104TH CONGRESS
2d Session

HOUSE OF REPRESENTATIVES

REPT. 104–714
Part 1

FEDERAL AVIATION AUTHORIZATION ACT OF 1996

JULY 26, 1996.—Ordered to be printed

Mr. SHUSTER, from the Committee on Transportation and Infrastructure, submitted the following

R E P O R T

[To accompany H.R. 3539]

[Including cost estimate of the Congressional Budget Office]

The Committee on Transportation and Infrastructure, to whom was referred the bill (H.R. 3539) to amend title 49, United States Code, to reauthorize programs of the Federal Aviation Administration, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Federal Aviation Authorization Act of 1996".

(b) TABLE OF CONTENTS.—

Sec. 1. Short title; table of contents.
Sec. 2. Amendments to title 49, United States Code.
Sec. 3. Applicability.

TITLE I—REAUTHORIZATION OF FAA PROGRAMS

Sec. 101. Airport improvement program.
Sec. 102. Airway facilities improvement program.
Sec. 103. Operations of FAA.

TITLE II—AIRPORT DEVELOPMENT FINANCING

Sec. 201. Apportionments.
Sec. 202. Discretionary fund.
Sec. 203. Use of apportioned amounts.
Sec. 204. Designating current and former military airports.
Sec. 205. Select panel on airport and agency financing.

TITLE III—AIRPORT IMPROVEMENT PROGRAM MODIFICATIONS

Sec. 301. Intermodal planning.
Sec. 302. Compliance with Federal mandates.
Sec. 303. Runway maintenance program.
Sec. 304. Access to airports by intercity buses.
Sec. 305. Cost reimbursement for projects commenced prior to grant award.
Sec. 306. Issuance of letters of intent.
Sec. 307. Selection of projects for grants from discretionary fund.
Sec. 308. Small airport fund.

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Sec. 309. State block grant program.
Sec. 310. Private ownership of airports.
Sec. 311. Use of noise set-aside funds by non-airport sponsors.

TITLE IV—MISCELLANEOUS PROVISIONS

Sec. 401. Purchase of housing units.
Sec. 402. Technical correction relating to State taxation.
Sec. 403. Use of passenger facility fees for debt financing project.
Sec. 404. Protection of voluntarily submitted information.
Sec. 405. Supplemental type certificates.
Sec. 406. Restriction on use of revenues.
Sec. 407. Certification of small airports.
Sec. 408. Discretionary authority for criminal history records checks.
Sec. 409. Imposition of fees.
Sec. 410. Authority to close airport located near closed or realigned military base.
Sec. 411. Construction of runways.
Sec. 412. Gadsden Air Depot, Alabama.
Sec. 413. Regulations affecting intrastate aviation in Alaska.
Sec. 414. Westchester County Airport, New York.
Sec. 415. Bedford Airport, Pennsylvania.
Sec. 416. Location of Doppler radar stations, New York.
Sec. 417. Worcester Municipal Airport, Massachusetts.
Sec. 418. Aircraft Noise Ombudsman.

TITLE V—METROPOLITAN WASHINGTON AIRPORTS

Sec. 501. Short title.
Sec. 502. Amendment of Metropolitan Washington Airports Act of 1986.
Sec. 503. Use of leased property.
Sec. 504. Board of directors.
Sec. 505. Federal Advisory Commission.
Sec. 506. Review procedure.
Sec. 507. Congressional disapproval procedures.
Sec. 508. Other matters relating to Federal Advisory Commission.
Sec. 509. Effect of judicial orders.
Sec. 510. Federal Advisory Committee Act.
Sec. 511. Use of Dulles Access Highway.
Sec. 512. Amendment of lease.
Sec. 513. Availability of slots.

TITLE VI—RECOMMENDATION TO COMMITTEE ON WAYS AND MEANS ON EXTENSION OF AIRPORT AND AIRWAY TRUST FUND TAXES AND EXPENDITURE AUTHORITY

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

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

SEC. 3. APPLICABILITY.

(a) IN GENERAL.—Except as otherwise specifically provided, titles I, II, III, and IV of this Act and the amendments made by such titles shall apply only to fiscal years beginning after September 30, 1996.

(b) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this Act or any amendment made by this Act shall be construed as affecting funds made available for a fiscal year ending before October 1, 1996.

TITLE I—REAUTHORIZATION OF FAA PROGRAMS

SEC. 101. AIRPORT IMPROVEMENT PROGRAM.

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

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

(2) by striking "$17,583,500,000" and all that follows through the period at the end and inserting the following: "$2,280,000,000 for fiscal years ending before October 1, 1997, $4,627,000,000 for fiscal years ending before October 1, 1998, and $7,039,000,000 for fiscal years ending before October 1, 1999.".

(b) OBLIGATIONAL AUTHORITY.—Section 47104(c) is amended by striking "1996" and inserting "1999".

SEC. 102. AIRWAY FACILITIES IMPROVEMENT PROGRAM.

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

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

"(2) $2,129,000,000 for fiscal year 1998.

"(3) $2,191,000,000 for fiscal year 1999.".

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

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

"§ 48101. Air navigation facilities and equipment"; and

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

"48101. Air navigation facilities and equipment.".

SEC. 103. OPERATIONS OF FAA.

(a) AUTHORIZATION OF APPROPRIATIONS FROM GENERAL FUND.—Section 106(k) is amended by striking "$4,088,000,000" and all that follows through the period at the end and inserting the following: "$5,158,000,000 for fiscal year 1997, $5,344,000,000 for fiscal year 1998, and $5,538,000,000 for fiscal year 1999.".

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

(1) in the subsection heading by striking "1996" and inserting "1999"; and

(2) by striking "1994, 1995, and 1996" and inserting "1994 through 1999".

(c) LIMITATION ON OBLIGATING OR EXPENDING AMOUNTS.—Section 48108(c) is amended by striking "1996" and inserting "1999".

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

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

"§ 48104. Operations and maintenance"; and

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

"48104. Operations and maintenance.".

TITLE II—AIRPORT DEVELOPMENT FINANCING

SEC. 201. APPORTIONMENTS.

(a) AMOUNTS APPORTIONED TO SPONSORS.—

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

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

(B) in clause (iv) by striking "additional" and inserting "of the next 500,000";

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

(D) by adding at the end the following:

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

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

"(2) CARGO ONLY AIRPORTS.—

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

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

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

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

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

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

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

(1) by striking "12" and inserting "18.5";

(2) in subparagraph (A) by striking "one" and inserting "0.66";

(3) in each of subparagraphs (B) and (C) by striking "49.5" and inserting "49.67"; and

(4) in each of subparagraphs (B) and (C) by striking "except" the second place it appears and all that follows through "title," and inserting "excluding primary airports but including reliever and nonprimary commercial service airports,".

SEC. 202. DISCRETIONARY FUND.

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

"(g) MINIMUM AMOUNT TO BE CREDITED.—

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

"(A) $50,000,000; plus

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

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

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

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

"(h) ALLOCATION OF AMOUNTS EXCEEDING LETTER OF INTENT REQUIREMENTS.—Of the amount credited to the fund for a fiscal year which exceeds the total amount required from the fund to carry out in the fiscal year letters of intent issued before January 1, 1996, under section 47110(e) of this title or the Airport and Airway Improvement Act of 1982—

"(1) not less that 15 percent shall be used for system planning and for making grants to airports that are not commercial service airports; and

"(2) not less than 30 percent shall be used for making grants to commercial service airports that each year have less than .25 percent of the total passenger boardings in the United States.".

SEC. 203. USE OF APPORTIONED AMOUNTS.

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

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

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

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

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

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

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

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

(7) by inserting before the period at the end of subparagraph (B), as so redesignated, the following: "and to sponsors of noncommercial service airports for grants for operational and maintenance expenses at any such airport if the

amount of such grants to the sponsor of the airport does not exceed $30,000 in that fiscal year, if the Secretary determines that the airport is adversely affected by the closure or realignment of a military base, and if the sponsor of the airport certifies that the airport would otherwise close if the airport does not receive the grant".

SEC. 204. DESIGNATING CURRENT AND FORMER MILITARY AIRPORTS.

(a) GENERAL REQUIREMENTS.—Section 47118(a) is amended—

(1) by striking "not more than 15";

(2) by inserting after the first sentence the following: "The maximum number of airports which may be designated by the Secretary under this section at any time is 10."; and

(3) by striking "reduce delays" and all that follows through "landings" and inserting the following: "enhance airport and air traffic control system capacity in major metropolitan areas and reduce current or projected flight delays".

(b) SURVEY AND CONSIDERATIONS.—Section 47118 is amended—

(1) in subsections (a) and (d) by striking "section 47117(e)(1)(E)" and inserting "section 47117(e)(1)(B)"; and

(2) by striking subsections (b) and (c) and redesignating subsections (d), (e), and (f) as subsections (b), (c), and (d), respectively.

(c) PARKING LOTS, FUEL FARMS, AND UTILITIES.—Subsection (d) of section 47118, as redesignated by subsection (b) of this section, is amended by striking "for the fiscal years ending September 30, 1993–1996," and inserting "for fiscal years beginning after September 30, 1992,".

SEC. 205. SELECT PANEL ON AIRPORT AND AGENCY FINANCING.

(a) ESTABLISHMENT.—There is established an advisory committee which shall be known as the Select Panel on Airport and Agency Financing (hereinafter in this section referred to as the "panel").

(b) FUNCTIONS.—The panel shall evaluate and recommend innovative financing mechanisms for ensuring adequate funding for airport capital needs and Federal Aviation Administration capital and operating needs.

(c) MEMBERSHIP.—The panel shall consist of 15 members as follows:

(1) 7 members appointed by the Secretary of Transportation, in consultation with the Secretary of the Treasury, of whom—

(A) 3 shall have expertise in aviation; and

(B) 3 shall have expertise in financing, including at least 1 with expertise in airport financing.

(2) 8 members appointed by Congress as follows:

(A) 1 member appointed by each of the chairman and ranking minority member of the Committee on Transportation and Infrastructure of the House of Representatives.

(B) 1 member appointed by each of the chairman and ranking minority member of the Committee on Appropriations of the House of Representatives.

(C) 1 member appointed by each of the chairman and ranking minority member of the Committee on Commerce, Science, and Transportation of the Senate.

(D) 1 member appointed by each of the chairman and ranking minority member of the Committee on Appropriations of the Senate.

(d) RESTRICTION ON APPOINTMENT OF CURRENT AVIATION EMPLOYEES.—A member appointed under subsection (c)(1) may not be an employee of an airline, airport, or aviation trade association at the time of appointment or while serving on the panel.

(e) CHAIRMAN.—The Secretary of Transportation, in consultation with the Secretary of the Treasury, shall designate a chairman of the panel from among the members appointed under subsection (c)(1).

(f) CHARTER.—The Secretary of Transportation, in consultation with the Secretary of the Treasury, shall provide the panel with a charter of the matters to be evaluated and addressed by the panel. The charter, at a minimum, shall direct the panel to undertake the following:

(1) Evaluate and identify current and expected airport capital needs and Federal Aviation Administration capital and operating needs.

(2) Assess the ability of various financing mechanisms to meet airport capital requirements by type and size of airport. The financing mechanisms to be assessed under this paragraph include the airport improvement program, passenger facility charges, tax-exempt bonds, State and local assistance, airport privatization, infrastructure banks, government-sponsored enterprises, and leveraging of Federal airport funding. In conducting the assessment under this

paragraph, the panel shall consider the special problems of non-hub airports and general aviation airports.

(3) Based on alternative funding scenarios for the airport improvement program ranging from elimination of funding to full funding to current amounts made available, assess and recommend alternative financing approaches that will address airport capital requirements.

(4) Assess the ability of various financing mechanisms to fund the operations and capital requirements of the Federal Aviation Administration in a manner that will provide for future growth in the Nation's air traffic system, improve the management and performance of the air traffic control system, provide for continued safety improvements, and make the Administration more efficient and effective. The financing mechanisms to be assessed under this paragraph include loan guarantees, financial partnerships with for-profit private sector entities, multi-year appropriations, revolving loan funds, mandatory spending authority, authority to borrow, restructured grant programs, and user fees.

(g) INDEPENDENT AUDIT.—

(1) CONTRACTS.—Immediately following the appointment of the panel, the panel shall contract with an entity independent of the Federal Aviation Administration and the Department of Transportation to conduct a complete audit of the financial requirements of the Administration, including anticipated air traffic forecasts, other workload measures, and estimated productivity gains which lead to budgetary requirements.

(2) DEADLINE.—The independent audit shall be completed no later than 180 days after the date of the contract award and shall be submitted to the panel.

(3) FUNDING.—The Administrator of the Federal Aviation Administration shall make available to the panel from funds appropriated to the Administration such sums as may be necessary to enter into a contract under this subsection.

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

(i) UTILIZATION OF PERSONNEL FROM FAA.—The Administrator shall make available to the panel such staff, information, and administrative services and assistance as may reasonably be required to enable the panel to carry out its responsibilities under this section.

(j) REPORT.—Not later than 1 year after the date of the appointment of the last member to the panel under subsection (c), the panel shall submit to Congress and the Administrator a report on the results of the review conducted under this section.

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

TITLE III—AIRPORT IMPROVEMENT PROGRAM MODIFICATIONS

SEC. 301. INTERMODAL PLANNING.

(a) POLICIES.—Section 47101(g) is amended to read as follows:

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

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

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

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

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

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

"(3) REPRESENTATION OF AIRPORT OPERATORS ON MPO'S.—Encourage metropolitan planning organizations, particularly in areas with populations greater than 200,000, to establish membership positions for airport operators.".

(b) REQUIREMENTS FOR PROJECT GRANT APPLICATIONS.—Section 47106(a) is amended—

(1) by inserting ", including transportation and land use plans" before the semicolon at the end of paragraph (1);

(2) by striking "and" at the end of paragraph (4);

(3) by striking the period at the end of paragraph (5) and inserting "; and"; and

(4) by adding at the end the following:

"(6) with respect to a project for the location of an airport, the sponsor has—

"(A) provided the metropolitan planning organization authorized to conduct metropolitan planning for the area in which the airport is to be located with not less than 30 days (i) to review the airport master plan or the airport layout plan in which the project is described and depicted, and (ii) to submit comments on such plans to the sponsor; and

"(B) included in the sponsor's application to the Secretary the sponsor's written responses to any comments made by the metropolitan planning organization.".

SEC. 302. COMPLIANCE WITH FEDERAL MANDATES.

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

(1) in subparagraph (E) by inserting "or under section 40117" before the period at the end; and

(2) in subparagraph (F) by striking "paid for by a grant under this subchapter and".

(b) USE OF PASSENGER FACILITY CHARGES.—Section 40117(a)(3) is amended by striking subparagraph (F).

SEC. 303. RUNWAY MAINTENANCE PROGRAM.

(a) AUTHORITY.—Section 47105 is amended by adding at the end the following:

"(g) RUNWAY MAINTENANCE PROGRAM.—The Secretary may carry out a pilot program in each of fiscal years 1997, 1998, and 1999 under which the Secretary may approve applications under this subchapter for not more than 10 projects in each of such fiscal years to preserve and extend the useful life of runways and taxiways at any airport for which an amount is apportioned under section 47114(d).".

(b) INCLUSION IN AIRPORT DEVELOPMENT ACTIVITIES.—Section 47102(3) is amended by adding at the end the following:

"(H) preserving and extending the useful life of runways and taxiways at a public-use airport under the pilot program authorized by section 47105(g) of this title.".

SEC. 304. ACCESS TO AIRPORTS BY INTERCITY BUSES.

Section 47107(a) is amended—

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

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

(3) by adding at the end the following:

"(20) the airport owner or operator will permit, to the maximum extent practicable, intercity buses to have access to the airport.".

SEC. 305. COST REIMBURSEMENT FOR PROJECTS COMMENCED PRIOR TO GRANT AWARD.

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

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

"(i) after September 30, 1996;

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

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

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

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

SEC. 306. ISSUANCE OF LETTERS OF INTENT.

Section 47110(e) is amended—

(1) by redesignating paragraph (6) as paragraph (9); and

(2) by inserting after paragraph (5) the following:

"(6) COST-BENEFIT REGULATIONS.—The Secretary shall issue regulations to require a cost-benefit analysis for any letter of intent to be issued under paragraph (1) for a project at an airport that each year has more than .25 percent of the total passenger boardings in the United States. Until the date on which such regulations take effect, the Secretary may not issue a letter of intent under paragraph (1) for any project that is not yet under construction and that is to be carried out at an airport described in the preceding sentence.

"(7) FINANCING PLANS.—The Secretary shall require airport sponsors to provide, as part of any request for a letter of intent for a project under paragraph (1), specific details on the proposed financing plan for the project.

"(8) CONSIDERATION.—The Secretary shall consider the effect of a project on overall national air transportation policy when reviewing requests for letters of intent under paragraph (1).".

SEC. 307. SELECTION OF PROJECTS FOR GRANTS FROM DISCRETIONARY FUND.

Section 47115(d) is amended—

(1) by striking "and" at the end of paragraph (2);

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

(3) by adding at the end the following:

"(4) the priority that the State gives to the project;

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

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

SEC. 308. SMALL AIRPORT FUND.

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

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

SEC. 309. STATE BLOCK GRANT PROGRAM.

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

(1) in subsection (a) by striking "7" and inserting "10";

(2) in subsection (b)(1)—

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

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

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

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

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

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

(c) REPEAL OF EXPIRATION DATE.—

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

(A) by striking "**pilot**" in the section heading;

(B) by striking "pilot" in subsection (a); and

(C) by striking subsection (d).

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

"47128. State block grant program.".

SEC. 310. PRIVATE OWNERSHIP OF AIRPORTS.

(a) ESTABLISHMENT OF PROGRAM.—

(1) IN GENERAL.—Subchapter I of chapter 471 is amended by adding at the end the following:

"§ 47132. Private ownership of airports

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

"(b) APPROVAL OF APPLICATIONS.—The Secretary may approve, with respect to not more than 6 airports, applications submitted under subsection (a) granting exemptions from the following provisions:

"(1) USE OF REVENUES.—

"(A) IN GENERAL.—The Secretary may grant an exemption to a sponsor from the provisions of sections 44706(d) and 47107(b) of this title (and any other law, regulation, or grant assurance) to the extent necessary to permit the sponsor to recover from the sale or lease of the airport such amount as may be approved—

"(i) by at least 60 percent of the air carriers serving the airport; and

"(ii) by the air carrier or air carriers whose aircraft landing at the airport during the preceding calendar year had a total landed weight during the preceding calendar year of at least 60 percent of the total landed weight of all aircraft landing at the airport during such year.

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

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

"(3) COMPENSATION FROM AIRPORT OPERATIONS.—The Secretary may grant an exemption to a purchaser or lessee from the provisions of sections 44706(d) and 47107(b) of this title (and any other law, regulation, or grant assurance) to the extent necessary to permit the purchaser or lessee to earn compensation from the operations of the airport.

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

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

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

"(3) The purchaser or lessee will maintain and improve the facilities of the airport and will submit to the Secretary a plan for carrying out such maintenance and improvements.

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

"(A) by at least 60 percent of the air carriers serving the airport; and

"(B) by the air carrier or air carriers whose aircraft landing at the airport during the preceding calendar year had a total landed weight during the preceding calendar year of at least 60 percent of the total landed weight of all aircraft landing at the airport during such year.

"(5) Safety and security at the airport will be maintained at the highest possible levels.

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

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

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

"(d) PARTICIPATION OF CERTAIN AIRPORTS.—If the Secretary approves under subsection (b) applications with respect to 6 airports, at least one of the airports must be an airport that is not a commercial service airport.

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

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

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

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

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

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

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

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

"47132. Private ownership of airports.".

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

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

(2) by inserting after "of a State" the following: ", and any person that has purchased or leased an airport under section 47132 of this title".

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

"(4) FEES IMPOSED BY PRIVATELY-OWNED AIRPORTS.—In evaluating the reasonableness of a fee imposed by an airport receiving an exemption under section 47132 of this title, the Secretary shall consider whether the airport has complied with section 47132(c)(4).".

SEC. 311. USE OF NOISE SET-ASIDE FUNDS BY NON-AIRPORT SPONSORS.

Section 47505 is amended—

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

(2) in subsection (c), as so redesignated, by striking "subsection (a) of" and inserting "subsection (a) or (b) of"; and

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

"(b) GRANTS TO NON-AIRPORT SPONSORS.—

"(1) AUTHORITY.—The Secretary may make a grant under this subsection to a State or unit of local government that is not the owner or operator of the airport for preparation of an airport land use compatibility plan or implementation of an airport land use compatibility project.

"(2) PLANNING AUTHORITY.—In order to be eligible to receive a grant under this subsection for preparation of an airport land use compatibility plan, the State or unit of local government must have authority to plan and adopt land use control measures, including zoning, in the planning area.

"(3) COORDINATION OF PLANNING ACTIVITIES.—

"(A) CONSISTENCY WITH OTHER PLANNING.—An airport land use compatibility plan prepared by a State or unit of local government under this subsection may not duplicate or be inconsistent with an airport noise compatibility program prepared by an airport operator under this chapter or with other planning carried out by the airport operator.

"(B) CONSULTATION WITH AIRPORT OWNERS AND OPERATORS.—A State or unit of local government receiving a grant under this subsection for preparation of an airport land use compatibility plan shall consult with the owner or operator of the airport for which the plan is being prepared regarding any recommended airport land use compatibility measure identified in the plan and any aviation data on which such recommendation is made.

"(4) APPROVAL OF AIRPORT OWNER OR OPERATOR REQUIRED.—The Secretary may make a grant to a State or unit of local government under this subsection

for preparation of an airport land use compatibility plan or implementation of an airport land use compatibility project only after receiving the approval of the owner or operator of the airport for which the plan or project is being prepared or implemented. Such approval shall be based on whether the plan or program, including the use of any noise exposure contours on which the plan or project is based, has been coordinated with the airport and is consistent with the airport's operations and planning.

"(5) WRITTEN ASSURANCES.—The Secretary may make a grant to a State or unit of local government under this subsection only after receiving from the State or unit of local government such written assurances as the Secretary determines necessary to achieve the purposes of this subsection.

"(6) GUIDELINES.—The Secretary may establish guidelines in carrying out this subsection.

"(7) DEFINITIONS.—In this subsection, the following definitions apply:

"(A) AIRPORT COMPATIBLE LAND USE.—The term 'airport compatible land use' means any land use that is usually compatible with—

"(i) the noise levels associated with an airport, as established under this chapter;

"(ii) airport design standards issued by the Administrator; and

"(iii) regulations issued to carry out section 44718 of this title.

"(B) AIRPORT LAND USE COMPATIBILITY PLAN.—The term 'airport land use compatibility plan' means the product of a process to determine the extent, type, nature, location, and timing of measures to improve the compatibility of land use with the existing forecast level of aviation activity at an airport.

"(C) AIRPORT LAND USE COMPATIBILITY PROJECT.—The term 'airport land use compatibility project' means a project that is contained in an airport land use compatibility plan and determined by the Administrator to enhance airport compatible land use.".

TITLE IV—MISCELLANEOUS PROVISIONS

SEC. 401. PURCHASE OF HOUSING UNITS.

Section 40110 is amended—

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

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

"(b) PURCHASE OF HOUSING UNITS.—

"(1) AUTHORITY.—In carrying out this part, the Administrator may purchase a housing unit (including a condominium or a housing unit in a building owned by a cooperative) that is located outside the contiguous United States if the cost of the unit is $200,000 or less.

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

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

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

"(B) a certification that the price does not exceed the median price of housing units in the area; and

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

"(4) PAYMENT OF FEES.—The Administrator may pay, when due, fees resulting from the purchase of a housing unit under this subsection from any amounts made available to the Administrator.".

SEC. 402. TECHNICAL CORRECTION RELATING TO STATE TAXATION.

Section 40116(b) is amended by striking "subsection (c) of this section and".

SEC. 403. USE OF PASSENGER FACILITY FEES FOR DEBT FINANCING PROJECT.

Section 40117(a)(3) is amended by adding at the end the following:

"(G) for debt financing of a terminal development project at a commercial service airport that each year has .05 percent or less of the total passenger

boardings in the United States if construction began on the project after November 5, 1988, and before November 5, 1990, and the eligible agency certifies that no other eligible airport-related projects affecting safety, security, or capacity will be deferred by the debt financing project.".

SEC. 404. PROTECTION OF VOLUNTARILY SUBMITTED INFORMATION.

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

"§ 40120. Protection of voluntarily submitted information

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

"(1) the disclosure of the information would inhibit the voluntary provision of that type of information;

"(2) the receipt of that type of information would aid in fulfilling the Administrator's safety and security responsibilities; and

"(3) the withholding of the information would not be inconsistent with the Administrator's safety and security responsibilities.

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

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

"40120. Protection of voluntarily submitted information.
"40121. Relationship to other laws.".

SEC. 405. SUPPLEMENTAL TYPE CERTIFICATES.

Section 44704 is amended—

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

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

"(b) SUPPLEMENTAL TYPE CERTIFICATES.—

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

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

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

SEC. 406. RESTRICTION ON USE OF REVENUES.

(a) IN GENERAL.—Section 44706 is amended by adding at the end the following:

"(d) USE OF REVENUES.—

"(1) PROHIBITION.—A person holding an airport operating certificate under this section may not expend local taxes on aviation fuel (except taxes in effect on December 30, 1987) or the revenues generated by the airport for any purpose other than the capital or operating costs of—

"(A) the airport;

"(B) the local airport system; or

"(C) other local facilities owned or operated by the person and directly and substantially related to the air transportation of passengers or property.

"(2) EXCEPTIONS.—Paragraph (1) does not apply if a provision enacted not later than September 2, 1982, in a law controlling financing by the owner or operator, or a covenant or assurance in a debt obligation issued not later than September 2, 1982, by the owner or operator, provides that the revenues, including local taxes on aviation fuel at public airports, from any of the facilities of the owner or operator, including the airport, be used to support not only the airport but also the general debt obligations or other facilities of the owner or operator.

"(3) AUTHORITY TO ISSUE WAIVERS TO AIRPORTS NOT RECEIVING GRANT ASSISTANCE.—The Administrator may waive the application of paragraph (1) with respect to any airport that has not received grant assistance under chapter 471 of this title or the Airport and Airway Improvement Act of 1982 in the 10-year period ending on the date of the enactment of this subsection.

"(4) LIMITATION ON STATUTORY CONSTRUCTION.—This subsection does not prevent the use of a State tax on aviation fuel to support a State aviation program or the use of airport revenue on or off the airport for a noise mitigation purpose.".

(b) PENALTIES.—Section 46301(a)(5) is amended to read as follows:

"(5) PENALTY FOR DIVERSION OF AVIATION REVENUES.—The amount of a civil penalty assessed under this section for a violation of section 47107(b) of this title (or any assurance made under such section) or section 44706(d) of this title may be increased above the otherwise applicable maximum amount under this section to an amount not to exceed 3 times the amount of revenues that are used in violation of such section.".

SEC. 407. CERTIFICATION OF SMALL AIRPORTS.

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

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

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

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

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

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

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

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

"(e) COMMUTER AIRPORTS.—In developing the terms required by subsection (b) for airports covered by subsection (a)(2), the Administrator shall identify and consider a reasonable number of regulatory alternatives and select from such alternatives the least costly, most cost-effective or the least burdensome alternative that will provide comparable safety at airports described in subsections (a)(1) and (a)(2).".

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

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

SEC. 408. DISCRETIONARY AUTHORITY FOR CRIMINAL HISTORY RECORDS CHECKS.

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

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

(2) by striking "(1) The Administrator" and inserting the following:

"(1) EMPLOYEES.—

"(A) PERSONS WITH ACCESS TO AIRCRAFT AND OTHER SECURED AREAS.—The Administrator";

(3) by moving the remainder of the text of subparagraph (A) (as designated by paragraph (2) of this subsection), including clauses (i) and (ii) (as designated by paragraph (1) of this subsection), 2 ems to the right; and

(4) by adding at the end the following:

"(B) PERSONS RESPONSIBLE FOR SCREENING PASSENGERS AND PROPERTY.—

"(i) IN GENERAL.—The Administrator may require by regulation that an employment investigation (including a criminal history record check in cases in which the employment investigation reveals a gap in employment of 12 months or more that the individual does not satisfactorily account for) be conducted for individuals who will be responsible for screening passengers and property under section 44901 of this title and their supervisors.

