

## AIRPORT AND AIRWAY IMPROVEMENT AMENDMENTS OF 1987

DECEMBER 15, 1987.—Ordered to be printed

Mr. HOWARD, from the committee of conference,  
submitted the following

### CONFERENCE REPORT

[To accompany H.R. 2310]

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2310) to amend the Airport and Airway Improvement Act of 1982 for the purpose of extending the authorization of appropriations for airport and airway improvements, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

#### **SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.**

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

(b) **TABLE OF CONTENTS.**—

*Sec. 1. Short title and table of contents.*

*Sec. 2. Secretary and Administrator defined.*

#### **TITLE I—AIRPORT AND AIRWAY IMPROVEMENT ACT AMENDMENTS**

*Sec. 101. Amendment of Airport and Airway Improvement Act of 1982.*

*Sec. 102. Declaration of policy.*

*Sec. 103. Definitions.*

*Sec. 104. National airport and airway system plans.*

*Sec. 105. Authorization of appropriations.*

*Sec. 106. Apportionment of funds.*

*Sec. 107. Limitations on uses of funds.*

*Sec. 108. State sponsorship.*

*Sec. 109. Project sponsorship.*

*Sec. 110. Grant agreements.*

*Sec. 111. Project costs.*

*Sec. 112. Limitation on powers.*

- Sec. 113. *Part-time operation of flight service stations.*  
 Sec. 114. *Explosive detection K-9 teams.*  
 Sec. 115. *Denial of funds for projects using products or services of foreign countries that deny fair market opportunities.*  
 Sec. 116. *State block grant pilot program.*

#### **TITLE II—FEDERAL AVIATION ACT AMENDMENTS**

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

#### **TITLE III—MISCELLANEOUS PROVISIONS**

- Sec. 301. *Noise abatement.*  
 Sec. 302. *Air traffic controller workforce.*  
 Sec. 303. *Safety rulemaking proceedings.*  
 Sec. 304. *Inflation adjustment on collection of certain aviation fees.*  
 Sec. 305. *Amendments to the National Driver Register Act.*  
 Sec. 306. *Low activity level I air traffic control tower contract program.*  
 Sec. 307. *Eligibility of Dermott, Arkansas, municipal airport.*  
 Sec. 308. *Standards for navigational aids.*  
 Sec. 309. *Long-term airport capacity needs.*  
 Sec. 310. *Radio navigation systems.*  
 Sec. 311. *Reporting of accidents to NTSB.*  
 Sec. 312. *Atlantic City Airport.*  
 Sec. 313. *Release of certain conditions.*  
 Sec. 314. *Flight service station in Juneau, Alaska.*  
 Sec. 315. *Grand Canyon Airport.*

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

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

#### **SEC. 2. SECRETARY AND ADMINISTRATOR DEFINED.**

*As used in this Act—*

- (1) *the term "Secretary" means the Secretary of Transportation; and*  
 (2) *the term "Administrator" means the Administrator of the Federal Aviation Administration.*

## **TITLE I—AIRPORT AND AIRWAY IMPROVEMENT ACT AMENDMENTS**

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

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

**SEC. 102. DECLARATION OF POLICY.**

(a) **COMPREHENSIVE AIR SPACE PLAN.**—Section 502(a)(4) is amended—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**SEC. 103. DEFINITIONS.**

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

(1) by inserting “(A)” before “means”; and

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

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

- (1) by striking out “or” at the end of clause (iv);
- (2) by striking out “and” at the end of clause (v) and inserting in lieu thereof “or”; and

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

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

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

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

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

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

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

(e) **DEFINITION OF PRIMARY AIRPORT.**—Paragraph (12) of section 503(a), as redesignated by subsection (c), is amended by striking out “.01 percent” and all that follows through the period at the end thereof and inserting in lieu thereof the following: “more than 10,000 passengers enplaned annually.”.

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

#### SEC. 104. NATIONAL AIRPORT AND AIRWAY SYSTEM PLANS.

(a) **REVIEW OF PLAN.**—

(1) **IN GENERAL.**—Section 504(a) is amended—

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

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

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

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

with paragraph (2), as added by paragraph (1)(B) of this subsection.

**(b) STUDY OF SPECIAL USE AIRSPACE.—**

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

**“(2) SPECIAL USE AIRSPACE.—**

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

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

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

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

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

**SEC. 105. AUTHORIZATION OF APPROPRIATIONS.**

**(a) AIRWAY FACILITIES AND EQUIPMENT.—**Section 506(a) is amended—

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

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

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

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

**“(A) MINIMUM OBLIGATION LEVEL.—**Of amounts made available under paragraph (1) after September 30, 1987, the Secretary shall obligate not less than \$27,000,000 in fiscal year 1988, \$30,000,000 in fiscal year 1989, and \$35,000,000 in fiscal year 1990 for the purposes of purchasing and in-

stalling instrument landing systems at airports under section 307(b) of the Federal Aviation Act of 1958.

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

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

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

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

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

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

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

“(A) for fiscal year 1988—

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

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

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

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

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

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

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

“(B) for fiscal year 1989—

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

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

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

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

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

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

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

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

"(3) **AUTHORITY TO TRANSFER FUNDS.—**

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

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

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

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

"(4) **FUNDING FOR ENHANCING AIRPORT CAPACITY.—**

"(A) **GENERAL RULE.**—Notwithstanding any other provision of this subsection, of funds made available under paragraph (2) in each of fiscal years 1988, 1989, and 1990, not less than \$25,000,000 per fiscal year is authorized to be appropriated for research and development on preserving and enhancing airport capacity (including research and development on improvements to airport design standards, airport maintenance, airport safety, airport operations, and airport environmental concerns) under section 312 of the Federal Aviation Act of 1958.

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

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

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

(c) **OTHER EXPENSES.**—

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

“(3) **FISCAL YEARS 1988–1990.**—

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

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

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

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

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

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

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

“(D) **LIMITATION ON INCREASES.**—The aggregate amount of increases in the amount authorized to be appropriated from the Trust Fund under this paragraph may not exceed the aggregate amount of reductions made under subparagraph (B) of this paragraph.”

(2) **LIMITATION ON FUNDING FOR WEATHER SERVICES.**—Section 506(d) is amended—

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

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

(d) **LIMITATION ON USES OF TRUST FUND.**—

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

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

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

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

“(d) **DISADVANTAGED BUSINESS ENTERPRISES.**—

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

“(2) **DEFINITIONS.**—For purposes of this subsection—

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

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

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

“(4) **UNIFORM CERTIFICATION.**—The Secretary shall establish minimum uniform criteria for State governments and airport sponsors to use in certifying whether a concern qualifies for purposes of this subsection. Such minimum uniform criteria shall include but not be limited to on-site visits, personal interviews, licenses, analysis of stock ownership, listing of equipment, anal-

ysis of bonding capacity, listing of work completed, resume of principal owners, financial capacity, and type of work preferred.”.

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

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

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

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

(A) in paragraph (1) by inserting “**DESCRIPTION.**—” before “The balance”; and

(B) in paragraph (2) by inserting “**FISCAL YEARS 1982-1987.**—” before “The amount appropriated”; and

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

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

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

#### **SEC. 106. APPORTIONMENT OF FUNDS.**

(a) **GENERAL RULES.**—Section 507 is amended to read as follows: “**SEC. 507. APPORTIONMENT OF FUNDS.**

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

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

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

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

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

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

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

each such airport bears to the total aggregate annual landed weight of all such aircraft landing at all such airports.

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

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

"(B) STATES.—For airports, other than primary airports and airports described in section 508(d)(3),  $\frac{1}{2}$  of the remaining 99 percent in the proportion which the population of each State (other than a State to which subparagraph (A) applies) bears to the total population of all such States and  $\frac{1}{2}$  of the remaining 99 percent in the proportion which the area of each such State bears to the total area of all such States.

"(b) SPECIAL RULES.—

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

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

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

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

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

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

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

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

“(5) TREATMENT OF ALASKA.—

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

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

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

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

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

“(6) ELIGIBILITY.—

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

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

“(c) DISCRETIONARY FUND.—

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

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

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

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

shall constitute a discretionary fund to be distributed at the discretion of the Secretary. Such discretionary fund shall be used for making grants for any of the purposes for which funds

are made available under section 505 as the Secretary considers most appropriate for carrying out the purposes of this title.

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

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

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

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

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

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

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

“(1) **POPULATION.**—The term ‘population’ means the population according to the latest decennial census of the United States.

“(2) **AREA.**—The term ‘area’ includes both land and water.”

(b) **CONFORMING AMENDMENTS.**—

(1) **SECTION 505.**—Section 505(a) is amended by striking out “sections 507(a)(1), (2), (3)(A), or” and inserting in lieu thereof “sections 507(a)(1), 507(a)(2), 507(a)(3), 507(c), and”.

(2) **SECTION 508.**—Section 508 is amended—

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

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

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

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

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

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

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

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

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

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

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

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

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

#### SEC. 107. LIMITATIONS ON USES OF FUNDS.

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

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

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

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

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

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

#### SEC. 108. STATE SPONSORSHIP.

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

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

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

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

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

**SEC. 109. PROJECT SPONSORSHIP.**

(a) **NONDISCRIMINATION ASSURANCE.**—Section 511(a)(1)(A) is amended—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

*"(D) if a change or alteration in the airport or its facilities is made which the Secretary determines adversely af-*

fects the safety, utility, or efficiency of any federally owned, leased, or funded property on or off the airport and which is not in conformity with the airport layout plan as approved by the Secretary, the owner or operator will, if requested by the Secretary—

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

“(ii) bear all costs of relocating such property (or replacement thereof) to a site acceptable to the Secretary and all costs of restoring such property (or replacement thereof) to the level of safety, utility, efficiency, and cost of operation existing before the unapproved change in the airport or its facilities;”.

