



THE SECRETARY OF TRANSPORTATION
WASHINGTON, D.C. 20590

March 25, 2003

The Honorable Dick Cheney
President
United States Senate
Washington, DC 20510

Dear Mr. President:

Enclosed for the consideration of Congress and referral to the appropriate committees is a bill --

To amend title 49, United States Code, to authorize appropriations for the Federal Aviation Administration for fiscal years 2004, 2005, 2006 and 2007 and for other purposes.

The enclosed bill sets the course for continuing investment for the next four fiscal years in safety, air traffic control modernization and operations, airport capacity improvements, and environmental stewardship. The main themes of the authorization proposal are--

- Increase safety and improve capacity at airports and in the National Airspace System (NAS) through continued infrastructure funding.
- Build on the President's executive order on environmental streamlining by proposing several new environmental initiatives.
- Contribute to restoring viability to a system and an industry that has been severely disrupted by economic recession and the terrorist threat.

Through new advanced technologies, greater efficiencies, and sensible regulatory schemes, our ultimate objective is to create an even safer and stronger aviation system than we now enjoy and which is already a model for the rest of the world.

In addition to the provisions of the enclosed bill, the Administration believes it is important to sustain and improve the vitality of airline competition and access to air transportation to benefit air travelers and shippers. We look forward to further discussions with Congress on these topics.

Investing in the Aviation System

Consistent with our desire to restore the viability of the air transportation system, the U.S. Department of Transportation (DOT) does not propose to increase user fees or excise taxes on airlines, travelers, or shippers beyond the levels already established in the Taxpayer Relief Act of 1997. Nor do we think that passenger facility charges should be increased beyond the Wendell H. Ford Aviation Investment and Reform Act for the 21st Century (AIR-21) maximum levels. Under AIR-21, the annual authorized levels for the Airport Improvement Program (AIP) increased substantially from \$1.9 billion to \$3.4 billion and Facilities and Equipment funding increased from \$2 billion to \$2.7 billion.

The Department proposes to maintain this significant level of AIP investment of \$3.4 billion over the entire term of the reauthorization. This funding level will support the major airport capacity projects that provide the greatest benefits to the NAS as well as assistance to medium and small airports. DOT also proposes funding for Facilities and Equipment at the level of \$2.916 billion in FY 2004, to continue to update the NAS infrastructure, expand air traffic control automation and communication tools, and implement needed operational capability and risk-mitigating precision landing navigation.

With regard to the Federal Aviation Administration's (FAA) Operations Account, our proposed \$7.591 billion in FY 2004 represents a seven percent increase over the FY 2003 budget request. It will support implementation of the FAA's Operational Evolution Plan and efforts to accelerate airspace redesign, sector reconfiguration, and chokepoint solutions. These efforts will improve aviation system efficiency and reduce flight delays. This funding increase also will enable the FAA to address future staffing requirements for the air traffic controller and safety inspector work forces. Additional controller staffing will be required to meet increased capacity demands and to replace retiring controllers, a significant percentage of which will be eligible for retirement during the reauthorization period. Because the FAA requires three years to hire and train a controller to the journeyman level, the Administration will require significant numbers of new staff each year to meet future needs.

The proposed level for Research, Engineering and Development, at \$100 million in FY 2004, represents a decrease from current levels as a result of the transfer of security technology activities to the Transportation Security Administration. It also reflects our intention to increase the emphasis on safety in the FAA's research program.

One of the fundamental principles of the Administration's aviation reauthorization proposal is a commitment to ensure all Airport and Airway Trust Fund income is spent on improving our Nation's aviation system. The Administration's FY 2004 aviation budget and reauthorization proposals are built on this principle.

In Section 106 of the Wendell H. Ford Aviation Investment and Reform Act for the 21st Century (AIR-21), Congress imposed floor procedures in both the House of

Representatives and the Senate to enforce total Airport and Airway Trust Fund spending levels, as well as levels authorized for aviation capital programs.

While the President's FY 2004 budget and aviation reauthorization proposals would be fully compliant with these House and Senate floor procedures, the Administration does not typically comment or take a position on rules that apply to such Congressional points of order. Therefore, the Administration's proposal is silent on the reauthorization of Section 106 of AIR-21. However, I want to reiterate strong support of the fundamental principle of ensuring all Airport and Airway Trust Fund income is spent on investments in our Nation's aviation system in a manner consistent with the President's FY 2004 budget submission.

Restructuring the Airport Improvement Program

This legislation proposes a restructuring of AIP formulas and set-asides to allow more funds to be targeted to those airports with greatest need and dependence on Federal assistance. The proposed restructuring would transfer more than \$87 million in FY 2004 funds from large to small airports, raising small airports' share from approximately 63 percent to over 66 percent of total AIP grants. This proposal also increases the amount of discretionary funding from 34 percent to 46 percent of the AIP program, allowing FAA to target those projects that serve national objectives and achieve the greatest system benefits, regardless of airport size. In addition, this bill simplifies the grant formulas and eliminates unnecessary or outdated set-asides, while continuing the set-aside for noise-related projects.

We propose to improve the Passenger Facility Charge (PFC) process by eliminating the requirement that airports publish a Federal Register notice requesting public comment as part of all PFC applications. A review of the current process reveals that comments obtained from the public notices repeat information available from prior consultation with airlines; hence, no new issues are disclosed while airport projects are unnecessarily delayed. Finally, we propose that a pilot program be instituted that reduces Federal involvement in PFC applications for non-hub airports.

In order to continue to assist smaller airports with certain airport security costs, our bill reinstates non-hub airports' ability to use their passenger or cargo AIP apportionments on security-related operations that are required by law or regulation (capital requirements are already eligible). Congress had authorized such assistance for all airports as a temporary, one-year eligibility after September 11, 2001, but given its benefits to small airports this provision should be extended.

The bill also continues the FAA's successful innovative financing program. Because most of the pilot projects have involved flexible non-Federal matching requirements, the bill would make such flexibility a standard feature of AIP. With regard to the current airport privatization pilot program, the bill would modify the program to make participation in the program more attractive to local governments without

undermining the protections afforded to airport stakeholders on the use of airport revenue and reasonable airport charges.

War Risk Insurance Program

Current authority for provision of aviation insurance by the Department of Transportation expires at the end of 2003. The bill would repeal the periodic renewal requirement in part, thereby providing continuing authority for provision of aviation insurance necessary for the implementation of foreign policy of the United States, in support of United States agencies such as the Department of Defense. This sustains the initial purposes of the chapter 443 insurance program. A new termination date would be established for the domestic portion of the program.

Improving Environmental Stewardship

The continuing ability of the NAS to meet the Nation's air transportation demand is directly related to success in mitigating the adverse environmental effects of aviation and in streamlining environmental reviews. We propose noise and air quality initiatives to reduce the most significant aviation impacts while ensuring that the system has sufficient capacity to meet future demands. For example, we propose to make more flexible use of the AIP noise set-aside to accelerate research designed to reduce aircraft noise and emissions. We would also fund noise mitigation efforts to lessen the impacts of airport expansion and fund grants to State and local governments to make land uses adjacent to large- and medium-sized airports more compatible with airport operations. In addition, we propose to strengthen State and local noise disclosure efforts by requiring Federal lenders to inform prospective homebuyers of properties within airport noise contours.