"(ii) SPECIAL RULE.—If an individual requires a criminal history record check under clause (i), the individual may be employed as a screener until the check is completed if the individual is subject to supervision.".

(b) CONFORMING AMENDMENTS.—Section 44936(a)(2) is amended—

(1) by striking "(2) An air carrier" and inserting the following:

"(2) RESPONSIBILITY OF AIR CARRIERS, FOREIGN AIR CARRIERS, AND AIRPORT OPERATORS.—An air carrier"; and

(2) by moving the remainder of the text of the paragraph 2 ems to the right.

(c) APPLICABILITY.—The amendment made by subsection (a)(4) shall not apply to an individual employed as a screener, or a supervisor of screeners, on the day before the date of the enactment of this Act.

SEC. 409. IMPOSITION OF FEES.

(a) IN GENERAL.—Chapter 453 is amended by adding at the end the following:

"§ 45304. Prohibition on imposition of unauthorized fees; fees for services provided to certain aircraft

"(a) PROHIBITION.—Notwithstanding any other provision of law, the Administrator of the Federal Aviation Administration shall not impose any fee that is not in effect on the date of the enactment of this section and that is not authorized by law.

"(b) AUTHORITY TO IMPOSE FEES.—The Administrator is authorized to establish a schedule of fees (and a collection process for such fees), to be effective not later than October 1, 1996, for services provided by the Administration to aircraft that neither take off from nor land in the United States. The schedule shall establish the fees at levels that will recover $30,000,000 in the first year in which the fees are implemented.".

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

"45304. Prohibition on imposition of unauthorized fees; fees for services provided to certain aircraft.".

SEC. 410. AUTHORITY TO CLOSE AIRPORT LOCATED NEAR CLOSED OR REALIGNED MILITARY BASE.

Notwithstanding any other provision of a law, rule, or grant assurance, an airport that is not a commercial service airport may be closed by its sponsor without any obligation to repay grants made under chapter 471 of title 49, United States Code, the Airport and Airway Improvement Act of 1982, or any other law if the airport is located within 3 miles of a military base which has been closed or realigned.

SEC. 411. CONSTRUCTION OF RUNWAYS.

Notwithstanding section 332 of the Department of Transportation and Related Agencies Appropriations Act, 1996 (109 Stat. 457) or any other provision of law that specifically restricts the number of runways at a single international airport, the Secretary of Transportation may obligate funds under chapters 471 and 481 of title 49, United States Code, for any project to construct a new runway at such airport, unless this section is expressly repealed.

SEC. 412. GADSDEN AIR DEPOT, ALABAMA.

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

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

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

(2) Any such amount so received by the city shall be used by the city for the development, improvement, operation, or maintenance of a public airport, lands (including any improvements thereto) which produce revenues that are used for airport development purposes, or both.

SEC. 413. REGULATIONS AFFECTING INTRASTATE AVIATION IN ALASKA.

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

SEC. 414. WESTCHESTER COUNTY AIRPORT, NEW YORK.

Notwithstanding sections 47107(b) and 44706(d) of title 49, United States Code, and any other law, regulation, or grant assurance, all fees received by Westchester County Airport in the State of New York may be paid into the treasury of Westchester County pursuant to section 119.31 of the Westchester County Charter if the Secretary finds that the expenditures from such treasury for the capital and operating costs of the Airport after December 31, 1990, have been and will be equal to or greater than the fees that such treasury receives from the Airport.

SEC. 415. BEDFORD AIRPORT, PENNSYLVANIA.

If the Administrator of the Federal Aviation Administration decommissions an instrument landing system in Pennsylvania, the Administrator shall, if feasible, transfer and install the system at Bedford Airport, Pennsylvania.

SEC. 416. LOCATION OF DOPPLER RADAR STATIONS, NEW YORK.

(a) PROHIBITION.—No Federal funds may be used for the construction of a Doppler radar station at the Coast Guard station in Brooklyn, New York.

(b) CONSTRUCTION OF OFFSHORE PLATFORMS.—

(1) STUDY.—The Administrator of the Federal Aviation Administration shall conduct a study of the feasibility of constructing 2 offshore platforms to serve as sites for the location of Doppler radar stations for John F. Kennedy International Airport and LaGuardia Airport in New York City, New York.

(2) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Administrator shall transmit to Congress a report on the results of the study conducted under paragraph (1), including proposed locations for the offshore platforms. Such locations shall be as far as possible from populated areas while providing appropriate safety measures for John F. Kennedy International Airport and LaGuardia Airport.

(c) LIMITATION.—The Administrator shall not begin construction of a Doppler radar station for John F. Kennedy International Airport or LaGuardia Airport at any location before submitting a report under subsection (b).

SEC. 417. WORCESTER MUNICIPAL AIRPORT, MASSACHUSETTS.

The Secretary of Transportation shall take such actions as may be necessary to improve the safety of aircraft landing at Worcester Municipal Airport, Massachusetts, including, if appropriate, providing air traffic radar service to such airport from the Providence Approach Radar Control in Coventry, Rhode Island.

SEC. 418. AIRCRAFT NOISE OMBUDSMAN.

Section 106 is amended by redesignating subsection (k), as amended by section 103 of this Act, as subsection (l) and by inserting after subsection (j) the following:

"(k) AIRCRAFT NOISE OMBUDSMAN.—

"(1) ESTABLISHMENT.—There shall be in the Administration an Aircraft Noise Ombudsman.

"(2) GENERAL DUTIES AND RESPONSIBILITIES.—The Ombudsman shall—

"(A) be appointed by the Administrator;

"(B) serve as a liaison with the public on issues regarding aircraft noise; and

"(C) be consulted when the Administration proposes changes in aircraft routes so as to minimize any increases in aircraft noise over populated areas.".

TITLE V—METROPOLITAN WASHINGTON AIRPORTS

SEC. 501. SHORT TITLE.

This title may be cited as the "Metropolitan Washington Airports Amendments Act of 1996".

SEC. 502. AMENDMENT OF METROPOLITAN WASHINGTON AIRPORTS ACT OF 1986.

Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Metropolitan Washington Airports Act of 1986 (100 Stat. 3341–376 et seq.).

SEC. 503. USE OF LEASED PROPERTY.

Section 6005(c)(2) is amended by inserting before the period at the end of the second sentence the following: "which are not inconsistent with the needs of aviation".

SEC. 504. BOARD OF DIRECTORS.

(a) APPOINTMENT OF ADDITIONAL MEMBERS.—Section 6007(e)(1) is amended—

(1) in the matter preceding subparagraph (A) by striking "11" and inserting "15";

(2) in subparagraph (D) by striking "one member" and inserting "five members".

(b) RESTRICTIONS.—Section 6007(e)(2) is amended by striking "except that" and all that follows through the period and inserting "except that the members appointed by the President shall be registered voters of States other than Maryland, Virginia, or the District of Columbia.".

(c) TERMS.—Section 6007(e)(3) is amended—

(1) in subparagraph (B) by striking "and" at the end;

(2) in subparagraph (C) by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following:

"(D) by the President after the date of the enactment of this subparagraph, 2 shall be appointed for 4 years.

A member may serve after the expiration of that member's term until a successor has taken office.".

(d) VACANCIES.—Section 6007(e) is further amended by redesignating paragraphs (4) and (5) as paragraphs (7) and (8), respectively, and by inserting after paragraph (3) the following:

"(4) VACANCIES.—A vacancy in the board of directors shall be filled in the manner in which the original appointment was made. Any member appointed to fill a vacancy occurring before the expiration of the term for which the member's predecessor was appointed shall be appointed only for the remainder of such term.".

(e) POLITICAL PARTIES OF PRESIDENTIAL APPOINTEES.—Section 6007(e) is further amended by inserting after paragraph (4), as inserted by subsection (d) of this section, the following:

"(5) POLITICAL PARTIES OF PRESIDENTIAL APPOINTEES.—Not more than 3 of the members of the board appointed by the President may be of the same political party.".

(f) DUTIES OF PRESIDENTIAL APPOINTEES.—Section 6007(e) is further amended by inserting after paragraph (5), as inserted by subsection (e) of this section, the following:

"(6) DUTIES OF PRESIDENTIAL APPOINTEES.—In carrying out their duties on the board, members of the board appointed by the President shall ensure that adequate consideration is given to the national interest.".

(g) REQUIRED NUMBER OF VOTES.—Section 6007(e)(8), as redesignated by subsection (d) of this section, is amended by striking "Seven" and inserting "Nine".

SEC. 505. FEDERAL ADVISORY COMMISSION.

(a) IN GENERAL.—Section 6007(f) is amended by striking the subsection designation, heading, and paragraph (1) and inserting the following:

"(f) FEDERAL ADVISORY COMMISSION.—

"(1) COMPOSITION.—There is established a Federal Advisory Commission of the Airports Authority which shall represent the interests of users of the Metropolitan Washington Airports and shall be composed of 9 members appointed by the Secretary of Transportation.".

(b) REFERENCES TO BOARD OF REVIEW.—The Act is amended—

(1) in section 6007(f) by striking "Board of Review" each place it appears and inserting "Federal Advisory Commission";

(2) in section 6007(f)(3)—

(A) in the third sentence by striking "Board" each place it appears and inserting "Commission"; and

(B) in the fourth sentence by striking "Board" the second place it appears and inserting "Commission";

(3) in the second sentence of section 6007(f)(6), as redesignated by section 508(a) of this Act, by striking "Board" and inserting "Commission";

(4) in section 6007(f)(7), as redesignated by section 508(a) of this Act, by striking "Board" the second place it appears and inserting "Commission"; and

(5) in section 6009(b) by striking "Board of Review" and inserting "Federal Advisory Commission".

(c) OTHER CONFORMING AMENDMENTS.—Section 6007(f)(2) is amended—

(1) in subparagraph (A)—

(A) by striking "paragraphs (1)(A) and (1)(B)" and inserting "paragraph (1)"; and

(B) by striking the second sentence; and

(2) in subparagraph (D) by striking "and lists have been provided for appointments to fill such vacancies".

SEC. 506. REVIEW PROCEDURE.

(a) SUBMISSION OF ACTIONS.—Section 6007(f)(4)(A) is amended to read as follows:

"(A) SUBMISSION REQUIRED.—

"(i) IN GENERAL.—An action of the Airports Authority described in subparagraph (B) shall be submitted to the Federal Advisory Commission, the Speaker of the House of Representatives, and the President Pro Tempore of the Senate at least 60 days before the action is to become effective.

"(ii) URGENT AND COMPELLING CIRCUMSTANCES.—An action submitted to the Federal Advisory Commission and Congress in accordance with clause (i) may become effective before the expiration of the 60-day period referred to in clause (i) if the board of directors certifies, in writing, to the Secretary and Congress that urgent and compelling circumstances exist that significantly affect the interests of the traveling public and will not permit waiting for the expiration of such 60-day period.".

(b) RECOMMENDATIONS.—Section 6007(f)(4)(C) is amended to read as follows:

"(C) RECOMMENDATIONS.—The Federal Advisory Commission may make to the board of directors and Congress recommendations regarding an action within 30 calendar days of its submission under this paragraph. Such recommendations may include a recommendation that the action not take effect.".

(c) EFFECT OF RECOMMENDATIONS.—

(1) REPEAL.—Section 6007(f)(4) is amended by striking subparagraph (D) and by redesignating subparagraph (E) as subparagraph (D).

(2) CONFORMING AMENDMENT.—Section 6007(f)(5)(B) is amended by striking "paragraph (4)(D)(ii)" and inserting "paragraph (4)".

(d) EXPIRATION OF AUTHORITY.—Section 6007(f)(4) is amended by adding at the end the following:

"(E) EXPIRATION OF AUTHORITY.—

"(i) IN GENERAL.—Except as provided in clause (ii), the authority of the Airports Authority to take any of the actions described in subparagraph (B) shall expire on April 30, 1997.

"(ii) SPECIAL RULE.—If on any day after April 29, 1997, all of the members to be appointed to the board of directors by the President under subsection (e)(1)(D) are serving on the board, the authority of the board referred to in clause (i) shall be effective beginning on such day and shall expire on September 30, 1998.".

(e) PROTECTION OF CERTAIN ACTIONS.—Actions taken by the Metropolitan Washington Airports Authority and submitted to the Board of Review pursuant to section 6007(f)(4) of the Metropolitan Washington Airports Act of 1986 before the date of the enactment of this Act shall remain in effect and shall not be set aside solely by reason of a judicial order invalidating certain functions of the Board of Review.

SEC. 507. CONGRESSIONAL DISAPPROVAL PROCEDURES.

(a) COMMITTEE REFERRAL.—Section 6007(f)(5)(C) is amended—

(1) by striking "Public Works and Transportation" and inserting "Transportation and Infrastructure"; and

(2) by striking "Commerce, Science and Technology" and inserting "Commerce, Science, and Transportation".

(b) HOUSE PROCEDURE.—Section 6007(f)(5) is amended—

(1) by striking subparagraphs (D), (E), and (F);

(2) by redesignating subparagraphs (G) and (H) as subparagraphs (E) and (F), respectively; and

(3) by inserting after subparagraph (C) the following:

"(D) HOUSE PROCEDURE.—When the Committee of the House has reported a resolution, it is in order at any time on or after the third day on which the report on the resolution has been available to Members pursuant to clause 2(l)(6) of House Rule XI, for the chairman of the committee or a designee to move to proceed to the consideration in the House of the resolution. The motion is highly privileged, and is not subject to debate or to intervening motion or otherwise subject to points of order, nor shall it be in order

to move to reconsider the vote by which the motion is agreed to or not agreed to. If the motion is agreed to, the resolution shall be considered in the House and debatable for not to exceed 2 hours to be equally divided and controlled by the chairman and the ranking minority member of the committee. The previous question shall be considered as ordered on the resolution to final passage without intervening motion. A motion to reconsider the vote on passage of the resolution shall not be in order.".

SEC. 508. OTHER MATTERS RELATING TO FEDERAL ADVISORY COMMISSION.

(a) REQUEST FOR CONSIDERATION OF OTHER MATTERS; PARTICIPATION IN MEETINGS.—Section 6007(f) is amended by striking paragraphs (6) and (7) and by redesignating paragraphs (8), (9), (10), and (11) as paragraphs (6), (7), (8), and (9), respectively.

(b) REMOVAL OF FEDERAL ADVISORY COMMISSION MEMBERS.—Section 6007(f)(9), as redesignated by subsection (a) of this section, is amended by striking "by a two-thirds vote of the board of directors" and inserting "by the Secretary of Transportation".

SEC. 509. EFFECT OF JUDICIAL ORDERS.

(a) IN GENERAL.—Section 6007 is amended by striking subsection (h) and by redesignating subsection (i) as subsection (h).

(b) CONFORMING AMENDMENT.—Section 6011 is amended by striking "Except as provided in section 6007(h), if" and inserting "If".

SEC. 510. FEDERAL ADVISORY COMMITTEE ACT.

Section 6007 is further amended by inserting after subsection (h), as redesignated by section 509(a) of this Act, the following:

"(i) FEDERAL ADVISORY COMMITTEE ACT.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Federal Advisory Commission.".

SEC. 511. USE OF DULLES ACCESS HIGHWAY.

The Act is further amended by adding at the end the following:

"SEC. 6013. USE OF DULLES ACCESS HIGHWAY.

"(a) RESTRICTIONS.—The Airports Authority shall continue in effect and enforce paragraphs (1) and (2) of section 4.2 of the Metropolitan Washington Airports Regulations, as in effect on February 1, 1995.

"(b) ENFORCEMENT.—The district courts of the United States shall have jurisdiction to compel the Airports Authority and its officers and employees to comply with the requirements of this section. An action may be brought on behalf of the United States by the Attorney General, or by any aggrieved party.".

SEC. 512. AMENDMENT OF LEASE.

The Secretary of Transportation shall amend the lease entered into with the Metropolitan Washington Airports Authority under section 6005(a) of the Metropolitan Washington Airports Act of 1986 to secure the Airports Authority's consent to the amendments made to such Act by this Act.

SEC. 513. AVAILABILITY OF SLOTS.

(a) IN GENERAL.—Section 41714 of title 49, United States Code, is amended—

(1) in subsections (a)(1), (b)(1), and (c)(1) by striking "(other than Washington National Airport)"; and

(2) by redesignating subsection (h) as subsection (i) and by inserting after subsection (g) the following:

"(h) LIMITATION ON AUTHORITY TO GRANT EXEMPTIONS.—The Secretary shall not issue an exemption under this section to the requirements of subparts K and S of part 93 of title 14 of the Code of Federal Regulations (pertaining to slots at high density airports) if the grant of such exemption would adversely affect safety.".

(b) CONFORMING AMENDMENT.—Section 6009(e)(1) is amended by striking "The Administrator" and inserting "Except as provided by section 41714 of title 49, United States Code, the Administrator".

TITLE VI—RECOMMENDATION TO COMMITTEE ON WAYS AND MEANS ON EXTENSION OF AIRPORT AND AIRWAY TRUST FUND TAXES AND EXPENDITURE AUTHORITY

The Committee on Transportation and Infrastructure of the House of Representatives recommends the following provisions, which are printed in roman and shall have no legal effect, to the Committee on Ways and Means of the House of Representatives for its consideration:

SEC. ___. EXTENSION OF AIRPORT AND AIRWAY TRUST FUND EXCISE TAXES.

(a) FUEL TAX.—

(1) Subparagraph (A) of section 4091(b)(3) of the Internal Revenue Code of 1986 is amended to read as follows:

"(A) The rate of tax specified in paragraph (1) shall be 4.3 cents per gallon—

"(i) after December 31, 1995, and before the date which is 30 days after the date of the enactment of the Federal Aviation Authorization Act of 1996, and

"(ii) after December 31, 1999."

(2) Section 4081(d) of such Code is amended—

(A) by adding at the end the following new paragraph:

"(3) AVIATION GASOLINE.—After December 31, 1999, the rate of tax specified in subsection (a)(2)(A)(i) on aviation gasoline shall be 4.3 cents per gallon.", and

(B) by inserting in paragraph (1) "(other than the tax on aviation gasoline)" after "subsection (a)(2)(A)".

(3) Section 4041(c)(5) of such Code is amended by inserting ", and during the period beginning on the date which is 30 days after the date of the enactment of the Federal Aviation Authorization Act of 1996 and ending on December 31, 1999" after "December 31, 1995".

(b) TICKET TAXES.—Sections 4261(g) and 4271(d) of such Code are each amended by striking "January 1, 1996" and inserting "January 1, 1996, and to transportation beginning on or after the date which is 30 days after the date of the enactment of the Federal Aviation Authorization Act of 1996 and before January 1, 2000".

(c) TRANSFERS TO AIRPORT AND AIRWAY TRUST FUND.—

(1) Subsection (b) of section 9502 of such Code is amended by striking "January 1, 1996" each place it appears and inserting "January 1, 2000".

(2) Paragraph (3) of section 9502(f) of such Code is amended to read as follows:

"(3) TERMINATION.—Notwithstanding the preceding provisions of this subsection, the Airport and Airway Trust Fund financing rate shall be zero with respect to—

"(A) taxes imposed after December 31, 1995, and before the date which is 30 days after the date of the enactment of the Federal Aviation Authorization Act of 1996, and

"(B) taxes received after December 31, 1999."

(3) Subsection (d) of section 9502 of such Code is amended by adding at the end the following new paragraph:

"(5) TRANSFERS FROM AIRPORT AND AIRWAY TRUST FUND ON ACCOUNT OF REFUNDS OF TAXES ON TRANSPORTATION BY AIR.—The Secretary of the Treasury shall pay from time to time from the Airport and Airway Trust Fund into the general fund of the Treasury amounts equivalent to the amounts paid after December 31, 1995, under section 6402 (relating to authority to make credits or refunds) or section 6415 (relating to credits or refunds to persons who collected certain taxes) in respect of taxes under sections 4261 and 4271."

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall take effect on the date of the enactment of this Act, except that the amendment made by subsection (b) shall not apply to any amount paid on or before such date.

(2) TRANSFERS.—The amendments made by subsection (c) shall take effect on January 1, 1996.

SEC. ___. EXTENSION OF AIRPORT AND AIRWAY TRUST FUND EXPENDITURES.

(a) EXTENSION OF EXPENDITURE AUTHORITY.—Paragraph (1) of section 9502(d) of the Internal Revenue Code of 1986 is amended by striking "October 1, 1996" and inserting "October 1, 1999".

(b) EXTENSION OF TRUST FUND PURPOSES.—Subparagraph (A) of section 9502(d)(1) of such Code is amended by adding before the semicolon at the end "or the Federal Aviation Authorization Act of 1996".

SEC. ___. RESTORATION AND EXTENSION OF EXEMPTION FOR COMMERCIAL AVIATION.

(a) IN GENERAL.—Paragraph (2) of section 4092(b) of the Internal Revenue Code of 1986 (relating to exemption from certain taxes on fuel used in commercial aviation) is amended to read as follows:

"(2) 4.3 cents per gallon of the rate specified in section 4091(b)(1) in the case of fuel sold—

"(A) after September 30, 1995, and before the date which is 30 days after the date of the enactment of the Federal Aviation Authorization Act of 1996, and

"(B) after December 31, 1999."

(b) CONFORMING AMENDMENTS.—

(1) Subparagraph (B) of section 6421(f)(2) of such Code is amended to read as follows:

"(B) in aviation which is not noncommercial aviation (as so defined) with respect to the tax imposed by section 4081 at—

"(i) the Leaking Underground Storage Tank Trust Fund financing rate, and

"(ii) so much of the rate specified in section 4081(a)(2)(A) as does not exceed 4.3 cents per gallon in the case of fuel purchased—

"(I) after September 30, 1995, and before the date which is 30 days after the date of the enactment of the Federal Aviation Authorization Act of 1996, and

"(II) after December 31, 1999."

(2) Subparagraph (B) of section 6427(l)(4) of such Code is amended to read as follows:

"(B) so much of the rate specified in section 4091(b)(1) as does not exceed 4.3 cents per gallon in the case of fuel purchased—

"(i) after September 30, 1995, and before the date which is 30 days after the date of the enactment of the Federal Aviation Authorization Act of 1996, and

"(ii) after December 31, 1999."

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. ___. FLOOR STOCKS TAXES ON AVIATION FUEL.

(a) IMPOSITION OF TAX.—

(1) IN GENERAL.—In the case of aviation fuel on which tax was imposed under section 4091 of the Internal Revenue Code of 1986 before the tax-increase date described in subsection (c)(1)(A) and which is held on such date by any person, there is hereby imposed a floor stocks tax of 17.5 cents per gallon.

(2) COMMERCIAL AVIATION FUEL ON JANUARY 1, 2000.—In the case of commercial aviation fuel on which tax was imposed under section 4091 of such Code before January 1, 2000, and which is held on such date by any person, there is hereby imposed a floor stocks tax of 4.3 cents per gallon.

(b) LIABILITY FOR TAX AND METHOD OF PAYMENT.—

(1) LIABILITY FOR TAX.—A person holding aviation fuel on a tax-increase date to which the tax imposed by subsection (a) applies shall be liable for such tax.

(2) METHOD OF PAYMENT.—The tax imposed by subsection (a) shall be paid in such manner as the Secretary shall prescribe.

(3) TIME FOR PAYMENT.—The tax imposed by subsection (a) with respect to any tax-increase date shall be paid on or before the first day of the 7th month beginning after such tax-increase date.

(c) DEFINITIONS.—For purposes of this section—

(1) TAX INCREASE DATE.—The term "tax-increase date" means—

(A) the date which is 30 days after the date of the enactment of this Act, and

(B) January 1, 2000.

(2) AVIATION FUEL.—The term "aviation fuel" has the meaning given such term by section 4093 of such Code.

(3) COMMERCIAL AVIATION FUEL.—The term "commercial aviation fuel" means aviation fuel which is held on January 1, 2000, for sale or use in commercial aviation (as defined in section 4092(b) of such Code).

(4) HELD BY A PERSON.—Aviation fuel shall be considered as "held by a person" if title thereto has passed to such person (whether or not delivery to the person has been made).

(5) SECRETARY.—The term "Secretary" means the Secretary of the Treasury or his delegate.

(d) EXCEPTION FOR EXEMPT USES.—The tax imposed by subsection (a) shall not apply to aviation fuel held by any person on any tax-increase date exclusively for any use for which a credit or refund of the entire tax imposed by section 4091 of such Code is allowable for aviation fuel purchased on or after such tax-increase date for such use.

(e) EXCEPTION FOR CERTAIN AMOUNTS OF FUEL.—

(1) IN GENERAL.—No tax shall be imposed by subsection (a) on aviation fuel held on any tax-increase date by any person if the aggregate amount of aviation fuel held by such person on such date does not exceed 2,000 gallons. The preceding sentence shall apply only if such person submits to the Secretary (at the time and in the manner required by the Secretary) such information as the Secretary shall require for purposes of this paragraph.

(2) EXEMPT FUEL.—For purposes of paragraph (1), there shall not be taken into account fuel held by any person which is exempt from the tax imposed by subsection (a) by reason of subsection (d).

(3) CONTROLLED GROUPS.—For purposes of this subsection—

(A) CORPORATIONS.—

(i) IN GENERAL.—All persons treated as a controlled group shall be treated as 1 person.

(ii) CONTROLLED GROUP.—The term "controlled group" has the meaning given to such term by subsection (a) of section 1563 of such Code; except that for such purposes the phrase "more than 50 percent" shall be substituted for the phrase "at least 80 percent" each place it appears in such subsection.

(B) NONINCORPORATED PERSONS UNDER COMMON CONTROL.—Under regulations prescribed by the Secretary, principles similar to the principles of subparagraph (A) shall apply to a group of persons under common control where 1 or more of such persons is not a corporation.

(f) OTHER LAW APPLICABLE.—All provisions of law, including penalties, applicable with respect to the taxes imposed by section 4091 of such Code shall, insofar as applicable and not inconsistent with the provisions of this section, apply with respect to the floor stock taxes imposed by subsection (a) to the same extent as if such taxes were imposed by such section 4091.

SEC. ___. REDUCTION IN AVIATION TICKET TAX IN CERTAIN CASES.

(a) IN GENERAL.—Part III of subchapter C of chapter 33 of the Internal Revenue Code of 1986 (relating to special provisions applicable to taxes on transportation by air) is amended by adding at the end the following new section:

"SEC. 4283. REDUCTION IN AVIATION TICKET TAX IN CERTAIN CASES.

"(a) GENERAL RULE.—For each fiscal year, the Secretary shall—

"(1) determine whether such fiscal year was a funding shortfall year, and

"(2) in such a case, prescribe a tax rate which shall apply under section 4261(a) to amounts paid during the first calendar year beginning after the close of such fiscal year.

"(b) FUNDING SHORTFALL YEAR.—For purposes of this section—

"(1) IN GENERAL.—The term 'funding shortfall year' means any fiscal year for which there is a funding shortfall.

"(2) FUNDING SHORTFALL.—The term 'funding shortfall' means, with respect to any fiscal year, the amount by which—

"(A) the aggregate amounts authorized to be obligated under such section 48103 for the fiscal year, exceeds

"(B) the aggregate amounts available for obligation under section 48103 of title 49, United States Code for the fiscal year.

"(3) SPECIAL RULES.—

"(A) TREATMENT OF PRIOR YEAR AMOUNTS.—For purposes of paragraph (2)(A), an amount shall be treated as authorized only for the first fiscal year for which it is authorized.

"(B) TREATMENT OF SEQUESTERED AMOUNTS.—The determination under paragraph (2) shall not take into account the sequestration of any amount described therein pursuant to an order under part C of title II of the Balanced Budget and Emergency Deficit Control Act of 1985 (or any successor law).

"(C) TREATMENT OF RESCISSIONS.—The determination under paragraph (2)(A) shall not take into account the rescission of any amount authorized to be obligated under section 48103 of title 49, United States Code for a fiscal year.

"(c) DETERMINATION OF TAX RATE.—The rate prescribed by the Secretary under subsection (a) which shall apply in lieu of the rate otherwise applicable under section 4261(a) for any calendar year shall be the rate which the Secretary estimates will result in a reduction in tax revenues equal to the funding shortfall for the most recent fiscal year ending before such calendar year."