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

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

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

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

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

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

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

“(e) USE OF LAND DISPOSAL FUNDS.—

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

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

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

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

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

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

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

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

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

#### **SEC. 110. GRANT AGREEMENTS.**

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

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

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

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

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

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

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

"(3) *EXCEPTIONS FOR FISCAL YEARS 1988 AND THEREAFTER.*—The maximum obligation of the United States under this subsection with respect to a project receiving assistance under a grant approved under this title or the Aviation Safety and Noise Abatement Act of 1979 after September 30, 1987, may be

increased by not more than 15 percent in the case of a project for airport development.”.

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

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

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

### **SEC. 111. PROJECT COSTS.**

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

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

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

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

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

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

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

“(d) **REIMBURSEMENT FOR CERTAIN ADVANCE EXPENDITURES.**—

“(1) **LETTERS OF INTENT.**—

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

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

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

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

“(ii) which will be carried out in accordance with all applicable statutory and administrative requirements

that would be applicable to the project if the project were being carried out with funds made available under this title; and

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

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

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

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

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

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

#### SEC. 112. LIMITATION ON POWERS.

Section 519 is amended—

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

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

“(b) LIMITATIONS.—

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

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

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

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

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

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

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

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

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

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

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

Section 528 is amended to read as follows:

##### **“SEC. 528. PART-TIME OPERATION OF FLIGHT SERVICE STATIONS.**

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

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

#### **SEC. 114. EXPLOSIVE DETECTION K-9 TEAMS.**

Section 529 is amended—

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

(2) by striking out the second sentence.

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

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

**"SEC. 533. DENIAL OF FUNDS FOR PROJECTS USING PRODUCTS OR SERVICES OF FOREIGN COUNTRIES THAT DENY FAIR MARKET OPPORTUNITIES.**

**"(a) IN GENERAL.—**

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

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

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

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

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

**"(b) DETERMINATIONS.—**

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

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

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

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

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

**"(c) LISTING OF FOREIGN COUNTRIES.—**

**"(1) GENERAL RULE.—**The United States Trade Representative shall maintain a list of each foreign country with respect to

which an affirmative determination is made under subsection (b).

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

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

“(d) **SPECIAL RULES.**—

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

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

“(3) For purposes of this section, any service provided by a person that is a national of a foreign country, or is controlled by nationals of a foreign country, shall be considered to be a service of such foreign country.”.

#### **SEC. 116. STATE BLOCK GRANT PILOT PROGRAM.**

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

#### **“SEC. 534. STATE BLOCK GRANT PILOT PROGRAM.**

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

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

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

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

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

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

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

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

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

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

## **TITLE II—FEDERAL AVIATION ACT AMENDMENTS**

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

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

### **SEC. 202. ESSENTIAL AIR SERVICE.**

#### **(a) FISCAL YEAR 1987.—**

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

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

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

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

#### **(b) FISCAL YEARS 1988-1998.—**

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

### **"SEC. 419. SMALL COMMUNITY AIR SERVICE.**

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

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

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

“(b) **BASIC ESSENTIAL AIR SERVICE.**—

“(1) **LEVEL OF SERVICE.**—

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

“(B) **DETERMINATION FOR OTHER POINTS.**—With respect to each eligible point for which a determination of what constitutes essential air transportation was not made before October 1, 1988, the Secretary shall determine what is basic essential air service to such point if the Secretary receives notice that service to such point will be provided by only 1 air carrier. Such determination shall be made no later than the last day of the 6-month period beginning on the date on which the Secretary receives such notice and only after the Secretary considers the views of any interested community and the State agency of the State in which such community is located. The Secretary may impose such notice requirements as may be necessary to implement this subparagraph.

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

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

“(2) **NOTICE REQUIRED BEFORE TERMINATION, SUSPENSION, OR REDUCTION IN SERVICE.**—An air carrier may not terminate, suspend, or reduce air transportation to any eligible point below

the level of basic essential air service established under paragraph (1) unless such air carrier has given the Secretary, the appropriate State agency or agencies, and the communities affected at least 90 days' notice before such termination, suspension, or reduction.

“(3) DETERMINATION OF NEED FOR COMPENSATION.—

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

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

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

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

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

“(v) with respect to any eligible point in the State of Alaska, the experience of an applicant in providing scheduled air service, or significant patterns of non-scheduled air service pursuant to an exemption granted pursuant to section 416 of this title, in Alaska.

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

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

“(5) REQUIREMENT TO CONTINUE SERVICE.—If an air carrier has provided notice to the Secretary under paragraph (2) of such air carrier's intention to suspend, terminate, or reduce service to any eligible point below the level of basic essential air service to such point, and if at the conclusion of the applicable period of notice the Secretary has not been able to find another air carrier to provide basic essential air service to such point, the Secretary shall require the carrier which provided such notice to continue such service to such point for an additional 30-day period,

or until another air carrier has begun to provide basic essential air service to such point, whichever first occurs. If at the end of such 30-day period the Secretary determines that no other air carrier can be secured to provide basic essential air service to such eligible point on a continuing basis, either with or without compensation, then the Secretary shall extend such requirement for such additional 30-day periods (making the same determination at the end of each such period) as may be necessary to continue basic essential air service to such eligible point until an air carrier can be secured to provide basic essential air service to such eligible point on a continuing basis.

**“(6) COMPENSATION FOR CONTINUED SERVICE.—**

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

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

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

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

“(i) to cover the carrier’s fully allocated actual cost of performing the basic essential air service that was being provided at the time the 90-day notice of termination, suspension, or reduction of service is given to

the Secretary under paragraph (2) plus a fair and reasonable return on investment which shall not be less than 5 percent of operating costs; and

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

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

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

“(9) **PROHIBITION ON CERTAIN REDUCTIONS IN SERVICE.**—Unless the Secretary has determined what is basic essential air service for any eligible point pursuant to paragraph (1) of this subsection, the Secretary shall, upon petition of any appropriate representative of such point prohibit any termination, suspension, or reduction of air transportation which reasonably appears to deprive such point of basic essential air service, until the Secretary has completed such determination.

“(c) **ENHANCED ESSENTIAL AIR SERVICE.**—

“(1) **PROPOSAL.**—

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

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

“(C) **COMPENSATION AGREEMENT.**—The agreement relating to compensation included in the proposal submitted by

a State or local government under this subsection shall either—

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

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

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

“(3) **REVIEW.**—

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

“(B) **PROPOSALS FOR 100 PERCENT FEDERAL SHARE.**—If the enhanced essential air service approved under this subsection is to be at a 100 percent Federal share, the Secretary shall periodically review air service provided to an eligible point under this subsection. If the Secretary finds, after consultation with the State or local government which submitted the proposal, that such service has not been successful in terms of the criteria established under subparagraph (C) for not less than a 2-year period, such eligible point shall not be eligible for air service for which compensation is payable by the Secretary under this section.

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

“(4) **NOTICE BEFORE TERMINATION, SUSPENSION, OR REDUCTION OF SERVICE.**—An air carrier may not terminate, suspend, or reduce air transportation to an eligible point for which a determination of enhanced essential air service has been made below

the level of such service approved by the Secretary under this subsection unless such carrier has given the Secretary, the community affected, and the government or person paying the non-Federal share at least 30 days' notice before such termination, suspension, or reduction. Nothing in this paragraph relieves an air carrier of its obligations under subsection (b).

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

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

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

"(d) COMPENSATION FOR SERVICE TO OTHER SMALL COMMUNITIES.—

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

"(2) DETERMINATION OF ELIGIBILITY.—

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

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

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

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

"(B) SMALL COMMUNITY SERVICE.—Notwithstanding subparagraph (A)(ii), the Secretary shall approve a proposal

submitted under this subsection for compensated air transportation to a point in the 48 contiguous States and designate such point as eligible for compensation under this subsection—

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

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

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

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

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

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

“(3) **LEVEL OF SERVICE.**—

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

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

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

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

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

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

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

"(e) **FITNESS.**—

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

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

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

"(2) **LIMITATION ON COMPENSATION.**—The Secretary may not pay compensation to any air carrier for providing air service under this section unless the Secretary finds that such carrier is able to provide the air service in a reliable manner.

"(f) **GUIDELINES FOR COMPENSATION.**—The Secretary shall establish guidelines to be used in computing the fair and reasonable amount of compensation required to ensure the continuation of air service under this section. Such guidelines shall provide for a reduc-

tion in compensation in any case in which an air carrier fails to perform any agreed upon air service. Such guidelines shall take into account amounts needed by air carriers to promote public use of the service for which compensation is to be made and shall include expense elements based upon representative costs of air carriers providing scheduled air transportation of persons, property, and mail, using aircraft of the type determined by the Secretary to be appropriate for providing such service. Amounts needed for promotion of such service shall be a special, segregated element of the required compensation.

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

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

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

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

“(k) **DEFINITIONS.**—For purposes of this section—

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

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

“(ii) with respect to a point in the State of Alaska, a level of service that is not less than that which existed in calendar year 1976, or 2 round trips per week, whichever is greater, unless otherwise specified under an agreement between the Secretary and the State agency of the State of Alaska, after consultation with the community affected;

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

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

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

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

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

“(i) 50 percent, or

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

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

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

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

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

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

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

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

“(1) DURATION OF PROGRAM.—This section shall not be in effect after September 30, 1998.”.