The bill would establish voluntary programs to reduce airport emissions by converting airport infrastructure, airport vehicles, and airport-owned ground-support equipment to new low-emission technologies. The AIP noise set-aside would be broadened to fund airport infrastructure and vehicles, and PFCs could be used to fund low-emission technology for ground support equipment not owned by the airport. We propose a pilot program to determine whether retrofitting airport ground-support equipment for cleaner conventional fuels (gasoline or diesel) would produce net benefits comparable to alternative fuels. AIP and PFC funding would become contingent on the provision of emission credits to airports, consistent with national guidelines established in consultation with the Environmental Protection Agency. Credits could be used to offset emissions of future airport expansion.

The bill proposes changes to reduce undue delays in the environmental review of aviation safety and congestion projects while continuing to exercise environmental stewardship. These proposals are consistent with and build on the President's Executive Order on Environmental Stewardship and Transportation Infrastructure Project Reviews, the Department's May 2001 Report to Congress on the Environmental Review of Airport Improvement Projects, and congressional and aviation industry streamlining proposals.

The bill would allow the FAA to designate aviation safety projects for priority environmental review and would direct other Federal agencies to give substantial deference to the Secretary's definition of the purpose and need for an aviation safety or aviation congestion project. The bill would also establish a coordinated agency review process for projects designated by the Secretary, including provisions for an interagency environmental impact statement team and substantial deference to the Administrator's aviation expertise regarding reasonable project alternatives, relevant aviation factors such as airport congestion, and methods for calculating aviation noise and emissions.

In addition, to reduce duplication, the proposal would eliminate the Governor's air and water quality certification, which is duplicative of protections in the Clean Air Act and Clean Water Act. Finally, the bill would clarify Air Tour Management Act language to ensure that it addresses only commercial air tours over national parks.

Reforming the Essential Air Service Program

The Department's FY 2004 budget proposes major revisions to the Essential Air Service (EAS) Program in order to administer the program more efficiently and add flexibility to better tailor the service to the needs of specific communities. With the proposed reforms, the Department would be able to ensure that the small communities that need it the most maintain access to the national air transportation system. This bill proposes to make the changes in title 49 as of October 1, 2004.

Communities' eligibility for inclusion in the EAS program has never been based on individual needs, but rather on whether the community was receiving scheduled air service on October 24, 1978. The Department's proposal provides for appropriate air or ground service to access the national air transportation system for the most isolated communities. In order to encourage community participation and support of its subsidized service, the proposal requires communities to contribute either 10 or 25 percent of the total subsidy required depending on their degree of isolation.

Under this proposal, for the first time communities would be stakeholders in their air service and have a vested interest in its success. The modest contribution requirement will energize civic officials and business leaders at the local and state levels to work with both the carrier and the community, and communities will now have the flexibility and incentive to secure service that is more tailored to their needs. For example, communities would have the option of funding ground transportation links, charter flights and air taxis instead of scheduled airline service, or regionalized service where several communities could be served through one airport but with larger aircraft or more frequent flights.

Strengthening Federal Aviation Administration Management

The FAA has developed a blueprint and has begun transforming its air traffic control organization into a performance-based Air Traffic Organization. This is considered vital for accommodating future growth in air traffic control. In order to support that effort, we propose a number of reforms to the FAA's structure and governance. This bill would:

- Modify the structure and membership of the Air Traffic Services subcommittee of the Management Advisory Council by creating a stand-alone Air Traffic Organization Board separate from the Council, and add the FAA Administrator as member and Chairperson of the Air Traffic Organization Board to provide leadership;
- Modify the authority of the Air Traffic Organization Board by revising its approval authority and involvement in the Air Traffic Organization's budget without usurping Executive Branch authority;
- Enable the Secretary of Transportation to nominate members of the Management Advisory Council by eliminating the requirement that the Council positions be filled by Presidential nomination; and
- Clarify the authority of the Chief Operating Officer to align it with the typical responsibilities of a Chief Operating Officer, rather than a Chief Executive Officer, to help resolve recruiting issues.

Finally, we propose that the Deputy Administrator of the FAA be appointed by the Secretary with the approval of the President, thus removing the requirement for Senate confirmation. The FAA Deputy Administrator is currently the only deputy of a DOT operating administration who must be confirmed by the Senate. This change would provide uniformity among modal deputies within the Department.

The Office of Management and Budget advises that enactment of the proposed legislation would be consistent with the President's program.

Sincerely yours,



Norman Y. Mineta

Enclosures

A BILL

To amend title 49, United States Code, to authorize appropriations for the Federal Aviation Administration for fiscal years 2004, 2005, 2006 and 2007 and for other purposes.

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

SEC. 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.--This Act may be cited as the "Centennial of Flight Aviation Authorization Act".

(b) TABLE OF CONTENTS.--

Sec. 1. Short title; table of contents.

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

Sec. 3. Effective date.

TITLE I--AUTHORIZATIONS

Sec. 101. Federal Aviation Administration operations.

Sec. 102. Air navigation facilities and equipment.

Sec. 103. Research, engineering and development.

Sec. 104. Airport planning and development and noise compatibility planning and programs.

TITLE II--AMENDMENTS TO AVIATION LAW

Sec. 201. Clarification of FAA authority with respect to phase-out of slot rules.

Sec. 202. Clarifications to procurement authority.

Sec. 203. Program to permit cost-sharing of air traffic modernization projects.

Sec. 204. Counterfeit or fraudulently represented parts violations.

Sec. 205. Civil penalties.

Sec. 206. Improvement of aviation information collection.

Title III--AIRPORT IMPROVEMENT PROGRAM AMENDMENTS

- Sec. 301. Security costs at small airports; amendments to definitions.
- Sec. 302. Funding Flexibility for nonprimary airport apportionments.
- Sec. 303. Intermodal Planning.
- Sec. 304. Airport privatization pilot program.
- Sec. 305. Military Airport Program amendments.
- Sec. 306. Innovative finance.
- Sec. 307. Apportionments.
- Sec. 308. Discretionary fund.
- Sec. 309. Considerations in making discretionary grants.
- Sec. 310. Special categories.
- Sec. 311. Competition plans.
- Sec. 312. Streamlining of the Passenger Facility Fee Program.
- Sec. 313. Miscellaneous amendments.

TITLE IV--ENVIRONMENTAL PROVISIONS

- Sec. 401. Environmental review.
- Sec. 402. Governor's certificate.
- Sec. 403. Low-emission airport vehicles and infrastructure.
- Sec. 404. Low-emission airport vehicles and ground support equipment.
- Sec. 405. Air Tour Management Act clarification.
- Sec. 406. Judicial review.
- Sec. 407. Noise disclosure requirements.
- Sec. 408. Compatible land use planning and projects by State and local governments.

TITLE V-- STRUCTURAL REFORM

- Sec. 501. Deputy Administrator.
- Sec. 502. Management Advisory Committee Members.
- Sec. 503. Reorganization of the Air Traffic Services Subcommittee.
- Sec. 504. Clarification of the Responsibilities of the Chief Operating Officer.

TITLE VI--AVIATION INSURANCE

Sec. 601. Ending effective date.

TITLE VII—SMALL COMMUNITY TRANSPORTATION SERVICE

Sec. 701. Improvements To Small Community Transportation Service

TITLE VIII--INTERNAL REVENUE CODE AMENDMENTS

Sec 801. Extension of expenditure authority.

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

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

SEC. 3. EFFECTIVE DATE.

Except as otherwise expressly provided, this Act and the amendments made by this Act shall be effective on the date of enactment.

Title I--AUTHORIZATIONS

SEC. 101. FEDERAL AVIATION ADMINISTRATION OPERATIONS.