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

"Sec. 4283. Reduction in aviation ticket tax in certain cases."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to fiscal years beginning after the date of the enactment of this Act.

INTRODUCTION

The reported bill, the "Federal Aviation Authorization Act of 1996," authorizes funding for our nation's airport and airway system. Improvements to this system are vital if we are to meet the aviation needs of this country for the remainder of this century and beyond. The first steps were already taken last year when the Committee approved H.R. 2276, the "Federal Aviation Administration Revitalization Act of 1995", H. Rept. 104–475. This legislation was passed by the House unanimously on March 12, 1996. It would revitalize the Federal Aviation Administration (FAA) by making it independent and giving it new flexibility in the areas of procurement and personnel. The purpose of the reported bill is to make equally significant improvements in the areas of airport and airway infrastructure.

Improvements are clearly necessary. Last year, 578 million passengers flew in the U.S. By 2005, the FAA predicts an increase to 858 million passenger enplanements. According to the Department of Transportation, the 10 largest U.S. airlines now conduct 14,650 flights per day. If commuter, military, general aviation, and other flights are added, there are 107,500 per day. This is expected to increase 18 percent by 2002.

One of the reasons air travel is growing is that airline deregulation has led to a steady decrease in the cost of traveling by air. In 1995, passenger air fares were approximately what they were 10 years ago, not accounting for inflation.

Given the expected growth in passenger enplanements and aircraft operations, it is crucial that this country properly invest in its aviation infrastructure. The FAA Administrator has frequently stated that the most significant constraint in the aviation system is the lack of airport capacity.

FUNDING LEVELS

To address these needs, the reported bill authorizes $29.5 billion over the next three years for airport improvements, air traffic control facilities & equipment, and the salaries and expenses of operating the FAA. Funding for airport improvements and facilities & equipment is derived entirely from the Airport & Airway Trust Fund which was created in 1970. Funds for operating the FAA come partly from the trust fund and partly from the general fund. The trust fund is supported entirely by the following taxes on aviation users:

10% passenger ticket tax;
6.25% freight waybill tax;
$6 international departure tax; and

General aviation fuel tax of 15 cents per gallon on gas and 17.5 cents per gallon on jet fuel. (An additional 4.3 cents per gallon is paid into the general fund.)

If these taxes had been in effect for the whole year, they would have raised about $5.9 billion this year in the following amounts:

$5.1 billion from the passenger ticket tax;
$353 million from the freight waybill tax;
$204 million from the general aviation fuel taxes; and
$247 million from the international departure tax.

However, most of these taxes expired at the end of 1995 and have not yet been reauthorized. Fourteen cents of the general aviation fuel tax is now going into the highway trust fund. The Aviation Trust Fund continues to earn interest on its cash balance. Interest revenue in 1996 would have been about $772 million. This means that Trust Fund taxes and interest revenue would total about $6.65 billion this year minus whatever money is lost until the taxes are renewed.

The trust fund supports the following programs in the following amounts this year:

Airport Improvement Program—$1.45 billion.
Facilities and Equipment—$1.9 billion
Research and Development—$186 million.
FAA Operations—$2.2 billion.
Essential Air Service—$22.6 million.

Total obligations from the Trust Fund will therefore be about $5.8 billion.

As can be seen, when the taxes are in effect, the trust fund is taking in more than it is paying out. This has often been the case in the past and has resulted in an uncommitted surplus that reached almost $7.7 billion in 1991. Since then, however, the uncommitted surplus has decreased. The uncommitted surplus at the beginning of this year was about $5 billion. It has been decreasing by about $500 million per month since the taxes expired.

There were several reasons for the decrease in the surplus even when the taxes were in effect. The primary reason was the dramatic increase in trust fund support for non-capital programs. Funding out of the trust fund for FAA operations has increased from $807 million in 1990 to $2.2 billion this year. And, as a result of the 1990 budget agreement, almost $2 billion was transferred from the Trust Fund to the General Fund.

This use of the Trust Fund is a significant departure from past practice. When it was created in 1970, the Trust Fund was viewed as a fund to pay for improvements to the aviation infrastructure. However, as can be seen, it is now increasingly being viewed as a source of money to pay for the operations of the FAA or of the Government generally.

For many years, total AIP spending had been trending upward but in recent years it has been decreasing. In 1982, $450 million was authorized and appropriated for AIP. AIP spending peaked at $1.9 billion in 1992. For 1996, $2.21 billion was authorized but the obligation ceiling in the Appropriations Act limited AIP spending to $1.45 billion. This was the same as the previous year.

The Committee strongly believes that the money airline passengers, shippers, aircraft owners, and other aviation users pay

into the Trust Fund should be returned to them in the form of aviation infrastructure improvements. This was the promise to them when the trust fund was created. Failure to keep this promise is unfair to them now.

Unfortunately, the current on-budget status of the trust fund provides no assurance that the money will be spent as promised. Under the present system, the trust funds are viewed by many as merely an accounting mechanism. Overall budget caps are imposed with no regard for the aviation revenue the trust fund receives or the pressing needs of the airport and airway system. This provides perverse incentives to spend less than is taken in so as to stay within the budget caps, make the general fund deficit appear smaller, or spend more on non-aviation projects. This has occurred in the past and has resulted in the large balances now in the fund.

Taking the trust fund off-budget would remove those incentives. It would remove trust fund spending from the budget caps and permit additional funding for aviation improvements as long as there were adequate balances in the fund. This should create a closer match between the income to the trust fund and the spending from the fund, which the Committee views as the most equitable outcome.

The reported bill recommends a reauthorization of the expired trust fund taxes and sets the spending at levels that will ensure a close match with the projected income to the trust fund. For 1997, this means spending on AIP should be $2.28 billion, spending on facilities and equipment should be $2.068 billion, and spending on FAA operations should be $5.158 billion (with no change in the formula establishing the trust fund share of FAA operations). If spending on the airport improvement program is below authorized levels, the bill recommends that the taxes be reduced so that taxes and revenue would come back into balance. In this way, the bill would ensure adequate funding levels and fairness to the users, thereby furthering the principles established by the House's vote in support of taking the trust funds off-budget earlier this year.

The following chart sets forth the impact of the funding levels in this bill on the aviation trust fund.

	In fiscal year—				
	1995	1996	1997	1998	1999
Obligational Authority from Trust Fund:					
FAA Programs (After rescissions):					
Airport Improvement Program (Obligation Limitation)	$1,450	$1,450	$2,280	$2,347	$2,412
Contract Authority	$1,450	$2,214	$2,280	$2,347	$2,412
Facilities and Equipment Appropriation	$1,960	$1,866	$2,068	$2,129	$2,191
Research, Engineering, & Development Appropriation[1]	$252	$186	$186	$186	$186
Operations and Maintenance Appropriation from TF	$2,450	$2,223	$2,250	$2,331	$2,394
Total Ob. Auth. for FAA Programs	$6,112	$5,725	$6,784	$6,993	$7,183
Total Ob. Auth. for Non-FAA Programs	$72	$66	$63	$58	$52
Total Oblig. Authority	$6,185	$5,791	$6,847	$7,051	$7,235
Revenue to Trust Fund from Excise Taxes[2]					
Passenger Ticket	$4,768	$1,188	$5,431	$5,726	$6,071
Waybill Freight and Mail	$361	$87	$374	$402	$433

	In fiscal year—				
	1995	1996	1997	1998	1999
General Aviation Fuel	$172	$43	$175	$179	$183
International Department[3]	$233	$64	$271	$287	$302
Total tax revenues	$5,534	$1,382	$6,252	$6,594	$6,988
Reallocation between GF and TF[4]	$0	($396)	$0	$0	$0
Total tax revenues after reallocation	$5,534	$1,778	$6,252	$6,594	$6,988
Interest Revenue on Trust Fund Cash Bal.	$757	$781	$526	$537	$543
Adjustments to Uncommitted Balance:					
Unobiligated Contract Authority AIP	($7)	($764)	$0	$0	$0
Cumulative Balance of Unob. Con. Auth. AIP	($7)	($107)	($107)	($107)	($107)
Rescission/Lapsing of Unob. Con. Auth. AIP	$1,383	$664	$0	$0	$0
Unobiligated Contract Authority SCAS	($3)	$0	$0	($3)	($8)
Cumulative Balance of Unob. Con. Auth. SCAS	($4)	$3	$3	$0	($8)
Rescission/Lapsing of Unob. Con. Auth SCAS	$5	$7	$1	$0	$0
AIP Oblig. Lim. Less AIP Total Ob.	$10	$0	$0	$0	$0
Miscellaneous Adj. To Uncom. Balance	($36)	($4)	($1)	$0	$0
End of Year Uncommitted Balance	$5,127	$1,799	$1,729	$1,805	$2,093
End of Year Cash Balance	$11,365	$7,787	$8,416	$8,691	$9,231
Summary FAA Budget Information:					
Total Operations and Maintenance Appropriation	$4,572	$4,643	$5,158	$5,344	$5,538
Total FAA Appropriation	$8,234	$8,144	$9,692	$10,006	$10,327
Share from Trust Fund	$6,112	$5,725	$6,784	$6,993	$7,183
Share from General Fund	$2,122	$2,420	$2,908	$3,013	$3,144
Percent FAA Budget from Trust Fund	74	70	70	70	70
TF Operations as Percentage of Capital Programs	67	63	50	50	50
Percent FAA Operations from Trust Fund	54	48	44	44	43

[1] Assume H.R. 3322 FY 97 authorization until 1999.
[2] Assumes taxes restored as of October 1, 1996.
[3] Excludes receipts from proposed $10 per passenger increase in departure tax.
[4] Includes $396 million transfer to TF from GF by Treasury in May 1996 to correct for prior transfer error. Other FY 96 adjustments may be forthcoming.

Airport Privatization

Despite the effort in the reported bill to authorize and ensure adequate funding for the airport improvement program, the Committee recognizes that funding may be limited. Therefore, the bill explores alternate methods to ensure adequate infrastructure investment. For example, the bill includes a test program for airport privatization.

Almost all airports are now publicly owned and operated either by a State or local agency or by a regional authority. There are a few small airports in this country that are privately owned. Some airports in foreign countries have been privatived.

Although most U.S. airports are privately managed. Concession and parking lots are examples of functions that are usually handled by the private sector. Some airports, such as Indianapolis, have contracted with private firms to manage the whole airport.

In the Committee's view, permitting airports to be privatized, either by sale or a long-term lease, could tap into additional sources of capital for infrastructure improvements. It could also lead to better management, improved customer service, and lower costs of operating at airports. While relatively untested, a limited program such as the one in the reported bill would provide an opportunity to prove this thesis. If success was demonstrated, the program could be expanded.

Currently, there are several legal obstacles to airport privatization. One is current law that prohibits private airports owners from receiving AIP entitlement grants or assessing passenger facility charges (PFCs). A second is the requirement that Federal grants must be repaid if the airport is sold. A third is the prohibition on revenue diversion that could block the current owner from receiving any profits from the sale and would prevent the new owner from providing any reward to its shareholders for a profitable operation. A final obstacle is the tax laws that may prevent a private owner from issuing tax exempt bonds the way a public airport can.

The bill addresses the first obstacle by changing the law to permit pritvatized airports to receive AIP entitlement grants and charge PFCs. There is no reason that the ownership structure of an airport should effect its rights under the AIP and PFC laws. The users of these airports should enjoy the benefits of the AIP and PFC programs as long as these facilities continue to operate as airports.

Likewise, there is no reason that Federal grants should be returned. Under this bill, the Federal government will still be getting what it paid for when it made the grant, that is an operating airport facility. Accordingly, the bill exempts those airports privatized under its provisions from the requirement that Federal grants be repaid. This does not provide a windfall to the purchaser of the airport. That purchaser is not receiving those assets for free but, in all likelihood, will instead be investing substantial sums for those facilities and will be obligated to continue to maintain and improve them.

The reported bill also exempts airports from the revenue diversion prohibition but only for the limited purpose of permitting the current owner to receive some of the proceeds of the sale and the new owner to receive some compensation for its efforts. The Committee recognizes that airport users may be concerned that an airport could use its monopoly power to increase their fees to unreasonable levels. Therefore, the bill includes provisions to ensure that no money can be diverted to the original owner and fees cannot be raised faster than the rate of inflation unless a super-majority of the airlines at that airport agree.

The tax law changes are a more difficult issue for this Committee to address since such matters are not within our jurisdiction. The Committee is aware that Revenue Procedures of the Internal Revenue Service (IRS) permit tax-exempt bonds at a privatized facility to retain their tax-exempt status if the facility continues to be used for its original purpose and the proceeds are expended for a purpose that would qualify for tax-exempt financing. However, the discretion the IRS has under this revenue procedure creates uncertainty. The Committee would urge the IRS to implement its rules, and make other regulatory changes that may be necessary, in order to facilitate airport privativation transactions and infrastructure improvements at privatized airports.

Given the relative novelty of the airport privatization concept, the bill places strict limits on it. Only six airports can be privatized, one of which must be a general aviation airport. Privatization is completely voluntary. No airport or airport owner can be forced to privatize.

It is also important to note that privatization transactions are subject to DOT approval. The Committee would expect DOT to exercise its discretion in this area judiciously and approve only those transactions where it finds that the sponsor and new owner have the interests of the airport and the aviation system in mind. The bill provides several factors for DOT to consider in making this finding. These include the commitment to safety and noise abatement of the new owner and an assurance of equal access to the airport. The bill does not require size or geographical diversity as factors for the Secretary to consider in selecting airports for participation in the program. While those would be desirable, the Committee did not wish the program to be too restrictive in this respect. Also, the bill does not bar airlines from participating in airport privatization transactions to the extent that that would be permitted by other laws such as anti-trust statues.

Notwithstanding the restrictions on privation that are imposed by the bill, the Committee is confident that transactions can be put together that will be beneficial to the public owner of the airport, the new private owner, as well as the airlines and other users of the airport such as the traveling public.

SELECT PANEL

In additional to privatization, the Committee is interested in exploring other methods of enhancing airport funding. Therefore, a Select Panel of aviation experts, appointed by both the Executive and Legislative branches, is established by this bill. The panel would be expected to first assess the extent of airport capital needs and thereby help resolve the dispute between the airport and airline communities over this issue. In this effort, the panel would be assisted by an independent assessment of airport capital needs to be conducted by the General Accounting Office. After determining the needs, the panel would be expected to evaluate and recommend the best way to meet those needs.

Similary, the panel is also directed to study the needs of the FAA as a whole and the best way to meet those needs. There is a need to get a better idea of the cost to the government of providing air traffic control services. Also, questions have been raised about the AFF's budgetary needs over the next few years. The FAA has indicated that if present budgetary trends continue, the agency will need $12 billion more than it expects to receive in the anticipated Congressional budget process between 1996 and 2002. While most in the aviation community acknowledge that there will be tremendous budgetary pressures on the FAA, many believe a $12 billion shortfall may be exaggerated.

The panel would be expected to address these issues with the help of an audit of the agency conducted by an entity independent of FAA and DOT. Once the costs and needs of the agency are determined, the panel should be able to recommend ways to fund the agency and meet its needs.

SELECTION CRITERIA

In the event that AIP funding should remain low, the Committee considers it important to provide FAA with additional guidance in

the distribution of limited discretionary funds. Even if AIP funding should increase, it is still important that the money be directed toward the most important projects. Accordingly, the bill includes three new selection criteria for discretionary grants, a selection criteria for grants to non-hub airports from the small airport fund, and a cost-benefit requirement for new letters of intent.

There are many dynamically growing regions of the country where an airport is attempting to provide improved airfield facilities needed to meet the area's air transportation demands. For example, Lewis University Airport, located in Will County, Illinois, is in an area experiencing rapid urbanization where many homes and large industrial developments are popping up at a rapid pace and the existing airport cannot keep up with the requirements of its corporate neighbors. This is an example of the sort of reliever airport that would be a good candidate for funding from the discretionary fund or the small airport fund under these criteria.

The FAA should also consider the savings or program efficiencies that could be achieved by other Federal agencies in deciding the cost and benefits of an AIP discretionary grant. For example, the Immigration and Naturalization Service (INS) often must transport its detainees. If it had direct access to an airport near its ultimate destination rather than flying them to a distant airport and then using surface modes to its ultimate destination, it could save time and money. Airport improvement projects that would provide such benefits should receive priority consideration.

FUNDING FORMULA

Current law

Entitlements. The Airport and Airway Improvement Act divides AIP money into two broad categories. They are entitlement funds and discretionary funds. Entitlement funds are further divided into four sub-categories. They are:

Primary airport entitlements;
Cargo service airport entitlements;
State entitlements; and
Alaskan airport entitlements.

Primary airports. If a public airport has commercial air service with at least 10,000 passenger boardings per year, it is considered a primary airport. These airports are entitled to receive AIP money each year in accordance with the following formula:

$7.80 for each of the first 50,000 passengers boarded;
$5.20 for each of the next 50,000 passengers boarded there;
$2.60 for each of the next 400,000 passengers boarded; and
65 cents for each additional passenger boarded.

Regardless of the number of passengers boarded, the minimum entitlement is supposed to be $500,000 per year and no primary airport is entitled to more than $22 million per year.

To receive the money, an airport must have a project, such as a runway, terminal, or noise abatement project, that is eligible for AIP funding under the law. An airport can defer the right to receive its entitlement money for 3 years. Entitlement money deferred to a later year is referred to as carryover entitlements.

There are 421 primary airports.

Cargo entitlements. Cargo service airports are airports that are served by cargo-only (freighter) aircraft which all together weigh more than 100 million tons. These airports are entitled to share in a pot of money that equals 3.5% of total AIP funds. A cargo service airport shares in this pot in the proportion to which the total weight of cargo-only aircraft landing there is to the total weight of such aircraft at all other airports. No airport may receive more than 8% of this 3.5%.

The passenger and cargo entitlements cannot exceed 44% of the total available for AIP. If the 44% cap would be exceeded, primary airports must take a proportionate cut in their entitlement money so that the total stays within the cap.

State entitlement. The States, territories, and possessions share in a pot of money that is equal to 12% of total AIP funds. Each State's share of this pot is based on a formula that takes into account the population and land area of the State. Money from this entitlement goes to general aviation airports, that is, airports that are used by private planes with little or no commercial air service.

General aviation airports that are seeking AIP money from this entitlement usually apply directly to the FAA. Some States require their airports to channel their AIP applications through the State aviation agency. The FAA then decides which airports will get the money. Seven States (Illinois, Michigan, Missouri, New Jersey, North Carolina, Texas, and Wisconsin) participate in the State Block Grant program. Under this program, the FAA gives the State aviation agency the responsibility to decide which general aviation airports will receive AIP grants.

Alaska entitlement. By law, Alaska airports are entitled to receive at least the same amount of money that they received in 1980. This year, they will receive about $10.5 million. The $10.5 million is in addition to whatever those airports will receive under the above entitlements.

Discretionary. Any money left over after the above entitlements are funded can be spent by the FAA at is own discretion. However, this discretionary money is subject to five set-asides.

Noise set-aside. The law sets aside 12.5% of total AIP funds for noise projects. These could include such things as buying property for a noise buffer and sound-proofing buildings.

Relievers. A reliever airport is a smaller airport, located near a major airport, that the FAA has designated to relieve congestion at that larger airport. Five percent of AIP funds are set-aside to fund improvements at reliever airports. Prior to 1994, the set-aside had been ten percent. This year, the Appropriations Act further capped reliever airport funding at $48 million. There are 329 reliever airports.

Small commercial service. Small commercial service airports are usually larger than general aviation airports but smaller than primary airports. They are airports with commercial air service (usually by commuter carriers) with more than 2,500 passenger boardings per year but less than 10,000 boardings per year. The set-aside for these airports is 1.5%. Prior to 1994, this set-aside was 2.5%. There are 154 of these airports.

Planning. Three-fourths of one percent is set-aside for airport system planning projects.

Military airports. Under the military airport program, FAA selects 15 current or former military airports to share in a 2.5% set-aside. The purpose of this program is to increase overall system capacity by promoting joint civilian-military use of military airports or by converting former military airports to civilian use. This year, the Appropriations Act capped military airport funding at $26 million.

Pure discretionary. After the entitlements and set-asides are funded, the remaining money can be spent as the FAA sees fit. This is often referred to as pure discretionary AIP money. Even here, however, there are restrictions. The law requires that 75% of this discretionary money must be spent on airport projects that will enhance capacity, safety, or security, or reduce noise.

Minimum discretionary. Total AIP funding has dropped from a high of $1.9 billion in 1992 to $1.45 billion this year. At the same time that AIP funding has been declining, FAA has been issuing letters of intent (LOIs) to several airports, 49 U.S.C. 47110(e). An LOI is a commitment to pay a certain amount of AIP money to an airport over a set number of years in order to fund an important project. These commitments are predominantly funded from the discretionary portion of AIP.

However, as the overall AIP program declined, an increasing proportion of the money was allocated to the entitlements and set-asides. This left little discretionary money and prompted concerns that the FAA would be unable to meet its LOI commitments.

As a result, the 1994 AIP reauthorization mandated that the discretionary fund be at least $325 million per year. If the above-described entitlement and set-aside formulas would not leave at least $325 million in the discretionary fund, all entitlements and set-asides (except for the Alaska entitlement) must be cut by a proportionate amount. This year entitlements were cut by about 23% to ensure a minimum discretionary fund of $325 million. AIP would have to be about $1.8 billion to avoid this cut.

Federal share. As a general rule, the Federal share of an AIP project's cost is 90%. However, at medium and large hub airports (defined as airports that enplane 0.25% of the total annual enplanements in the U.S.) the Federal share is 75%. In the case of a project involving an airport terminal building, the Federal share is 85% at non-hubs (defined as airports with 0.05% or less of the total annual enplanements in the U.S.) and 75% at hubs.

It should be noted that the reference to hubs here and elsewhere refers to the number of passengers at that airport, not to whether an airline uses the airport as a connecting complex.

Passenger facility charge. In 1990, the Committee became concerned that the AIP program would not be able to meet the future infrastructure needs of the nation's airports. Consequently, the 1990 AIP reauthorization law permitted an airport to assess a fee on passengers. This is known as the passenger facility charge (PFC). PFCs are collected by the airlines and paid directly to the airport without going through the Federal treasury. They are intended to supplement AIP by providing more money for runways, taxiways, terminals, gates, road access and other airport improvements.

No airport may charge a PFC of more than $3 per passenger and no passenger has to pay more than $12 in PFCs per round-trip regardless of the number of airports through which the passenger connects. No airport can charge a PFC until it is approved by FAA.

If a medium or large hub airport charges a PFC, it must forego 50% of its AIP entitlement. The foregone entitlements go into a special "small airport fund" to be distributed as follows:

50% to non-hub airports;
25% to general aviation airports;
12.5% to small hub airports; and
12.5% to the discretionary fund.

This year medium and large hubs will return about $102 million in entitlements for redistribution to smaller airports using this formula.

Problems with current formula

As can be seen, the current funding formulas have become extremely complex. This occurred because additional funding categories were created over time as funding was rising but the entitlement caps and a desire to protect letters of intent and discretionary funds caused across-the-board cuts as funding decreased. The Committee has striven in this bill to simplify the funding formulas to make them easier to understand and apply.

The Committee is also concerned that the smaller airports are not getting their fair share under the current AIP formula. This has occurred because (1) the reliever airport set-aside was cut from 10% to 5% and then a cap was placed on it by the Appropriations Act, (2) the small commercial service airport set-aside was cut from 2.5% to 1.5%, and (3) the 44% entitlement cap and the minimum discretionary fund caused across-the-board cuts in entitlements. Both non-hub primary and general aviation airports received less funding as a result.

The burden of these cuts fell particularly hard on the smaller airports since they depend the most heavily on AIP funds. For example, in 1995, AIP grants supported 54% of non-hub airport capital investment and 77% of general aviation airport capital investment. By contrast, AIP funding represented only 13% of the infrastructure investment at large hub airports. These large airports can obtain the bulk of their money from bonds, PFCs, or rates and charges such as landing fees. These are options that are not available to the small airports to any meaningful extent.

Proposed formula

Therefore, in addition to simplifying the formula, the Committee has sought to direct more of the money to small airports without harming the interests of larger airports. The reported bill does this by deleting the entitlement cap and reducing the minimum discretionary fund, thereby increasing the entitlements of all airports, both large and small. This also has the effect of increasing the small airport fund since this fund is derived by large airports turning back half their entitlement when they choose to levy a PFC. Since larger airports receive a large entitlement under this bill, the amount being turned back to the small airport fund is larger. The bill also increases the allocation to the general aviation airport en-

titlement. It does this by increasing the percentage and by reducing the minimum discretionary fund so that this entitlement suffers a small across-the-board cut than under current law.

Under the reported bill, there will still be four entitlement categories:

Passenger entitlement. Primary airports (those with more than 10,000) passengers per year will continue to be entitled to AIP money in accordance with the following formula:

$7.80 for each of the first 50,000 passengers.
$5.20 for each of the next 50,000 passengers.
$2.60 for each of the next 400,000 passengers.
65 cents for each of the next 500,000 passengers.
50 cents for each additional passenger.

The minimum of $500 thousand per year and the maximum of $22 million per year will continue to apply. The only difference with current law is that airports with more than 1 million passengers per year will receive 50 cents for each passenger over 1 million rather than 65 cents as is the case under current law. However, the 44% cap on entitlements is eliminated and the minimum discretionary fund is lowered so that even airports with more than 1 million passengers will receive a higher entitlement under this bill than they would under current law.

Cargo entitlement. The cargo entitlement is lowered from 3.5% to 2.5%. However, again, as a result of the elimination of the 44% entitlement cap and the lower discretionary fund, the net result is that cargo airports break even. In addition, this entitlement is modified so that those airports that do not meet the minimum landed weight requirement can still receive a grant under this entitlement if the Secretary finds that the airport would serve primarily freighter aircraft.

State entitlement. This entitlement, which was previously limited to general aviation airports, would now include general aviation, reliever, and small commercial service airports. The entitlement is increased from 12% to 18.5% to cover this larger group of airports. The percentage of this entitlement that goes to airports in the U.S. territories and possessions is reduced so that they do not get a windfall as a result of the increase from 12 to 18.5 percent.

The Alaskan entitlement is not changed.

Set-asides. The new formula in this bill would reduce the number of set asides from five to two. The reliever, planning, and small commercial service set-asides are folded into the general aviation airport entitlement described above. The noise and military airport set-asides remain.

The noise set-aside is changed from 12.5% of the total AIP funding level to 31% of the amount in the discretionary fund.

The military airport set-aside is reduced to 10 current or former military airports that will enhance capacity or reduce delays in major metropolitan areas. These airports would share in 4% of the discretionary fund. Given the relatively low funding levels for MAP in the past and under this bill, the Committee would urge the FAA to construe leniently the current 5-year limit on participation in the program. By this, the Committee means that if an airport selected for inclusion in MAP is not approved for funding in a particular year or years, such non-funded years should not count to-

ward the 5-year maximum participation for that airport in the program. The 5-year cap on participation should refer only to the years selected for funding. This would not prevent the airport from being dropped from the program for other authorized reasons.

Discretionary fund. The money left after the above entitlements and set-asides are funded goes to the discretionary fund. The discretionary fund must include enough money to pay the FAA's commitments under letters of intent (LOIs) that were issued before this year. According to the FAA, in fiscal year 1997, the FAA is committed to pay $152,060,493 in discretionary money for letters of intent if the $14 million committed to a reliever airport is included. The discretionary fund must include this amount plus at least $50 million. If it would not, all entitlements are cut by a proportionate amount to bring the discretionary fund up to this minimum level. The $50 million, or whatever amount is left after the letters of intent are funded, must be allocated in accordance with past allocations—15% for planning or to general aviation airports, 30% to non-hub and small hub airports, and the remainder to any airport. It is also subject to the requirement that 75% of the discretionary fund be spent on projects that enhance capacity, safety, or security, or reduce noise.

This formulation is designed to ensure that outstanding letters of intent are funded as the airport expects. For example, Greater Buffalo International Airport, has more than $16 million remaining in a $39 million letter of intent and expects to be paid $13,427,791 in FY 97, $2,452,294 in FY 98, and $797,114 in FY 99. The Committee urges the FAA to follow this payment schedule.