(2) **CONFORMING AMENDMENT.**—The table of contents contained in the first section of the Federal Aviation Act of 1958 is amended by striking out the item relating to section 419 and inserting in lieu thereof the following:

"Sec. 419. Small community air service.

"(a) Eligible point defined.

"(b) Basic essential air service.

"(c) Enhanced essential air service.

"(d) Compensation for service to other small communities.

"(e) Fitness.

"(f) Guidelines for compensation.

"(g) Deadline for payment of compensation.

"(h) Insurance.

"(i) Carrier obligations.

"(j) Encouragement of joint air service proposals.

"(k) Definitions.

"(l) Duration of program."

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

#### SEC. 203. AIRCRAFT COLLISION AVOIDANCE SYSTEMS.

(a) **FINDINGS.**—Congress finds that—

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

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

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

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

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

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

"(f) **COLLISION AVOIDANCE SYSTEMS.**—

"(1) **DEVELOPMENT AND CERTIFICATION.**—

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

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

"(C) MONTHLY REPORTS.—The Administrator shall transmit to Congress monthly reports on the progress being made in development and certification of the collision avoidance system known as TCAS-II.

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

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

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

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

is amended by adding at the end the following:

"(f) Collision avoidance systems."

(d) COMPLETION OF RESEARCH AND DEVELOPMENT.—

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

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

#### SEC. 204. CIVIL PENALTIES.

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

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

(c) CLARIFICATION OF DETERMINATION OF PENALTY.—The second sentence of section 901(a)(1) is amended by inserting ", or each flight

with respect to which such violation is committed, if applicable," after "each day of such violation".

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

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

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

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

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

"(r) **SECURED AREAS OF AIRPORTS.**—

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

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

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

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

"**SEC. 905. CIVIL PENALTY ASSESSMENT DEMONSTRATION PROGRAM.**

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

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

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

*"(d) LIMITATIONS.—*

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

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

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

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

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

*(1) by inserting*

*"(r) Secured areas of airports."*

*after*

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

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

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

*(i) EFFECTIVENESS REVIEWED.—*

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

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

**SEC. 205. INDEMNIFICATION OF FEDERAL AVIATION ADMINISTRATION EMPLOYEES.**

*Section 313 is amended by adding at the end thereof the following new subsection:*

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

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

Section 1101 is amended to read as follows:

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

**"(a) NOTICE OF CONSTRUCTION.**—The Secretary of Transportation (hereinafter in this section referred to as the 'Secretary') shall, by rules and regulations, or by order where necessary, require all persons to give adequate public notice, in the form and manner prescribed by the Secretary, of the construction or alteration, or of the proposed construction or alteration, of any structure where notice will promote safety in air commerce as well as the efficient use and preservation of the navigable airspace and of airport traffic capacity at public-use airports.

**"(b) AERONAUTICAL STUDIES.**—

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

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

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

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

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

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

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

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

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

sideration of, and action upon such applications and the completion of associated aeronautical studies.”

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

“Sec. 1101. Hazards to air commerce.”

and inserting in lieu thereof

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

#### **SEC. 207. PUBLIC AIRCRAFT DEFINED.**

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

## **TITLE III—MISCELLANEOUS PROVISIONS**

#### **SEC. 301. NOISE ABATEMENT.**

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

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

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

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

(d) **PROCEDURES FOR PREPARATION AND SUBMISSION OF NOISE COMPATIBILITY PROGRAMS.**—

(1) **STUDY.**—The Secretary shall conduct a study of the procedures established under the Aviation Safety and Noise Abatement Act of 1979 for the preparation and submission of noise compatibility programs. The objectives of such study shall be to determine whether or not such procedures could be revised to provide a more simplified process which meet the objectives of such Act and to determine whether or not expedited and simpli-

fied procedures which meet the objectives of such Act could be developed to take into account special circumstances at certain airports.

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

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

(4) **FUNDING DURING STUDY.**—

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

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

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

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

(e) **EXISTING NOISE ABATEMENT PROPOSALS.**—

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

(2) **REPORT.**—Not later than 180 days after the date of the enactment of this Act, the Administrator shall transmit to Congress a report on the results of the study conducted under paragraph (1), together with recommendations concerning modifications in existing law and administrative policy for making additional noise abatement proposals eligible for Federal assistance.

**SEC. 302. AIR TRAFFIC CONTROLLER WORKFORCE.**

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

(b) **AIR TRAFFIC CONTROL WORKFORCE DEFINED.**—For purposes of this section, the term “air traffic control workforce” means persons employed by the Federal Aviation Administration (including persons employed as traffic management coordinators and air traffic control first line supervisors) a substantial part of whose duties include separating and controlling air traffic. Such term does not include any air traffic assistant and any student at an air traffic control academy.

**SEC. 303. SAFETY RULEMAKING PROCEEDINGS.**

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

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

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

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

(e) **AIRCRAFT DESIGN AND EQUIPMENT.**—

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

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

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

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

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

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

(a) **EXPANSION OF COVERAGE.**—Section 206(a)(1) of the National Driver Register Act of 1982 (23 U.S.C. 401 note) is amended by striking out “highway” and inserting in lieu thereof “transportation”.

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

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

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

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

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

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

The Secretary shall continue in effect the low activity (VFR) Level I air traffic control tower contract program established under section 526 of the Airport and Airway Improvement Act of 1982 with

respect to existing contract towers and shall extend such program to other towers as practicable.

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

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

**SEC. 308. STANDARDS FOR NAVIGATIONAL AIDS.**

Not later than December 31, 1988, the Secretary shall promulgate regulations to establish criteria for the installation of airport control towers and other navigational aids. For each type of facility, the regulations shall, at a minimum, consider traffic density (number of aircraft operations without consideration of aircraft size), terrain and other obstacles to navigation, weather characteristics, passengers served, and potential aircraft operating efficiencies.

**SEC. 309. LONG-TERM AIRPORT CAPACITY NEEDS.**

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

(b) **REPORTS.**—

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

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

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

**SEC. 310. RADIO NAVIGATION SYSTEMS.**

(a) **SYNCHRONIZATION.**—

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

(2) **OTHER LORAN-C TRANSMITTERS.**—

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

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

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

(b) **INTEROPERABILITY OF RADIO NAVIGATION SYSTEMS.**—

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

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

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

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

#### **SEC. 311. REPORTING OF ACCIDENTS TO NTSB.**

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

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

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

#### **SEC. 312. ATLANTIC CITY AIRPORT.**

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

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

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

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

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

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

(D) the power to adopt, amend, and repeal bylaws, rules, and regulations governing the manner in which its business may be conducted and the powers vested in it may be exercised;

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

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

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

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

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

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

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

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

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

**SEC. 313. RELEASE OF CERTAIN CONDITIONS.**

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

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

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

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

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

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

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

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

**(b) HAWAII.—**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(i)  $\frac{1}{4}$  of fair market value is received in the case of a rental or lease agreement for a term of 10 years or less; and

(ii)  $\frac{1}{2}$  of fair market value is received in the case of a rental or lease agreement for a term of more than 10 years.

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

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

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

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

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

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

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

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

#### SEC. 315. GRAND CANYON AIRPORT.

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

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

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

#### SEC. 401. SHORT TITLE.

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

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

(a) IN GENERAL.—The following provisions of the Internal Revenue Code of 1986 are each amended by striking out “January 1,

1988" each place it appears and inserting in lieu thereof "January 1, 1991":

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**(d) EFFECTIVE DATES.—**

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

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

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

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

**“SEC. 4283. REDUCTION IN AVIATION-RELATED TAXES IN CERTAIN CASES.**

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

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

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

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

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

**“(b) FUNDING PERCENTAGE.—**

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

**“(A) the sum of—**

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

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

**“(B) the sum of—**

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

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

**“(2) RULES FOR APPLYING PARAGRAPH (1).—**

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

**“(B) TREATMENT OF SEQUESTERED AMOUNTS.**—The determination under paragraph (1)(A) shall be made without regard to the sequestration of any amount described therein

pursuant to an order under part C of title II of the Balanced Budget and Emergency Deficit Control Act of 1985 (or any successor law).

**"(3) DETERMINATION OF FUNDING PERCENTAGE.—**

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

**"(i) the funding percentage, and**

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

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

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

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

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

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

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

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

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

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

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

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

**(2) TECHNICAL AMENDMENTS.—**

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

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

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

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

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

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

And the Senate agree to the same.

From the Committee on Public Works and Transportation, for consideration of titles I and III of the House bill and title I of the Senate amendment, and modifications committed to conference:

JAMES J. HOWARD,  
GLENN M. ANDERSON,  
NORMAN Y. MINETA,  
JAMES L. OBERSTAR,  
HENRY J. NOWAK,  
NICK RAHALL,  
PETER J. VISCLOSKY

(for consideration of sec. 109  
of the Senate amendment  
only, in lieu of Mr.  
Rahall),

JOHN PAUL HAMMERSCHMIDT,  
BUD SHUSTER,  
ARLAN STANGELAND,  
NEWT GINGRICH,  
RON PACKARD

(for consideration of sec. 120  
of the Senate amendment  
only, in lieu of Mr. Shu-  
ster),

From the Committee on Science, Space, and Technology, for consideration of sec. 102(b) of the House bill and secs. 107 and 120 of the Senate amendment, and modifications committed to conference:

ROBERT A. ROE,  
DAVE McCURDY,  
DAN GLICKMAN,  
MANUEL LUJAN, Jr.,  
TOM LEWIS,

From the Committee on Ways and Means, for consideration of title II and sec. 114 of the House bill and title II and sec. 114 of the Senate amendment, and modifications committed to conference:

DAN ROSTENKOWSKI,  
SAM M. GIBBONS,  
J.J. PICKLE,  
BARBARA B. KENNELLY,

*Managers on the Part of the House.*

From the Committee on Commerce, Science, and Transportation:

FRITZ HOLLINGS,  
WENDELL FORD,  
J.J. EXON,  
JOHN C. DANFORTH,  
N. KASSEBAUM,

From the Committee on Finance, solely for consideration of title II:

LLOYD BENTSEN,  
SPARK M. MATSUNAGA,  
BOB PACKWOOD,  
*Managers on the Part of the Senate.*

## JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2310) to amend the Airport and Airway Improvement Act of 1982 for the purpose of extending the authorization of appropriations for airport and airway improvements, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment struck out all of the House bill after the enacting clause and inserted a substitute text.