(a) IN GENERAL.--(1) Section 106(k) is amended to read as follows:

"(k) AUTHORIZATION OF APPROPRIATIONS FOR SALARIES, OPERATIONS AND MAINTENANCE. There is authorized to be appropriated to the Secretary of Transportation for salaries, operations and maintenance of the Administration--

"(1) \$7,591,000,000 for fiscal year 2004;

"(2) \$7,732,000,000 for fiscal year 2005;

"(3) \$7,889,000,000 for fiscal year 2006; and

"(4) \$8,064,000,000 for fiscal year 2007.

“(2) TRUST FUND CONTRIBUTION.—(1) The contribution from the Airport and Airway Trust Fund to the salaries, operations and maintenance account of the Administration shall be \$6,000,000,000 in fiscal year 2004, \$6,112,000,000 in fiscal year 2005, \$6,236,000,000 in 2006, and \$6,374,000,000 in fiscal year 2007.”.

(b) AIRLINE DATA AND ANALYSIS.--There is authorized to be appropriated to the Secretary of Transportation out of the Airport and Airway Trust Fund established by section 9502 of the Internal Revenue Code of 1986 (26 U.S.C. 9502), \$3,971,000 for fiscal year 2004, \$4,045,000 for fiscal year 2005, \$4,127,000 for fiscal year 2006 and \$4,219,000 for fiscal year 2007 to fund airline data and analysis in the Bureau of Transportation Statistics of the Department of Transportation.

SEC. 102. AIR NAVIGATION FACILITIES AND EQUIPMENT.

Section 48101 is amended--

(1) in subsection (a), by striking paragraphs (1) through (5) and inserting the following:

"(1) \$2,916,000,000 for fiscal year 2004;

"(2) \$2,971,000,000 for fiscal year 2005;

"(3) \$3,031,000,000 for fiscal year 2006; and

"(4) \$3,098,000,000 for fiscal year 2007.”;

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

(3) in subsection (c), as redesignated,

(i) by striking "for fiscal years beginning after September 30, 2000"; and

(ii) by inserting “may be appropriated” after “necessary”; and

(4) by adding the following new subsection at the end:

"(e) AVIATION RESEARCH.--The Administrator may use funds authorized by subsection (a) of this section to provide funds to

educational and other research institutions by grant, cooperative agreement, contract or other transaction agreement for research and development activities for improving air transportation and experimental facilities and equipment by means of systematic studies to determine the means by which a recognized and specific need may be met, and for the systematic application of such knowledge toward the production of useful materials, devices, systems or methods, including the design, development and improvement of prototypes."

SEC. 103. RESEARCH, ENGINEERING AND DEVELOPMENT.

Section 48102 is amended—

- (1) in subsection (a), by striking paragraphs (1) through (8) and inserting:
 - "(1) for fiscal year 2004, \$100,000,000;
 - "(2) for fiscal year 2005, \$102,000,000;
 - "(3) for fiscal year 2006, \$104,000,000; and
 - "(4) for fiscal year 2007, \$107,000,000.";
- (2) by redesignating subsection (h) as subsection (g).

SEC. 104. AIRPORT PLANNING AND DEVELOPMENT AND NOISE COMPATIBILITY PLANNING AND PROGRAMS.

(a) AUTHORIZATION.-- Section 48103 is amended--

- (1) by striking "September 30, 1998" and inserting "September 30, 2003"; and
- (2) by striking subparagraphs (1) through (5) and inserting:
 - "(1) \$3,400,000,000 for fiscal year 2004;
 - "(2) \$3,400,000,000 for fiscal year 2005;
 - "(3) \$3,400,000,000 for fiscal year 2006; and
 - "(4) \$3,400,000,000 for fiscal year 2007."

(b) OBLIGATIONAL AUTHORITY.--Section 47104(c) is amended by striking "September 30, 2003" and inserting "September 30, 2007".

TITLE II--AMENDMENTS TO AVIATION LAW

SEC. 201. CLARIFICATION OF FAA AUTHORITY WITH RESPECT TO PHASE-OUT OF SLOT RULES.

Section 41715(b)(1) is amended by striking “movement of aircraft” and inserting “efficient use of airspace”.

SEC. 202. CLARIFICATIONS TO PROCUREMENT AUTHORITY.

(a) UPDATE AND CLARIFICATION OF AUTHORITY.--Section 40110 is amended--

(1) in subparagraph (c) by--

(A) striking “Administration—“ and inserting “Administration may—“;

(B) striking paragraph (1);

(C) striking "(2) may-";

(D) striking subparagraphs (2)(C), (2)(D), and (2)(E) in their entirety; and

(E) redesignating subparagraphs (2)(A), (2)(B) and (2)(F) as subparagraphs (c)(1), (2) and (3), respectively.

(2) in subparagraph (d)(1) by--

(A) striking "implement, not later than January 1, 1996," and inserting "implement"; and

(B) striking "provides for more timely and cost-effective acquisitions of equipment and materials." and inserting the following:

"provides for--

"(A) more timely and cost-effective acquisitions of equipment, services, property, and materials; and

"(B) the resolution of bid protests and contract disputes related thereto, using consensual alternative dispute resolution techniques to the maximum extent practicable. Bid protests or contract disputes that are

not addressed or resolved through alternative dispute resolution shall be adjudicated by the Administrator through Dispute Resolution Officers or Special Masters of the Federal Aviation Administration Office of Dispute Resolution for Acquisition, acting pursuant to sections 46102, 46104, 46105, 46106 and 46107 of this title, and shall be subject to judicial review under section 46110 of this title, and to the provisions of the Equal Access to Justice Act (5 U.S.C. 504)."

(b) CLARIFICATION.--Section 106(f)(2)(A)(ii) is amended by inserting ", services," after "property".

SEC. 203. COST-SHARING OF AIR TRAFFIC MODERNIZATION PROJECTS.

(a) Chapter 445 is amended by adding at the end the following new section:

“Sec. 44517. PROGRAM TO PERMIT COST-SHARING OF AIR TRAFFIC MODERNIZATION PROJECTS.

"(a) IN GENERAL.--Subject to the requirements of this section, the Secretary may carry out a program under which the Secretary may make grants to project sponsors for not more than ten eligible projects per fiscal year for the purpose of improving aviation safety and enhancing mobility of the Nation's air transportation system by encouraging non-Federal investment in critical air traffic control facilities and equipment.

"(b) FEDERAL SHARE.--The Federal share of the cost of an eligible project carried out under the program shall not exceed 33 percent. The non-Federal share of the cost of an eligible project shall be provided from non-Federal sources, including revenues collected pursuant to section 40117 of this title.

"(c) LIMITATION ON GRANT AMOUNTS.--No eligible project may receive more than \$5,000,000 in Federal funds under the program.

"(d) FUNDING.--The Secretary shall use amounts appropriated under section 48101(a) of this title to carry out this program.

"(e) DEFINITIONS.--The following definitions apply in this section:

"(1) ELIGIBLE PROJECT. The term "eligible project" means a project relating to the Nation's air traffic control system that is certified or approved by

the Administrator and that promotes safety, efficiency, or mobility. Such projects may include--

"(A) airport-specific air traffic facilities and equipment, including local area augmentation systems, instrument landing systems, weather and wind shear detection equipment, lighting improvements, and control towers;

"(B) automation tools to effect improvements in airport capacity, including passive final approach spacing tools and traffic management advisory equipment; and

"(C) facilities and equipment that enhance airspace control procedures, including consolidation of terminal radar control facilities and equipment, or assist in en route surveillance, including oceanic and offshore flight tracking.

"(2) PROJECT SPONSOR.--The term "project sponsor" means any major user of the National Airspace System, as determined by the Secretary, including a public-use airport or a joint venture between a public-use airport and one or more air carriers.