The following spread sheets set forth how the AIP money would be distributed among the various entitlement and discretionary accounts using the formula in this bill and assuming various AIP funding scenarios—the $1.3 billion obligation ceiling for FY 97 passed by the House in the Appropriations bill, the $1.45 billion in effect during this fiscal year, and the $2.28 billion authorized by this bill.

Est. AIP Funding for Fiscal Year 1997	Current Law		6/28/96	House		6/28/96
Appropriation Limitation			$1,300,000,000			$1,300,000,000
Primary Airports	$353,641,246			$500,026,444		
Cargo (3.5%) - House (2.5%)	$29,121,503			$31,796,281		
Alaska Supplemental	$10,528,980			$10,528,980		
States (12%) - House (18.5%)	$134,701,142			$235,292,477		
Carryover Entitlement	$100,000,000			$100,000,000		
Subtotal Entitlements			$627,992,872			$877,644,182
Noise (12.5%) - House (31% of disc)	$140,313,690			$84,083,919		
Reliever (5%)- House Deleted	$56,125,476			$0		
Commercial Service (1.5%)- House Deleted	$16,837,643			$0		
System Planning (0.75%) - House Deleted	$8,418,821			$0		
MAP (2.5%)- House (4% of Disc)	$28,062,738			$10,849,538		
Subtotal Disc Set-asides			$249,758,368			$94,933,457
Returned Entitlements						
Small Airport Fund		$83,356,080			$107,453,030	
Non Hub Airports	$55,570,720			$71,635,353		
Non Commercial Svc	$27,785,360			$35,817,677		
Small Hubs		$13,892,680	$97,248,760		$17,908,838	$125,361,868
C/S/S/N	$243,750,000			$151,545,370		
Remaining Discretionary	$81,250,000			$50,515,123		$202,060,493
Subtotal Discretionary			$325,000,000	LOI's	$152,060,493	
				GA	$7,500,000	
				Small/Non	$15,000,000	
				Large/Med	$27,500,000	
GRAND TOTAL			$1,300,000,000			$1,300,000,000
Notes:						
PFC Rtd Ent To C/S/S/N		$10,419,510			$13,431,629	
PFC Rtd Ent To Rem Discretionary		$3,473,170			$4,477,210	
% Red. Due to 44% Cap		25.87654%			0.00000%	
% Red. Due to Proration ($325 M)		13.65311%			2.16529%	
Total % reduction in entitlements		35.99670%			2.16529%	

Est. AIP Funding for Fiscal Year 1997	Current Law		6/28/96	House		6/28/96
Appropriation Limitation			$1,450,000,000			$1,450,000,000
Primary Airports	$412,154,773			$511,093,094		
Cargo (3.5%) - House (2.5%)	$37,856,098			$36,250,000		
Alaska Supplemental	$10,528,980			$10,528,980		
States (12%) - House (18.5%)	$158,056,851			$268,250,000		
Carryover Entitlement	$100,000,000			$100,000,000		
Subtotal Entitlements			$718,596,703			$926,122,074
Noise (12.5%) - House (31% of disc)	$164,642,553			$122,679,875		
Reliever (5%)- House Deleted	$65,857,021			$0		
Commercial Service (1.5%)- House Deleted	$19,757,106			$0		
System Planning (0.75%) - House Deleted	$9,878,553			$0		
MAP (2.5%)- House (4% of Disc)	$32,928,511			$15,829,661		
Subtotal Disc Set-asides			$293,063,745			$138,509,537
Returned Entitlements						
Small Airport Fund		$97,148,188			$109,831,194	
Non Hub Airports	$64,765,458			$73,220,796		
Non Commercial Svc	$32,382,729			$36,610,398		
Small Hubs		$16,191,365	$113,339,552		$18,305,199	$128,136,393
C/S/S/N	$243,750,000			$192,923,997		
Remaining Discretionary	$81,250,000			$64,307,999		$257,231,997
Subtotal Discretionary			$325,000,000	LOI's	$152,060,493	
				GA	$15,775,726	
				Small/Non	$31,551,451	
				Large/Med	$57,844,327	
GRAND TOTAL			$1,450,000,000			$1,450,000,000
Notes:						
PFC Rtd Ent To C/S/S/N		$12,143,523			$13,728,899	
PFC Rtd Ent To Rem Discretionary		$4,047,841			$4,576,300	
% Red. Due to 44% Cap		17.88250%			0.00000%	
% Red. Due to Proration ($325 M)		9.16273%			0.00000%	
Total % reduction in entitlements		25.40670%			0.00000%	

Est. AIP Funding for Fiscal Year 1997	Current Law		7/9/96	House		7/9/96
Appropriation Limitation			$2,280,000,000			$2,280,000,000
Primary Airports	$552,535,934			$511,093,094		
Cargo (3.5%) - House (2.5%)	$79,800,000			$57,000,000		
Alaska Supplemental	$10,528,980			$10,528,980		
States (12%) - House (18.5%)	$273,600,000			$421,800,000		
Carryover Entitlement	$100,000,000			$100,000,000		
Subtotal Entitlements			$1,016,464,914			$1,100,422,074
Noise (12.5%) - House (31% of disc)	$285,000,000			$325,946,875		
Reliever (5%)- House Deleted	$114,000,000			$0		
Commercial Service (1.5%)- House Deleted	$34,200,000			$0		
System Planning (0.75%) - House Deleted	$17,100,000			$0		
MAP (2.5%)- House (4% of Disc)	$57,000,000			$42,057,661		
Subtotal Disc Set-asides			$507,300,000			$368,004,537
Returned Entitlements						
Small Airport Fund		$130,237,154			$109,831,194	
Non Hub Airports	$86,824,769			$73,220,796		
Non Commercial Svc	$43,412,385			$36,610,398		
Small Hubs		$21,706,192	$151,943,346		$18,305,199	$128,136,393
C/S/S/N	$453,218,805			$512,577,747		
Remaining Discretionary	$151,072,935			$170,859,249		$683,436,997
Subtotal Discretionary			$604,291,740	LOI's	$152,060,493	
				GA	$79,706,476	
				Small/Non	$159,412,951	
				Large/Med	$292,257,077	
GRAND TOTAL			$2,280,000,000			$2,280,000,000
Notes:						
PFC Rtd Ent To C/S/S/N		$16,279,644			$13,728,899	
PFC Rtd Ent To Rem Discretionary		$5,426,548			$4,576,300	
% Red. Due to 44% Cap		0.00000%			0.00000%	
% Red. Due to Proration ($325 M)		0.00000%			0.00000%	
Total % reduction in entitlements		0.00000%			0.00000%	

STATE BLOCK GRANT PROGRAM

Most general aviation airports receive grants directly from the FAA. However, 49 U.S.C. 47128 permits FAA to designate seven States to participate in the State block grant program. The Seven States are Illinois, Michigan, Missouri, New Jersey, North Carolina, Texas, and Wisconsin. These States receive a block of AIP money from the FAA. The State aviation agency, not the FAA, decides which airports will receive the grant. Only general aviation, reliever, and small commercial service airports can receive AIP grant under this program. Participation in the State block grant program does not affect how much money the airports in a State receive.

The State block grant program was initially authorized in 1987 with three States allowed to participate. In 1992, DOT issued a report on the program declaring it a success. As a result, the program was reauthorized and expanded to seven States. The program is now scheduled to expire at the end of this fiscal year at the same time that the overall AIP program expires.

The Committee notes that the General Accounting Office has done a thorough study of this program and testified that it was a success. This confirmed findings of a May 1992 study of the Department of Transportation. In addition, the Administration has requested that the program be expanded to 10 States. Accordingly, the reported bill would make the program permanent and expand it to 10 States. There should be a presumption that the seven States now in the program would remain if they wish. The bill would also permit participating States to use their own priority system if that is not inconsistent with FAA's priorities and the priorities in the law.

REVENUE DIVERSION

The Committee continues to have significant concerns about the diversion of airport revenues for non-airport purposes and the failure of the FAA to take timely and firm action in some cases. Indeed, the controversy about various payments by the Los Angeles International Airport to the City continues with no visible threat of FAA enforcement action. The continuing efforts by airlines to seek redress for this problem from Congress indicates that FAA's response has not been adequate.

Current law, 49 U.S.C. 47107(b), requires any report receiving an AIP grant to promise, as a condition to that grant, that all revenues generated by the airport will be spent on the capital or operating costs of that airport. This prohibition against revenue diversion is designed to prevent airports from using their monopoly power to gouge airlines and other airport users in order to build huge surpluses that could then be diverted to other local programs that have nothing to do with aviation. Given that most airport users do not vote in the area of the airport but are merely visiting or making connections, it was feared that local officials would be tempted to raise airport fees rather than local taxes of those fees could be used for non-airport projects. The revenues diversion prohibition ensures that any money raised at the airport will be spent on the airport. In light of the important safety, security, capacity,

and noise mitigation needs at most airports, it is vital that the money is spent in this way.

The revenue diversion prohibition was also imposed in recognition of the fact that money is fungible. Congress did not want an airport to receive an AIP grant for a specific project and then divert a like amount of money off the airport for a non-airport purpose. The revenue diversion prohibition ensures that all airport and AIP money is used for airport purposes.

However, it is not merely the integrity of AIP grants that causes the Committee's concern about revenue diversion. Ultimately, it is the passenger who must pay when airport revenue is diverted. When an airline's rates and charges are increased to make up for the revenue lost by the diversion, the higher cost is ultimately passed on to the passenger. Therefore, revenue diversion burdens interstate commerce even if the airport is no longer receiving grants. In recognition of this fact, the bill applies the exact same revenue diversion prohibition to airports that have a FAA certificate as now applied to airports that receive AIP grants. For the most part, these will be the same airports. However, broadening the revenue diversion prohibition to cover all certificated airports will make clear that an airport cannot escape this prohibition by refusing to accept AIP grants. Removing this perverse incentive to refuse AIP grants will also have the beneficial effect of once again encouraging all airports to use available Federal money to increase safety, capacity, and reduce noise.

In previous reauthorization legislation, provisions have been included to enforce the revenue diversion prohibition. Nevertheless, there still appear to be some who are seeking avenues around the law. Partly, this may be due to the fact that, at worst, a community caught diverting revenue will have to give it back. To increase the stakes, and once again demonstrate the seriousness with which Congress views this issue, the reported bill would authorize the imposition of treble damages on a party found to be in violation of the revenue diversion prohibition. This would require a repayment of three times the amount found to be diverted. In the Committee's view, revenue diversion is harmful whether it takes the form of a direct payment from the airport to a non-airport entity or an indirect payment such as the inclusion of AIP grant or PFC revenue in the gross revenue of the airport for the purposes of calculating that airport's rent to another political entity. This view is consistent with the FAA's statement that "airport revenue does not include Passenger Facility Charges received by a sponsor", 61 FR 7137, February 26, 1996.

On the other hand, the Committee would urge the FAA to take a flexible approach to aeronautical higher education programs located at airports. It is the Committee's understanding that some airports have leased or transferred property to these non-profit organizations at favorable rates such as one dollar per year. Given that the development of the aviation "human infrastructure" is just as important as the development of the physical infrastructure, the Committee urges the FAA not to stand in the way of these favorable leases or transfers to non-profit, accredited collegiate aviation programs. Facilitating these programs will help built a base of sup-

port for airport operations and give students, who will be the future users of the system, easy access to aviation facilities.

Similarly, airports should be able to lease airport space at below-market rates to not-for-profit air and space museums located at airports. This type of rental arrangement should not be considered revenue diversion because of the contribution these museums make to the understanding and support of aviation.

SAFETY

Although this legislation is primarily directed toward improvements in airport and airway infrastructure, the bill also includes some changes to enhance aviation safety.

Supplemental Type Certificates. Under current practice, FAA issues a supplemental type certificate (STC) to those who develop a modification to an aircraft. The developers must comply with specific FAA requirements to obtain the STC. The STC and its accompanying technical data may then be marketed by the STC holder. Unfortunately, there are apparently cases where the STC package is duplicated or stolen by copying the data without permission and then using it to make the modification to an aircraft. This compromises safety because unauthorized users of STC data have no continuing connection to the STC holder and thus no obligation to provide safety updates to the owners of aircraft modified in accordance with the STC. It also undermines safety by destroying the economic incentive to develop modifications to aircraft that might enhance the safety of that equipment.

The reported bill would address this problem by requiring the STC holder to provide some written evidence if the holder permits another person to use the STC data to modify an aircraft. A repair station would not make the change to the aircraft unless the person requesting the change is the STC holder or someone who has the written permission of the holder to use the STC. This should enhance safety while placing a minimum burden on the FAA. This amendment would not affect someone going through the process of obtaining an STC for a modification of an aircraft from the FAA.

Small Airport Certification. The reported bill provides FAA with the authority to extend airport certification to airports served by scheduled commercial aircraft with between 10 and 30 passenger seats. This is designed to achieve a comparable level of safety at all commercial service airports. However, the Committee recognizes that there are differing views as to whether airport certification issues have contributed to the cause of any accidents at the small airports affected. The Committee is opposed to the implementation of any unreasonably expensive Federal regulations at these smaller airports which could result in a loss of air service to these communities, resulting in a shift of the traveling public to less safe modes of transportation.

Accordingly, in implementing this provision, the Committee would expect the aviation industry and the FAA, through the Aviation Rulemaking Advisory Committee (ARAC), to develop a certification program that addresses the following safety areas—(1) written plans for handling certain emergencies and incidents, such as a mutual aid agreement with neighboring fire departments; (2) snow removal plans where appropriate, and (3) self-inspection pro-

grams, similar to the one at 14 CFR 139.327, that cover wind cones, airfield markings, lighting, airfield direction signage, safety areas, pavement maintenance, and runway protection zones. The Committee expects FAA to give careful consideration to the ARAC recommendations. FAA should not promulgate regulations at affected airports until ARAC has provided FAA with its final recommendations. However, FAA could exercise the authority under this provision if it determined that the ARAC recommendations are not being developed in a timely fashion.

In implementing the ARAC's recommendations, FAA should consider utilizing the existing 5010 inspection program to administer these requirements. Under this program, State aviation officials now perform inspections at small airports. The FAA should also work with industry organizations to develop appropriate training and awareness programs for affected airports.

Security screeners. The reported bill includes authority for the FAA to require criminal history record checks for people hired to screen passengers and property at airports. This provision is designed to weed out those who might themselves be security risks and undermine the goals of the airlines' and airports' security program. It was patterned after existing FAA rules governing access investigations at 14 CFR 107.31(c)(4)(i)–(iii). However, the Committee is concerned about potential costs in this area and would urge the FAA to carefully study this issue before proceeding with rulemaking.

Voluntarily provided safety and security information. The aviation industry is a remarkably safe one. The 1995 fatal accident rate per million miles flown by large scheduled airlines declined to 0.0004 from 0.0008 the year before. From the standpoint of aircraft departures, the fatal accident rate was 0.024 per 100,000 departures in 1995. Regional airlines showed similar improvements in their accident rate.

Although the low accident rate is welcome, the recent disasters involving ValuJet and TWA, and other accidents and incidents, tragically demonstrate that further improvements are still needed. Toward this end, the Committee is aware that the FAA, NTSB, and the aviation community are beginning to develop data sharing programs. These programs could help improve air safety by helping safety officials identify trends before they cause accidents. One such program is the flight operations quality assurance (FOQA) program under which in-flight data is collected during normal flights. Analysis of this data could help spot problems that now are uncovered only after an accident.

The Committee wishes to encourage and promote these sorts of innovative safety programs. One possible impediment to full implementation, however, is the concern of some in the aviation community about the confidentiality of the data being shared. Much of the information could be incomplete, unreliable, and quite sensitive. There will be a reluctance to share such information if it will be publicly released because it could easily be misinterpreted, misunderstood, or misapplied.

Arguably, this information would not have to be released under the Freedom of Information Act (FOIA) because it would be eligible for exemption under 5 U.S.C. 552(b0(4). This provision exempts

from disclosure under FOIA trade secrets and commercial or financial information that is privileged and confidential. However, FAA's decision to invoke this exemption and withhold the information is discretionary with the agency. Therefore, there is not assurance under current law that sensitive information will not be released.

The reported bill provides the necessary assurances by prohibiting the FAA from disclosing voluntarily provided safety information. This should alleviate the aviation community's concerns and allow data sharing safety programs to move forward. It will not reduce the information available to the public since the public does not receive this information now. However, public safety will be enhanced by the increase in the FAA's understanding of on-going trends in operations and technologies. The data and information that will be available to the FAA as a result of this provision in the reported bill should be very useful in the formulation of the FAA's safety policy and regulations.

Automated Surface Observing System (ASOS). Recent legislative changes have significantly liberalized the FAA's procurement procedures. The Committee supports the agency's efforts to become more flexible in its purchasing decisions and acquire generally less-expensive commercial off-the-shelf (COTS) equipment whenever it is available and suitable. However, one program that continues to be a source of concern is the Automated Surface Observing System (ASOS). There have been substantial delays in the ASOS program and widespread dissatisfaction among system users. Because of these on-going problems and the need to ensure greater efficiencies in the future, the Committee requests the FAA to submit to it a detailed report within 6 months of the date of enactment that discusses the status of the ASOS, the agency's views on its options for extending, modifying, or terminating this procurement, and the availability of COTS equipment to replace or supplement future ASOS purchases.

MISCELLANEOUS ISSUES

Disadvantaged Business Enterprises. The Committee is aware that recent court decisions have established new standards for review of the constitutionality of programs such as the disadvantaged business enterprise (DBE) provisions in 49 U.S.C. 47107(e) and 47113 and that the courts are now determining whether the DBE programs comply with those standards. The reported bill makes no changes in these provisions preferring to let the courts resolve these issues. However, the Committee will continue to monitor the FAA's administration of this program and gauge the impact of court decisions on these provisions.

The Committee understands that DOT and FAA are considering new regulations to implement the DBE provisions that were revised in 1992 (P.L. 102–581, 106 Stat. 4882). If the agency determines that the DBE program meets constitutional standards, it should issue these regulations as soon as possible. In doing so, we would urge the agency to be mindful of the delicate balance the law strikes in the area of car rental company participation in the DBE program. While direct ownership arrangements, including joint ventures and franchises, are usually the preferred option under section 47107(e)(3), section 47107(e)(4) ensures that participation

in the DBE program does not force car rental companies to change their corporate structure. Therefore this section allows car rental companies to participate in the DBE program by purchasing cars and other goods and services from DBE vendors. The Committee urges the FAA to implement this provision carefully so that it does not establish standards for business size or vendor purchases that could make it impractical for car rental companies to participate in this way.

Existing Authority for Use of PFC. The Committee recognizes that there may be some ambiguity about the type of projects for which the Passenger Facility Charge (PFC) funds may be used. This appears to be the case with regard to a project being considered by the Port Authority of New York and New Jersey. The Port Authority wants to provide dedicated rail access from Manhattan to John F. Kennedy International and LaGuardia Airports. Rail access to these airports is extremely important to the New York metropolitan area. The island of Manhattan is the destination of many of the airline passengers traveling to these airports, which are located on Long Island, across the East River from Manhattan. Although the distance from the airports to Manhattan is not great, the congestion caused, in part, by the fact that toll bridges and tunnels are the only link between Manhattan and Long Island, make travel between the airports and Manhattan very expensive and time consuming.

A dedicated rail line would relieve congestion, as well as provide quick and affordable airport access to and from New York City. Because it would be used solely by airport users, the Port Authority plans to use PFC revenue to help fund the project. The Committee understands that the Port Authority may be planning to build the rail line in a circuitous route because the right of way for that route is owned by the Port Authority, and the Port Authority has determined that owning the right of way is necessary for PFC funding to be approved for the project. The Port Authority proposed route would be more costly to build and, ultimately, take passengers more time traveling between the city and the airports.

An alternate and more direct route would involve using a right of way owned by the Long Island Railroad (LIRR). This route would be less expensive to build and provide access to the airport in far less time than the Port Authority's proposed route. In addition, the Manhattan termination point would be Penn Station, which is both centrally located, and provides passenger access to other transportation systems. Perhaps because of conflicting information available as to whether a route using a right of way owned by the LIRR could be built with PFC funds, this alternative is not presently the choice of the Port Authority, despite its more modest cost and more direct routing.

The Committee wants any decision made by the Port Authority about its dedicated rail project to be based on complete information. If the FAA approves PFC funds for dedicated rail projects to airports, the decision should not hinge on whether or not the right cars using the line that provides airport access must be used solely by individuals going to or from the airport; no local traffic may be carried in the cars. It is important to note that, from the Committee's perspective, the actual rail line could be used by other trains

that provide local transportation, as long as the cars used for airport access are used only for airport access, and the facility built with PFC funds are dedicated to airport access. As long as the airport sponsor has obtained the authority to use the right of way for an extended period of time, historically defined by the FAA as the length of the grant assurances, or 20 years, and the PFC funded facility is dedicated to airport access, the airport sponsor need not own the right of way.

SECTION BY SECTION SUMMARY

Section 1.—Short Title; Table of contents

This section provides that the Act may be cited as the "Federal Aviation Authorization Act of 1996."

Section 2.—Amendments to Title 49, United States Code

This section states that the amendments in the first four tiles of this Act are to Title 49 of the U.S. Code.

Section 3.—Applicability

Provides that the first four titles of this Act take effect at the beginning of the new fiscal year.

TITLE I.—REAUTHORIZATION OF FAA PROGRAMS

Section 101. Airport Improvement program

The Airport Improvement Program (AIP) is reauthorized for 3 years starting at $2.28 billion in the first year, $2.347 billion in fiscal year 1998, and $2.412 billion in fiscal year 1999.

Section 102. Airway facilities improvement program

The Facilities and Equipment (F&E) program is reauthorized for 3 years starting at $2.068 billion in the first year, $2.129 billion in fiscal year 1998, and $2.191 billion in fiscal year 1999.

Section 103. Operations of FAA

FAA operations are reauthorized for 3 years ($5.158 billion in the first year, $5.344 billion in fiscal year 1998, and $5.538 billion in fiscal year 1999) maintaining the same formula as current law for determining the amount that may be derived from the Trust Fund for this purpose.

TITLE II.—AIRPORT DEVELOPMENT FINANCING

Section 201. Apportionments.

The formula is revised so that an airport with more than a million passengers per year would get 50 cents for each passenger over a million rather than 65 cents. In addition, the cargo entitlement is lowered from 3.5% to 2.5% and grants from this entitlement are authorized for airports that do not meet the landed weight minimum but that FAA finds will be served primarily by all-cargo aircraft. If FAA awards grants from the cargo entitlement to these additional airports, then the airports that meet the landed weight threshold must take a proportional cut in their share of this enti-

tlement. Paragraph (a)(3) eliminates the 44% and 49.5% caps on entitlements.

Subsection (b) raises the State entitlement for general aviation airports from 12% to 18.5%. Paragraph (b)(2) changes the entitlement for the territories from 1% of 12% to 0.66% of 18.5%. Paragraph (b)(3) states that the remainder of the 18.5% State entitlement will continue to be distributed half in proportion to the land area of the State and half in proportion to the population of the State. Paragraph (b)(4) adds reliever airports and small commercial service airports (those with between 2,500 and 10,000 passengers) to the group of general aviation airports that qualify for money under the State entitlement.

Section 202. Discretionary fund

The discretionary fund is changed by establishing new paragraphs (g) and (h) in section 47115 of current law.

Subsection (g) eliminates the requirement that the discretionary fund be at least $325 million and replaces it with a new minimum discretionary fund. This new minimum discretionary fund is $50 million plus whatever is needed to fund outstanding letters of intent that were issued before January 1, 1996. This minimum discretionary fund does not include carryover entitlements. If the discretionary fund drops below this minimum level, the passenger, cargo, general aviation, and Alaska entitlements are reduced proportionately to provide enough money to meet the minimum.

Subsection (h) states that the amount in the discretionary fund that is left over after the outstanding letters of intent are funded ($50 million or more) shall be distributed as follows:

(1) At least 15% for system planning or for grants to general aviation airports; and

(2) At least 30% to non-hub and small hub airports.

Section 203. Use of apportioned amounts

This section makes several changes in the use of AIP funds.

Subsection (a) permits a non-hub primary airport to carry-over its entitlements for 3 years rather than the current 2 years.

Subsection (b) makes changes in the set-asides. Paragraph (1) states that the set-asides will be a percentage of the discretionary portion of AIF rather than a percentage of the total AIP. Paragraph (2) eliminates the special set-asides for reliever airports, small commercial service airports, and planning. Paragraph (3) retains the set-asides for noise and military airports. Paragraph (4) states that the noise set-aside will be 31% of the discretionary fund. Paragraph (5) states that the FAA can count the amounts that airports spend on noise from their own entitlements in determining whether the 31% noise set-aside has been met. Paragraph (6) states that the military airport set-aside will be 4% of the discretionary fund. Paragraph (7) permits $30,000 per airport to be spent from the military set-aside to help cover the operational and maintenance expenses of general aviation airports that have been adversely affected by the closure or realignment of a military base and that would otherwise have to close without the grant.

Section 204. Designating current and former military airports

The military airport program (MAP) is changed by lowering the number of airports that can be included in this program from 15 to 10 and changing the criteria the FAA must use in selecting airports for participation in the program.

Section 205. Select panel on airport and agency financing

This section creates a panel to study the financing of airports and the FAA. The panel should evaluate and recommend innovative ways to fund airport infrastructure and the budget of the FAA. Subsection (c) states that the DOT Secretary shall appoint 7 members of the panel (3 with expertise in aviation and 3 with expertise in financing) and that 8 members shall be appointed by Congress (1 each by the Chairman and ranking member of the House and Senate authorizing and appropriating committees). Subsection (d) states that members of the panel appointed by the Secretary cannot be employed in the aviation industry. This is designed to ensure that there is a balance with Congressionally-appointed members of the panel potentially representing key segments of the aviation industry while the Secretary's appointments are independent of any special aviation interest. Subsection (e) states that the DOT Secretary appoints the chairman of the panel. Subsection (f) lists the items that the panel should study. These include airport and agency needs and innovative ways to meet those needs. Subsection (g) requires an independent audit of the agency's needs. Subsection (h) permits panel members to be paid travel and per diem. Subsection (i) requires FAA to make resources available to the panel. Subsection (j) requires the panel to report within 1 year after the last member is appointed. Subsection (k) requires GAO to do an independent assessment of airport needs within 6 months of the date of enactment. This assessment should look at the needs of each size and class of airport and the ability of each size and class to meet those needs.

TITLE III.—AIRPORT IMPROVEMENT PROGRAM MODIFICATIONS

Section 301. Intermodal planning

This section encourages coordination between aviation planning and other transportation planning in the metropolitan area and encourages Metropolitan Planning Organizations (MPOs) to include airport operators as members. Subsection (b) requires the sponsor of a new airport to give the MPO a chance to review plans for the new airport and include in the AIP grant application its response to any comments made by the MPO.

Section 302. Compliance with Federal mandates

This section broadens the ability of AIP and PFC funds to be used to pay for Federal mandates.

Section 303. Runway maintenance program

This section permits AIP grants for up to 10 runway maintenance projects per year at general aviation airports. The Committee believes that by funding runway maintenance projects, more ex-

pensive projects to rehabilitate or reconstruct runways could be avoided.

Section 304. Access to airports by intercity buses

This section adds a new grant assurance directing airports to try to provide access to intercity buses. This will further the goal of making airports part of an intermodal transportation system. It will not require airports to build new facilities just for inter-city buses and an airport could still impose conditions and fees on intercity buses just like it imposes on others using the airport as long as those conditions and fees did not effectively undermine this grant assurance.

Section 305. Cost reimbursement for projects commenced prior to grant award

This section allows an AIP grants to reimburse an airport for a project already underway. This reimbursement must be from the airport's entitlement funds and the grant can be made only if;

(i) the project is begun after September 30, 1996;

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

(iii) the project is in accordance with the airport's approved layout plan and complies with all laws, rules, and assurances that usually apply to AIP grants.

Subsection (b) states that an airport will not receive any priority for discretionary funds if its entitlements turn out to be insufficient to cover reimbursement for the project. While the formula in this bill attempts to ensure that all airports receive their full entitlement, lower funding levels could result in a lower entitlement than expected. If airports choose to take advantage of this cost reimbursement provision, they should do so with the knowledge that any shortfall in their reimbursement due to lower entitlements will have to be made up from internally-generated funds or other sources and not from AIP discretionary funds.