The House recedes from its disagreement to the amendment of the Senate with an amendment which is a substitute for the House bill and the Senate amendment. The differences between the House bill, the Senate amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

### 1. AUTHORIZATION FOR AIRPORT IMPROVEMENT AND NOISE ABATEMENT PROGRAM

#### *House bill*

Authorizes the following amounts for the Airport Improvement and Noise Abatement program:

Fiscal Year 1988—\$1.720 billion

Fiscal Year 1989—\$1.720 billion

Fiscal Year 1990—\$1.699 billion

Fiscal Year 1991—\$1.760 billion

Fiscal Year 1992—\$1.712 billion

#### *Senate amendment*

Authorizes the following amounts for the Airport Improvement and Noise Abatement Programs:

Fiscal Year 1988—\$1.600 billion

Fiscal Year 1989—\$1.700 billion

Fiscal Year 1990—\$1.800 billion

#### *Conference substitute*

Authorizes the following amounts for the Airport Improvement and Noise Abatement programs:

Fiscal Year 1988—\$1.7 billion

Fiscal Year 1989—\$1.7 billion

Fiscal Year 1990—\$1.7 billion

Fiscal Year 1991—\$1.8 billion

Fiscal Year 1992—\$1.8 billion

## 2. AUTHORIZATION FOR FACILITIES AND EQUIPMENT PROGRAM

### *House bill*

Authorizes the following amounts for the Facilities and Equipment Programs:

Fiscal Year 1988—\$1.377 billion  
 Fiscal Year 1989—\$1.730 billion  
 Fiscal Year 1990—\$2.191 billion  
 Fiscal Year 1991—\$1.990 billion  
 Fiscal Year 1992—\$2.083 billion

### *Senate amendment*

Authorizes the following amounts for the Facilities and Equipment programs:

Fiscal Year 1988—\$1.50 billion  
 Fiscal Year 1989—\$1.50 billion  
 Fiscal Year 1990—\$1.75 billion

### *Conference substitute*

Authorizes the following amounts for the Facilities and Equipment programs:

Fiscal Year 1988—\$1.377 billion  
 Fiscal Year 1989—\$1.730 billion  
 Fiscal Year 1990—\$2.191 billion

## 3. MINIMUM FOR INSTRUMENT LANDING SYSTEMS

### *House bill*

Provides that from the F&E authorization, not less than \$27 million in Fiscal Year 1988, \$30 million in Fiscal Year 1989 and \$35 million in Fiscal Year 1990 shall be spent for Instrument Landing Systems (ILS) (75% for ILS's at primary and reliever airports, 25% for ILS's at other airports.)

### *Senate amendment*

No similar provision.

### *Conference substitute*

Same as House bill.

The bill sets minimum levels of funding for installing Instrument Landing systems of \$27 million for FY 1988, \$30 million for FY 1989, and \$35 million for FY 1990. Seventy-five percent of the amounts for Instrument Landing Systems installation shall be made available for their purchase and installation at primary airports and reliever airports and 25 percent of the amounts shall be available for their purchase and installation at other airports.

The conferees recognize that due to cost and installation variables, FAA may not be able to meet the exact percentages established for acquisition and installation of Instrument Landing Systems at primary and reliever airports and at other airports. However, FAA is directed to come as close as feasible to the 75 percent/25 percent proportion called for in the legislation.

General aviation airports as well as commercial service airports shall be the recipients of Instrument Landing Systems under this provision. In implementing this set-aside, the FAA shall establish qualifying criteria that will allow all sizes of airports to benefit through the installation of these systems.

The Conferees are concerned about the lack of progress in implementing the Microwave Landing System Program. This has occurred even though the need for navigation systems, at both air carrier and general aviation airports, has continued to increase. The lack of such systems has served to restrict the growth of airport capacity and requires the installation of some Instrument Landing Systems in the interim.

At the same time, the conferees note that the Microwave Landing System has been adopted by the International Civil Aviation Organization (ICAO) and, indeed, is the only system that is feasible at some airports surrounded by hilly terrain. The authorization for Instrument Landing Systems in the bill should not be viewed, at this time, as lessening our commitment to the Microwave Landing System.

#### 4. OPERATIONS AND MAINTENANCE FROM THE TRUST FUND

##### *House bill*

For Fiscal Years 1988-1992, authorizes funding for Operations and Maintenance from the Trust Fund of a sum equal to 50% of the amounts made available for the Airport Improvement, Facilities and Equipment, and Research, Engineering and Development programs.

##### *Senate amendment*

For Fiscal Years 1988-1990, authorizes funding for Operations and Maintenance from the Trust fund of the same amount as is made available for the Airport Improvement Program.

##### *Conference substitute*

House bill formula, authorized for Fiscal Years 1988-1990.

#### 5. OPERATIONS AND MAINTENANCE PENALTY

##### *House bill*

Establishes a \$3 reduction in the authorization for Operations and Maintenance from the Trust Fund for each \$1 that the actual funding for the Airport Improvement, Facilities and Equipment, and Research and Development programs fall short of the authorized amount. The reduction in the authorization for Operations and Maintenance is credited to the discretionary fund for the Airport Improvement Program.

##### *Senate amendment*

No change in current law which establishes a \$2 penalty, applying only to funding for Facilities and Equipment.

*Conference substitute*

Establishes a \$2 reduction in the authorization for Operations and Maintenance from the Trust Fund for each \$1 that the actual funding for the Airport Improvement, Facilities and Equipment, and Research and Development programs fall short of the authorized amount. If the Operations and Maintenance authorization is reduced and in a subsequent year the funding for the Airport Improvement, Facilities and Equipment, and Research and Development programs exceeds the amounts newly authorized for that year, then the authorization for Operations and Maintenance is increased on a 2-1 basis, up to the amount of the prior reduction.

6. REIMBURSEMENT OF THE NATIONAL OCEANIC AND ATMOSPHERIC  
ADMINISTRATION FROM TRUST FUND

*House bill*

Authorizes reimbursement of the National Oceanic and Atmospheric Administration from the Trust Fund for Fiscal Years 1988-1992 at \$30 million a year.

*Senate amendment*

Authorizes reimbursement of the National Oceanic and Atmospheric Administration from the Trust Fund for Fiscal Years 1988-1990 at \$30 million a year.

*Conference substitute*

Senate amendment.

7. APPORTIONMENT FOR PRIMARY AIRPORTS

(A) ELIGIBLE AIRPORTS

*House bill*

Apportionment goes to airports with 18,000 or more annual enplanements.

*Senate amendment*

Apportionment goes to airports with 10,000 or more annual enplanements.

*Conference substitute*

Senate amendment.

The conferees emphasize the importance of developing, in metropolitan areas, an Integrated System of Airports designed to provide maximum access and safety for all airspace users. Therefore, the conference report continues the requirement in current law for a National Plan of Integrated Airport Systems (NPIAS) to meet the needs of our national air transportation system. The Managers believe that the planning, preservation, and enhancement of airport system capacity, safety, and security must continue to be a priority objective of FAA and all state and local airport sponsors.

The FAA needs to take a national systems approach to planning for airport development and capacity enhancement. This will re-

quire a major cooperative effort involving FAA and the state and local government airport sponsors.

The NPIAS shall include the type and estimated cost of eligible airport development necessary to provide a safe, efficient and integrated system of public use airports to meet the needs of civil aeronautics, the national defense, and the Postal Service.

As the FAA proceeds with the implementation of the National Airspace System (NAS) Plan, it is vital to the public interest that it be fully coordinated with the implementation strategy of the National Plan of Integrated Airport Systems.

In reviewing and revising the NPIAS, the Secretary shall consider the needs of and consult with all segments of civil aviation and, where appropriate, military aviation.

The conferees expect that the implementation of the National Plan of Integrated Airport Systems will result in an overall enhancement of air safety and capacity and will help alleviate congestion and delays.

#### (B) INCREASES IN MAXIMUM AND MINIMUMS

##### *House bill*

Establishes a \$300,000 minimum and a \$16,000,000 maximum for annual enplanement funding.

##### *Senate amendment*

Same as House bill.

##### *Conference substitute*

Same as House bill.

#### (C) CEILING

##### *House bill*

Establishes a ceiling of 49.5% of the AIP program for passenger and cargo entitlements.

##### *Senate amendment*

Establishes a ceiling of 38% for passenger entitlement.

##### *Conference substitute*

House bill.

### 8. CARGO ENTITLEMENT

#### (A) ELIGIBLE AIRPORTS

##### *House bill*

Establishes entitlement funding for airports with all-cargo service with an aggregate annual landed weight in excess of 500,000,000 pounds.

##### *Senate amendment*

Establishes entitlement funding for airports with all-cargo service with an aggregate annual landed weight in excess of 100,000,000 pounds.

*Conference substitute*  
Senate amendment.

## (B) TOTAL AMOUNT

*House bill*  
\$50 million a year.