"(f) TRANSFERS OF EQUIPMENT.--Notwithstanding any other provision of law, and upon agreement by the Administrator of the Federal Aviation Administration, project sponsors may transfer, without consideration, to the Federal Aviation Administration, facilities, equipment, or automation tools, the purchase of which was assisted by a grant made under this section, if such facilities, equipment or tools meet Federal Aviation Administration operation and maintenance criteria.

"(g) GUIDELINES.--The Administrator shall issue advisory guidelines on the implementation of the program, which shall not be subject to administrative rulemaking requirements under the Administrative Procedure Act (5 U.S.C. 501 et seq.)."

(b) CONFORMING AMENDMENT.-- The analyses of chapter 445 is amended by adding at the end the following:

"44517. Program to permit cost-sharing of air traffic modernization projects."

SEC. 204. COUNTERFEIT OR FRAUDULENTLY REPRESENTED PARTS VIOLATIONS.

Section 44726(a)(1) is amended --

- (1) at the end of paragraph (A), by striking "or";
- (2) by redesignating paragraph (B) as paragraph (D);
- (3) by inserting two new paragraphs (B) and (C) as follows:

"(B) who knowingly, and with intent to defraud, carried out or facilitated an activity punishable under a law described in subparagraph (A);

"(C) whose certificate is revoked under subsection (b) of this section; or";
and

- (4) at the end of paragraph (D), as redesignated, by striking "convicted of such a violation." and inserting "described in paragraphs (A), (B) or (C).".

SEC. 205. CIVIL PENALTIES

(a) INCREASE IN MAXIMUM CIVIL PENALTY.--Section 46301(a) is amended--

(1) in paragraph (1) by striking "\$1,000" and inserting "\$25,000";

(2) in subparagraph (1)(A), by striking "or" the last time it appears, and inserting "or section 47133" before "of this title";

(2) by striking paragraphs (2), (3), (6) and (7) and renumbering paragraphs (4), (5) and (8) as paragraphs (2), (3) and (4) respectively; and

(3) in paragraph (4), as redesignated, by striking "paragraphs (1) and (2)" and inserting "paragraph (1)".

(b) REMOVAL OF LIMIT ON ADMINISTRATIVE AUTHORITY.--Section 46301(d) is amended--

(1) in paragraph (4)(A) by inserting "the violation occurred before the effective date of the Centennial of Flight Aviation Authorization Act and" at the beginning before "the amount"; and

(2) in paragraph (8), by striking "The" and inserting "For violations occurring before the effective date of the Centennial of Flight Aviation Authorization Act, the".

SEC. 206. IMPROVEMENT OF AVIATION INFORMATION COLLECTION.

Section 329 is amended—

(1) by amending clause (b)(1)(B) to read as follows:

"(B) the number of passengers and the amount of cargo traveling by air between any two points in interstate transportation."; and

(2) by striking the remainder of the paragraph (b)(1) beginning with "except that it in no case" through to the end of the paragraph.

TITLE III--AIRPORT IMPROVEMENT PROGRAM AMENDMENTS

SEC. 301. SECURITY COSTS AT SMALL AIRPORTS; AMENDMENTS TO DEFINITIONS.

(a) SECURITY COSTS.--Section 47102(3)(J) is amended to read as follows:

“(J) in the case of an airport that has less than 0.05 percent of boardings, direct costs associated with new, additional or revised security requirements imposed on airport operators by law, regulation or order on or after September 11, 2001, if the Government’s share is paid only from amounts apportioned to a sponsor under sections 47114(c) or 47114(d)(2)(A) of this title.”.

(b) CONFORMING AMENDMENT.--Subsections (3)(K) and (3)(L) of section 47102 are repealed.

(c) DEFINITIONS.—Section 47102 is further amended—

(1) by amending paragraph (10) to read as follows:

“(10) “boardings”—

“(A) means, unless the context indicates otherwise, revenue passenger boardings in the United States in the prior calendar year on an aircraft in service in air commerce, as the Secretary determines under regulations the Secretary prescribes; and

“(B) includes passengers who continue on an aircraft in international flight that stops at an airport in the 48 contiguous States, Alaska, or Hawaii for a nontraffic purpose.”; and

(2) by inserting the following new definitions at the appropriate place:

“(7a) general aviation airport” means a public airport that is not a commercial service airport or a designated reliever airport.

“(9a) “large hub airport” means a commercial service airport that has at least 1.0 percent of the boardings.

“(9b) “medium hub airport” means a commercial service airport that has at least 0.25 percent but less than 1.0 percent of the boardings.

“(9c) “non-hub airport” means a commercial service airport that has less than 0.05 percent of the boardings or less.

“(18a) “small hub airport” means a commercial service airport that has at least 0.05 percent but less than 0.25 percent of the boardings.”.

(e) CONFORMING AMENDMENT.--Section 47110(b)(2)(D) is amended by striking “47102(3)(J), 47102(3)(K), or 47102(3)(L)” and inserting “47102(3)(J)”.

SEC. 302. FLEXIBLE FUNDING FOR NONPRIMARY AIRPORT APPORTIONMENTS.

(a) Section 47117(c) is amended to read as follows:

"(c) APPORTIONED AIRPORTS.—(1) An amount apportioned to a sponsor of an airport under sections 47114(c) and 47114(d)(2)(A) of this title is available for grants for any public-use airport of the sponsor included in the national plan of integrated airport systems.

"(2) A sponsor of an airport may make an agreement with the Secretary of Transportation waiving the sponsor's claim to any part of the amount apportioned for the airport under sections 47114(c) and 47114(d)(2)(A) of this title if the Secretary agrees to make the waived amount available for a grant for another public-use airport in the same State or geographical area as the airport, as determined by the Secretary."

(b) Section 47108(a) is amended by inserting “or section 47114(d)(2)(A)” after “under section 47114(c)”.

(c) Section 47110 is amended--

(1) in paragraph (b)(2)(C), by inserting “or section 47114(d)(2)(A)” after “of section 47114(c)”;

(2) in subsection (g), by inserting "or section 47114(d)(2)(A)" after "of section 47114(c)" and by striking "of project" and inserting "of the project" at the end; and

(3) by adding a new paragraph (h) as follows:

"(h) NONPRIMARY AIRPORTS.--The Secretary may decide that the costs of revenue producing aeronautical support facilities, including fuel farms and hangars, are allowable for an airport development project at a nonprimary airport and for which the Government's share is paid only with funds apportioned to a sponsor under section 47114(d)(2)(A), if the Secretary determines that the sponsor has made adequate provision for financing airside needs of the airport."

(d) Section 47119(b) is amended by--

- (1) striking the word "or" at the end of paragraph (3);
- (2) striking the period at the end of paragraph (4) and inserting "; or"; and
- (3) adding a new paragraph (5) as follows:

"(5) to a sponsor of a nonprimary airport referred to in paragraphs (2)(A) and (B) of this subsection, any part of amounts apportioned to the sponsor for the fiscal year under section 47114(d)(3)(A) of this title for project costs allowable under section 47110(d) of this title."

SEC. 303. Intermodal Planning.

(a) Section 47102(9), as redesignated by section 314(a) of this Act, is amended--

- (1) in subparagraph (C), by striking "; and" and inserting a semi-colon;
- (2) in subparagraph (D), by striking the period and inserting "; and"; and
- (3) by inserting a new subparagraph as follows:

"(E) developing a plan for an airport system that includes a medium or large hub airport, so that such planning includes fair consideration of surface transportation and land use plans relevant to airport access and development in the airport system under study, in furtherance of the policy of section 47101(g)."