This reimbursement provision is intended to be in addition to, and not in lieu of, the existing reimbursement provision at 49 U.S.C. 47119.

Section 306. Issuance of letters of intent

This section requires the Secretary to issue rules requiring a cost-benefit analysis for new letters of intent (LOI) for projects at medium and large hub airports. No letters of intent can be issued for projects not yet under construction until these rules take effect even if the airport has already applied for the LOI. A request for a letter of intent must include specific details of the proposed financing plan for the project. The Secretary must consider the effect of the project on overall national air transportation policy when deciding whether to issue a letter of intent for a project.

Section 307. Selection of projects for grants from discretionary fund

This section adds three additional criteria to be considered in the award of discretionary grants. They are the priority that a State gives to the project, the projected growth in passengers at the airport, and whether the number of passengers has increased by more than 20% over the previous 12-month period. In directing FAA to

give weight to the priority that the State gives to the project, the Committee does not intend to give States any additional statutory rights over the AIP program or the award of AIP grants. Rather this provision is merely intended to add another factor for the FAA to consider in awarding discretionary grants.

Section 308. Small airport fund

This section states that in making grants to non-hub airports from the small airport fund, the Secretary shall give priority to multi-year projects for construction of new runways that are cost beneficial and would increase capacity in a region of the U.S.

Section 309. State block grant program

This section changes the state block grant program by increasing the number of participating States from 7 to 10, directing FAA to permit States to use their own priority system when not inconsistent with the national priority system, and making the program permanent.

Section 310. Private ownership of airports

Section 310 creates a pilot program permitting, subject to DOT approval, the sale or long-term lease of 6 airports. The sponsor and the potential purchaser must file an application with DOT. DOT may grant the application by issuing the three exemptions. The first exemption would waive the revenue diversion prohibitions to permit the public owner to make money from the sale but only in an amount agreed to by 60% of the airlines serving that airport with 60% of the landed weight. The second exemption would waive the requirements in law and FAA policy guidance that AIP grants be repaid and land received from the Federal government be returned. The third exemption would permit the new owner to receive compensation from operating the airport.

Subsection (c) of new section 47133 lists the conditions that must be met by an airport sale or lease agreement. These conditions are provisions to ensure that:

(1) the airport will be available to the public on reasonable terms and without discrimination (While this is already a grant assurance, the Committee thought it of sufficient importance in this context to reemphasize it by including it in this subsection);

(2) the airport will continue in operation without interruption in the event the new owner goes bankrupt (This condition could be met by a performance bond, reverter clause, or some other provision acceptable to the Secretary);

(3) the new owner will maintain and improve the airport and include a plan for doing so;

(4) airline fees will not increase faster than inflation unless more than 60% of the airlines with 60% of the landed weight agree to higher rates;

(5) safety at the airport will be maintained;

(6) noise from the airport will be mitigated;

(7) environmental impacts will be mitigated; and

(8) collective bargaining agreements of airport employees will not be abrogated.

The provisions on safety, noise, and the environment are not intended to impose a higher standard on private airports than now exist for public ones. They are merely designed to provide assurances that the current standards in these areas will be maintained.

At least one of the privatized airports is to be a general aviation airport. The private airports under this section are authorized to charge a PFC, receive AIP entitlement grants, and charge users reasonable rates, fees, and charges like other airports. The new owner is required to continue to use the facility as an airport. The exemptions issued under this section may be revoked if, after notice and hearing, DOT finds that the purchaser or lessee has knowingly violated any of the commitments that it made in the purchase or lease agreement. Obviously, we would expect the Secretary not to take such drastic action lightly.

Subsection (h) of new section 47133 clarifies that the power of airlines over use of revenue and fees in this section applies only to the airports purchased or leased under this section and not to other airports.

Subsection (b) of this section makes private airports subject to the same prohibition on head taxes as public airports.

Subsection (c) requires DOT to consider whether the private airport has complied with the requirement that airline fees not increase faster than the rate of inflation in deciding a rates and charges complaint against that airport.

Section 311. Use of noise set-aside funds by non-airport sponsors

This section permits noise abatement grants to be made to a State or local government that is not the airport's owner if that government has land use and zoning control in the area and if the airport agrees that the State or local government's noise abatement plan or project is consistent with airport operations and plans.

TITLE IV.—MISCELLANEOUS PROVISIONS

Section 401. Purchase of housing units

This section permits FAA to purchase housing outside the 48 States if the unit does not cost more than $200,000 and the FAA files a report with Congress 30 days before the closing certifying that the price of the units does not exceed the median price in the area and that buying the housing is the most cost beneficial way to provide housing for its employees.

Section 402. Technical correction related to State taxation

This section corrects a mistake that was made when section 1113 of the Federal Aviation Act of 1958 (49 U.S.C. 1513) was recodified as section 40116 of Title 49. As recodified, the section seems to permit a State or political subdivision to impose any type of tax, fee, or head charge as long as the airline's aircraft lands or takes off in the State or political subdivision. In fact, this is broader than old section 1113 ever allowed. That section prohibited States and political subdivisions from imposing a tax, fee, or head charge, except the PFC in section 40117, even if where the aircraft lands or takes off there. This technical correction is designed to conform new section 40116 to old section 1113 in this respect and return

the issue of State taxation to the status quo as it existed before the recodification.

Section 403. Use of passenger facility fees for debt financing project

This section permits revenue from an airport's passenger facility charge (PFC) to be spent on debt financing on terminal development projects at non-hub airports where construction began between November 5, 1988 and November 5, 1990 and the airport certifies that no safety, security, or capacity project will be deferred by spending PFC money in this way.

Section 404. Protection of voluntarily submitted information

This section permits FAA to withhold voluntarily provided safety and security information if disclosure would discourage people from providing it, the information helps FAA improve safety and security, and withholding the information would not be inconsistent with the FAA's safety and security responsibilities. Examples of information the withholding of which would be inconsistent with FAA's safety and security responsibilities (and thus still could be disclosed) are information required in an enforcement action to prosecute safety or security violations and information about a threat to civil aviation that should be made public under 49 U.S.C. 44905.

The FAA should issue rules to establish the process by which protection from disclosure will be afforded to voluntarily submitted information.

Section 405. Supplemental type certificates

This section states that FAA may issue supplemental type certificates (STCs) for modifications to aircraft parts. It requires anyone installing the modification to have the permission of the holder of the STC to use it.

Section 406. Restriction on use of revenues

This section imposes the existing prohibition against revenue diversion on all airports certificated by FAA even if they are not receiving AIP grants. The FAA can waive this prohibition if the airport has not received any grants in the last 10 years. Subsection (b) imposes treble damages on anyone caught illegally diverting airport revenue.

This provision is not intended to change the rule for the current group of small private airports or to prevent the owners of those airports from making money from their property. Nor is this provision intended to change the existing grandfather rights of any airport.

Section 407. Certification of small airports

This section authorizes FAA to certificate airports served by commuter aircraft with between 10 and 30 seats. In establishing the standards with which these small airports must comply, the FAA should adopt the least burdensome alternative that will provide a comparable level of safety with the larger airports. Any rule imposing standards on these small airports cannot go into effect until

120 days after the rule, and a report on the impact of the rule on air service to the airports involved, is submitted to Congress.

This section is not intended to restrict the FAA's authority to issue limited certificates to airports.

Section 408. Discretionary authority for criminal history record checks

This section permits FAA to require airlines to do background checks before hiring someone to screen passengers, their baggage, or cargo. This could include criminal history record checks only where the background investigation revealed a gap in employment of a year or more that is not satisfactorily explained. This would include cases where the individual is unable to support statements made or where there are significant inconsistencies in the information provided.

Section 409. Imposition of fees

This section authorizes FAA to impose fees, up to $30 million per year, on aircraft that overfly the U.S. but do not land here. The aggregate annual amount of these fees should not exceed the aggregate annual direct costs incurred by the FAA in providing air traffic services to such flights. Further, the user fee imposed on any flight should be based on the FAA's actual cost of service and not on any non-cost based determination of the "value" of the service provided. For example, assuming similar cost of serving different carrier and aircraft types, the FAA user fees should not vary based on factors such as aircraft seating capacity or revenues derived from passenger fares. See also page 38 of H. Rept. 104–631.

Section 410. Authority to close airport located near closed or realigned military base

This section permits general aviation airports located near closed or realigned military bases to be closed.

Section 411. Construction of runways

This section counters the provision in the Appropriations Act that prevents funding for a sixth runway at Denver. It is not intended by this provision that Denver be given any special priority for AIP grants, only that it be given the same opportunity as any other airport to receive such grants.

Section 412. Gadsden Air Depot, Alabama

This section waives deed restrictions previously imposed on Gadsden Air Depot in Alabama.

Section 413. Regulations affecting intrastate aviation in Alaska

This section requires FAA to consider Alaska's unique reliance on aviation and to make the appropriate regulatory distinctions when taking actions that could affect Alaska.

Section 414. Westchester County Airport, New York

This section permits fees collected by Westchester County Airport to be paid into the county treasury as long as expenditures

from the County treasury for the airport at least equal the amount of money it collects from the airport.

Section 415. Bedford Airport, Pennsylvania

This section states that any instrument landing system in Pennsylvania that is decommissioned should, if feasible, be transferred and installed at the Bedford, Pennsylvania airport.

Section 416. Location of Doppler radar stations, New York

This section prohibits the construction of a Doppler radar at the Coast Guard station in Brooklyn, New York. It also requires a study and report within one year of the feasibility of placing the radar on off-shore platforms. The report must include proposed locations that are as far as possible from populated areas while providing appropriate safety measures. The FAA may not begin construction of a Doppler radar for Kennedy or LaGuardia Airports until this study is completed.

Section 417. Worcester Municipal Airport, Massachusetts

This section directs FAA to provide radar coverage for the Worcester Airport from a radar in Rhode Island if that is appropriate.

Section 418. Aircraft Noise Ombudsman

This section requires FAA to hire a noise ombudsman to serve as a liaison with the public on issues regarding aircraft noise and to be consulted when the FAA changes aircraft routes.

TITLE V.—METROPOLITAN WASHINGTON AIRPORTS

This title is the same as H.R. 1036 that was reported to the House on May 29, 1996. See House Report 104–596.

TITLE VI.—EXTENSION OF AIRPORT AND AIRWAY TRUST FUND TAXES AND EXPENDITURE AUTHORITY

This Title recommends the following to the Ways and Means Committee:

Extension of the 17.5 cents per gallon general aviation jet fuel tax for 3 years beginning 30 days after enactment;

Extension of the 15 cent per gallon general aviation gasoline tax for 3 years beginning 30 days after enactment;

Extension of the 10% passenger ticket tax and the 6.25% cargo waybill tax for 3 years beginning 30 days after the date of enactment;

Extension of the $6 international departure tax for 3 years beginning 30 days after the date of enactment

Permit money to be paid out of the Trust Fund for the purposes authorized by this Act;

Restore the airlines' exemption from the 4.3 cents per gallon fuel tax for 3 years;

Require a reduction in the 10% passenger ticket tax when DOT determines that there is a funding shortfall in a fiscal year. There would be a funding shortfall under this provision when the amount appropriated for the Airport Improvement Program (AIP) is less than the amount authorized. Previous

year authorizations and the result of a sequester or rescission would not be included in the calculation of whether there is a funding shortfall. This provision would require that the tax rate be reduced so that the reduction in tax revenue equals the funding shortfall.

HEARINGS AND LEGISLATIVE HISTORY

The Subcommittee on Aviation held the following hearings in preparation for the reauthorization of the Airport Improvement and other FAA programs:

February 29, 1996—Airport privatization;
March 7, 1996—Airport revenue diversion;
March 13, 1996—Airport needs;
March 14, 1996—State block grant program;
March 18, 1996—Proposed third runway at Sea-Tac International Airport;
March 20, 1996—FAA views and miscellaneous issues.

H.R. 3539 was introduced on May 29, 1996. On May 30, 1996, the Subcommittee reported the bill, with amendments, to the full Committee on Transportation and Infrastructure. On June 6, 1996, the Committee on Transportation and Infrastructure ordered the bill reported, with amendments, by voice vote.

COMMITTEE CONSIDERATION

Clause 2(l)(2)(B) of rule XI requires each Committee report to include the total number of votes cast for and against on each rollcall vote on a motion to report and on any amendment offered to the measure or matter, and the names of those members voting for and against.

DEFAZIO AMENDMENT (20—32)

This amendment would have amended the airport privatization provision (section 310) to require the repayment of Federal AIP grants.

Members Voting Aye	Members Voting Nay
Barcia	Bachus
Brown	Baker
Clyburn	Bateman
Collins	Blute
Costello	Borski
Cramer	Clinger
Cummings	Coble
Danner	Duncan
Defazio	Ehlers
Filner	Emerson
Ms. Johnson	Franks
Lipinski	Gilchrest
Mascara	Horn
Menendez	Hutchinson
Nadler	Kelly
Poshard	Kim
Sawyer	LaHood

Taylor
Traficant
Wise

Latham
LaTourette
McCarthy
Mica
Molinari
Oberstar
Petri
Quinn
Rahall
Seastrand
Tate
Wamp
Weller
Young
Shuster

COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

With respect to the requirements of clause 2(l)(3)(A) of rule XI of the Rules of the House of Representatives, the Committee oversight findings and recommendations are reflected in this report.

INFLATIONARY IMPACT STATEMENT

Pursuant to clause 2(l)(4) of rule XI of the Rules of the House of Representatives, the Committee estimates that the enactment of H.R. 3539 will have no significant inflationary impact on prices and costs in the operation of the national economy.

COST OF THE LEGISLATION

Clause 7 of rule XIII of the Rules of the House of Representatives does not apply where a cost estimate and comparison prepared by the Director of the Congressional Budget Office under section 403 of the Congressional Budget Act of 1974 has been timely submitted prior to the filing of the report and is included in the report. Such a cost estimate is included in this report.

COMPLIANCE WITH HOUSE RULE XI

1. With respect to the requirement of clause 2(l)(3)(B) of rule XI of the Rules of the House of Representatives, and section 308(a) of the Congressional Budget Act of 1974, the Committee references the report of the Congressional Budget Office included below.

2. With respect to the requirement of clause 2(l)(3)(D) of rule XI of the Rules of the House of Representatives, the Committee has received no report of oversight findings and recommendations from the Committee on Government Reform and Oversight on the subject of H.R. 3539.

3. With respect to the requirement of clause 2(l)(3)(C) of rule XI of the Rules of the House of Representatives and section 403 of the Congressional Budget Act of 1974, the Committee has received the following cost estimate for H.R. 3539 from the Director of the Congressional Budget Office.

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, July 22, 1996.

Hon. BUD SHUSTER,
Chairman, Committee on Transportation and Infrastructure,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has reviewed H.R. 3539, the Federal Aviation Authorization Act of 1996. Enclosed are estimates of the bill's impact on the federal budget, on state and local governments, and on the private sector.

Enacting H.R. 3539 would affect direct spending and receipts. Therefore, pay-as-you-go procedures would apply to the bill.

If you wish further details on this estimate, we will be pleased to provide them.

Sincerely,

JUNE E. O'NEILL, *Director.*

Enclosures.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

1. Bill number: H.R. 3539.

2. Bill title: Federal Aviation Authorization Act of 1996.

3. Bill status: As ordered reported by the House Committee on Transportation and Infrastructure on June 6, 1996.

4. Bill purpose: H.R. 3539 would authorize appropriations totaling $16.0 billion for Federal Aviation Administration (FAA) operations and $6.4 billion for FAA facilities and equipment over the fiscal years 1997 through 1999. In addition, the bill would provide contract authority of $7.0 billion for the same three-year period for the airport improvement program. The bill also would establish user fees for air traffic control and other services for aircraft that do not take off or land in the United States. Other key provisions of the bill are summarized below.

Title II would revise the formula for making grants under the airport improvement program and would make some changes in the use of the funds. This title would extend the military airport program but would reduce the number of airports in the program from 15 to 10.

Title III would make additional changes to the airport improvement program, including modifications to the state block grant program and the runway maintenance program.

Title IV would expand and codify an existing FAA regulatory prohibition on the use of airport revenues for non-aviation purposes, and impose civil penalties on airports for violating that prohibition.

Title V would amend the Metropolitan Washington Airport Act of 1986 (Public Law 99–591) to terminate the Metropolitan Washington Airports Authority's review board and replace it with an advisory commission. (The Supreme Court ruled that the review board's role was unconstitutional.)

Title VI would reinstate the excise taxes that support the Airport and Airway Trust Fund and the authority to spend balances from the fund through 1999. (The title is preceded by a statement that

the Committee on Transportation and Infrastructure recommends the title to the Committee on Ways and Means.)

In addition, this bill would require the Secretary of Transportation to form advisory committees and task forces to review FAA activities, conduct multiple studies, prescribe regulations, publish reports, and employ experts to conduct evaluations.

5. Estimated Cost to the Federal Government: Enacting H.R. 3539 would affect spending subject to appropriation and direct spending, and could affect revenues. Assuming appropriation of the authorized amounts, CBO estimates that enacting the bill would result in new discretionary spending of about $28.7 billion over the 1997–2002 period. We estimate that this bill would establish fees yielding collections of $30 million in 1997 and each year thereafter. Finally, CBO estimates that any impact on revenues from the assessment of civil penalties would be insignificant. The following table provides CBO's estimate of the budgetary impact of enacting H.R. 3539.

[By fiscal year, in million of dollars]

	1996	1997	1998	1999	2000	2001	2002
SPENDING SUBJECT TO APPROPRIATION							
Spending Under Current Law:							
Budget authority	6,518	.....	.....	.....	.....	.....	.....
Estimated outlays	8,420	3,715	1,733	820	400	201	.....
Proposed Changes:							
Authorization level	.....	7,226	7,473	7,729	.....	.....	.....
Estimated outlays	.....	5,466	7,854	9,013	3,688	1,692	985
Spending Under H.R. 3539:							
Authorization level	6,518	7,226	7,473	7,729	.....	.....	.....
Estimated outlays	8,420	9,181	9,587	9,833	4,088	1,893	985
CHANGES IN DIRECT SPENDING AND REVENUES							
Airport Improvement Program:							
Budget authority [1]	.....	2,280	2,347	2,412	.....	.....	.....
Air Traffic Control Fees:							
Estimated budget authority	.....	−30	−30	−30	−30	−30	−30
Estimated outlays	.....	−30	−30	−30	−30	−30	−30
Civil Penalties:							
Estimated revenues	.....	[2]	[2]	[2]	[2]	[2]	[2]

[1] Budget authority for the airport improvement program is provided in the form of contract authority. For 1996, the program received $2.214 million in contract authority. Outlays from such authority are controlled by obligation limitations set in appropriation bills and are shown as spending subject to appropriation.

[2] Less than $500,000.

The costs of this bill fall within budget function 400.

In additional to the amounts shown in the above table, if the provisions contained in Title VI are enacted, the bill would raise up to $4 billion a year in tax revenues for years that the Airport and Airway Trust fund taxes would be in effect. (The revenue gain in 1997 would be lower than $4 billion because some tickets would be purchased before the tax goes into effect.)

6. Basis of estimate:

Spending subject to appropriation

For purpose of this estimate, CBO assumes that appropriations would be provided before the start of each fiscal year. Outlay estimates are based on historical spending rate for the FAA.

Contract Authority and Specified Authorizations: For the 1997–1999 period, the bill specifies authorizations of appropriations to-

taling $22.4 billion and would provide contract authority of $7.0 billion for grants-in-aid to airport. To estimate outlays from the contract authority, we assumed that obligation limitations customarily established in appropriation acts would equal the budget authority. Because these outlays are subject to such limitations and to liquidating appropriations, they are considered discretionary and so are included in the above table under estimated outlays subject to appropriation. The contract authority is shown separately as direct spending.

Other Provisions. Under the provisions of Title V, the Metropolitan Washington Airports Authority would have to report certain types of major action to the new advisory commission and to the Congress at least 60 days before they are to become effective. Such actions would include adopting an annual budget, authorizing the issuance of bonds, adopting or modifying regulations, appointing a chief executive officer, and awarding contracts. The advisory commission could then make recommendations to the Congress within 30 days of such a report, and the Congress could disapprove the Authority's actions. After September 30, 1998, the Airports Authority would no longer be able to take any of these types of actions or to spend any money except for routine operating expenses, previously authorized capital expenditures, and debt service on previously authorized obligations.

The Metropolitan Washington Airports Authority is currently considered an independent body, and its financial transactions are not included in the federal budget. Therefore, the bill's changes would have no impact on the federal budget under current budgetary procedures. However, the extent of Congressional oversight of the Authority and the bill's provision that would terminate the Authority's ability to conduct major activities as of September 30, 1998, call into question whether the current budgetary treatment of the Authority should continue to apply.

Direct spending and revenues

This bill would create a new user fee for air traffic control and other services provided to aircraft that do not take off or land in the United States.

Budgetary Classification of Fees. The new fees could be classified as either offsetting receipts or governmental receipts. Fees that are established as charges for business-type services and are based on the cost or value of the service being provided are generally classified as offsetting receipts (or offsetting collections when they are credited as an offset to appropriations). In contrast, fees that primarily reflect the government's sovereign power to mandate such payment and that do not have a direct link to the service are generally classified as governmental receipts.

The classification of fees as either offsetting receipts or governmental receipts depends to some degree on the link between the fee and the cost of service that is being provided. Although H.R. 3539 does not state a specific fee structure, it states that the fees shall be established to offset the costs of services provided by the FAA to aircraft that do not take off or land in the United States. As a result, CBO assumes for the purpose of this estimate that the fees would be categorized as offsetting receipts.

Fee Collections. The legislation sets a target amount of fee collections at $30 million a year, starting October 1, 1996. According to the FAA, the $30 million level represents a portion of full cost recovery for overflights. CBO estimates that the FAA would be able to collect $30 million a year in fiscal year 1997 and every year thereafter.

Revenues. Title IV could affect revenues but CBO estimates that any additional receipts from civil penalties associated with the prohibition on use of airport improvement funds for any non-aviation purposes would be insignificant. According to the FAA, penalties can be assessed under current law but there have not been any collections, so the agency does not believe that the additional language in this bill would significantly increase the likelihood of collecting penalties.

CBO estimates that if the tax provisions in Title VI are enacted, the excise taxes supporting the Airport and Airway Trust Fund that lapsed on December 31, 1995, would be reinstated effective 30 days after enactment and would continue in effect through December 31, 1999. If those revenue provisions are enacted, they would raise roughly $4 billion in fiscal year 1998, the first full year that the taxes are in effect, and in fiscal year 1999. The revenue gain in fiscal year 1997 would be somewhat less because taxpayers would anticipate higher prices and purchase airline tickets before the tax went into effect. The amount of taxes that would be collected in fiscal year 2000 under Title VI would be about $1 billion because the taxes would expire on December 31, 1999.

Section 605 of Title VI would provide for a reduction in taxes in any year in which there is a funding shortfall. This funding shortfall is defined to be the amount by which the authorized amount of contract authority exceeds the obligation limitation for the airport improvement program. (In other words, if an appropriations act includes an obligation limitation that is lower than the contract authority provided for the year, the amount of taxes to be collected would be reduced.) In the year following a funding shortfall, the Secretary would prescribe a tax rate that would result in a reduction in tax revenues equal to the amount of the funding shortfall. Hence, some of the tax revenue may be forgone if a funding shortfall triggers a reduction in the tax rates. Because the bill would provide contract authority of $2.3 billion to $2.4 billion a year from 1997 through 1999, the amount of forgone taxes could exceed one-half of the potential tax collections of roughly $4 billion a year if the obligation limitation is very low. Because there would be a one-year lag between a funding shortfall and a change in taxes, any reduction in taxes could not occur until 1998.

7. Pay-as-you-go considerations: Section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 sets up pay-as-you-go procedures for legislation affecting direct spending or receipts through 1998. Because this bill would increase offsetting receipts, resulting in a decrease in direct spending, and it could increase civil penalties, pay-as-you-go procedures would apply to this bill.

CBO estimates that the collections of fees on air traffic control and other services for aircraft that do not take off or land in the

United States would be $30 million in 1997 and each year thereafter. Other pay-as-you-go effects of the bill would be negligible.

The estimated pay-as-you-go impact of the bill is shown in the following table:

[By fiscal year, in millions of dollars]

	1996	1997	1998
Change in outlays[1]	0	−30	−30
Change in receipts	0	0	0

[1] For purposes of this estimate, CBO assumes that the fees to be assessed under this bill would be classified as offsetting receipts.

In addition to the amounts shown above, governmental receipts could increase by up to $4 billion in 1997 and 1998 if the tax provisions contained in Title VI are enacted.

8. Estimated impact on State, local, and tribal governments: CBO's estimate of the bill's impact on state, local, and tribal governments is provided as a separate enclosure.

9. Estimated impact on the private sector: CBO's estimate of the bill's impact on the private sector is provided as a separate enclosure.

10. Previous CBO estimate: On July 16, 1996, CBO prepared a cost estimate for the Federal Aviation Reauthorization Act of 1996, as ordered reported by the Senate Committee on Commerce, Science, and Transportation on June 13, 1996. Both bills would reauthorize major FAA programs, but they differ in the amounts and years of authorization and in a number of other respects. The two estimates reflect those differences.

On March 10, 1995, CBO transmitted a cost estimate for H.R. 1036, the Metropolitan Airports Amendments Act of 1995, as ordered reported by the House Committee on Transportation and Infrastructure on March 1, 1995. H.R. 1036 is very similar to Title V of H.R. 3539, the section that pertains to the Metropolitan Washington Airports.

11. Estimate prepared by: Clare Doherty.

12. Estimate approved by: Robert A. Sunshine, for Paul N. Van de Water, Assistant Director for Budget Analysis.

CONGRESSIONAL BUDGET OFFICE ESTIMATED COST OF INTERGOVERNMENTAL MANDATES

1. Bill number: H.R. 3539.

2. Bill title: Federal Aviation Authorization Act of 1996.

3. Bill status: As ordered reported by the House Committee on Transportation and Infrastructure on June 6, 1996.

4. Bill purpose: H.R. 3539 would reauthorize several Federal Aviation Administration (FAA) programs and make modifications to the airport improvement program (AIP). The bill would allow the Secretary of Transportation to require FAA certification for commuter airports and to approve the privatization of up to six public airports. In addition, the bill would amend the Metropolitan Washington Airports Act of 1986 to expand the Airports Authority's board of directors, eliminate the board of review, and alter Congressional review procedures. The Committee also would recommend the reinstatement of several aviation taxes, including the airline passenger ticket tax.

5. Intergovernmental mandates contained in the bill: H.R. 3539 contains a number of mandates on state and local governments, and one provision that could be a mandate on state governments.

State Taxing Authority. The bill contains a provision intended as a technical correction to the section of Title 49 of the U.S. Code establishing the authority of states to levy certain aviation-related taxes. When that section of the code was recodified, it appeared to broaden the power of states to tax airlines. The correction is intended to return state taxing authority to the status quo as it existed before the recodification.

The impact of this provision, however, is unclear. A simple correction would impose no new mandates. There is concern among some tax experts, however, that the proposed change goes beyond the intended fix and would impose new preemptions on states' taxing authority. A number of state tax officials assert that the proposed correction would increase the ambiguities in the statute and could lead to an interpretation of the law that would prohibit states from imposing certain aviation-related property, income, and other taxes. This issue is unlikely to be resolved without litigation. If the provision is interpreted as the states fear it will be, it would constitute a mandate on state governments as defined by Public Law 104–4 because it would prohibit states from raising certain revenues.

Certification of Commuter Airports. Enactment of the bill would result in a requirement that commuter airports, which are predominantly publicly owned, obtain operating certificates from the FAA.

Prohibition on Airport Revenue Diversion. The bill would expand and codify an existing FAA regulation that prohibits the use of airport revenues to pay for non-airport related activities.

Metropolitan Washington Airports Authority (MWAA). The bill would require the Airports Authority to pay the salary of up to two individuals to be hired by the Secretary of Transportation as well as to enforce an existing MWAA regulation that restricts the use of the Dulles access highway to certain vehicles. The bill would also give the Secretary the authority, in compelling circumstances, to add take-off and landing slots at National Airport as long as the action would not adversely affect safety.