*Senate amendment*  
3% of total Airport Improvement Program a year.

*Conference substitute*  
3% of total Airport Improvement Program a year, with a cap of \$50 million.

## (C) PER AIRPORT ENTITLEMENT

*House bill*  
Each airport's percentage of the landed weight at all eligible airports. No airport may receive more than 8% of total amount available.

*Senate amendment*  
Same as House bill, but no cap on an individual airport's share.

*Conference substitute*  
House bill.

## 9. STATE APPORTIONMENT

*House bill*  
Current law modified to provide that insular areas can use apportioned funds at any airport.

*Senate amendment*  
Current law modified to allow the State of Alaska to use apportionment for certain small commercial service airports.

*Conference substitute*  
House bill and Senate amendment.

## 10. FUNDING FOR CAPACITY EXPANSION FOR SAFETY AND NOISE ABATEMENT

*House bill*  
75% of discretionary fund shall be used for preserving and enhancing safety, capacity, and security at primary and reliever airports and noise compatibility planning and programs at primary and reliever airports.

*Senate amendment*  
\$250 million a year to primary and reliever airports to increase capacity.

*Conference substitutes*

House bill.

## 11. MINIMUM FUNDING

## (A) RELIEVERS

*House bill*

No change in existing law. (10% of program)

*Senate amendment*

Continues existing law, and adds a requirement that a minimum of \$300,000 annually be apportioned to each primary reliever airport (which is defined as a reliever airport meeting specified requirements for level of operations, based aircraft, and proximity to a pacing airport).

*Conference substitute*

House bill.

Although the conference report does not adopt the Senate provision creating a "primary" reliever airport category with its concomitant minimum annual guarantee per airport, the larger airport improvement program authorized by this bill will result in a substantial increase in the group set-aside for all reliever airports. Considering the needs of the larger and busier reliever airports, the conferees direct FAA to assure that these facilities receive a reliable annual flow of funds under this authorization to assist qualified, high priority projects at such airports. Specifically, the use of this Act's new provision encouraging advance construction reimbursement is desirable in appropriate cases, allowing relievers to obtain a letter of commitment from the Secretary for multi-year funding.

## (B) NOISE ABATEMENT

*House bill*

At least 10% of authorized Airport Improvement funds must be spent for noise abatement.

*Senate amendment*

Same as House bill.

*Conference substitute*

Same as House bill.

## (C) SMALL COMMERCIAL SERVICE AIRPORTS

*House bill*

At least 4% of Airport Improvement funds must be spent at small commercial service airports.

*Senate amendment*

At least 2% of Airport Improvement funds must be spent at small commercial airports.

*Conference substitute*

At least 2½% of Airport Improvement funds must be spent at small commercial service airports.

## (D) INTEGRATED AIRPORT SYSTEM PLANNING

*House bill*

At least ½ of 1% of Airport Improvement funds must be spent for integrated airport system planning.

*Senate amendment*

No change in current law. (1%)

*Conference substitute*

House bill.

## 12. SPONSOR ASSURANCES

## (A) NONDISCRIMINATION

*House bill*

Assurance in existing law requiring airport to be open on a non-discriminatory basis modified to indicate that assurance applies only to facilities directly and substantially related to providing air transportation; that an airport may not discriminate against cargo carriers; and that all willing carriers must be allowed to participate in airport use agreement.

*Senate amendment*

No comparable provision.

*Conference substitute*

House provision.

## (B) APPROVAL OF NON-AERONAUTICAL CLOSINGS

*House bill*

Adds assurance that any proposal to temporarily close the airport for non-aeronautical purposes must be approved by Department of Transportation.

*Senate amendment*

No comparable provision.

*Conference substitute*

House bill.

## (C) TERMINAL AIRSPACE ASSURANCE

*House bill*

Modifies existing assurance to require sponsor to take appropriate action to clear or protect the airspace needed to protect instrument and visual operations to the airport, including minimum flight altitudes.

*Senate amendment*

No comparable provision.

*Conference substitute*

House bill.

## (D) REVENUE ASSURANCE

*House bill*

Existing assurance that revenue must be spent on the airport modified to provide that local aviation fuel taxes must be spent on the airport; that authorization to spend revenues for other transportation facilities is limited to facilities directly and substantially related to actual air transportation; and to clarify that exception permitting use of airport revenues to support debt obligations for other facilities is limited to cases in which such use of revenues was authorized before 1982.

*Senate amendment*

No comparable provision.

*Conference substitute*

House bill, modified to provide that the assurance requiring that local aviation fuel taxes must be spent on the airport does not apply to taxes in effect on the date of enactment of this Act.

The assurance requiring that local taxes on aviation fuel must be spent on the airport is intended to apply to local fuel taxes only, and not to other taxes imposed by local governments, or to state taxes. Similarly, this provision is not intended to modify subsequent provisions in the bill which clarify that a state may commit the proceeds from state aviation fuel taxes to state aviation agencies and that an airport may apply airport revenues for airport noise abatement on or off the airport.

This amendment to the assurance in section 511(a)(12) changes the requirement in current law allowing revenue to be spent on local facilities owned or operated by the owner or operator of the airport and "directly related to the actual transportation of passengers or property." Under the amendment in the Conference Substitute, the facilities must be "directly and substantially related to the actual air transportation of passengers and property." The conferees intend this amendment to be prospective. It is not intended to invalidate the provisions of any pre-existing contractual agreement between an airport owner or operator and its airline tenants or other tenants which was entered into before the date of enactment and which was consistent with the law then in effect on the use of airport revenue, for transportation facilities. No airport owner or operator complying with such a contract shall be ineligible for grants on the basis that its compliance with a pre-existing contract conflicts with its assurances to the Secretary. In addition, this provision is not intended to prohibit the use of revenues generated by an airport for non-aviation transportation uses where the airport sponsor has obtained a legal opinion from the FAA, prior to enactment, that airport-generated funds may be used for facilities

directly related to the actual transportation of passengers and/or property.

The Conferees intend to follow the same policies as were established in the 1982 reauthorization legislation on the types of revenues which are subject to this assurance.

The assurance is not intended to apply to revenue generated by facilities which are located on airport property but are unrelated to air operations or services which support or facilitate air transportation. Accordingly, it would not apply to revenue generated by such facilities as a water reservoir or a convention center which happen to be located on airport property, but which serve neither the airport nor any air transportation purpose. It would apply to such facilities as terminal concessions and parking lots serving the terminal or other air transportation purposes.

#### (E) DISPOSAL OF LAND

##### *House bill*

Assurance on use of funds obtained in disposing of land purchased with federal funds for noise abatement modified to provide that reinvestment of funds must be in approved noise compatibility projects. New assurance added concerning disposal of land for purposes other than noise abatement. Disposal is authorized when land is no longer needed for airport purposes. Land must be disposed of at fair market value and an amount proportionate to the United States' share of the cost of acquisition must be deposited in the Trust Fund.

##### *Senate amendment*

No comparable provision.

##### *Conference substitute*

House bill.

#### (F) LAYOUT PLAN ASSURANCE

##### *House bill*

New assurance requiring an up-to-date layout plan and prohibiting changes in the airport which the Department of Transportation determines would adversely affect the safety or efficiency of the airport. If a change in the airport affects the efficiency of federal property, the airport owner must pay costs of restoring the federal property to its prior level of efficiency.

##### *Senate amendment*

No comparable provision.

##### *Conference substitute*

House bill, modified to clarify that an airport may make changes which are not in an approved layout plan if, in the opinion of the Secretary, the change would not adversely affect the safety, utility or efficiency of the airport.

The House bill is further modified to clarify that an airport is only obligated to pay the cost of restoring federal property im-

paired by a change in the airport if the change was not in conformity with an approved layout plan and if the Secretary determines that the change adversely affects the safety, utility or efficiency of the federal property.

(G) ENGINEERING AND DESIGN SERVICE

*House bill*

New assurance requiring contract for engineering and design services to be awarded in accordance with qualifications-based requirements established by federal law or an equivalent procedure prescribed by or for the sponsor of the airport.

*Senate amendment*

Similar provision allowing use of different procedures if required by State law.

*Conference substitute*

House bill.

(H) CONSULTATION REQUIREMENTS

*House bill*

Modifies consultation requirements in existing law to provide that before submitting an application, a sponsor must provide notice and opportunity for comment on the application to affected parties using the airport.

*Senate amendment*

No comparable provision.

*Conference substitute*

Senate amendment.

The conferees are pleased to note that the primary industry groups concerned with this provision have agreed to establish a recommended industry-wide standard for consultation between airports and air carriers. The Air Transport Association, American Association of Airport Executives, and Airport Operators Council International have agreed to mutually adopt and recommend to their respective members an industry standard for aeronautical user consultation. We understand that the recommendation will cover both the timing and method of consultation. The conferees will monitor the compliance with this voluntary agreement to determine the success of this approach in resolving differences.

(I) MODIFYING ASSURANCES

*House bill*

Before Secretary may modify assurances or require additional assurances, there must be notice and an opportunity for comment.

*Senate amendment*

No comparable provision.

*Conference substitute*

House provision.

The Conference substitute provides that before the Secretary may modify any AIP grant assurance required on the date of enactment or require compliance with any additional assurance (other than new assurances established by this legislation), the Secretary shall publish notice of the proposed change or addition to the sponsor assurances in the Federal Register and provide an opportunity for comment. The Secretary should not add or change any assurance until the Secretary has given adequate public notice of the proposed changes, and has allowed a reasonable period for comments to be filed by the airport sponsors and other interested parties.

