, in cooperation with the Director, shall take into consideration the provisions of the air tour management plan, the number of existing commercial air tour operators and current level of service and equipment provided by any such companies, and the financial viability of each commercial air tour operation.

"(D) COOPERATION WITH NPS.—Before granting an application under this paragraph, the Administrator shall, in cooperation with the Director, develop an air tour management plan in accordance with subsection (b) and implement such plan.

"(E) TIME LIMIT ON RESPONSE TO ATMP APPLICATIONS.—The Administrator shall act on any such application and issue a decision on the application not later than 24 months after it is received or amended.

"(3) EXCEPTION.—Notwithstanding paragraph (1), commercial air tour operators may conduct commercial air tour operations over a national park under part 91 of the Federal Aviation Regulations (14 CFR 91.1 et seq.) if—

"(A) such activity is permitted under part 119 (14 CFR 119.1(e)(2));

"(B) the operator secures a letter of agreement from the Administrator and the national park superintendent for that national park describing the conditions under which the flight operations will be conducted; and

"(C) the total number of operations under this exception is limited to not more than 5 flights in any 30-day period over a particular park.

"(4) SPECIAL RULE FOR SAFETY REQUIREMENTS.—Notwithstanding subsection (c), an existing commercial air tour operator shall, not later than 90 days after the date of enactment of the Wendell H. Ford National Air Transportation System Improvement Act of 1998, apply for operating authority under part 119, 121, or 135 of the Federal Aviation Regulations (14 CFR Pt. 119, 121, or 135). A new entrant commercial air tour operator shall apply for

such authority before conducting commercial air tour operations over a national park or tribal lands.

"(b) AIR TOUR MANAGEMENT PLANS.—

"(1) ESTABLISHMENT OF ATMPS.—

"(A) IN GENERAL.—The Administrator shall, in cooperation with the Director, establish an air tour management plan for any national park or tribal land for which such a plan is not already in effect whenever a person applies for authority to operate a commercial air tour over the park. The development of the air tour management plan is to be a cooperative undertaking between the Federal Aviation Administration and the National Park Service. The air tour management plan shall be developed by means of a public process, and the agencies shall develop information and analysis that explains the conclusions that the agencies make in the application of the respective criteria. Such explanations shall be included in the Record of Decision and may be subject to judicial review.

"(B) OBJECTIVE.—The objective of any air tour management plan shall be to develop acceptable and effective measures to mitigate or prevent the significant adverse impacts, if any, of

commercial air tours upon the natural and cultural resources and visitor experiences and tribal lands.

"(2) ENVIRONMENTAL DETERMINATION.—In establishing an air tour management plan under this subsection, the Administrator and the Director shall each sign the environmental decision document required by section 102 of the National Environmental Policy Act of 1969 (42 U.S.C. 4332) which may include a finding of no significant impact, an environmental assessment, or an environmental impact statement, and the Record of Decision for the air tour management plan.

"(3) CONTENTS.—An air tour management plan for a national park—

"(A) may prohibit commercial air tour operations in whole or in part;

"(B) may establish conditions for the conduct of commercial air tour operations, including commercial air tour routes, maximum or minimum altitudes, time-of-day restrictions, restrictions for particular events, maximum number of flights per unit of time, intrusions on privacy on tribal lands, and mitigation of noise, visual, or other impacts;

"(C) shall apply to all commercial air tours within ½ mile outside the boundary of a national park;

"(D) shall include incentives (such as preferred commercial air tour routes and altitudes, relief from caps and curfews) for the adoption of quiet aircraft technology by commercial air tour operators conducting commercial air tour operations at the park;

"(E) shall provide for the initial allocation of opportunities to conduct commercial air tours if the plan includes a limitation on the number of commercial air tour flights for any time period; and

"(F) shall justify and document the need for measures taken pursuant to subparagraphs (A) through (E).

"(4) PROCEDURE.—In establishing a commercial air tour management plan for a national park, the Administrator and the Director shall—

"(A) initiate at least one public meeting with interested parties to develop a commercial air tour management plan for the park;

"(B) publish the proposed plan in the Federal Register for notice and comment and make

copies of the proposed plan available to the public;

"(C) comply with the regulations set forth in sections 1501.3 and 1501.5 through 1501.8 of title 40, Code of Federal Regulations (for purposes of complying with those regulations, the Federal Aviation Administration is the lead agency and the National Park Service is a cooperating agency); and

"(D) solicit the participation of any Indian tribe whose tribal lands are, or may be, overflown by aircraft involved in commercial air tour operations over a national park or tribal lands, as a cooperating agency under the regulations referred to in paragraph (4)(C).