(b) Section 47106 is amended--

(1) in subsection (a)(1), by inserting ", including transportation and land use plans," after "plans";

(2) in subsection (b)(2), by striking "and" at the end;

(3) in subsection (b)(3), by striking the period and inserting "; and"; and

(4) by inserting a new paragraph at the end as follows:

"(4) for a project for the location of an airport or a project for a runway or a major runway extension at a medium or large hub airport, the sponsor has—

“(A) provided the metropolitan planning organization authorized to conduct metropolitan planning in the area in which the airport is located with not less than 60 days to review the airport master plan or the airport layout plan in which the project is described and depicted and to submit comments on such plans to the sponsor; and

“(B) included in its application to the Secretary any comments made by the metropolitan planning organization and the sponsor's responses to those comments.”.

SEC. 304. AIRPORT PRIVATIZATION PILOT PROGRAM.

Section 47134 is amended--

(1) in paragraph (b)(1)(A)(i), by striking "the airport; and" and inserting "a medium or large hub airport;"

(2) in paragraph (b)(1)(A), by striking paragraphs (i) and (ii) and inserting the following:

“(i) by at least 65 percent of the air carriers serving a medium or large hub airport, and by air carriers, whose aircraft landing at a medium or large hub airport during the preceding calendar year, had a total landed weight during the preceding calendar year of at least 65 percent of the total landed weight of all aircraft landing at the airport during such year; or

“(ii) by the Secretary at any other airport.”;

(3) by adding at the end of subsection (b)(1) a new paragraph (C) to read as follows:

"(C) An air carrier shall be deemed to have approved a sponsor's application for an exemption under paragraph (b)(1)(A) of this section unless the air carrier has submitted an objection in writing to the sponsor within 60 days of the filing of the sponsor's application with the Secretary, or within 60 days of the service of the application upon that air carrier, whichever is later."; and

(4) by adding a new subsection (n) at the end to read as follows:

"(n) AIR CARRIER DEFINED.--In this section, the term “air carrier” means an air carrier holding an air carrier operating certificate issued under part 121 of title 14 of the Code of Federal Regulations.".

SEC. 305. MILITARY AIRPORT PROGRAM CHANGES.

Subsections (e) and (f) of section 47118 are amended by striking “\$7,000,000” each time it appears and inserting “\$10,000,000”.

SEC. 306. INNOVATIVE FINANCE.

(a) INNOVATIVE FINANCE.--Section 47110 is amended by adding at the end a new subsection (h) as follows:

“(h) DEBT FINANCING COSTS.--In the case of an airport that is not a medium or large hub airport, the Secretary may determine that allowable costs may include the payment of interest, commercial bond insurance, and other credit enhancement costs associated with an airport bond issue to finance eligible airport development.”.

(b) FLEXIBLE MATCH.--Section 47109(a) is amended by--

- (1) inserting “up to” before the hyphen in the introductory clause; and
- (2) striking the words “not more than” in subparagraph (2).

SEC. 307. APPORTIONMENTS.

(a) Section 47114(c)(1) is amended —

(1) in paragraph (B), by striking “\$650,000” and inserting “\$1,000,000”;
and

(2) by striking paragraph (C) and inserting the following:

“(C) SPECIAL RULE.--In the case of an airport that is not a medium or large hub airport, the amount to be apportioned to the sponsor under subparagraph (A) shall be increased by doubling the amount that would otherwise be apportioned.”.

(b) Section 47114(d) is amended —

(1) by striking subparagraph (2), and redesignating subparagraphs (3) through (6) as (2) through (5), respectively;

(2) in subparagraph (2), as redesignated, by--

(A) striking the words “In any fiscal year” through “paragraph (2), the” and inserting “The”;

(B) striking “paragraph (4)” each time it appears and inserting “paragraph (3)”;

(C) striking in subparagraph (B) “Any remaining” and inserting “Subject to subparagraph (C), any remaining”; and

(D) adding a new subparagraph (C), to read as follows —

“(C) The Secretary shall reduce pro rata the amounts to be apportioned to airport sponsors under subparagraph (A), as may be required to make available an aggregate amount that is not less than \$320,000,000 for apportionment to States and insular areas under subparagraph (B).”.

SEC. 308. DISCRETIONARY FUND.

(a) Section 47115 is amended to read as follows:

“(a) FUND ESTABLISHED.—The Secretary of Transportation has a discretionary fund for use in accordance with this subtitle. The fund consists of—

(1) amounts subject to apportionment that are not apportioned under section 47114(c)–(e) of this title; and

(2) amounts not apportioned under section 47114 of this title because of section 47114(f).

“(b) AVAILABILITY OF AMOUNTS.—Subject to subsection (c) of this section, the fund is available for making grants for any purpose for which an amount is subject to apportionment that the Secretary considers most appropriate to carry out this subchapter.

“(c) SPECIAL CATEGORIES.—Except as provided in subparagraph (1)(C), of the amount subject to apportionment, there shall be obligated from the discretionary fund for each fiscal year:

“(1) NOISE.—(A) Not less than 9 per cent, 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) of this title, for noise mitigation projects approved in an environmental record of decision for an airport development project under this title, for compatible land use planning and projects carried out by State and local governments under section 47141 of this title, and for air quality projects described in section 47102(3)(F), (K) or (L) to comply with the Clean Air Act (42 U.S.C. 7401 et seq.).

“(B) The Secretary shall provide an amount equal to 10 percent of the amount to be made available under this paragraph, as estimated at the beginning of a fiscal year, but not to exceed \$20,000,000, for research activities related to reducing community exposure to civilian aircraft noise or emissions through grants or other measures authorized under section 106(l)(6) of this title, including reimbursable agreements with other federal agencies.

“(C) The Secretary may include the amount obligated for noise compatibility planning and program grants using funds apportioned under section 47114 in that fiscal year toward determining whether the percentage requirement specified in subparagraph (A) has been met.

“(2) PROJECTS OF NATIONAL SIGNIFICANCE.—(A) An amount equal to 20 percent for grants for projects that the Secretary decides are of

national significance using the criteria set forth in section 47116 of this title.

“(B) Grants funded by amounts apportioned under section 47114 may not be applied in determining compliance with the percentage requirement stated in subparagraph (A).

“(C) The Secretary is deemed to have satisfied such percentage requirement if the amount obligated under paragraph (A) is within five percent of such requirement.

“(3) An amount equal to 1 percent for grants for any purpose for which amounts are made available under section 48103 of this title that the Secretary considers most appropriate to carry out this subchapter.”

“(4) SMALL AIRPORTS.—(A) The remainder shall be obligated for airports that are not medium or large hub airports, in addition to the amounts obligated for grants using funds apportioned under section 47114.

“(B) An airport in a State participating in the State block grant pilot program under section 47128 of this title may receive a grant under this section to the same extent that the airport may receive a grant if the State were not participating in the program.

“(C) In making grants under this paragraph (4), the Secretary shall give priority consideration to—

“(i) multi-year projects for the construction of new runways that the Secretary finds are cost beneficial and would increase capacity in a region of the United States; and

“(ii) airport development projects to support turbine powered aircraft operations if the non-Federal share of the project is at least 40 percent.