### 13. DISADVANTAGED BUSINESS ENTERPRISES

*House bill*

Provides that not less than 10% of airport improvement funds must be spent with small business concerns owned and controlled by socially and economically disadvantaged individuals. Adds a new assurance that an airport must ensure, to the maximum extent practicable, that at least 10% of concessions at the airports go to small business concerns owned or leased by socially and economically disadvantaged individuals.

*Senate amendment*

No comparable provision.

*Conference substitute*

House bill.

Modified to provide that with respect to assurance on concessions, the Secretary shall establish the definition of a small business concern. (There is no change in the provision in the House bill that the determination of whether a concern is owned and controlled by socially and economically disadvantaged individuals is to be made by reference to definitions in the Small Business Act subject to the presumption that women are to be considered as economically disadvantaged.)

The Conferees recognize that some airports may be unable to meet the 10% DBE goal for terminal concessions for reasons which include, but are not limited to, a lack of qualified DBEs in its area and existing multi-year concession contracts which may preclude immediate or short-term achievement of the DBE goal and limit opportunities to award new contracts to DBEs until existing agreements expire. The Secretary should establish short- and long-term DBE concessional goals for these airports to allow a phase-in as new concession opportunities become available, and provide waivers for sponsors where the 10% goal is not reasonably or practically achievable.

In administering this provision, the Secretary should not require airport sponsors to break existing contracts to fulfill this assurance. As options to renew existing contracts are exercised, or if a lease is amended for any purpose, opportunities for DBEs to par-

ticipate as sublessees or joint ventures should be assessed and encouraged when feasible.

Under this provision, the Secretary would have discretion to determine the basis on which the 10% DBE requirement would be measured. In appropriate cases the requirement could be a percentage of the number of new concessions awarded to DBEs or a percentage of the terminal concession revenues received by the airport sponsor from all firms. The Conferees expect that airport sponsors whose terminal concessions do not meet the 10% DBE participation requirement will make good faith efforts toward achieving that goal by increasing the percentage of new concession contracts awarded to DBE firms.

It is the intention of the Conferees that firms owned and controlled by women (WBEs) be included as a presumptive group within the definition of Disadvantaged Business Enterprise (DBE).

The Conferees intend that the contractors bidding on federally funded Airport Improvement Projects will be able to make best efforts to meet DBE contract goals covering the federally funded portion (including state/local/private matching funds) of the project by using MBEs (as defined prior to this Act), WBEs or combinations thereof. Additionally, the Conferees intend that the Department of Transportation and Airport Improvement Program grant sponsors should no longer require contractors to meet separate contract goals for MBEs and WBEs covering the federally funded portion (including state/local/private matching funds) of airport improvement projects. To the extent that airport development is funded exclusively with state, local or private funds, the conference substitute does not preempt action by state or local authorities.

#### 14. STATE PROJECT SPONSORSHIP

##### *House bill*

Allows state to sponsor a project application for airport development project benefiting two or more airports for local airport sponsors consent, and there is agreement between the state and local sponsors and the FAA to assure compliance with appropriate grant conditions.

##### *Senate amendment*

No comparable provision.

##### *Conference substitute*

House bill.

#### 15. STATE BLOCK GRANT

##### *House bill*

No provision.

##### *Senate amendment*

Establishes Pilot State Block Grant program for up to five states to administer all airport funding except primary airports. Program to run from Fiscal 1989 to Fiscal 1991.

*Conference substitute*

Senate amendment, modified to establish program for three states.

## 16. MAXIMUM UNITED STATES SHARE

*House bill*

Provides that maximum obligation of United States under a grant may not be increased by more than 15%.

*Senate amendment*

No comparable provision.

*Conference substitute*

House bill.

## 17. TERMINAL ELIGIBILITY

*House bill*

Allows airport to receive terminal development grants up to its full entitlement and allows United States share for terminal development to be up to 75%. The increases in amount and federal share over current law require a public interest determination by Secretary.

*Senate amendment*

Allows funding up to amount of entitlement. Makes regular federal share applicable (75% for larger airports; 90% for smaller airports).

*Conference substitute*

House bill modified to eliminate requirement of a public interest determination for increased amount and federal share.

## 18. ADVANCE CONSTRUCTION REIMBURSEMENTS

*House bill*

Permits the issuance of a Letter of Intent to fund a project at a primary or reliever airport in future fiscal years. If a Letter of Intent is issued the Secretary shall pay the costs incurred for the project as funds become available.

*Senate amendment*

Provides for grants to reimburse work already accomplished at a primary or reliever airport, if the Secretary was notified before the project began and was provided with information to assure that the project would be carried out in accordance with the applicable requirements.

*Conference substitute*

House bill modified to provide that Letters of Intent must be issued before a project is started, except that within 90 days after enactment, a letter of intent may be issued for a project begun after November 20, 1987.

Letters of Intent may be issued for projects to be funded with enplanement funds or discretionary funds. If a sponsor requests a Letter of Intent for a project to be funded with future enplanement funds only, the Conferees expect that a letter of intent will be issued if the project meets all statutory requirements.

#### 19. LIMITATION ON WITHHOLDING OF GRANTS

##### *House bill*

Provides that the Secretary shall not withhold approval of an application for entitlement funds on the grounds of violation of an assurance unless there is an opportunity for hearing and a determination of noncompliance within 90 days. Provides that funding under an approved grant agreement may not be withheld for more than 60 days after payment is due without a hearing and a determination of a violation.

##### *Senate amendment*

No comparable provision.

##### *Conference substitute*

House bill modified to extend deadlines for determinations to 180 days. The Conferees expect that FAA Hearing Officers will adopt procedural schedules which will permit cases to be completed in 180 days, without depriving parties to the cases of procedural due process. We note that the Department of Transportation has developed procedures which have permitted merger cases, which may be considerably more complex than grant assurance cases, to be completed in 180 days.

#### 20. DENIAL OF FUNDS FOR PROJECTS USING PRODUCTS OF FOREIGN COUNTRIES WHICH DENY FAIR MARKET OPPORTUNITIES

##### *House bill*

Prohibits use of funds for projects using products or services of a foreign country if the United States Trade Representative determines that the country denies fair and equitable market opportunities for United States suppliers or bidders for construction projects costing more than \$500,000 which are funded by the government of the country. An exception to the prohibition is permitted if the Secretary determines that the prohibition would not be in the public interest, that similar products are not produced in the United States, or that exclusion of the foreign products would increase the cost of a project by more than 20%.

##### *Senate amendment*

Same as House bill.

##### *Conference substitute*

Same as House bill.

The prohibition on funding contained in this section is based upon a determination by the United States Trade Representative (USTR) within 30 days after submission to the Congress of the annual report on foreign trade barriers required under section

181(b) of the Trade Act of 1974 of whether each foreign country denies U.S. products, suppliers, or bidders fair and equitable market opportunities for certain construction projects. In order to focus limited resources on known significant barriers to U.S. trade, the conferees intend that the scope of USTR determinations for purposes of this Act be limited only to those foreign countries that are listed in the annual report as maintaining barriers to U.S. construction services for such projects. The conferees expect the annual report will describe significant barriers of any foreign country to such services and that existing authorities, particularly section 301 of the Trade Act of 1974, will also be used against unfair trade practices.

## 21. PROJECT COSTS

### *House bill*

Prohibits use of airport improvement funds for cost of decorative landscaping or the installation of sculpture or art work.

### *Senate amendment*

No comparable provision.

### *Conference substitute*

House bill.

## 22. INCLUSION OF HELIPORTS AS AIRPORTS

### *House bill*

Specifically includes heliports in definition of airports.

### *Senate amendment*

No comparable provision.

### *Conference substitute*

House bill.

## 23. NOISE ABATEMENT

### (A) FUNDING FOR PROJECTS WHEN AIRPORT HAS NOT OBTAINED APPROVAL FOR COMPREHENSIVE NOISE ABATEMENT PROGRAM

### *House bill*

Provides that if the Secretary finds that an airport is not making reasonable progress towards developing or implementing a noise compatibility program, 10% of the funds apportioned to the airport shall be made available to units of local government and public agencies near the airport for noise abatement programs and projects. Authorizes grants for soundproofing of schools and hospitals even though the airport has not obtained approval for a comprehensive noise abatement program.

### *Senate amendment*

Authorizes funding for purchase of land for noise abatement even though no comprehensive plan has been approved. Allows continuation of exception in 1979 Noise Abatement Act permitting

funding for noise abatement projects when Secretary determines that a program developed before the 1979 Act meets the purposes of the Act.

*Conference substitute*

House provision authorizing grants for soundproofing of schools and hospitals even though the airport has not obtained approval for a comprehensive noise abatement program. The Conference substitute also requires a study by the Department of Transportation to determine whether the procedures which the Federal Aviation Administration has developed for the preparation and submission of noise compatibility programs could be revised to provide a more simplified process which meets the objectives of the Aviation Safety and Noise Abatement Act of 1979, and whether or not expedited and simplified procedures could be developed to take account of special circumstances at certain airports. The special circumstances which should be considered in the study include airports surrounded by densely populated, long-established residential neighborhoods, where land acquisition would be a prohibitively expensive and socially undesirable solution to the airport noise problem.

The study must be completed in 18 months. During this 18-month period, the Conference substitute continues the Secretary's authority to make grants for noise abatement projects at an airport which has not obtained approval for a comprehensive noise program if the Secretary determines that the airport has a program developed before the 1979 Act which meets the purposes of that Act.