Airline Passenger Ticket Tax. The bill also contains a recommendation to the Committee on Ways and Means regarding the reinstatement of several aviation taxes, including the airline passenger ticket tax. Should this provision be enacted into law as recommended, it would constitute a mandate on state, local, and tribal governments that purchase airline tickets for business travel by their employees.

6. Estimated direct costs to state, local, and tribal governments:

(a) Is the $50 Million annual threshold exceeded?

Because of the uncertainty surrounding the interpretation of section 402, dealing with state taxing authority, CBO is uncertain whether the threshold established in Public Law 104–4 would be exceeded.

(b) Total direct costs of mandates:

Depending upon the interpretation of section 402, the bill's mandate costs could exceed the $50 million annual threshold established in Public Law 104–4. The state tax provision alone, if interpreted broadly, would have a potentially significant revenue impact that could approach or exceed the $50 million threshold. CBO cannot estimate its exact magnitude at this time. CBO estimates that FAA certification requirements would result in aggregate costs to commuter airports of up to $20 million a year in fiscal years 1998 through 2000 and $10 million annually thereafter.

Extension of the airline passenger ticket tax, as recommended by the Committee, would impose costs on state, local, and tribal governments that purchase airline tickets for business travel by their employees. CBO estimates that the direct cost of the tax to such governments would not exceed $50 million in any year.

The bill's other mandates would have a negligible effect on the budgets of state, local, and tribal governments.

(c) Estimate of necessary budget authority:

Not applicable.

7. Basis of estimate:

State Taxing Authority: Based on information from several states, CBO believes that, if amended by this bill, certain subsections of 49 U.S.C. 40116 could be read together to limit states to taxing only those aviation-related goods and services for which a direct nexus to flights taking off or landing in the state could be established. Current law does not require that states show such a flight connection when levying property, income, sales, use, and other taxes on air carriers or other providers of aviation services. Many states use apportionment formulas to calculate these taxes, and it is possible that the proposed change could preclude this practice.

Based on a survey of state tax officials and information from the Multistate Tax Commission, CBO estimates that the bill could result in tax preemptions in as many as half of the states. Depending upon the interpretation of the proposed change, some states could face annual revenue losses in the millions of dollars. Ambiguities in both the existing recodified statute and the proposed change, however, make it difficult to predict the extent of the possible preemption, if any, and to quantify the revenue losses that might result from it.

Certification of Commuter Airports. H.R. 3539 would provide the Administrator of the FAA with the legislative authority to require commuter airports, excluding those in Alaska, to have operating certificates. Commuter airports are those that serve scheduled passenger service using aircraft with between 10 and 30 seats. There are 100–200 such airports, virtually all owned and operated by state and local governments. Based on information from the Department of Transportation and industry representatives, CBO assumes that the Administrator would issue a rule requiring operating certificates for these airports approximately one year following the bill's enactment and that it would allow the airports at least three years to come into compliance.

The FAA has not yet drafted the rule, however, and it is not clear how extensive the requirements, and thus the costs, would be. The safety features the FAA currently requires for the certification of large airports, particularly those relating to rescue and firefighting, would not necessarily be appropriate or economically feasible for many commuter airports because of their small size and infrequent service. The bill would also require the Administrator to select regulatory alternatives that attempt to minimize the burden on commuter airports while providing a level of safety comparable to that at larger airports.

Assuming the FAA issues safety regulations tailored to the characteristics of commuter airports, CBO estimates that each airport could face, on average, initial capital costs of up to $300,000 and ongoing costs of $50,000 per year. Assuming the airports would spread the capital costs over at least three years, CBO estimates that this provision would result in aggregate costs of up to $20 million a year in the first three years after the Administrator issues the rule and $10 million annually after that.

Prohibition on Airport Revenue Diversion. H.R. 3539 would expand the restriction on the use of airport revenues to all airports with FAA operating certificates. Currently, the restriction applies only to those airports that have received AIP grants. Based on information from the FAA, CBO estimates that codifying the prohibition would affect approximately 600 state and locally owned airports. That figure would grow at least 700–800 within four years with the certification of commuter airports. CBO estimates that these airports would incur no new costs as a result of this mandate because most, if not all, of these airports are currently restricted from diverting revenue by FAA regulations associated with past AIP grants agreements.

Metropolitan Washington Airports Authority. According to information from MWAA, the cost of the two DOT staff salaries and associated benefits would total less than $300,000 per year. The Airports Authority would incur no new costs in enforcing the Dulles access highway restrictions, because it already engages in such enforcement. This bill would, however, preclude MWAA from choosing in the future to eliminate this enforcement or to repeal the regulation altogether. With regard to take-off and landing slots. MWAA estimates that the Secretary of Transportation could add at most six slots per day under this provision and that this would not impose any significant costs on the Airports Authority. CBO estimates the total costs to MWAA of complying with these provisions would be negligible.

Airline Passenger Ticket Tax. CBO contacted a number of professional associations as well as federal aviation and tourism agencies in an effort to determine what portion of airline travel is conducted by state, local, and tribal employees. We have found no specific data indicating how much these governments use air transportation, but data from an independent consulting firm, D.K. Shifflet & Associates, indicates that all government and military travel comprises approximately 3 percent of civilian airline trips.

CBO estimates that travel by employees of local and tribal governments represents a relatively small portion of total government air travel. In addition, we estimate that travel by state employees

would be slightly less expensive than federal travel because of shorter traveling distances. Using these assumptions, CBO estimates that the airline ticket tax—10 percent of the purchase price—would impose direct costs on state and local governments totaling between $25 million and $40 million annually during the 1997–1999 period and less than $10 million in the first quarter of 2000. These costs could be lower if airlines absorb some of the costs of the taxes.

8. Appropriation or other Federal financial assistance provided in bill to cover mandate costs: The bill would provide contract authority for 1997 through 1999 totaling $7 billion for the federal airport improvement program. These amounts could help fund projects required for commuter airport certification. The AIP provides financial assistance to airports for safety, development, and other types of qualified projects.

Based on the program's legislated apportionments and set-asides, CBO estimates that only a fraction of the total contract authority would be available to the affected commuter airports. For example, less than 10 percent of the $1.45 billion in 1996 AIP funds was earmarked for airports that would be affected by the certification requirements in this bill. H.R. 3539 would collapse several apportionment categories, including that for small commercial service airports, into a single pool of funds. While commuter airports would potentially have access to a larger amount of assistance, they would have to compete against far more projects than under current law.

Commuter airports currently use AIP money to fund various airport safety and development projects, many of which are undertaken to bring the airport up to FAA standards. In addition, AIP funds cannot be used to help pay for many of the ongoing costs commuter airports might face as a result of new certification requirements. Thus, CBO estimates that the contract authority provided in the bill would only partially offset the costs imposed on commuter airports by the certification requirement.

9. Other impacts on State, local, and tribal governments:

Airport Privatization. H.R. 3539 would establish an airport privatization test program. The bill would allow the Secretary to approve up to six privatization proposals from state and local governments. The Secretary would have the authority to exempt approved projects from several requirements, including the repayment of federal grants and other assistance and the prohibition on revenue diversion. The privatized airports would continue to be eligible to receive AIP grants and to impose passenger facility charges.

Denver International Airport. The bill would allow the Denver International Airport, notwithstanding any other provision of law, to receive federal financial assistance to construct a sixth runway on its property.

Metropolitan Washington Airports Authority. The bill would require the President of the United States to appoint four new members to MWAA's board of directors. If the new board members are not in place by the April 29, 1997, deadline, the board's authority to take major actions—such as adopt an annual budget, authorize the issuance of bonds, award contracts, and undertake new projects—would cease until it seated the required appointees. In

any event, the bill would terminate the board's authority on September 30, 1998. While in the short run this could have the effect of lowering MWAA's costs, in the long run it would lead to overall increased costs as a result of cost increases, forgone revenue, and lost bond refinancing opportunities.

10. Previous CBO estimate: CBO transmitted intergovernmental mandates statements on February 29, 1996, and on March 21, 1996, for two slightly different versions of H.R. 1036, the Metropolitan Washington Airports Amendments Act of 1995, as ordered reported by the House Committee on Transportation and Infrastructure on March 1, 1995, and subsequently amended. There is no significant difference between the three in the cost of mandates imposed on MWAA.

11. Estimate prepared by: Karen McVey. Leo Lex—passenger ticket tax.

12. Estimate approved by: Robert A. Sunshine, per Paul N. Van de Water. Assistant Director for Budget Analysis.

CONGRESSIONAL BUDGET OFFICE ESTIMATE OF COSTS OF PRIVATE-SECTOR MANDATES

1. Bill number: H.R. 3539.

2. Bill title: Federal Aviation Authorization of 1996.

3. Bill status: As ordered reported by the House Committee on Transportation and Infrastructure on June 6, 1996.

4. Bill purpose: H.R. 3539 would provide contract authority and authorize appropriations for Federal Aviation Administration (FAA) programs. The bill would also establish new requirements for small airports and would extend a restriction on the use of airport revenues. In addition, the bill would establish new requirements for hiring passenger and property screeners. The bill would also establish user fees for air traffic control and other services for aircraft that do not take off or land in the United States.

5. Private-sector mandates contained in bill: The Congressional Budget Office (CBO) identified private-sector mandates in this bill that would impose requirements on airport owners and air carriers.

6. Estimated direct cost to the private sector: CBO estimates that the direct costs of the private-sector mandates identified in titles I–V of this bill would not exceed the $100 million annual threshold established in Public Law 104–4. Title VI would reauthorize the Airport and Airway Trust Fund taxes and the authority to expend balances from the fund that expired in December 1995. However, that title is preceded by a paragraph that recommends the title to the Committee on Ways and Means. If the provisions of Title VI were enacted into law, the direct costs to the private sector would exceed the threshold for private-sector mandates.

Mandates on airport owners

Section 406 would require owners of small airports, excluding those in Alaska, that serve any scheduled passenger operation of an air carrier operating aircraft designed for 10 to 30 passenger seats to obtain an operating certificate from the FAA. The FAA would determine the safety regulations and standards that those airports would be required to meet to obtain a certificate. Based on information from the FAA, CBO estimates that few, if any, pri-

vately owned airports would fall into this category. Thus, CBO estimates that the direct costs to the private sector would be minimal.

Section 407 would extend a restriction on the use of airport revenues to all persons holding an airport operating certificate. That restriction would prohibit the use of revenues generated by the airport for any purpose other than the capital or operating costs of the airport, the local airport system, or other local facilities related to air transportation. Currently, the restriction on the diversion of airport revenue applies only to those airports receiving federal grants. Extending the restriction to all persons holding an operating certificate would impose a new restriction on three privately owned airports located in Alaska, which operate solely for the owners' use and are not available to the public. According to the Department of Transportation, penalties have not been assessed for any diversion of airport revenue, and future penalties are not anticipated. Although this section imposes a mandate on those privately owned airports, CBO estimates that this mandate would not result in any private-sector costs.

Mandates on air carriers

Section 408 would give the FAA authority to require that an employment investigation include a check for the existence of a criminal record for those persons responsible for screening passengers and property. The specific circumstances that would require such a check for a criminal record would be determined through FAA rulemaking. Based on information from the FAA and the airline industry, CBO estimates that the added cost to the air carriers would range from $50,000 to $8 million annually, depending on the exact rule. That estimate is based on the cost per person of the check for a criminal record that is currently required for other employees and the employment turnover rate for passenger and property screeners.

Section 409 would impose fees for air traffic control and related services on owners of aircraft that neither take off from nor land in the United States. Based on information provided by the airline industry, CBO estimates that few flights by domestic air carriers could fall into that category. Thus the direct costs to the private sector would be negligible.

Extension of the airport and airway trust fund taxes

The bill recommends Title VI, Extension of Airport and Airway Trust Fund Taxes and Expenditure Authority, to the Committee on Ways and Means. If enacted, section 601 of that title would reinstate the Airport and Airway Trust Fund taxes on fuel and passenger tickets through December 1999. Those taxes would impose mandates on air carriers and passengers. CBO estimates the cost to air carriers and passengers to be about $4 billion annually, though the cost in 1997 would be less because some tickets would be purchased before the tax goes into effect. The vast majority of those taxes would be paid by the private sector.

7. Appropriations or other federal financial assistance: None.

8. Previous CBO estimate: On July 16, 1996, CBO transmitted a private-sector cost estimate for Federal Aviation Reauthorization Act of 1996, as ordered reported by the Senate Committee on Com-

merce, Science, and Transportation on June 13, 1996. The mandates on air carriers related to employment investigations and fees for air traffic control and related services are similar in both bills.

9. Estimate prepared by: Jean Wooster.

10. Estimate approved by: Jan Acton, Assistant Director.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

TITLE 49, UNITED STATES CODE

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SUBTITLE I—DEPARTMENT OF TRANSPORTATION

* * * * * * *

CHAPTER 1—ORGANIZATION

* * * * * * *

§ 106. Federal Aviation Administration

(a) The Federal Aviation Administration is an administration in the Department of Transportation.

* * * * * * *

(k) AIRCRAFT NOISE OMBUDSMAN.—

(1) ESTABLISHMENT.—There shall be in the Administration an Aircraft Noise Ombudsman.

(2) GENERAL DUTIES AND RESPONSIBILITIES.—The Ombudsman shall—

(A) be appointed by the Administrator;

(B) serve as a liaison with the public on issues regarding aircraft noise; and

(C) be consulted when the Administration proposes changes in aircraft routes so as to minimize any increases in aircraft noise over populated areas.

[(k)**]** *(l)* AUTHORIZATION OF APPROPRIATIONS FOR OPERATIONS.—There is authorized to be appropriated to the Secretary of Transportation for operations of the Administration **[**$4,088,000,000 for fiscal year 1991, $4,412,600,000 for fiscal year 1992, $4,716,500,000 for fiscal year 1993, $4,576,000,000 for fiscal year 1994, $4,674,000,000 for fiscal year 1995, and $4,810,000,000 for fiscal year 1996.**]** *$5,158,000,000 for fiscal year 1997, $5,344,000,000 for fiscal year 1998, and $5,538,000,000 for fiscal year 1999.*

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SUBTITLE VII—AVIATION PROGRAMS

* * * * * * *

PART A—AIR COMMERCE AND SAFETY

SUBPART I—GENERAL

CHAPTER 401—GENERAL PROVISIONS

Sec.
40101. Policy.

* * * * * * *

[40120. Relationship to other laws.]
40120. Protection of voluntarily submitted information.
40121. Relationship to other laws.

* * * * * * *

§ 40110. General procurement authority

(a) * * *

(b) PURCHASE OF HOUSING UNITS.—

(1) AUTHORITY.—In carrying out this part, the Administrator may purchase a housing unit (including a condominium or a housing unit in a building owned by a cooperative) that is located outside the contiguous United States if the cost of the unit is $200,000 or less.

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

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

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

(B) a certification that the price does not exceed the median price of housing units in the area; and

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

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

[(b)] *(c)* DUTIES AND POWERS.—When carrying out subsection (a) of this section, the Administrator of the Federal Aviation Administration—

(1) * * *

* * * * * * *

§ 40116. State taxation

(a) DEFINITION.—In this section, "State" includes the District of Columbia, a territory or possession of the United States, and a political authority of at least 2 States.

(b) PROHIBITIONS.—Except as provided in [subsection (c) of this section and] section 40117 of this title, [a State or] *a State, a* political subdivision of a State*, and any person that has purchased or leased an airport under section 47132 of this title* may not levy or collect a tax, fee, head charge, or other charge on—

(1) * * *

* * * * * * *

§ 40117. Passenger facility fees

(a) DEFINITIONS.—In this section—

(1) * * *

* * * * * * *

(3) "eligible airport-related project" means a project—

(A) * * *

* * * * * * *

[(F) in addition to projects eligible under subparagraph (A), the construction, reconstruction, repair, or improvement of areas of an airport used for the operation of aircraft or actions to mitigate the environmental effects of such construction, reconstruction, repair, or improvement when the construction, reconstruction, repair, improvement, or action is necessary for compliance with the responsibilities of the operator or owner of the airport under the Americans with Disabilities Act of 1990, the Clean Air Act, or the Federal Water Pollution Control Act with respect to the airport.]

(F) for debt financing of a terminal development project at a commercial service airport that each year has .05 percent or less of the total passenger boardings in the United States if construction began on the project after November 5, 1988, and before November 5, 1990, and the eligible agency certifies that no other eligible airport-related projects affecting safety, security, or capacity will be deferred by the debt financing project.

* * * * * * *

§ 40120. Protection of voluntarily submitted information

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

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

(2) the receipt of that type of information would aid in fulfilling the Administrator's safety and security responsibilities; and

(3) the withholding of the information would not be inconsistent with the Administrator's safety and security responsibilities.

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

§ [40120.] *40121.* Relationship to other laws

(a) NONAPPLICATION.—Except as provided in the International Navigational Rules Act of 1977 (33 U.S.C. 1601 et seq.), the navigation and shipping laws of the United States and the rules for the prevention of collisions do not apply to aircraft or to the navigation of vessels related to those aircraft.

(b) EXTENDING APPLICATION OUTSIDE UNITED STATES.—The President may extend (in the way and for periods the President considers necessary) the application of this part to outside the United States when—

(1) an international arrangement gives the United States Government authority to make the extension; and

(2) the President decides the extension is in the national interest.

(c) ADDITIONAL REMEDIES.—A remedy under this part is in addition to any other remedies provided by law.

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SUBPART II—ECONOMIC REGULATION

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CHAPTER 417—OPERATIONS OF CARRIERS

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SUBCHAPTER I—REQUIREMENTS

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§ 41714. Availability of slots

(a) MAKING SLOTS AVAILABLE FOR ESSENTIAL AIR SERVICE.—

(1) OPERATIONAL AUTHORITY.—If basic essential air service under subchapter II of this chapter is to be provided from an eligible point to a high density airport [(other than Washington National Airport)], the Secretary of Transportation shall ensure that the air carrier providing or selected to provide such service has sufficient operational authority at the high density airport to provide such service. The operational authority shall allow flights at reasonable times taking into account the needs of passengers with connecting flights.

* * * * * * *

(b) SLOTS FOR FOREIGN AIR TRANSPORTATION.—

(1) EXEMPTIONS.—If the Secretary finds it to be in the public interest at a high density airport [(other than Washington National Airport)], the Secretary may grant by order exemptions from the requirements of subparts K and S of part 93 of title 14, Code of Federal Regulations (pertaining to slots at high

density airports), to enable air carriers and foreign air carriers to provide foreign air transportation using Stage 3 aircraft.

* * * * * * *

(c) SLOTS FOR NEW ENTRANTS.—

(1) IN GENERAL.—If the Secretary finds it to be in the public interest and the circumstances to be exceptional, the Secretary may by order grant exemptions from the requirements under subparts K and S of part 93 of title 14, Code of Federal Regulations (pertaining to slots at high density airports), to enable new entrant air carriers to provide air transportation at high density airports ❚(other than Washington National Airport)❚.

* * * * * * *

(h) LIMITATION ON AUTHORITY TO GRANT EXEMPTIONS.—The Secretary shall not issue an exemption under this section to the requirements of subparts K and S of part 93 of title 14 of the Code of Federal Regulations (pertaining to slots at high density airports) if the grant of such exemption would adversely affect safety.

❚(h)❚ *(i)* DEFINITIONS.—In this section and section 41734(h), the following definitions apply:

(1) * * *

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SUBPART III—SAFETY

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CHAPTER 447—SAFETY REGULATION

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§ 44704. Type certificates, production certificates, and airworthiness certificates

(a) * * *

(b) SUPPLEMENTAL TYPE CERTIFICATES.—

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

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

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

❚(b)❚ *(c)* PRODUCTION CERTIFICATES.—The Administrator shall issue a production certificate authorizing the production of a dupli-

cate of an aircraft, aircraft engine, propeller, or appliance for which a type certificate has been issued when the Administrator finds the duplicate will conform to the certificate. On receiving an application, the Administrator shall inspect, and may require testing of, a duplicate to ensure that it conforms to the requirements of the certificate. The Administrator may include in a production certificate terms required in the interest of safety.

[(c)**]** *(d)* AIRWORTHINESS CERTIFICATES.—(1) The registered owner of an aircraft may apply to the Administrator for an airworthiness certificate for the aircraft. The Administrator shall issue an airworthiness certificate when the Administrator finds that the aircraft conforms to its type certificate and, after inspection, is in condition for safe operation. The Administrator shall register each airworthiness certificate and may include appropriate information in the certificate. The certificate number or other individual designation the Administrator requires shall be displayed on the aircraft. The Administrator may include in an airworthiness certificate terms required in the interest of safety.

(2) A person applying for the issuance or renewal of an airworthiness certificate for an aircraft for which ownership has not been recorded under section 44107 or 44110 of this title must submit with the application information related to the ownership of the aircraft the Administrator decides is necessary to identify each person having a property interest in the aircraft and the kind and extent of the interest.

* * * * * * *

§ 44706. Airport operating certificates

(a) GENERAL.—The Administrator of the Federal Aviation Administration shall issue an airport operating certificate to a person desiring to operate an airport—

(1) that serves an air carrier operating aircraft designed for at least 31 passenger seats;

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

[(2)**]** *(3)* that the Administrator requires to have a certificate; **[**and**]**

[(3) when**]**

if the Administrator finds, after investigation, that the person properly and adequately is equipped and able to operate safely under this part and regulations and standards prescribed under this part.

* * * * * * *

(d) USE OF REVENUES.—

(1) PROHIBITION.—A person holding an airport operating certificate under this section may not expend local taxes on aviation fuel (except taxes in effect on December 30, 1987) or the revenues generated by the airport for any purpose other than the capital or operating costs of—

(A) the airport;

(B) the local airport system; or

(C) other local facilities owned or operated by the person and directly and substantially related to the air transportation of passengers or property.

(2) EXCEPTIONS.—Paragraph (1) does not apply if a provision enacted not later than September 2, 1982, in a law controlling financing by the owner or operator, or a covenant or assurance in a debt obligation issued not later than September 2, 1982, by the owner or operator, provides that the revenues, including local taxes on aviation fuel at public airports, from any of the facilities of the owner or operator, including the airport, be used to support not only the airport but also the general debt obligations or other facilities of the owner or operator.

(3) AUTHORITY TO ISSUE WAIVERS TO AIRPORTS NOT RECEIVING GRANT ASSISTANCE.—The Administrator may waive the application of paragraph (1) with respect to any airport that has not received grant assistance under chapter 471 of this title or the Airport and Airway Improvement Act of 1982 in the 10-year period ending on the date of the enactment of this subsection.

(4) LIMITATION ON STATUTORY CONSTRUCTION.—This subsection does not prevent the use of a State tax on aviation fuel to support a State aviation program or the use of airport revenue on or off the airport for a noise mitigation purpose.

(e) COMMUTER AIRPORTS.—In developing the terms required by subsection (b) for airports covered by subsection (a)(2), the Administrator shall identify and consider a reasonable number of regulatory alternatives and select from such alternatives the least costly, most cost-effective or the least burdensome alternative that will provide comparable safety at airports described in subsections (a)(1) and (a)(2).

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

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CHAPTER 449—SECURITY

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SUBCHAPTER II—ADMINISTRATION AND PERSONNEL

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§ 44936. Employment investigations and restrictions

(a) EMPLOYMENT INVESTIGATION REQUIREMENT.—**[**(1) The Administrator**]**

(1) EMPLOYEES.—

(A) PERSONS WITH ACCESS TO AIRCRAFT AND OTHER SECURED AREAS.—The Administrator of the Federal Aviation Administration shall require by regulation that an employment investigation, including a criminal history record check, shall be conducted, as the Administrator decides is necessary to ensure air transportation security, of each in-

dividual employed in, or applying for, a position in which the individual has unescorted access, or may permit other individuals to have unescorted access, to—

[(A)] *(i)* aircraft of an air carrier or foreign air carrier; or

[(B)] *(ii)* a secured area of an airport in the United States the Administrator designates that serves an air carrier or foreign air carrier.

(B) PERSONS RESPONSIBLE FOR SCREENING PASSENGERS AND PROPERTY.—

(i) IN GENERAL.—The Administrator may require by regulation that an employment investigation (including a criminal history record check in cases in which the employment investigation reveals a gap in employment of 12 months or more that the individual does not satisfactorily account for) be conducted for individuals who will be responsible for screening passengers or property under chapter 449 of this title and their supervisors.

(ii) SPECIAL RULE.—If an individual requires a criminal history record check under clause (i), the individual may be employed as a screener until the check is completed if the individual is subject to supervision.

[(2) An air carrier]

(2) RESPONSIBILITY OF AIR CARRIERS, FOREIGN AIR CARRIERS, AND AIRPORT OPERATORS.—An air carrier, foreign air carrier, or airport operator that employs, or authorizes or makes a contract for the services of, an individual in a position described in paragraph (1) of this subsection shall ensure that the investigation the Administrator requires is conducted.

* * * * * * *

CHAPTER 453—FEES

Sec.
45301. Authority to impose fees.
45302. Fees involving aircraft not providing air transportation.
45303. Maximum fees for private person services.
45304. Prohibition on imposition of unauthorized fees; fees for services provided to certain aircraft.

* * * * * * *

§ 45304. Prohibition on imposition of unauthorized fees; fees for services provided to certain aircraft

(a) PROHIBITION.—Notwithstanding any other provision of law, the Administrator of the Federal Aviation Administration shall not impose any fee that is not in effect on the date of the enactment of this section and that is not authorized by law.

(b) AUTHORITY TO IMPOSE FEES.—The Administrator is authorized to establish a schedule of fees (and a collection process for such fees), to be effective not later than October 1, 1996, for services provided by the Administration to aircraft that neither take off from nor land in the United States. The schedule shall establish the fees at levels that will recover $30,000,000 in the first year in which the fees are implemented.

SUBPART IV—ENFORCEMENT AND PENALTIES

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CHAPTER 463—PENALTIES

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§ 46301. Civil penalties

(a) GENERAL PENALTY.—(1) * * *

* * * * * * *

[(5) In the case of a violation of section 47107(b) of this title, the maximum civil penalty for a continuing violation shall not exceed $50,000.]

(5) PENALTY FOR DIVERSION OF AVIATION REVENUES.—The amount of a civil penalty assessed under this section for a violation of section 47107(b) of this title (or any assurance made under such section) or section 44706(d) of this title may be increased above the otherwise applicable maximum amount under this section to an amount not to exceed 3 times the amount of revenues that are used in violation of such section.

* * * * * * *

PART B—AIRPORT DEVELOPMENT AND NOISE

CHAPTER 471—AIRPORT DEVELOPMENT

SUBCHAPTER I—AIRPORT IMPROVEMENT

Sec.
47101. Policies.

* * * * * * *

[47128. State block grant pilot program.]
47128. State block grant program.

* * * * * * *

47132. Private ownership of airports.

SUBCHAPTER I—AIRPORT IMPROVEMENT

§ 47101. Policies

(a) * * *

* * * * * * *

[(g) COOPERATION.—To carry out the policy of subsection (a)(5) of this section, the Secretary of Transportation shall cooperate with State and local officials in developing airport plans and programs that are based on overall transportation needs. The airport plans and programs shall be developed in coordination with other transportation planning and considering comprehensive long-range land-use plans and overall social, economic, environmental, system performance, and energy conservation objectives. The process of developing airport plans and programs shall be continuing, cooperative, and comprehensive to the degree appropriate to the complexity of the transportation problems.]

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

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

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

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

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

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

(3) REPRESENTATION OF AIRPORT OPERATORS ON MPO'S.—Encourage metropolitan planning organizations, particularly in areas with populations greater than 200,000, to establish membership positions for airport operators.

* * * * * * *

§ 47102. Definitions

In this subchapter—

(1) * * *

* * * * * * *

(3) "airport development" means the following activities, if undertaken by the sponsor, owner, or operator of a public-use airport:

(A) * * *

* * * * * * *

(E) relocating after December 31, 1991, an air traffic control tower and any navigational aid (including radar) if the relocation is necessary to carry out a project approved by the Secretary under this subchapter *or under section 40117*.