“(d) SET-ASIDE FOR MEETING SAFETY REQUIREMENTS IN AIRPORT OPERATING CERTIFICATES.—In the first fiscal year beginning after the effective date of a regulation issued to carry out section 44706(b) of this title with respect to airports described in section 44706(a)(2) of this title, and in each succeeding fiscal through fiscal year 2007, the lesser of \$15,000,000 or 20 percent of the amounts obligated under this paragraph (4) shall be used to assist

such airports to meet the requirements established by such regulation. This subsection shall cease to be effective as of the date on which the Secretary publishes in the Federal Register a finding that all such requirements have been met.

“(e) WAIVING PERCENTAGE REQUIREMENT.—If the Secretary decides that the Secretary cannot comply with any of the percentage requirements of subsection (c) of this section in a fiscal year because there are insufficient qualified grant applications, the amount the Secretary determines will not be distributed as otherwise required by subsection (c) is available for obligation during the fiscal year without regard to that requirement.

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

(b) CONFORMING AMENDMENT.—In subtitle VII of title 49, United States Code, references to sections 47115(d)-(f) and 47116(c)-(e) are changed to references to sections 47116(a), 47115(d), 47116(c) and 47115(b)-(d), respectively.

SEC. 309. CONSIDERATIONS IN MAKING DISCRETIONARY GRANTS.

(a) Chapter 471 is amended by amending section 47116 to read as follows:

“§ 47116. Considerations in Making Discretionary Grants.

“(a) IN GENERAL—In selecting a project for a grant funded in whole or in part by funds provided under section 47115 of this title to preserve and improve capacity, the Secretary shall consider—

“(1) the effect that the project will have on overall national transportation system capacity;

“(2) the project benefit and cost, including, in the case of a project at a reliever airport, the number of operations projected to be diverted from a primary airport to the reliever airport as a result of the project, as well as the cost savings projected to be realized by users of the local airport system;

“(3) the financial commitment from non-United States Government sources to preserve or improve airport capacity;

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

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

“(6) any increase in the number of boardings at the airport at which the project will be carried out, with priority to be given to projects at airports at which the boardings increased by at least 20 percent.

“(b) **NATIONALLY SIGNIFICANT PROJECTS.**—In addition to the considerations in paragraph (a), in order to provide a grant using funds identified in section 47115(c)(2) of this title, the Secretary shall consider whether:

“(1) funding has been provided for all other projects qualifying for funding during the fiscal year with funds made available under this chapter that have attained a higher score under the numerical priority system employed by the Secretary in administering the discretionary fund established under section 47115 of this title; and

“(2) the sponsor will be able to commence the work identified in the project application in the fiscal year in which the grant is issued.

“(c) **CONSIDERATION OF REVENUE DIVERSION IN AWARDING DISCRETIONARY GRANTS.**—(1) Subject to paragraph (2), in deciding whether to distribute funds to an airport sponsor from the discretionary fund established by section 47115 of this title, the Secretary shall consider as a factor militating against the distribution of such funds to the airport sponsor the fact that the airport is using revenues generated by the airport, or by local taxes on aviation fuel, for purposes other than capital or operating costs of the airport or the local airports system, or of other local facilities that are owned or operated by the owner or operator of the airport and are directly and substantially related to the actual air transportation of passengers or property.

“(2) Paragraph (1) shall apply only when the Secretary finds that the amount of revenue used by the airport for purposes other than capital or operating costs in the airport’s fiscal year preceding the date of the application for a grant from funds made available under section 47115 of this title exceeds the amount of such revenues in the airport’s first fiscal year ending after August 23, 1994, as adjusted by the Secretary for

changes in the Consumer Price Index of All Urban Consumers published by the Bureau of Labor Statistics of the Department of Labor.”.

(b) CONFORMING AMENDMENTS.—In subtitle VII of title 49, United States Code, references to 47116 shall be changed to 47115(c)(4).

SEC. 310. SPECIAL CATEGORIES.

Section 47117 is amended by striking subparagraph (e) and redesignating subparagraphs (f) and (g) as (e) and (f).

SEC. 311. COMPETITION PLANS.

[RESERVED]

SEC. 312. STREAMLINING OF THE PASSENGER FACILITY FEE PROGRAM.

Section 40117 is further amended --

(1) in paragraph (b)(4), by striking "finds--" and all that follows through to the period in subparagraph (B), and inserting "finds that the project cannot be paid for from funds reasonably expected to be available for the programs referred to in section 48103.";

(2) in paragraph (c)(2), by adding the following new paragraphs (E) and (F) at the end as follows:

"(E) The agency will include in its application or notice submitted under subsection (1) copies of all certifications of agreement or disagreement received under subparagraph (D).

“(F) For the purpose of this section, an eligible agency providing notice and consultation to an air carrier and foreign air carrier is deemed to have satisfied this requirement if it limits such notices and consultations to air carriers and foreign air carriers that have a significant business interest on the airport. In developing regulations to implement this provision, the Secretary shall consider a significant business interest to be defined as an air carrier or foreign air carrier that has no less than 1.0 percent of boardings at the airport in the prior calendar

year. However, no air carrier or foreign air carrier may be considered excluded under this section if it has at least 25,000 boardings at the airport in the prior calendar year, or if it operates scheduled service, without regard to such percentage requirements.”;

(3) by renumbering paragraph (c)(3) as paragraph (c)(4) and inserting a new paragraph (c)(3) as follows:

“(3) Before submitting an application, the eligible agency must provide reasonable notice and an opportunity for public comment. The Secretary shall prescribe regulations that define reasonable notice and provide for at least the following:

“(A) a requirement that the eligible agency provide public notice of intent to collect a passenger facility fee so as to inform those interested persons and agencies who may be affected, which public notice may include:

“(i) publication in local newspapers of general circulation;

“(ii) publication in other local media; and

“(ii) posting the notice on the agency’s web-site.

“(B) a requirement for submission of public comments no sooner than 30 days after publishing of the notice and not later than 45 days after publication.

“(C) a requirement that the agency include in its application or notice submitted under subsection (1) copies of all comments received under subparagraph (B).”;

(4) in paragraph (c)(4), as redesignated, by striking the word “shall” in the first sentence and inserting “may”; and

(5) by adding a new paragraph (l) at the end as follows:

"(l) PILOT PROGRAM FOR PASSENGER FACILITY FEE
 AUTHORIZATIONS AT SMALL AIRPORTS.--(1) There is established a pilot program for the Secretary to test alternative procedures for authorizing small airports to impose passenger facility fees. An eligible agency may impose a passenger facility fee at a non-hub airport (as defined in section 47102 of this

title) that it controls for use on eligible airport-related projects at that airport, in accordance with the provisions of this subsection. These procedures shall be in lieu of the procedures otherwise specified in this section.

"(2) The eligible agency must provide reasonable notice and an opportunity for consultation to air carriers and foreign air carriers in accordance with paragraph (c)(2), and must provide reasonable notice and opportunity for public comment in accordance with paragraph (c)(3).

"(3) The eligible agency must submit to the Secretary a notice of intention to impose a passenger facility fee, which notice shall include –

"(A) information that the Secretary may require by regulation on each project for which authority to impose a passenger facility charge is sought;

"(B) the amount of revenue from passenger facility charges that is proposed to be collected for each project; and

"(C) the level of the passenger facility charge that is proposed.

"(4) The Secretary shall acknowledge receipt of the notice and indicate any objection to the imposition of a passenger facility fee for any project identified in the notice within 30 days after receipt of the eligible agency's notice.

"(5) Unless the Secretary objects within 30 days after receipt of the eligible agency's notice, the eligible agency is authorized to impose a passenger facility fee in accordance with the terms of its notice.

"(6) Not later than 180 days after the date of enactment of this subsection, the Secretary shall propose such regulations as may be necessary to carry out this subsection.