The study required by this provision is to be developed in consultation with affected individuals or groups. Without intending to limit this consultation requirement, the Conferees note that the procedures established by FAA for the development of noise compatibility programs are now being evaluated by an industry Task Force in the context of a review of a wide range of issues of noise and airport capacity. We expect the DOT study on procedures for noise compatibility programs to give full consideration to the conclusions of the industry Task Force.

(B) FEDERAL SHARE

*House bill*

Provides that federal share for noise abatement may be the percentage share under the Airport Improvement Program or the Aviation Safety and Noise Abatement Act of 1979, whichever is greater.

*Senate amendment*

No comparable provision.

*Conference substitute*

House bill.

## (C) PUBLIC HEARING

*House bill*

Provides for notice and an opportunity for public hearing before an airport operator submits a noise compatibility program.

*Senate amendment*

No comparable provision.

*Conference substitute*

House bill.

## (D) NOISE ABATEMENT

*House bill*

Requires a study by Federal Aviation Administration of noise abatement proposals not currently eligible for federal assistance.

*Senate amendment*

Similar provision.

*Conference substitute*

House bill.

This provision requires the FAA Administrator to conduct a study of innovative noise abatement proposals that are not currently eligible for federal assistance and to make recommendations as to whether or not some of these proposals should be eligible to receive federal assistance. This study should also examine how funding eligibility for additional types of projects should be related to an FAA-approved Part 150 Noise Compatibility Program.

The Conferees believe that the satisfactory resolution of noise abatement problems is an important factor in the ability to provide sufficient airside capacity at our nation's airports. The conferees have been apprised of innovative noise abatement programs which have not received federal assistance, either because of the lack of legal authority or because of administrative policies. The conferees believe that further consideration should be given to whether innovative measures, such as those proposed at the Baltimore-Washington International, Minneapolis-St. Paul, Orange County, California, and Seattle-Tacoma airports, should be made eligible for federal assistance. Noise abatement proposals to be studied should include, but not be limited to, the voluntary acquisition of properties and relocation of residents, abatement of interior ambient noise levels within residential and institutional buildings by air conditioning and other appropriate insulation techniques, and programs intended to assure receipt of full fair market value upon the sale of residential properties for those desiring to relocate out of a noise zone.

In order to move toward the implementation of these programs, the Conferees have directed FAA (1) to conduct a study assessing these innovative proposals, (2) to recommend whether federal assistance should be provided for them, and (3) to recommend what administrative or legislative actions would be necessary to allow such federal participation under the Airport Improvement Program.

## 24. STUDY ON LONG-TERM CAPACITY NEEDS

*House bill*

Requires the Secretary to conduct a study to develop an overall airport system plan through the year 2010 which will ensure a long-term availability of adequate system capacity. Authorizes \$250,000 per fiscal year for Fiscal Years 1988 and 1989.

*Senate amendment*

No comparable provision.

*Conference substitute*

House bill. Secretary required to submit status report in one year.

In recent years, questions relating to the need to enhance airport and airway system capacity have become urgent. Congress has initiated various remedies to help alleviate the system's inability to accommodate public air travel demands. Correcting system inadequacies is a problem of national proportions that requires thoughtful analysis and innovative solutions. It is clear to the Conferees that a comprehensive evaluation of the aviation system is warranted and that a thorough examination of long-term capacity needs should be given the highest priority if the national air transportation system is to attain optimum safety and efficiency.

This legislation requires the Secretary of Transportation to conduct a two-year study of long-term airport capacity needs and develop an overall airport system development plan which must be compatible with airways modernization and that will, at a minimum, cover the next 20-year timeframe.

The study will permit the Department and the Federal Aviation Administration, along with broad participation by aviation interests, to make comprehensive determinations about how to best accommodate future air travel demands and how to best structure the airport and airway system. It is expected that the study will project the volume and distribution of air traffic to the year 2010 and beyond, and identify specific options for implementing the system plan. This study should include, but is not limited to, an examination of the following specific factors affecting the capacity of the system and an outline of recommendations for expanding that capacity:

- Runway and taxiway configurations;
- Adverse weather;
- Availability of precision landing aids and related required lighting;
- Runway configuration management practices;
- Terminal airspace configuration, including approach and departure routings;
- Other relevant air traffic control constraints;
- Impact of noise restrictions;
- Operational procedures to mitigate noise; and
- Limits imposed by gate shortages.

The conferees believe it is vital that the study delineate the specific measures necessary to bring about meaningful enhancements to the national air transportation system.

## 25. DENVER STAPLETON AIRPORT

*House bill*

Authorizes a release of conditions in the Deed of Conveyance and grants to Denver Stapleton Airport. A release must be subject to requirements that airport property must be conveyed for fair market value and the proceeds must be invested in developing a new airport and a reliever airport.

*Senate amendment*

Same as House bill.

*Conference substitute*

Same as House bill.

## 26. BURBANK AIRPORT

*House bill*

Provides that no grant shall be made for Burbank Airport until the airport requests the FAA to allocate runway use so that as many flights as FAA determines are feasible and safe shall depart from Runway 7. Plan shall not require more than 50% of the flights at the airport to depart from Runway 7.

*Senate amendment*

No comparable provision.

*Conference substitute*

Senate amendment.

## 27. POMPANO BEACH AIRPARK

*House bill*

Prohibits Federal Aviation Administration from taking any action to redesignate non-aviation use land at Pompano Beach Airpark, or to revert such lands to the Federal government.

*Senate amendment*

No comparable provision.

*Conference substitute*

Senate amendment.

## 28. ATLANTIC CITY AIRPORT

*House bill*

Prohibits funding for development at Atlantic City Airport until a Master Plan is completed, and a public entity with specified characteristics has been created to manage the airport.

*Senate amendment*

Same as House bill.

*Conference substitute*

Same as House bill.

## 29. LAREDO, TEXAS

*House bill*

Releases the City of Laredo, Texas from restrictions prohibiting the sale or lease of airport property for non-aviation purposes, subject to conditions.

*Senate amendment*

Same as House bill.

*Conference substitute*

Same as House bill.

## 30. GRAND CANYON STUDY

*House bill*

No comparable provision.

*Senate bill*

Directs Department of Transportation to study methods of air traffic control which might be utilized in the Grand Canyon, including use of radar. The study must be completed in 180 days.

*Conference substitute*

Senate amendment.

## 31. HAWAII

*House bill*

No comparable provision.

*Senate amendment*

Authorizes use of Airport Improvement funds by the State of Hawaii to acquire specified property from the United States General Services Administration or to reimburse the state for such acquisition. Authorizes the Secretary to grant releases permitting the State of Hawaii to convey certain land which had been conveyed to the State by the United States for airport purposes.

*Conference substitute*

Senate amendment.

## 32. FLIGHT SERVICE STATIONS

*House bill*

Prohibits Secretary from closing or reducing hours of operation of any Flight Service Station unless the area is served by an automated Flight Service Station with Model One or better equipment. Requires the Secretary to reopen any Flight Service Station closed between March 25, 1987 and July 14, 1987 if service in the area is

not provided by an automated Flight Service Station with Model One or better equipment.

*Senate amendment*

No comparable provision.

*Conference substitute*

House bill.

### 33. EXPLOSIVE DETECTION K-9 TEAMS

*House bill*

Authorizes grants for the training of explosive detection dog teams for use at airports and onboard aircraft.

*Senate amendment*

Authorizes \$130,000 a year from Trust Fund for this program through Fiscal Year 1990.

*Conference substitute*

House bill.

### 34. LIMITATION ON AVIATION FEES

*House bill*

Amends current law placing a ceiling on certain aviation user fees to permit those fees to be adjusted in accordance with changes in the Consumer Price Index since 1973.

*Senate amendment*

No comparable provision.

*Conference substitute*

House bill.

### 35. DECLARATION OF POLICY

*House bill*

Establishes a policy goal that Federal Aviation Administration shall install specified navigation and safety equipment at commercial service airports. Adds new policy statement that artificial restrictions on airport capacity are not in the public interest and should not be imposed unless less burdensome alternatives have first been attempted. Expresses the sense of Congress that existing FAA regulations limiting operations at certain airports should be phased out and eliminated at the earliest practicable date consistent with aviation safety.

*Senate amendment*

No comparable provision.

*Conference substitute*

House bill.

## 36. RADIO NAVIGATION SYSTEMS

*House bill*

Requires Federal Aviation Administration to synchronize Loran C master transmitters and to study impact on users of synchronization of secondary transmitters. Authorizes funding of \$750,000 for Fiscal Year 1988 and \$500,000 for Fiscal Year 1989 for such study. Requires a study of coordination of time reference of Loran C transmitters and Global Positioning Satellite System. Authorizes \$500,000 for such study. Requires FAA to establish minimum standards under which a radio navigation system may be certified as the sole radio navigation system.

*Senate amendment*

No comparable provision.

*Conference substitute*

House bill.

## 37. PENALTY FOR INTERFERENCE WITH AIRCRAFT ACCIDENT INVESTIGATIONS

*House bill*

Increases penalty for interfering with accident investigations from a \$5,000 fine and imprisonment of up to one year to a fine of \$250,000 and imprisonment of up to 10 years.

*Senate amendment*

No comparable provision.

*Conference substitute.*

House bill.

## 38. CONTRACT TOWER PROGRAM

*House bill*

No comparable provision.

*Senate amendment*

Directs Department of Transportation to make permanent the VFR Level 1 air traffic control tower contract program.

*Conference substitute*

Senate provision modified to clarify that the program is to be continued at existing towers and extended to other towers as practicable.

This provision directs the Secretary to continue the contract tower program, currently administered by the FAA. Following the 1981 air traffic controller strike, the FAA closed a number of low activity control towers in order to move personnel to other more essential activities. To reinstate service at those airports, the FAA began to contract with local government jurisdictions for the operation of these low activity towers. These governments have, in

turn, used their own employees or contracted with private firms for the operation of the towers.