(F) constructing, reconstructing, repairing, or improving an airport, or purchasing capital equipment for an airport, if ⟦paid for by a grant under this subchapter and⟧ necessary for compliance with the responsibilities of the operator or owner of the airport under the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.), the Clean Air Act (42 U.S.C. 7401 et seq.), and the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.), except con-

structing or purchasing capital equipment that would benefit primarily a revenue-producing area of the airport used by a nonaeronautical business.

* * * * * * *

(H) preserving and extending the useful life of runways and taxiways at a public-use airport under the pilot program authorized by section 47105(g) of this title.

* * * * * * *

§ 47104. Project grant authority

(a) * * *

* * * * * * *

(c) EXPIRATION OF AUTHORITY.—After September 30, **[**1996**]** *1999*, the Secretary may not incur obligations under subsection (b) of this section, except for obligations of amounts—

(1) * * *

* * * * * * *

§ 47105. Project grant applications

(a) * * *

* * * * * * *

(g) RUNWAY MAINTENANCE PROGRAM.—The Secretary may carry out a pilot program in each of fiscal years 1997, 1998, and 1999 under which the Secretary may approve applications under this subchapter for not more than 10 projects in each of such fiscal years to preserve and extend the useful life of runways and taxiways at any airport for which an amount is apportioned under section 47114(d).

§ 47106. Project grant application approval conditioned on satisfaction of project requirements

(a) PROJECT GRANT APPLICATION APPROVAL.—The Secretary of Transportation may approve an application under this subchapter for a project grant only if the Secretary is satisfied that—

(1) the project is consistent with plans (existing at the time the project is approved) of public agencies authorized by the State in which the airport is located to plan for the development of the area surrounding the airport*, including transportation and land use plans*;

(2) the project will contribute to carrying out this subchapter;

(3) enough money is available to pay the project costs that will not be paid by the United States Government under this subchapter;

(4) the project will be completed without unreasonable delay; **[**and**]**

(5) the sponsor has authority to carry out the project as proposed**[**.**]***; and*

(6) with respect to a project for the location of an airport, the sponsor has—

(A) provided the metropolitan planning organization authorized to conduct metropolitan planning for the area in

which the airport is to be located with not less than 30 days (i) to review the airport master plan or the airport layout plan in which the project is described and depicted, and (ii) to submit comments on such plans to the sponsor; and

(B) included in the sponsor's application to the Secretary the sponsor's written responses to any comments made by the metropolitan planning organization.

* * * * * * *

§ 47107. Project grant application approval conditioned on assurances about airport operations

(a) GENERAL WRITTEN ASSURANCES.—The Secretary of Transportation may approve a project grant application under this subchapter for an airport development project only if the Secretary receives written assurances, satisfactory to the Secretary, that—

(1) * * *

* * * * * * *

(18) the airport and each airport record will be available for inspection by the Secretary on reasonable request, and a report of the airport budget will be available to the public at reasonable times and places; **[**and**]**

(19) the airport owner or operator will submit to the Secretary and make available to the public an annual report listing in detail—

(A) all amounts paid by the airport to any other unit of government and the purposes for which each such payment was made; and

(B) all services and property provided to other units of government and the amount of compensation received for provision of each such service and property**[**.**]***; and*

(20) the airport owner or operator will permit, to the maximum extent practicable, intercity buses to have access to the airport.

* * * * * * *

§ 47110. Allowable project costs

(a) * * *

* * * * * * *

(b) ALLOWABLE COST STANDARDS.—A project cost is allowable—

(1) if the cost necessarily is incurred in carrying out the project in compliance with the grant agreement made for the project under this subchapter, including any cost a sponsor incurs related to an audit the Secretary requires under section 47121(b) or (d) of this title;

(2)(A) if the cost is incurred after the grant agreement is executed and is for airport development or airport planning carried out after the grant agreement is executed;

(B) if the cost is incurred after June 1, 1989, by the airport operator (regardless of when the grant agreement is executed) as part of a Government-approved noise compatability program

(including project formulation costs) and is consistent with all applicable statutory and administrative requirements; or

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

[(i) during the fiscal year ending September 30, 1994;

[(ii) before a grant agreement is executed for the project but according to an airport layout plan the Secretary approves before the cost is incurred and all applicable statutory and administrative requirements that would apply to the project if the agreement had been executed; and

[(iii) for work related to a project for which a grant agreement previously was executed during the fiscal year ending September 30, 1994;]

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

(i) after September 30, 1996;

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

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

* * * * * * *

(e) LETTERS OF INTENT.—(1) * * *

* * * * * * *

(6) COST-BENEFIT REGULATIONS.—The Secretary shall issue regulations to require a cost-benefit analysis for any letter of intent to be issued under paragraph (1) for a project at an airport that each year has more than .25 percent of the total passenger boardings in the United States. Until the date on which such regulations take effect, the Secretary may not issue a letter of intent under paragraph (1) for any project that is not yet under construction and that is to be carried out at an airport described in the preceding sentence.

(7) FINANCING PLANS.—The Secretary shall require airport sponsors to provide, as part of any request for a letter of intent for a project under paragraph (1), specific details on the proposed financing plan for the project.

(8) CONSIDERATION.—The Secretary shall consider the effect of a project on overall national air transportation policy when reviewing requests for letters of intent under paragraph (1).

[(6)] *(9)* LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this section shall be construed to prohibit the obligation of amounts pursuant to a letter of intent under this subsection in the same fiscal year as the letter of intent is issued.

* * * * * * *

(g) USE OF DISCRETIONARY FUNDS.—A project for which cost reimbursement is provided under subsection (b)(2)(C) shall not receive priority consideration with respect to the use of discretionary funds

made available under section 47115 of this title even if the amounts made available under paragraphs (1) and (2) of section 47114(c) are not sufficient to cover the Government's share of the cost of project.

* * * * * * *

§ 47114. Apportionments

(a) * * *

* * * * * * *

(c) AMOUNTS APPORTIONED TO SPONSORS.—(1)(A) The Secretary shall apportion to the sponsor of each primary airport for each fiscal year an amount equal to—

(i) $7.80 for each of the first 50,000 passenger boardings at the airport during the prior calendar year;

(ii) $5.20 for each of the next 50,000 passenger boardings at the airport during the prior calendar year;

(iii) $2.60 for each of the next 400,000 passenger boardings at the airport during the prior calendar year; **[**and**]**

(iv) $.65 for each **[**additional**]** *of the next 500,000* passenger boarding at the airport during the prior calendar year**[**.**]***; and*

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

(B) Not less than $500,000 nor more than $22,000,000 may be apportioned under subparagraph (A) of this paragraph to an airport sponsor for a primary airport for each fiscal year.

[(2)(A) The Secretary shall apportion to the sponsors of airports served by aircraft providing air transportation of only cargo with a total annual landed weight of more than 100,000,000 pounds for each fiscal year an amount equal to 3.5 percent of the amount subject to apportionment each year, allocated among those airports in the proportion that the total annual landed weight of those aircraft landing at each of those airports bears to the total annual landed weight of those aircraft landing at all those airports. However, not more than 8 percent of the amount apportioned under this paragraph may be apportioned for any one airport.

[(B) Landed weight under subparagraph (A) of this paragraph is the landed weight of aircraft landing at each of those airports and all those airports during the prior calendar year.**]**

(2) CARGO ONLY AIRPORTS.—

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

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

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

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

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

[(3)(A) Except as provided in subparagraph (B) of this paragraph, the total of all amounts apportioned under paragraphs (1) and (2) of this subsection may not be more than 49.5 percent of the amount subject to apportionment for a fiscal year. If this subparagraph requires reduction of an amount that otherwise would be apportioned under this subsection, the Secretary shall reduce proportionately the amount apportioned to each sponsor of an airport under paragraphs (1) and (2) until the 49.5 percent limit is achieved.

[(B) If a law limits the amount subject to apportionment to less than $1,900,000,000 for a fiscal year, the total of all amounts apportioned under paragraphs (1) and (2) of this subsection may not be more than 44 percent of the amount subject to apportionment for that fiscal year. If this subparagraph requires reduction of an amount that otherwise would be apportioned under this subsection, the Secretary shall reduce proportionately the amount apportioned to each sponsor of an airport under paragraphs (1) and (2) until the 44 percent limit is achieved.]

(d) AMOUNTS APPORTIONED TO STATES.—(1) In this subsection—

(A) "area" includes land and water.

(B) "population" means the population stated in the latest decennial census of the United States.

(2) The Secretary shall apportion to the States [12] *18.5* percent of the amount subject to apportionment for each fiscal year as follows:

(A) [one] *0.66* percent of the apportioned amount to Guam, American Samoa, the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and the Virgin Islands.

(B) except as provided in paragraph (3) of this subsection, [49.5] *49.67* percent of the apportioned amount for airports, [except primary airports and airports described in section 47117(e)(1)(C) of this title,] *excluding primary airports but including reliever and nonprimary commercial service airports,* in States not named in clause (A) of this paragraph in the proportion that the population of each of those States bears to the total population of all of those States.

(C) except as provided in paragraph (3) of this subsection, [49.5] *49.67* percent of the apportioned amount for airports, [except primary airports and airports described in section 47117(e)(1)(C) of this title,] *excluding primary airports but in-*

cluding reliever and nonprimary commercial service airports, in States not named in clause (A) of this paragraph in the proportion that the area of each of those States bears to the total area of all of those States.

* * * * * * *

§ 47115. Discretionary fund

(a) * * *

* * * * * * *

(d) CONSIDERATIONS.—In selecting a project for a grant to preserve and enhance capacity as described in subsection (c)(1) of this section, the Secretary shall consider—

(1) the effect the project will have on the overall national air transportation system capacity;

(2) the project benefit and cost; **[**and**]**

(3) the financial commitment from non-United States Government sources to preserve or enhance airport capacity**[**.**]***;*

(4) the priority that the State gives to the project;

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

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

* * * * * * *

[(f) MINIMUM AMOUNT TO BE CREDITED.—(1) In a fiscal year, at least $325,000,000 of the amount made available under section 48103 of this title shall be credited to the fund. The amount credited is exclusive of amounts that have been apportioned in a prior fiscal year under section 47114 of this title and that remain available for obligation.

[(2) In a fiscal year in which the amount credited under subsection (a) of this section is less than $325,000,000, the total amount calculated under paragraph (3) of this subsection shall be reduced by an amount that, when credited to the fund, together with the amount credited under subsection (a), equals $325,000,000.

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

(g) MINIMUM AMOUNT TO BE CREDITED.—

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

(A) $50,000,000; plus

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

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

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

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

(h) ALLOCATION OF AMOUNTS EXCEEDING LETTER OF INTENT REQUIREMENTS.—Of the amount credited to the fund for a fiscal year which exceeds the total amount required from the fund to carry out in the fiscal year letters of intent issued before January 1, 1996, under section 47110(e) of this title or the Airport and Airway Improvement Act of 1982—

(1) not less than 15 percent shall be used for system planning and for making grants to airports that are not commercial service airports; and

(2) not less than 30 percent shall be used for making grants to commercial service airports that each year have less than .25 percent of the total passenger boardings in the United States.

§ 47116. Small airport fund

(a) * * *

* * * * * * *

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

§ 47117. Use of apportioned amounts

(a) * * *

(b) PERIOD OF AVAILABILITY.—An amount apportioned under section 47114 of this title is available to be obligated for grants under the apportionment only during the fiscal year for which the amount was apportioned and the 2 fiscal years immediately after that year *or the 3 fiscal years immediately following that year in the case of a primary airport that had less than .05 percent of the total boardings in the United States in the preceding calendar year*. If

the amount is not obligated under the apportionment within that time, it shall be added to the discretionary fund.

* * * * * * *

(e) SPECIAL APPORTIONMENT CATEGORIES.—(1) The Secretary shall use amounts [made available under section 48103] *available to the discretionary fund under section 47115* of this title for each fiscal year as follows:

[(A) at least 5 percent for grants for reliever airports.]

[(B) at least 12.5] *(A) At least 31* percent for grants for airport noise compatibility planning under section 47505(a)(2) of this title and for carrying out noise compatibility programs under section 47504(c)(1) of this title. *The Secretary may count the amount of grants made for such planning and programs with funds apportioned under section 47114 in that fiscal year in determining whether or not such 31 percent requirement is being met in that fiscal year.*

[(C) at least 1.5 percent for grants for—

[(i) nonprimary commercial service airports; and

[(ii) public airports (except commercial service airports) that were eligible for United States Government assistance from amounts apportioned under section 15(a)(3) of the Airport and Airway Development Act of 1970, and to which section 15(a)(3)(A)(I) or (II) of the Act applied during the fiscal year that ended September 30, 1981.

[(D) at least .75 percent for integrated airport system planning grants to planning agencies designated by the Secretary and authorized by the laws of a State or political subdivision of a State to do planning for an area of the State or subdivision in which a grant under this chapter is to be used.]

[(E) at least 2.25 percent for the fiscal year ending September 30, 1993, and at least 2.5 percent for each of the fiscal years ending September 30, 1994, 1995, and 1996,] *(B) At least 4 percent for each fiscal year thereafter* to sponsors of current or former military airports designated by the Secretary under section 47118(a) of this title for grants for developing current and former military airports to improve the capacity of the national air transportation system *and to sponsors of noncommercial service airports for grants for operational and maintenance expenses at any such airport if the amount of such grants to the sponsor of the airport does not exceed $30,000 in that fiscal year, if the Secretary determines that the airport is adversely affected by the closure or realignment of a military base, and if the sponsor of the airport certifies that the airport would otherwise close if the airport does not receive the grant.*

(2) A grant from the amount apportioned under section 47114(e) of this title may not be included as part of the 1.5 percent required to be used for grants under paragraph (1)(C) of this subsection.

(3) If the Secretary decides that an amount required to be used for grants under paragraph (1) of this subsection cannot be used for a fiscal year because there are insufficient qualified grant applications, the amount the Secretary determines cannot be used is available during the fiscal year for grants for other airports or for other purposes for which amounts are authorized for grants under section 48103 of this title.

§ 47118. Designating current and former military airports

(a) GENERAL REQUIREMENTS.—The Secretary of Transportation shall designate [not more than 15] current or former military airports for which grants may be made under section [47117(e)(1)(E)] *47117(e)(1)(B)* of this title. *The maximum number of airports which may be designated by the Secretary under this section at any time is 10.* The Secretary may only designate an airport for such grants (other than an airport designated for such grants on or before the date of the enactment of this sentence) if the Secretary finds that grants under such section for projects at such airport would [reduce delays at an airport with more than 20,000 hours of annual delays in commercial passenger aircraft takeoffs and landings] *enhance airport and air traffic control system capacity in major metropolitan areas and reduce current or projected flight delays*.

[(b) SURVEY.—Not later than September 30, 1991, the Secretary shall complete a survey of current and former military airports to identify which airports have the greatest potential to improve the capacity of the national air transportation system. The survey shall identify the capital development needs of those airports to make them part of the system and which of those qualify for grants under section 47104 of this title.

[(c) CONSIDERATIONS.—In carrying out this section, the Secretary shall consider only current or former military airports that, when at least partly converted to civilian commercial or reliever airports as part of the national air transportation system, will enhance airport and air traffic control system capacity in major metropolitan areas and reduce current and projected flight delays.]

[(d)] *(b)* GRANTS.—Grants under section [47117(e)(1)(E)] *47117(e)(1)(B)* of this title may be made for an airport designated under subsection (a) of this section for the 5 fiscal years following the designation.

[(e)] *(c)* TERMINAL BUILDING FACILITIES.—Notwithstanding section 47109(c) of this title, not more than $5,000,000 for each airport from amounts the Secretary distributes under section 47115 of this title for a fiscal year is available to the sponsor of a current or former military airport the Secretary designates under this section to construct, improve, or repair a terminal building facility, including terminal gates used for revenue passengers getting on or off aircraft. A gate constructed, improved, or repaired under this subsection—

(1) may not be leased for more than 10 years; and

(2) is not subject to majority in interest clauses.

[(f)] *(d)* PARKING LOTS, FUEL FARMS, AND UTILITIES.—Not more than a total of $4,000,000 for each airport from amounts the Secretary distributes under section 47115 of this title [for the fiscal years ending September 30, 1993–1996,] *for fiscal years beginning after September 30, 1992,* is available to the sponsor of a current or former military airport the Secretary designates under this section to construct, improve, or repair airport surface parking lots, fuel farms, and utilities.

* * * * * * *

§ 47128. State block grant [pilot] program

(a) GENERAL REQUIREMENTS.—The Secretary of Transportation shall prescribe regulations to carry out a State block grant [pilot] program. The regulations shall provide that the Secretary may designate not more than [7] *10* qualified States to assume administrative responsibility for all airport grant amounts available under this subchapter, except for amounts designated for use at primary airports.

(b) APPLICATIONS AND SELECTION.—[(1)] A State wishing to participate in the program must submit an application to the Secretary. The Secretary shall select a State on the basis of its application only after—

[(A)] *(1)* deciding the State has an organization capable of effectively administering a block grant made under this section;

[(B)] *(2)* deciding the State uses a satisfactory airport system planning process;

[(C)] *(3)* deciding the State uses a programming process acceptable to the Secretary;

[(D)] *(4)* finding that the State has agreed to comply with United States Government standard requirements for administering the block grant; and

[(E)] *(5)* finding that the State has agreed to provide the Secretary with program information the Secretary requires.

[(2) For the fiscal years ending September 30, 1993–1996, the States selected shall include Illinois, Missouri, and North Carolina.]

(c) SAFETY AND SECURITY NEEDS AND NEEDS OF SYSTEM.—Before deciding whether a planning process is satisfactory or a programming process is acceptable under subsection [(b)(1)(B) or (C)] *(b)(2) or (b)(3)* of this section, the Secretary shall ensure that the process provides for meeting critical safety and security needs and that the programming process ensures that the needs of the national airport system will be addressed in deciding which projects will receive money from the Government. *In carrying out this subsection, the Secretary shall permit a State to use the priority system of the State if such system is not inconsistent with the national priority system.*

[(d) ENDING EFFECTIVE DATE AND REPORT.—This section is effective only through September 30, 1996.]

§ 47129. Resolution of airport-air carrier disputes concerning airport fees

(a) AUTHORITY TO REQUEST SECRETARY'S DETERMINATION.—

(1) * * *

* * * * * * *

(4) FEES IMPOSED BY PRIVATELY-OWNED AIRPORTS.—In evaluating the reasonableness of a fee imposed by an airport receiving an exemption under section 47132 of this title, the Secretary shall consider whether the airport has complied with section 47132(c)(4).

* * * * * * *

§ 47132. Private ownership of airports

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

(b) APPROVAL OF APPLICATIONS.—The Secretary may approve, with respect to not more than 6 airports, applications submitted under subsection (a) granting exemptions from the following provisions:

(1) USE OF REVENUES.—

(A) IN GENERAL.—The Secretary may grant an exemption to a sponsor from the provisions of sections 44706(d) and 47107(b) of this title (and any other law, regulation, or grant assurance) to the extent necessary to permit the sponsor to recover from the sale or lease of the airport such amount as may be approved—

(i) by at least 60 percent of the air carriers serving the airport; and

(ii) by the air carrier or air carriers whose aircraft landing at the airport during the preceding calendar year had a total landed weight during the preceding calendar year of at least 60 percent of the total landed weight of all aircraft landing at the airport during such year.

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

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

(3) COMPENSATION FROM AIRPORT OPERATIONS.—The Secretary may grant an exemption to a purchaser or lessee from the provisions of sections 44706(d) and 47107(b) of this title (and any other law, regulation, or grant assurance) to the extent necessary to permit the purchaser or lessee to earn compensation from the operations of the airport.

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

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

(2) The operation of the airport will not be interrupted in the event that the purchaser or lessee becomes insolvent or seeks or becomes subject to any State or Federal bankruptcy, reorganization, insolvency, liquidation, or dissolution proceeding or any

petition or similar law seeking the dissolution or reorganization of the purchaser or lessee or the appointment of a receiver, trustee, custodian, or liquidator for the purchaser or lessee or a substantial part of the purchaser or lessee's property, assets, or business.

(3) The purchaser or lessee will maintain and improve the facilities of the airport and will submit to the Secretary a plan for carrying out such maintenance and improvements.

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

(A) by at least 60 percent of the air carriers serving the airport; and

(B) by the air carrier or air carriers whose aircraft landing at the airport during the preceding calendar year had a total landed weight during the preceding calendar year of at least 60 percent of the total landed weight of all aircraft landing at the airport during such year.

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

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

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

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

(d) PARTICIPATION OF CERTAIN AIRPORTS.—If the Secretary approves under subsection (b) applications with respect to 6 airports, at least one of the airports must be an airport that is not a commercial service airport.

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

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

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

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

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

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

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

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CHAPTER 475—NOISE

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SUBCHAPTER I—NOISE ABATEMENT

* * * * * * *

§ 47505. Airport noise compatibility planning grants

(a) * * *

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(b) GRANTS TO NON-AIRPORT SPONSORS.—

(1) AUTHORITY.—The Secretary may make a grant under this subsection to a State or unit of local government that is not the owner or operator of the airport for preparation of an airport land use compatibility plan or implementation of an airport land use compatibility project.

(2) PLANNING AUTHORITY.—In order to be eligible to receive a grant under this subsection for preparation of an airport land use compatibility plan, the State or unit of local government must have authority to plan and adopt land use control measures, including zoning, in the planning area.

(3) COORDINATION OF PLANNING ACTIVITIES.—

(A) CONSISTENCY WITH OTHER PLANNING.—An airport land use compatibility plan prepared by a State or unit of local government under this subsection may not duplicate or be inconsistent with an airport noise compatibility program prepared by an airport operator under this chapter or with other planning carried out by the airport operator.

(B) CONSULTATION WITH AIRPORT OWNERS AND OPERATORS.—A State or unit of local government receiving a grant under this subsection for preparation of an airport land use compatibility plan shall consult with the owner or operator of the airport for which the plan is being prepared regarding any recommended airport land use compatibility measure identified in the plan and any aviation data on which such recommendation is made.

(4) APPROVAL OF AIRPORT OWNER OR OPERATOR REQUIRED.—The Secretary may make a grant to a State or unit of local government under this subsection for preparation of an airport land use compatibility plan or implementation of an airport land use compatibility project only after receiving the approval of the owner or operator of the airport for which the plan or project is being prepared or implemented. Such approval shall be based on whether the plan or program, including the use of any noise exposure contours on which the plan or project is

based, has been coordinated with the airport and is consistent with the airport's operations and planning.

(5) WRITTEN ASSURANCES.—The Secretary may make a grant to a State or unit of local government under this subsection only after receiving from the State or unit of local government such written assurances as the Secretary determines necessary to achieve the purposes of this subsection.

(6) GUIDELINES.—The Secretary may establish guidelines in carrying out this subsection.

(7) DEFINITIONS.—In this subsection, the following definitions apply:

(A) AIRPORT COMPATIBLE LAND USE.—The term "airport compatible land use" means any land use that is usually compatible with—

(i) the noise levels associated with an airport, as established under this chapter;

(ii) airport design standards issued by the Administrator; and

(iii) regulations issued to carry out section 44718 of this title.

(B) AIRPORT LAND USE COMPATIBILITY PLAN.—The term "airport land use compatibility plan" means the product of a process to determine the extent, type, nature, location, and timing of measures to improve the compatibility of land use with the existing forecast level of aviation activity at an airport.

(C) AIRPORT LAND USE COMPATIBILITY PROJECT.—The term "airport land use compatibility project" means a project that is contained in an airport land use compatibility plan and determined by the Administrator to enhance airport compatible land use.

[(b)**]** *(c)* AVAILABILITY OF AMOUNTS AND GOVERNMENT'S SHARE OF COSTS.—A grant under subsection (a) *or (b)* of this section may be made from amounts available under section 48103 of this title. The United States Government's share of the grant is the percent for which a project for airport development at an airport would be eligible under section 47109 (a) and (b) of this title.

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PART C—FINANCING

CHAPTER 481—AIRPORT AND AIRWAY TRUST FUND AUTHORIZATIONS

Sec.
[48101. Air navigation facilities.**]**
48101. Air navigation facilities and equipment.

* * * * * * *

[48104. Certain direct costs and joint air navigation services.**]**
48104. Operations and maintenance.

* * * * * * *

[§ 48101. Air navigation facilities]

§ 48101. Air navigation facilities and equipment

(a) GENERAL AUTHORIZATION OF APPROPRIATIONS.—Not more than a total of the following amounts may be appropriated to the Secretary of Transportation out of the Airport and Airway Trust Fund established under section 9502 of the Internal Revenue Code of 1986 (26 U.S.C. 9502) to acquire, establish, and improve air navigation facilities under section 44502(a)(1)(A) of this title:

[(1) For the fiscal years ending September 30, 1991–1993, $8,200,000,000.

[(2) For the fiscal years ending September 30, 1991–1994, $10,724,000,000.

[(3) For the fiscal years ending September 30, 1991–1995, $13,394,000,000.

[(4) For the fiscal years ending September 30, 1991–1996, $16,129,000,000.**]**

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

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

(3) $2,191,000,000 for fiscal year 1999.

* * * * * * *

§ 48103. Airport planning and development and noise compatibility planning and programs

The total amounts which shall be available after September 30, **[**1981**]** *1996*, to the Secretary of Transportation out of the Airport and Airway Trust Fund established under section 9502 of the Internal Revenue Code of 1986 (26 U.S.C. 9502) to make grants for airport planning and airport development under section 47104 of this title, airport noise compatibility planning under section 47505(a)(2) of this title, and carrying out noise compatibility programs under section 47504(c) of this title shall be **[**$17,583,500,000 for fiscal years ending before October 1, 1994, $19,744,500,000 for fiscal years ending before October 1, 1995, and $21,958,500,000 for fiscal years ending before October 1, 1996.**]** *$2,280,000,000 for fiscal years ending before October 1, 1997, $4,627,000,000 for fiscal years ending before October 1, 1998, and $7,039,000,000 for fiscal years ending before October 1, 1999.*

[§ 48104. Certain direct costs and joint air navigation services]

§ 48104. Operations and maintenance

(a) * * *

* * * * * * *

(c) LIMITATION FOR FISCAL YEARS 1994–**[**1996**]***1999*.—The amount appropriated from the Trust Fund for the purposes of paragraphs (1) and (2) of subsection (a) for each of fiscal years **[**1994, 1995, and 1996**]** *1994 through 1999* may not exceed the lesser of—

(1) 50 percent of the amount of funds made available under sections 48101–48103 of this title for such fiscal year; or

(2)(A) 70 percent of the amount of funds made available under sections 106(k) and 48101–48103 of this title for such fiscal year; less

(B) the amount of funds made available under sections 48101–48103 of this title for such fiscal year.

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§ 48108. Availability and uses of amounts

(a) * * *

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(c) LIMITATION ON OBLIGATING OR EXPENDING AMOUNTS.—In a fiscal year beginning after September 30, **[**1996**]** *1999*, the Secretary of Transportation may obligate or expend an amount appropriated out of the Fund under section 48104 of this title only if a law expressly amends section 48104.

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METROPOLITAN WASHINGTON AIRPORTS ACT OF 1986

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SEC. 6005. LEASE OF METROPOLITAN WASHINGTON AIRPORTS.

(a) * * *

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(c) MINIMUM TERMS AND CONDITIONS.—The Airports Authority shall agree, at a minimum, to the following conditions and requirements in the lease:

(1) * * *

(2) AIRPORT PURPOSES.—The real property constituting the Metropolitan Washington Airports shall, during the period of the lease, be used only for airport purposes. For the purposes of this paragraph, the term "airport purposes" means a use of property interests (other than a sale) for aviation business or activities, or for activities necessary or appropriate to serve passengers or cargo in air commerce, or for nonprofit, public use facilities *which are not inconsistent with the needs of aviation*. If the Secretary determines that any portion of the real property leased to the Airports Authority pursuant to this Act is used for other than airport purposes, the Secretary shall (A) direct that appropriate measures be taken by the Airports Authority to bring the use of such portion of real property in conformity with airport purposes, and (B) retake possession of such portion of real property if the Airports Authority fails to bring the use of such portion into a conforming use within a reasonable period of time, as determined by the Secretary.

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SEC. 6007. AIRPORTS AUTHORITY.