"(5) AMENDMENTS.—Any amendment of an air tour management plan shall be published in the Federal Register for notice and comment. A request for amendment of an air tour management plan shall be made in such form and manner as the Administrator may prescribe.

"(c) INTERIM OPERATING AUTHORITY.—

"(1) IN GENERAL.—Upon application for operating authority, the Administrator shall grant interim operating authority under this paragraph to a com-

mercial air tour operator for a national park or tribal lands for which the operator is an existing commercial air tour operator.

"(2) REQUIREMENTS AND LIMITATIONS.—Interim operating authority granted under this subsection—

"(A) shall provide annual authorization only for the greater of—

"(i) the number of flights used by the operator to provide such tours within the 12-month period prior to the date of enactment of the Wendell H. Ford National Air Transportation System Improvement Act of 1998; or

"(ii) the average number of flights per 12-month period used by the operator to provide such tours within the 36-month period prior to such date of enactment, and, for seasonal operations, the number of flights so used during the season or seasons covered by that 12-month period;

"(B) may not provide for an increase in the number of operations conducted during any time period by the commercial air tour operator to

which it is granted unless the increase is agreed to by the Administrator and the Director;

"(C) shall be published in the Federal Register to provide notice and opportunity for comment;

"(D) may be revoked by the Administrator for cause;

"(E) shall terminate 180 days after the date on which an air tour management plan is established for that park or those tribal lands; and

"(F) shall—

"(i) promote protection of national park resources, visitor experiences, and tribal lands;

"(ii) promote safe operations of the commercial air tour;

"(iii) promote the adoption of quiet technology, as appropriate; and

"(iv) allow for modifications of the operation based on experience if the modification improves protection of national park resources and values and of tribal lands.

"(3) NEW ENTRANT AIR TOUR OPERATORS.—

"(A) IN GENERAL.—The Administrator, in cooperation with the Director, may grant in-

terim operating authority under this paragraph to an air tour operator for a national park for which that operator is a new entrant air tour operator if the Administrator determines the authority is necessary to ensure competition in the provision of commercial air tours over that national park or those tribal lands.

"(B) SAFETY LIMITATION.—The Administrator may not grant interim operating authority under subparagraph (A) if the Administrator determines that it would create a safety problem at that park or on tribal lands, or the Director determines that it would create a noise problem at that park or on tribal lands.

"(C) ATMP LIMITATION.—The Administrator may grant interim operating authority under subparagraph (A) of this paragraph only if the air tour management plan for the park or tribal lands to which the application relates has not been developed within 24 months after the date of enactment of the Wendell H. Ford National Air Transportation System Improvement Act of 1998.

"(d) DEFINITIONS.—In this section, the following definitions apply:

"(1) COMMERCIAL AIR TOUR.—The term 'commercial air tour' means any flight conducted for compensation or hire in a powered aircraft where a purpose of the flight is sightseeing. If the operator of a flight asserts that the flight is not a commercial air tour, factors that can be considered by the Administrator in making a determination of whether the flight is a commercial air tour, include, but are not limited to—

"(A) whether there was a holding out to the public of willingness to conduct a sightseeing flight for compensation or hire;

"(B) whether a narrative was provided that referred to areas or points of interest on the surface;

"(C) the area of operation;

"(D) the frequency of flights;

"(E) the route of flight;

"(F) the inclusion of sightseeing flights as part of any travel arrangement package; or

"(G) whether the flight or flights in question would or would not have been canceled based on poor visibility of the surface.

"(2) COMMERCIAL AIR TOUR OPERATOR.—The term 'commercial air tour operator' means any person who conducts a commercial air tour.

"(3) EXISTING COMMERCIAL AIR TOUR OPERATOR.—The term 'existing commercial air tour operator' means a commercial air tour operator that was actively engaged in the business of providing commercial air tours over a national park at any time during the 12-month period ending on the date of enactment of the Wendell H. Ford National Air Transportation System Improvement Act of 1998.

"(4) NEW ENTRANT COMMERCIAL AIR TOUR OPERATOR.—The term 'new entrant commercial air tour operator' means a commercial air tour operator that—

"(A) applies for operating authority as a commercial air tour operator for a national park; and

"(B) has not engaged in the business of providing commercial air tours over that national park or those tribal lands in the 12-month period preceding the application.

"(5) COMMERCIAL AIR TOUR OPERATIONS.—The term 'commercial air tour operations' means commercial air tour flight operations conducted—

"(A) over a national park or within ½ mile outside the boundary of any national park;

"(B) below a minimum altitude, determined by the Administrator in cooperation with the Director, above ground level (except solely for purposes of takeoff or landing, or necessary for safe operation of an aircraft as determined under the rules and regulations of the Federal Aviation Administration requiring the pilot-in-command to take action to ensure the safe operation of the aircraft); and

"(C) less than 1 mile laterally from any geographic feature within the park (unless more than ½ mile outside the boundary).