"(7) The authority granted under this subsection shall expire three years after the issuance of the regulation required by paragraph (6).

"(8) An acknowledgement issued under paragraph (4) shall not be considered an order of the Secretary issued under section 46110 of this title."

SEC. 313. MISCELLANEOUS AMENDMENTS.

(a) DEFINITIONS. — Section 47102 is amended--

(1) by amending subparagraph (6) to read as follows —

“(6) ‘amount newly made available’ means the amount newly made available under section 48103 of this title as an authorization for grant obligations for a fiscal year, as that amount may be limited in that year by a provision in an appropriations Act, but as determined without regard to grant obligation recoveries made in that year or amounts covered by section 47107(f).”; and

(2) by redesignating subparagraphs (7)–(20) as paragraphs (8)–(21), and adding a new paragraph (7) to read as follows —

“(7) ‘amount subject to apportionment’ means the amount newly made available, less the amount made available for the fiscal year for administrative expenses under section 48105.”.

(b) CONFORMING AMENDMENTS.--(1) Subsection 41742(b) is amended by deleting “Notwithstanding section 47114(g) of this title, any” and inserting “Any”.

(2) Subsection 47104(b) is amended to read as follows —

“(b) The Secretary may incur obligations to make grants from the amount subject to apportionment as soon as the apportionments required by sections 47114(c) and (d)(2) of this title have been issued.”.

(3) Section 47107(f)(3) is amended by deleting “made available to the Secretary under section 48103 of this title and” and inserting “subject to apportionment, and is ”.

(4) Section 47114 is amended—

(A) by deleting the caption and text of subsection (a);

(B) in subsection (b), by deleting “apportionment for that fiscal year” and inserting “apportionment,”;

(C) in subsections (c)(2)(C), (d)(2), and (e)(4), by deleting “total amount made available under section 48103” wherever it appears and inserting “amount subject to apportionment”;

(D) in subsection (c)(2)(A) by deleting “each fiscal year”; and

(E) in subsection (d)(2), by deleting “for each fiscal year”.

(5) Subsection 47116(b) is amended by deleting “amounts are made available under section 48103 of this title” and inserting “an amount is subject to apportionment.”.

(6) Section 47117 is amended—

(A) in subsection (a), by deleting “amounts are made available under section 48103 of this title” and inserting “an amount is subject to apportionment”;

(B) in subsection (e), as redesignated by section 310 of this Act,

(i) in paragraph (2)(A), by striking “a sufficient amount is made available under section 48103” and inserting “there is a sufficient amount subject to apportionment”;

(ii) in paragraph (2)(B), by inserting “in” before “the succeeding”;

(iii) in paragraph (3), by deleting the caption and inserting “Restored Amounts.—” as the caption;

(iv) in paragraph (3)(A), by deleting “newly available under section 48103 of this title” and inserting “subject to apportionment”;

(v) in paragraph (4), by deleting “made available under section 48103 for such obligations for such fiscal year” and inserting “subject to apportionment”; and

(D) in subsection (f), as redesignated by section 310 of this Act, by deleting “enacted after September 3, 1982.”.

(c) RECOVERED FUNDS.-- Section 47117 is further amended by adding a new subsection (g) at the end, to read as follows —

“(g) For the purpose of determining compliance with a limitation on the amount of grant obligations that may be incurred in a fiscal year that is enacted in an appropriations Act, an amount that is recovered by canceling or reducing a grant obligation shall be treated as a negative obligation that is to be netted against the gross obligation limitation as enacted, and thus may permit the gross limitation to be exceeded by an equal amount.”.

(d) AIRPORT SAFETY DATA COLLECTION.--Section 47130 is amended to read as follows:

"§ 47130. Airport safety data collection

"Notwithstanding any other provision of law, the Administrator of the Federal Aviation Administration may award a contract, using sole source or limited source authority, or enter into a cooperative agreement with, or provide a grant from amounts made available under section 48103 to, a private company or entity for the collection of airport safety data. In the event that a grant is provided, the United States Government's share of the cost of the data collection shall be 100 percent."

(e) FUNDING FOR ADMINISTRATIVE EXPENSES FOR AIRPORT PROGRAMS.--(1) Section 48105 is amended to read as follows:

"§ 48105. Airport programs administrative expenses.

"Of the amount newly made available, the following shall be available for administrative expenses relating to the Airport Improvement Program, passenger facility fee approval and oversight, national airport system planning, airport standards development and enforcement, airport certification, airport-related environmental activities (including legal services), and other airport-related activities (including airport technology research), to remain available until expended —

“(1) for fiscal year 2004, \$87,500,000;

“(2) for fiscal year 2005, \$89,500,000;

“(3) for fiscal year 2006, \$92,500,000; and

“(4) for fiscal year 2007, \$96,000,000.”.

(2) CONFORMING AMENDMENTS.--The analysis of chapter 481 is amended by revising the title for section 48105 to read as follows:

"48015. Airport programs administrative expenses."

(f) DESIGN-BUILD CONTRACTING.--Section 139(e) of the Wendell H. Ford Aviation Investment and Reform Act for the 21st Century (49 U.S.C. 47104 note) is amended by striking "September 30, 2003" and inserting "September 30, 2007".

(g) STATUTE OF LIMITATIONS. – Section 47107(l)(5)(A) is amended by adding “or any other governmental entity” after “sponsor”.

(h) AUDIT CERTIFICATION.—Section 47107(m) is amended--

(1) in subsection (1), by—

(A) striking “promulgate regulations that” and inserting “include a provision in the compliance supplement provisions to”; and

(B) striking “and opinion of the review”; and

(2) by striking subsection (3).

(i) NOISE EXPOSURE MAPS.--Section 47503(a) is amended by striking "1985," and inserting "a forecast year that is at least five years in the future,".

(j) CLARIFICATION OF APPLICABILITY OF PFCs TO MILITARY CHARTERS.—Section 40117(e)(2) is amended—

(1) by striking the word “and” in subparagraph (D);

(2) by striking the period in subparagraph (E) and inserting “; and”; and

(3) inserting after paragraph (E) the following new paragraph:

“(F) enplaning at an airport if the passenger did not pay for the air transportation which resulted in such enplanement due to charter arrangements and payment by the United States Department of Defense.”.

(k) CLARIFICATION OF ALLOWABLE COSTS. Section 47110(b)(1) is amended by--

(1) striking the semicolon at the end; and

(2) inserting “and including the costs of ‘in-kind’ relocation of Federal facilities impeding the project;”.

TITLE IV--ENVIRONMENTAL PROVISIONS

SEC. 401. Environmental Review.

(a) IN GENERAL--Part B of subtitle VII is amended by adding at the end the following new chapter:

"CHAPTER 477--ENVIRONMENTAL REVIEW

"Sec.

"47701. Designation of aviation safety projects for priority environmental review.

"47702. Project purpose and need and coordinated agency review.

"47703. Definitions.

"Sec. 47701. Designation of aviation safety projects for priority environmental review.

“(a) IN GENERAL- The Administrator of the Federal Aviation Administration may designate an aviation safety project for priority environmental review. The Administrator may not delegate this designation authority.

"(b) PROJECT DESIGNATION CRITERIA--The Administrator shall establish guidelines for the designation of an aviation safety project for priority environmental review. Such guidelines shall include consideration of—

“(1) the importance or urgency of the project;

“(2) the potential for undertaking the environmental review under existing emergency procedures under the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*);

“(3) the need for cooperation and concurrent reviews by other Federal or State agencies; and

“(4) the prospect for undue delay if the project is not designated for priority review.