(a) * * *

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(e) BOARD OF DIRECTORS.—

(1) APPOINTMENT.—The Airports Authority shall be governed by a board of directors of [11] *15* members, as follows:

(A) * * *

* * * * * * *

(D) [one member] *five members* shall be appointed by the President with the advice and consent of the Senate.

The Chairman shall be appointed from among the members by majority vote of the members and shall serve until replaced by majority vote of the members.

(2) RESTRICTIONS.—Members shall (A) not hold elective or appointive political office, (B) serve without compensation other than for reasonable expenses incident to board functions, and (C) reside within the Washington Standard Metropolitan Statistical Area, [except that the member appointed by the President shall not be required to reside in that area.] *except that the members appointed by the President shall be registered voters of States other than Maryland, Virginia, or the District of Columbia.*

(3) TERMS.—Members shall be appointed to the board for a term of 6 years, except that of members first appointed—

(A) by the Governor of Virginia, 2 shall be appointed for 4 years and 2 shall be appointed for 2 years;

(B) by the Mayor of the District of Columbia, 1 shall be appointed for 4 years and 1 shall be appointed for 2 years; [and]

(C) by the Governor of Maryland, 1 shall be appointed for 4 years[.]*; and*

(D) by the President after the date of the enactment of this subparagraph, 2 shall be appointed for 4 years.

A member may serve after the expiration of that member's term until a successor has taken office.

(4) VACANCIES.—A vacancy in the board of directors shall be filled in the manner in which the original appointment was made. Any member appointed to fill a vacancy occurring before the expiration of the term for which the member's predecessor was appointed shall be appointed only for the remainder of such term.

(5) POLITICAL PARTIES OF PRESIDENTIAL APPOINTEES.—Not more than 3 of the members of the board appointed by the President may be of the same political party.

(6) DUTIES OF PRESIDENTIAL APPOINTEES.—In carrying out their duties on the board, members of the board appointed by the President shall ensure that adequate consideration is given to the national interest.

[(4)] *(7)* REMOVAL OF PRESIDENTIAL APPOINTEES.—A member of the board appointed by the President shall be subject to removal by the President for cause.

[(5)] *(8)* REQUIRED NUMBER OF VOTES.—[Seven] *Nine* votes shall be required to approve bond issues and the annual budget.

[(f) BOARD OF REVIEW.—

[(1) COMPOSITION.—The board of directors shall be subject to review of its actions and to requests, in accordance with this subsection, by a Board of Review of the Airports Authority.

The Board of Review shall be established by the board of directors to represent the interests of users of the Metropolitan Washington Airports and shall be composed of 9 members appointed by the board of directors as follows:

[(A) 4 individuals from a list provided by the Speaker of the House of Representatives.

[(B) 4 individuals from a list provided by the President pro tempore of the Senate.

[(C) 1 individual chosen alternately from a list provided by the Speaker of the House of Representatives and from a list provided by the President pro tempore of the Senate.

In addition to the recommendations on a list provided under this paragraph, the board of directors may request additional recommendations.]

(f) FEDERAL ADVISORY COMMISSION.—

(1) COMPOSITION.—There is established a Federal Advisory Commission of the Airports Authority which shall represent the interests of users of the Metropolitan Washington Airports and shall be composed of 9 members appointed by the Secretary of Transportation.

(2) TERMS, VACANCIES, AND QUALIFICATIONS.—

(A) TERMS.—Members of the [Board of Review] *Federal Advisory Commission* appointed under [paragraphs (1)(A) and (1)(B)] *paragraph (1)* shall be appointed for terms of 6 years. [Members of the Board of Review appointed under paragraph (1)(C) shall be appointed for terms of 2 years.] A member may serve after the expiration of that member's term until a successor has taken office.

(B) VACANCIES.—A vacancy in the [Board of Review] *Federal Advisory Commission* shall be filled in the manner in which the original appointment was made. Any member appointed to fill a vacancy occurring before the expiration of the term for which the member's predecessor was appointed shall be appointed only for the remainder of such term.

(C) QUALIFICATIONS.—Members of the [Board of Review] *Federal Advisory Commission* shall be individuals who have experience in aviation matters and in addressing the needs of airport users and who themselves are frequent users of the Metropolitan Washington Airports. A member of the [Board of Review] *Federal Advisory Commission* shall be a registered voter of a State other than Maryland, Virginia, or the District of Columbia.

(D) EFFECT OF MORE THAN 4 VACANCIES.—At any time that the [Board of Review] *Federal Advisory Commission* established under this subsection has more than 4 vacancies [and lists have been provided for appointments to fill such vacancies], the Airports Authority shall have no authority to perform any of the actions that are required by paragraph (4) to be submitted to the [Board of Review] *Federal Advisory Commission*.

(3) PROCEDURES.—The [Board of Review] *Federal Advisory Commission* shall establish procedures for conducting its business. The procedures may include requirements for a quorum

at meetings and for proxy voting and for the selection of a Chairman. The [Board] *Commission* shall meet at least once each year and shall meet at the call of the chairman or 3 members of the [Board] *Commission*. Any decision of the [Board of Review] *Federal Advisory Commission* under paragraph (4) or (5) shall be by a vote of 5 members of the [Board] *Commission*.

(4) REVIEW PROCEDURE.—

[(A) SUBMISSION REQUIRED.—An action of the Airports Authority described in subparagraph (B) shall be submitted to the Board of Review at least 30 days (or at least 60 days in the case of the annual budget) before it is to become effective.]

(A) SUBMISSION REQUIRED.—

(i) IN GENERAL.—An action of the Airports Authority described in subparagraph (B) shall be submitted to the Federal Advisory Commission, the Speaker of the House of Representatives, and the President Pro Tempore of the Senate at least 60 days before the action is to become effective.

(ii) URGENT AND COMPELLING CIRCUMSTANCES.—An action submitted to the Federal Advisory Commission and Congress in accordance with clause (i) may become effective before the expiration of the 60-day period referred to in clause (i) if the board of directors certifies, in writing, to the Secretary and Congress that urgent and compelling circumstances exist that significantly affect the interests of the traveling public and will not permit waiting for the expiration of such 60-day period.

* * * * * * *

[(C) RECOMMENDATIONS.—The Board of Review may make to the board of directors recommendations regarding an action within either (i) 30 calendar days of its submission under this paragraph; or (ii) 10 calendar days (excluding Saturdays, Sundays, and holidays, and any day on which neither House of Congress is in session because of an adjournment sine die, a recess of more than 3 days, or an adjournment of more than 3 days) of its submission under this paragraph; whichever period is longer. Such recommendations may include a recommendation that the action not take effect. If the Board of Review does not make a recommendation in the applicable review period under this subparagraph or if at any time in such review period the Board of Review decides that it will not make a recommendation on an action, the action may take effect.]

(C) RECOMMENDATIONS.—The Federal Advisory Commission may make to the board of directors and Congress recommendations regarding an action within 30 calendar days of its submission under this paragraph. Such recommendations may include a recommendation that the action not take effect.

[(D) EFFECT OF RECOMMENDATION.—

[(i) RESPONSE.—An action with respect to which the Board of Review has made a recommendation in accordance with subparagraph (C) may only take effect if the board of directors adopts such recommendation or if the board of directors has evaluated and responded, in writing, to the Board of Review with respect to such recommendation and transmits such action, evaluation, and response to Congress in accordance with clause (ii) and the 60-calendar day period described in clause (ii) expires.

[(ii) NONADOPTION OF RECOMMENDATION.—If the board of directors does not adopt a recommendation of the Board of Review regarding an action, the board of directors shall transmit to the Speaker of the House of Representatives and the President of the Senate a detailed description of the action, the recommendation of the Board of Review regarding the action, and the evaluation and response of the board of directors to such recommendation, and the action may not take effect until the expiration of 60 calendar days (excluding Saturdays, Sundays, and holidays, and any day on which neither House of Congress is in session because of an adjournment sine die, a recess of more than 3 days, or an adjournment of more than 3 days) beginning on the day on which the board of directors makes such transmission to the Speaker of the House of Representatives and the President of the Senate.]

[(E)] *(D)* LIMITATION ON EXPENDITURES.—Unless an annual budget for a fiscal year has taken effect in accordance with this paragraph, the Airports Authority may not obligate or expend any money in such fiscal year, except for (i) debt service on previously authorized obligations, and (ii) obligations and expenditures for previously authorized capital expenditures and routine operating expenses.

(E) EXPIRATION OF AUTHORITY.—

(i) IN GENERAL.—Except as provided in clause (ii), the authority of the Airports Authority to take any of the actions described in subparagraph (B) shall expire on April 30, 1997.

(ii) SPECIAL RULE.—If on any day after April 29, 1997, all of the members to be appointed to the board of directors by the President under subsection (e)(1)(D) are serving on the board, the authority of the board referred to in clause (i) shall be effective beginning on such day and shall expire on September 30, 1998.

(5) CONGRESSIONAL DISAPPROVAL PROCEDURE.—

(A) * * *

(B) RESOLUTION DEFINED.—For the purpose of this paragraph, the term "resolution" means only a joint resolution, relating to an action of the board of directors transmitted to Congress in accordance with paragraph (4)[(D)(ii)], the matter after the resolving clause of which is as follows: "That the Congress disapproves of the action of the board of directors of the Metropolitan Washington Airports Au-

thority described as follows: .", the blank space therein being appropriately filled. Such term does not include a resolution which specifies more than one action.

(C) REFERRAL.—A resolution with respect to a board of director's action shall be referred to the Committee on [Public Works and Transportation] *Transportation and Infrastructure* of the House of Representatives, or the Committee on [Commerce, Science and Technology] *Commerce, Science, and Transportation* of the Senate, by the Speaker of the House of Representatives or the President of the Senate, as the case may be.

[(D) MOTION TO DISCHARGE.—If the committee to which a resolution has been referred has not reported it at the end of 20 calendar days after its introduction, it is in order to move to discharge the committee from further consideration of that joint resolution or any other resolution with respect to the board of directors action which has been referred to the committee.

[(E) RULES WITH RESPECT TO MOTION.—A motion to discharge may be made only by an individual favoring the resolution, is highly privileged (except that it may not be made after the committee has reported a resolution with respect to the same action), and debate thereon shall be limited to not more than 1 hour, to be divided equally between those favoring and those opposing the resolution. An amendment to the motion is not in order, and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to. Motions to postpone shall be decided without debate.

[(F) EFFECT OF MOTION.—If the motion to discharge is agreed to or disagreed to, the motion may not be renewed, nor may another motion to discharge the committee be made with respect to any other resolution with respect to the same action.]

(D) HOUSE PROCEDURE.—When the Committee of the House has reported a resolution, it is in order at any time on or after the third day on which the report on the resolution has been available to Members pursuant to clause 2(l)(6) of House Rule XI, for the chairman of the committee or a designee to move to proceed to the consideration in the House of the resolution. The motion is highly privileged, and is not subject to debate or to intervening motion or otherwise subject to points of order, nor shall it be in order to move to reconsider the vote by which the motion is agreed to or not agreed to. If the motion is agreed to, the resolution shall be considered in the House and debatable for not to exceed 2 hours to be equally divided and controlled by the chairman and the ranking minority member of the committee. The previous question shall be considered as ordered on the resolution to final passage without intervening motion. A motion to reconsider the vote on passage of the resolution shall not be in order.

[(G)] *(E)* SENATE PROCEDURE.—

(i) * * *

* * * * * * *

[(H)] *(F)* EFFECT OF ADOPTION OF RESOLUTION BY OTHER HOUSE.—If, before the passage by 1 House of a joint resolution of that House, that House receives from the other House a joint resolution, then the following procedures shall apply:

(i) * * *

* * * * * * *

[(6) REQUEST FOR CONSIDERATION OF OTHER MATTERS.—The Board of Review may request the Airports Authority to consider and vote, or to report, on any matter related to the Metropolitan Washington Airports. Upon receipt of such a request the Airports Authority shall consider and vote, or report, on the matter as promptly as feasible.

[(7) PARTICIPATION IN MEETINGS OF AIRPORTS AUTHORITY.—Members of the Board of Review may participate as nonvoting members in meetings of the board of the Airports Authority.]

[(8)] *(6)* STAFF.—The [Board of Review] *Federal Advisory Commission* may hire two staff persons to be paid by the Airports Authority. The Airports Authority shall provide such clerical and support staff as the [Board] *Commission* may require.

[(9)] *(7)* LIABILITY.—A member of the [Board of Review] *Federal Advisory Commission* shall not be liable in connection with any claim, action, suit, or proceeding arising from service on the [Board] *Commission*.

[(10)] *(8)* CONFLICTS OF INTEREST.—In every contract or agreement to be made or entered into, or accepted by or on behalf of the Airports Authority, there shall be inserted an express condition that no member of a [Board of Review] *Federal Advisory Commission* shall be admitted to any share or part of such contract or agreement, or to any benefit to arise thereupon.

[(11)] *(9)* REMOVAL.—A member of the [Board of Review] *Federal Advisory Commission* shall be subject to removal only for cause [by a two-thirds vote of the board of directors] *by the Secretary of Transportation*.

* * * * * * *

[(h) LIMITATION ON AUTHORITY.—If the Board of Review established under subsection (f) is unable to carry out its functions under this title by reason of a judicial order, the Airports Authority thereafter shall have no authority to perform any of the actions that are required by paragraph (f)(4) to be submitted to the Board of Review.]

[(i)] *(h)* REVIEW OF CONTRACTING PROCEDURES.—The Comptroller General shall review contracts of the Airports Authority to determine whether such contracts were awarded by procedures which follow sound Government contracting principles and are in compliance with section 6005(c)(4) of this title. The Comptroller General shall submit periodic reports of the conclusions reached as a result of such review to the Committee on Public Works and Transpor-

tation of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.

(i) FEDERAL ADVISORY COMMITTEE ACT.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Federal Advisory Commission.

* * * * * * *

SEC. 6009. RELATIONSHIP TO AND EFFECT OF OTHER LAWS.

(a) * * *

(b) INAPPLICABILITY OF CERTAIN LAWS.—The Metropolitan Washington Airports and the Airports Authority shall not be subject to the requirements of any law solely by reason of the retention by the United States of fee simple title to such airports or by reason of the authority of the [Board of Review] *Federal Advisory Commission* under subsection 6007(f).

* * * * * * *

(e) OPERATION LIMITATIONS.—

(1) HIGH DENSITY RULE.—[The Administrator] *Except as provided by section 41714 of title 49, United States Code, the Administrator* may not increase the number of instrument flight rule takeoffs and landings authorized for air carriers by the High Density Rule (14 C.F.R. 93.121 et seq.) at Washington National Airport on the date of the enactment of this title and may not decrease the number of such takeoffs and landings except for reasons of safety.

* * * * * * *

SEC. 6011. SEPARABILITY.

[Except as provided in section 6007(h), if] *If* any provision of this title or the application thereof to any person or circumstance, is held invalid, the remainder of this title and the application of such provision to other persons or circumstances shall not be affected thereby.

* * * * * * *

SEC. 6013. USE OF DULLES ACCESS HIGHWAY.

(a) RESTRICTIONS.—The Airports Authority shall continue in effect and enforce paragraphs (1) and (2) of section 4.2 of the Metropolitan Washington Airports Regulations, as in effect on February 1, 1995.

(b) ENFORCEMENT.—The district courts of the United States shall have jurisdiction to compel the Airports Authority and its officers and employees to comply with the requirements of this section. An action may be brought on behalf of the United States by the Attorney General, or by any aggrieved party.

INTERNAL REVENUE CODE OF 1986

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Subtitle D—Miscellaneous Excise Taxes

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CHAPTER 31—RETAIL EXCISE TAXES

* * * * * * *

Subchapter B—Special Fuels

* * * * * * *

SEC. 4041. IMPOSITION OF TAX

(a) * * *

* * * * * * *

(c) NONCOMMERCIAL AVIATION.—

(1) * * *

* * * * * * *

(5) TERMINATION.—The taxes imposed by paragraphs (1) and (2) shall apply during the period beginning on September 1, 1982, and ending on December 31, 1995*, and during the period beginning on the date which is 30 days after the date of the enactment of the Federal Aviation Authorization Act of 1996 and ending on December 31, 1999*. The termination under the preceding sentence shall not apply to so much of the tax imposed by paragraph (1) as does not exceed 4.3 cents per gallon.

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CHAPTER 32—MANUFACTURERS EXCISE TAXES

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Subchapter A—Automotive and Related Items

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PART III—PETROLEUM PRODUCTS

* * * * * * *

Subpart A—Gasoline and Diesel Fuel

* * * * * * *

SEC. 4081. IMPOSITION OF TAX

(a) * * *

* * * * * * *

(d) TERMINATION.—

(1) IN GENERAL.—On and after October 1, 1999, each rate of tax specified in subsection (a)(2)(A) *(other than the tax on aviation gasoline)* shall be 4.3 cents per gallon.

(2) LEAKING UNDERGROUND STORAGE TANK TRUST FUND FINANCING RATE.—The Leaking Underground Storage Tank Trust Fund financing rate under subsection (a)(2) shall not apply after December 31, 1995.

(3) AVIATION GASOLINE.—After December 31, 1999, the rate of tax specified in subsection (a)(2)(A)(i) on aviation gasoline shall be 4.3 cents per gallon.

* * * * * * *

Subpart B—Aviation Fuel

* * * * * * *

SEC. 4091. IMPOSITION OF TAX

(a) * * *

(b) RATE OF TAX.—

(1) * * *

* * * * * * *

(3) TERMINATION.—

[(A) On and after January 1, 1996, the rate of tax specified in paragraph (1) shall be 4.3 cents per gallon.]

(A) The rate of tax specified in paragraph (1) shall be 4.3 cents per gallon—

(i) after December 31, 1995, and before the date which is 30 days after the date of the enactment of the Federal Aviation Authorization Act of 1996, and

(ii) after December 31, 1999.

* * * * * * *

SEC. 4092. EXEMPTIONS

(a) * * *

(b) NO EXEMPTION FROM CERTAIN TAXES ON FUEL USED IN COMMERCIAL AVIATION.—In the case of fuel sold for use in commercial aviation (other than supplies for vessels or aircraft within the meaning of section 4221(d)(3)), subsection (a) shall not apply to so much of the tax imposed by section 4091 as is attributable to—

(1) the Leaking Underground Storage Tank Trust Fund financing rate imposed by such section, and

[(2) in the case of fuel sold after September 30, 1995, 4.3 cents per gallon of the rate specified in section 4091(b)(1).]

(2) 4.3 cents per gallon of the rate specified in section 4091(b)(1) in the case of fuel sold—

(A) after September 30, 1995, and before the date which is 30 days after the date of the enactment of the Federal Aviation Authorization Act of 1996, and

(B) after December 31, 1999.

For purposes of the preceding sentence, the term "commercial aviation" means any use of an aircraft other than in noncommercial aviation (as defined in section 4041(c)(4)).

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CHAPTER 33—FACILITIES AND SERVICES

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Subchapter C—Transportation By Air

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PART I—PERSONS

* * * * * * *

SEC. 4261. IMPOSITION OF TAX

(a) * * *

* * * * * * *

(g) TERMINATION.—The taxes imposed by this section shall apply with respect to transportation beginning after August 31, 1982, and before [January 1, 1996] *January 1, 1996, and to transportation beginning on or after the date which is 30 days after the date of the enactment of the Federal Aviation Authorization Act of 1996 and before January 1, 2000.*

* * * * * * *

PART II—PROPERTY

* * * * * * *

SEC. 4271. IMPOSITION OF TAX

(a) * * *

* * * * * * *

(d) TERMINATION.—The tax imposed by subsection (a) shall apply with respect to transportation beginning after August 31, 1982, and before [January 1, 1996] *January 1, 1996, and to transportation beginning on or after the date which is 30 days after the date of the enactment of the Federal Aviation Authorization Act of 1996 and before January 1, 2000.*

* * * * * * *

PART III—SPECIAL PROVISIONS APPLICABLE TO TAXES ON TRANSPORTATION BY AIR

Sec. 4281 Small aircraft on nonestablished lines.

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Sec. 4283. Reduction in aviation ticket tax in certain cases.

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SEC. 4283. REDUCTION IN AVIATION TICKET TAX IN CERTAIN CASES.

(a) GENERAL RULE.—For each fiscal year, the Secretary shall—

(1) determine whether such fiscal year was a funding shortfall year, and

(2) in such a case, prescribe a tax rate which shall apply under section 4261(a) to amounts paid during the first calendar year beginning after the close of such fiscal year.

(b) FUNDING SHORTFALL YEAR.—For purposes of this section—

(1) IN GENERAL.—The term "funding shortfall year" means any fiscal year for which there is a funding shortfall.

(2) FUNDING SHORTFALL.—The term "funding shortfall" means, with respect to any fiscal year, the amount by which—

(A) the aggregate amounts authorized to be obligated under such section 48103 for the fiscal year, exceeds

(B) the aggregate amounts available for obligation under section 48103 of title 49, United States Code for the fiscal year.

(3) SPECIAL RULES.—

(A) TREATMENT OF PRIOR YEAR AMOUNTS.—For purposes of paragraph (2)(A), an amount shall be treated as authorized only for the first fiscal year for which it is authorized.

(B) TREATMENT OF SEQUESTERED AMOUNTS.—The determination under paragraph (2) shall not take into account the sequestration of any amount described therein pursuant to an order under part C of title II of the Balanced Budget and Emergency Deficit Control Act of 1985 (or any successor law).

(C) TREATMENT OF RESCISSIONS.—The determination under paragraph (2)(A) shall not take into account the rescission of any amount authorized to obligated under section 48103 of title 49, United States Code for a fiscal year.

(c) DETERMINATION OF TAX RATE.—The rate prescribed by the Secretary under subsection (a) which shall apply in lieu of the rate otherwise applicable under section 4261(a) for any calendar year shall be the rate which the Secretary estimates will result in a reduction in tax revenues equal to the funding shortfall for the most recent fiscal year ending before such calendar year.

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Subtitle F—Procedure and Administration

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CHAPTER 65—ABATEMENTS, CREDITS, AND REFUNDS

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Subchapter B—Rules of Special Application

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SEC. 6421. GASOLINE USED FOR CERTAIN NONHIGHWAY PURPOSES, USED BY LOCAL TRANSIT SYSTEMS, OR SOLD FOR CERTAIN EXEMPT PURPOSES

(a) * * *

* * * * * * *

(f) EXEMPT SALES; OTHER PAYMENTS OR REFUNDS AVAILABLE.—

(1) * * *

* * * * * * *

(2) GASOLINE USED IN AVIATION.—This section shall not apply in respect of gasoline which is used as a fuel in an aircraft—

(A) in noncommercial aviation (as defined in section 4041(c)(4)), or

[(B) in aviation which is not noncommercial aviation (as so defined) with respect to the tax imposed by section 4081 at the Leaking Underground Storage Tank Trust Fund financing rate and, in the case of fuel purchased after September 30, 1995, at so much of the rate specified in section 4081(a)(2)(A) as does not exceed 4.3 cents per gallon.]

(B) in aviation which is not noncommercial aviation (as so defined) with respect to the tax imposed by section 4081 at—

(i) the Leaking Underground Storage Tank Trust Fund financing rate, and

(ii) so much of the rate specified in section 4081(a)(2)(A) as does not exceed 4.3 cents per gallon in the case of fuel purchased—

(I) after September 30, 1995, and before the date which is 30 days after the date of the enactment of the Federal Aviation Authorization Act of 1996, and

(II) after December 31, 1999.

SEC. 6427. FUELS NOT USED FOR TAXABLE PURPOSES

(a) * * *

* * * * * * *

(l) NONTAXABLE USES OF DIESEL FUEL AND AVIATION FUEL.—

(1) * * *

* * * * * * *

(4) NO REFUND OF CERTAIN TAXES ON FUEL USED IN COMMERCIAL AVIATION.—In the case of fuel used in commercial aviation (as defined in section 4092(b)) (other than supplies for vessels or aircraft within the meaning of section 4221(d)(3)), paragraph (1) shall not apply to so much of the tax imposed by section 4091 as is attributable to—

(A) the Leaking Underground Storage Tank Trust Fund financing rate imposed by such section, and

[(B) in the case of fuel purchased after September 30, 1995, as so much of the rate of tax specified in section 4091(b)(1) as does not exceed 4.3 cents per gallon.]

(B) so much of the rate specified in section 4091(b)(1) as does not exceed 4.3 cents per gallon in the case of fuel purchased—

(i) after September 30, 1995, and before the date which is 30 days after the date of the enactment of the Federal Aviation Authorization Act of 1996, and

(ii) after December 31, 1999.

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Subtitle I—Trust Fund Code

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CHAPTER 98—TRUST FUND CODE

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Subchapter A—Establishment of Trust Funds

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SEC. 9502. AIRPORT AND AIRWAY TRUST FUND

(a) * * *

(b) TRANSFER TO AIRPORT AND AIRWAY TRUST FUND OF AMOUNTS EQUIVALENT TO CERTAIN TAXES.—There is hereby appropriated to the Airport and Airway Trust Fund—

(1) amounts equivalent to the taxes received in the Treasury after August 31, 1982, and before [January 1, 1996] *January 1, 2000*, under subsections (c) and (e) of section 4041 (taxes on aviation fuel) and under sections 4261 and 4271 (taxes on transportation by air);

(2) amounts determined by the Secretary of the Treasury to be equivalent to the taxes received in the Treasury after August 31, 1982, and before [January 1, 1996] *January 1, 2000*, under section 4081 (to the extent of 14 cents per gallon), with respect to gasoline used in aircraft;

(3) amounts determined by the Secretary to be equivalent to the taxes received in the Treasury before [January 1, 1996] *January 1, 2000*, under section 4091 (to the extent attributable to the Airport and Airway Trust Fund financing rate); and

(4) amounts determined by the Secretary of the Treasury to be equivalent to the taxes received in the Treasury after August 31, 1982, and before [January 1, 1996] *January 1, 2000*, under section 4071, with respect to tires of the types used on aircraft.

* * * * * * *

(d) EXPENDITURES FROM AIRPORT AND AIRWAY TRUST FUND.—

(1) AIRPORT AND AIRWAY PROGRAM.—Amounts in the Airport and Airway Trust Fund shall be available, as provided by appropriation Acts, for making expenditures before [October 1, 1996] *October 1, 1999*, to meet those obligations of the United States—

(A) incurred under title I of the Airport and Airway Development Act of 1970 or of the Airport and Airway Development Act Amendments of 1976 or of the Aviation Safety and Noise Abatement Act of 1979 or under the Fiscal Year 1981 Airport Development Authorization Act or the provisions of the Airport and Airway Improvement Act of 1982 or the Airport and Airway Safety and Capacity Expansion Act of 1987 or the Airport and Airway Safety, Capacity, Noise Improvement, and Intermodal Transportation Act of 1992 or the Federal Aviation Administration Research, Engineering, and Development Authorization Act of 1990 or the Aviation Safety and Capacity Expansion Act of 1990 or the Airport Improvement Program Temporary Extension Act of 1994 or the Federal Aviation Administration Au-

thorization Act of 1994 *or the Federal Aviation Authorization Act of 1996*;

* * * * * * *

(5) TRANSFERS FROM AIRPORT AND AIRWAY TRUST FUND ON ACCOUNT OF REFUNDS OF TAXES ON TRANSPORTATION BY AIR.—The Secretary of the Treasury shall pay from time to time from the Airport and Airway Trust Fund into the general fund of the Treasury amounts equivalent to the amounts paid after December 31, 1995, under section 6402 (relating to authority to make credits or refunds) or section 6415 (relating to credits or refunds to persons who collected certain taxes) in respect of taxes under sections 4261 and 4271.

* * * * * * *

(f) DEFINITION OF AIRPORT AND AIRWAY TRUST FUND FINANCING RATE.—For purposes of this section—

(1) * * *

* * * * * * *

[(3) TERMINATION.—Notwithstanding the preceding provisions of this subsection, the Airport and Airway Trust Fund financing rate is zero with respect to tax received after December 31, 1995.]

(3) TERMINATION.—Notwithstanding the preceding provisions of this subsection, the Airport and Airway Trust Fund financing rate shall be zero with respect to—

(A) taxes imposed after December 31, 1995, and before the date which is 30 days after the date of the enactment of the Federal Aviation Authorization Act of 1996, and

(B) taxes received after December 31, 1999.

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