"(6) NATIONAL PARK.—The term 'national park' means any unit of the National Park System.

"(7) TRIBAL LANDS.—The term 'tribal lands' means 'Indian country', as defined by section 1151 of title 18, United States Code, that is within or abutting a national park.

"(8) ADMINISTRATOR.—The term 'Administrator' means the Administrator of the Federal Aviation Administration.

"(9) DIRECTOR.—The term 'Director' means the Director of the National Park Service.".

(b) EXEMPTIONS.—

(1) GRAND CANYON.—Section 40125 of title 49, United States Code, as added by subsection (a), does not apply to—

(A) the Grand Canyon National Park; or

(B) Indian country within or abutting the Grand Canyon National Park.

(2) ALASKA.—The provisions of this title and section 40125 of title 49, United States Code, as added by subsection (a), do not apply to any land or waters located in Alaska.

(c) CLERICAL AMENDMENT.—The table of sections for chapter 401 is amended by adding at the end thereof the following:

"40126. Overflights of national parks.".

SEC. 703. ADVISORY GROUP.

(a) ESTABLISHMENT.—Not later than 1 year after the date of enactment of this Act, the Administrator of the Federal Aviation Administration and the Director of the National Park Service shall jointly establish an advisory group to provide continuing advice and counsel with respect to the operation of commercial air tours over and near national parks.

(b) MEMBERSHIP.—

(1) IN GENERAL.—The advisory group shall be composed of—

(A) a balanced group of —

(i) representatives of general aviation;

(ii) representatives of commercial air tour operators;

(iii) representatives of environmental concerns; and

(iv) representatives of Indian tribes;

(B) a representative of the Federal Aviation Administration; and

(C) a representative of the National Park Service.

(2) EX-OFFICIO MEMBERS.—The Administrator and the Director shall serve as ex-officio members.

(3) CHAIRPERSON.—The representative of the Federal Aviation Administration and the representative of the National Park Service shall serve alternating 1-year terms as chairman of the advisory group, with the representative of the Federal Aviation Administration serving initially until the end of the calendar year following the year in which the advisory group is first appointed.

(c) DUTIES.—The advisory group shall provide advice, information, and recommendations to the Administrator and the Director—

(1) on the implementation of this title;

(2) on the designation of commonly accepted quiet aircraft technology for use in commercial air tours of national parks or tribal lands, which will receive preferential treatment in a given air tour management plan;

(3) on other measures that might be taken to accommodate the interests of visitors to national parks; and

(4) on such other national park or tribal lands-related safety, environmental, and air touring issues as the Administrator and the Director may request.

(d) COMPENSATION; SUPPORT; FACA.—

(1) COMPENSATION AND TRAVEL.—Members of the advisory group who are not officers or employees of the United States, while attending conferences or meetings of the group or otherwise engaged in its business, or while serving away from their homes or regular places of business, each member may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.

(2) ADMINISTRATIVE SUPPORT.—The Federal Aviation Administration and the National Park

Service shall jointly furnish to the advisory group clerical and other assistance.

(3) NONAPPLICATION OF FACA.—Section 14 of the Federal Advisory Committee Act (5 U.S.C. App.) does not apply to the advisory group.

(e) REPORT.—The Administrator and the Director shall jointly report to the Congress within 24 months after the date of enactment of this Act on the success of this title in providing incentives for quiet aircraft technology.

SEC. 704. OVERFLIGHT FEE REPORT.

Not later than 180 days after the date of enactment of this Act, the Administrator of the Federal Aviation Administration shall transmit to Congress a report on the effects proposed overflight fees are likely to have on the commercial air tour industry. The report shall include, but shall not be limited to—

(1) the viability of a tax credit for the commercial air tour operators equal to the amount of the proposed fee charged by the National Park Service; and

(2) the financial effects proposed offsets are likely to have on Federal Aviation Administration budgets and appropriations.

TITLE VIII—AVIATION TRUST FUND AMENDMENTS

SEC. 801. AMENDMENTS TO THE AIRPORT AND AIRWAY TRUST FUND.

Section 9502(d)(1) of the Internal Revenue Code of 1986 (relating to expenditures from Airport and Airway Trust Fund) is amended—

(1) by striking "1998," and inserting "2002,"; and

(2) by striking "1996;" in subparagraph (A) and inserting "1996, or the Wendell H. Ford National Air Transportation System Improvement Act of 1998;".