"(c) TIMELINES AND HIGH PRIORITY FOR ENVIRONMENTAL REVIEW—The Administrator, in consultation with affected departments and agencies, shall establish specific timelines for the environmental review of a designated aviation safety project, consistent with the timelines established in existing laws and regulations. Each department and agency of the United States Government with responsibility for project environmental reviews, analyses, opinions, permits, licenses, and approvals shall accord any such review involving an aviation safety project, designated under subsection (a), a high priority and shall conduct the review expeditiously and, to the maximum extent possible, concurrently.

“(d) STATE PARTICIPATION- If a priority environmental review process is being implemented under this section with respect to a project within the boundaries of a State with applicable State environmental requirements and approvals, the Administrator shall invite the State to participate in the process. The State, consistent with State law, may choose to participate in such process and direct that all State agencies, which have

jurisdiction by law to conduct an environmental review or analysis of the project to determine whether to issue an environmentally related permit, license, or approval for the project, be subject to the process.

“(e) FAILURE TO GIVE PRIORITY REVIEW--(1) If the Secretary finds that any department or agency of the United States Government or a participating State is not complying with the requirements of this section and that such noncompliance is undermining the environmental review process, the Secretary shall notify the head of the Federal department or agency or, with respect to a State agency, the Governor of the State.

“(2) A Federal department or agency that receives a copy of a notification relating to that department or agency made by the Secretary under paragraph (1) shall, within 30 days after receiving such copy, submit a written report to the Secretary explaining the reasons for the situation described in the notification and what remedial actions the department or agency intends to take.

“(3) If the Secretary determines that a Federal department or agency has not satisfactorily addressed the problems within a reasonable period of time following a notification under paragraph (1), the Secretary shall notify the Council on Environmental Quality.

“(f) DEFINITION.—Under this section and section 47702, the term “aviation safety project” is an aviation project whose primary purpose is to reduce the risk of injury to persons or damage to aircraft and property, as determined by the Administrator. In making such a determination, the Administrator shall take into consideration that a project:

“(1) is needed to respond to a recommendation from the National Transportation Safety Board;

“(2) is necessary for an airport to comply with Part 139 of title 14 of the Code of Federal Regulations (relating to airport certification);

“(3) is necessary to correct a deficiency identified by an Federal Aviation Administration safety review; or

“(4) is necessary for the safe operation of the national airspace system.

"SEC. 47702. Project Purpose and Need and Coordinated Agency Review.

"(a) ACCEPTANCE OF PURPOSE AND NEED.— To the extent consistent with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), as implemented by regulations issued by the Council on Environmental Quality on lead agency responsibilities, and with other existing laws and regulations, for any environmental impact statement or the conduct of any other environmental review, analysis, opinion, or issuance of an environmental permit, license, or approval pursuant to Federal law that requires an analysis of project purpose and need, a Federal agency taking such action with respect to an aviation safety project or aviation congestion project shall give substantial deference to the project purpose and need as defined by the Secretary.

"(b) DEFINITION.—Under this section—

"(1) the term "aviation congestion project" means an aviation project whose primary purpose, as determined by the Administrator, is to reduce delays in the national aviation system by improving efficiency or adding airport or airspace capacity.

"(c) COORDINATED AGENCY REVIEW.—The Secretary may designate an aviation safety project or aviation congestion project for coordinated agency review by an interagency environmental impact statement team. As early as practicable in the environmental process, but no later than 45 days following issuance of the notice of intent to prepare an environmental impact statement on such project, the Secretary shall identify Federal, State and Tribal agencies with jurisdiction by law or special expertise with respect to an environmental permit, license, or approval for the project. The Secretary shall invite Federal, State and Tribal agencies with jurisdiction by law, and may invite such agencies with special expertise, to participate on an interagency environmental impact statement team as joint lead agencies or cooperating agencies, whichever is appropriate under regulations issued by the Council on Environmental Quality.

"(d) RESPONSIBILITY OF INTERAGENCY ENVIRONMENTAL IMPACT STATEMENT TEAM.—Consistent with the National Environmental Policy Act as implemented by regulations issued by the Council on Environmental Quality, the Secretary's definition of purpose and need, and the input from the environmental scoping

process, the interagency environmental impact statement team will assist the Federal Aviation Administration in the preparation of the environmental impact statement, including the range of reasonable alternatives to be evaluated and the environmental analyses. Team members will review the environmental analyses proposed for their areas of jurisdiction or expertise and advise the lead agency on the adequacy of selected and proposed experts, expert entities, and environmental analyses contractors and will recommend, where appropriate, the need for additional experts or contractors considered by the agencies to be qualified to address anticipated environmental issues based on their track record of successful past performance or current superior ability to perform environmental analyses. To facilitate timely and efficient environmental review, the team will agree on agency or Tribal points of contact, protocols for communication among agencies, and deadlines for necessary actions by each individual agency (including the review of environmental analyses, the conduct of required consultation and coordination, and the issuance of permits or approvals). The members of the team may formalize their agreement in written memoranda.

“(e) LEAD AGENCY RESPONSIBILITY.—The Federal Aviation Administration shall be the lead agency for aviation safety projects and aviation congestion projects and will carry out its lead agency responsibility for the scope and content of the environmental impact statement, consistent with regulations issued by the Council on Environmental Quality, including the exercise of appropriate lead agency responsibility on the scope of reasonable alternatives and analyses in the environmental impact statement. Other members of the interagency environmental impact statement team will give substantial deference, to the extent consistent with applicable law and policy, to the aviation expertise of the Federal Aviation Administration with respect to—

"(1) the reasonable range of alternatives for achieving the purpose and need of an aviation safety or congestion project as defined by the Secretary;

"(2) determinations of relevant aviation factors including aircraft and airport operation, congestion, forecasts, capacity, delay, and applicable standards; and

"(3) analytical methodologies using accepted computer models for calculating the noise and emissions of the proposed project and reasonable alternatives.

“(f) SOLICITATION AND CONSIDERATION OF COMMENTS.--The Secretary will use existing environmental review processes to solicit and duly consider comments from affected and interested governmental entities that are not members of the interagency environmental impact statement team and from the public, appropriately modify analyses and determinations during the environmental review process based on information of merit, and provide explanations in appropriate environmental or other documentation of the basis and rationale supporting the analyses and determinations related to an aviation safety project or aviation congestion project designated under this section.

“(g) ELIMINATION OF DUPLICATION.—To the extent consistent with the requirements and purposes of existing laws, other Federal and State agencies shall use the aviation determinations and analytical methodologies of the Federal Aviation Administration described in subsection (e) for any environmental determination, permit, license, or approval that must be issued or made for an aviation safety project or aviation congestion project designated under this section, and shall avoid duplicating or substituting alternative judgments for the Federal Aviation Administration's determinations.

“(h) REPORTS TO THE COUNCIL ON ENVIRONMENTAL QUALITY.—The Secretary shall report to the Council on Environmental Quality annually regarding the status of interagency environmental impact statement teams with respect to their timely and effective performance. If the Secretary finds that any department or agency of the United States Government is not carrying out its environmental review responsibilities under this section, the Secretary will first refer the matter to the head of the department or agency. If the matter is not satisfactorily resolved, the Secretary will notify the Council on Environmental Quality.

“(i) COMPLIANCE WITH EXISTING LAW.—Nothing in this section shall be construed to repeal or amend any provision of the National Environmental Policy Act or other laws applicable to agency actions.

"Sec. 47703. Definitions.

“Unless otherwise indicated, the definitions found in section 47102 of this title shall apply to terms used in this chapter.”.