In recent months, the Federal Aviation Administration has exhibited some reluctance to continue this program. The Conferees believe that the contract tower program has provided significant benefits in terms of aviation safety, as well as economic development for participating communities, and believe that those towers currently being operated should remain in operation. In addition, the conferees direct the Secretary to make every effort to extend this program to those low activity air traffic control towers that remain closed, or to new towers determined by the Secretary to qualify for contract operations.

### 39. ADDITIONAL AIR TRAFFIC CONTROLLERS

#### *House bill*

No comparable provision.

#### *Senate amendment*

Directs Federal Aviation Administration to hire not less than 1,000 additional air traffic controllers. This may not include air traffic assistants.

#### *Conference substitute*

Senate amendment. Redrafted to clarify that FAA is required to have a controller workforce of at least 15,900 on September 30, 1988. Controller workforce is defined to mean persons employed by the FAA (including traffic management coordinators and first line supervisors), a substantial part of whose duties include separating and controlling air traffic. The term does not include air traffic assistants and students at an air traffic control academy.

### 40. COLLISION AVOIDANCE SYSTEMS

#### *House bill*

No comparable provision.

#### *Senate amendment*

Directs Federal Aviation Administration to develop a schedule of certification of the collision avoidance system, known as TCAS II, resulting in certification not later than 18 months after enactment. Directs Federal Aviation Administration to require that not less than 30 months after TCAS II certification it must be installed on aircraft with more than 20 seats. Directs Federal Aviation Administration to require installation of altitude encoding transponders in all areas where radar service is provided. Exemptions are permitted in areas other than Terminal Control Areas and Airport Radar Service Areas. Transponders must be installed not later than 24 months after enactment. Directs Federal Aviation Administration to complete development and certification of TCAS III as soon as possible.

*Conference substitute*

Senate amendment modified to require TCAS II on aircraft of 30 seats or more, and to require installation of altitude encoding transponders three years after enactment.

It is not the intent of the Conferees to exclude equivalent or better collision avoidance systems that may be developed from being used on commercial and non-commercial aircraft. It is the intent of the Conferees to allow competition to the TCAS system if such competition enhances safety and is certified and approved through the administrative procedures and rules of the FAA. This paragraph should not be construed to delay the installation of the TCAS system as defined in this legislation but rather as guidance for future collision avoidance system decisions by the Congress or the FAA.

## 41. FLIGHT SERVICE IN JUNEAU, ALASKA

*House bill*

No comparable provision.

*Senate amendment*

Directs that Flight Service Station in Juneau, Alaska be named the Dave Scheytt Flight Service Station.

*Conference substitute*

Senate amendment.

## 42. SIERRA BLANCA REGIONAL AIRPORT

*House bill*

No comparable provision.

*Senate amendment*

Provides that for purposes of eligibility for Federal assistance for airport development, namely, fire protection, the Sierra Blanca Regional Airport shall be considered to have scheduled commuter service with at least 30 passenger aircraft.

*Conference substitute*

Establishes eligibility for funding under the Airport Improvement Program of fire fighting and rescue equipment at any airport served by scheduled passenger operations with aircraft designed for more than 20 passenger seats.

## 43. MUNICIPAL AIRPORT OF DERMOTT, ARKANSAS

*House bill*

No comparable provision.

*Senate amendment*

Provides that the Municipal Airport of the City of Dermott, Arkansas shall not be denied eligibility for assistance on the basis that the airport is located on leased land, subject to conditions.

*Conference substitute*

Senate amendment.

## 44. AMENDMENT TO NATIONAL DRIVER REGISTRATION ACT

*House bill*

No comparable provision.

*Senate amendment*

Authorizes airmen to request transmission of information from National Driver Register only to verify information reported by the airmen in seeking an FAA medical certificate. There shall be no access to information entered more than 3 years before the request unless the information relates to driver license revocations and suspensions which are still in effect.

*Conference substitute*

Senate amendment.

## 45. COCKPIT VOICE RECORDERS AND FLIGHT DATA RECORDERS

*House bill*

No comparable provision.

*Senate amendment*

Requires the Department of Transportation to initiate a rulemaking to require installation and use of Cockpit Voice Recorders (CVR) and Flight Data Recorders (FDR) on commuter aircraft and other aircraft consistent with recommendations of the National Transportation Safety Board.

*Conference substitute*

Senate amendment modified to require initiation of a rulemaking proceeding to consider use of CVRs and FDRs. Rulemaking must begin in 120 days. Monthly status reports are required.

## 46. CIVIL PENALTY

*House bill*

No comparable provision.

*Senate amendment*

Establishes civil penalties of \$1,000 for failing to notify the FAA of proposed construction of towers that might be a hazard to navigation. Increases penalties for violation of safety provisions of the Federal Aviation Act by air carriers from \$1,000 to \$10,000 for each violation. Gives Federal Aviation Administration jurisdiction to assess civil penalties when the total amount in controversy is less than \$100,000 and the case does not involve the seizure of aircraft. The authority granted to the FAA terminates two years following date of enactment.

*Conference substitute*

Senate amendment modified to clarify that in appropriate cases each flight operated in violation of the Act or FAA regulations is a separate violation; that new \$10,000 penalty applies only to offenses committed after effective date; to add a requirement that when the Federal Aviation Administration assesses penalties FAA must comply with the Administrative Procedure Act's requirements for a hearing on the record; and to limit FAA's authority to assess civil penalties to cases in which the amount in controversy is less than \$50,000.

In providing for a hearing on the record before an Administrative Law Judge as a matter of right in the Civil Penalty Assessment Demonstration Program, the Conferees intend to accomplish two objectives. First, the requirement is intended to advise the FAA of the appropriate level of procedural formality and attention to the rights of those assessed civil penalties under this demonstration program. Secondly, this requirement is intended to provide reasonable assurance to the potential subjects of such civil penalties that their due process rights are not compromised.

## 47. ILLEGAL ENTRY IN SECURED AREAS

*House bill*

No comparable provision.

*Senate amendment*

Establishes criminal penalties for unlawful entry into an area of an airport in violation of security requirements established pursuant to section 315 and 316 of the Federal Aviation Act.

*Conference substitute*

Senate amendment.

The Conferees direct the Secretary of Transportation to report on the status of DOT and FAA actions to implement the recommendations concerning domestic airport security, screening equipment, screening personnel and their training, employee and public access to airport concourse and air operations areas, and the enforcement of federal airport security standards and regulations by the Federal Aviation Administration contained in the 1986 Initial Recommendations of the Secretary of Transportation's Safety Review Task Force on Domestic Aviation Security, the March 1987 Recommendations of the Secretary of Transportation's Safety Review Task Force on Domestic Aviation Security Regarding Security of Airport Perimeter and Air Operations Areas, and the July 1987 Report of the Secretary of Transportation's Safety Review Task Force on Domestic Aviation of Security Regarding Passenger and Carry-on Baggage Screening.

## 48. INDEMNIFICATION

*House bill*

No comparable provision.

*Senate amendment*

Allows Federal Aviation Administration to indemnify officers or employees against claims or judgments for acts committed within the scope of official duties.

*Conference substitute*

Senate amendment.

## 49. PUBLIC AIRCRAFT

*House bill*

No comparable provision.

*Senate amendment*

Changes definition of public aircraft (which are exempt from many Federal Aviation regulations) to provide that aircraft used by state or local governments must be leased for not less than 90 continuous days to qualify as a public aircraft. Authorizes National Transportation Safety Board to require reports on accidents and incidents involving public aircraft other than aircraft operated by military and intelligence agencies.

*Conference substitute*

Senate amendment.

## 50. DEFINITION OF PASSENGERS ENPLANED

*House bill*

No comparable provision.

*Senate amendment*

Provides that definition of passengers enplaned used in entitlement formula for the Airport Improvement Program includes passengers onboard international flights which transit an airport for non-traffic purposes.

*Conference substitute*

Senate amendment, limited to airports in the 48 contiguous states.

## 51. CRITERIA FOR INSTALLING CONTROL TOWER AND NAVIGATION AIDS

*House bill*

No comparable provision.

*Senate amendment*

Provides that in setting criteria for installing control towers and navigation aids based on the number of air carrier operations the Secretary shall count operations with aircraft providing scheduled passenger service with fewer than 61 seats as the equivalent of operations with aircraft with more than 61 seats.

*Conference substitute*

Requires the Department of Transportation to promulgate regulations establishing criteria for installation of control towers and navigation aids by December 31, 1988. Criteria are to include aircraft operations (regardless of aircraft size) and passengers served.

The conferees are concerned that FAA criteria (which give more weight to operations by planes with more than 60 passenger seats, than to similar operations with 60 or fewer seats) may fail to afford passengers flying on smaller commercial aircraft the same consideration as travelers flying on larger equipment. This provision directs the FAA to eliminate any unfair discrimination against passengers on regularly scheduled commercial airlines which use smaller planes or which serve small communities. The provision requires the FAA to establish, after a public rulemaking procedure, new criteria for establishing towers and other navigational aids which are based on relevant safety and operational considerations and which do not make the capacity of the aircraft the sole or major determining factor.

## 52. SAFETY REGULATIONS

## (A) FLIGHTS OVER WATER

*House bill*

No comparable provision.

*Senate amendment*

Requires Department of Transportation to issue within 120 days of enactment regulations requiring adequate uniform life preservers, life rafts, and floatation devices on any flight which will occur over water and adequate information on use of such devices.

*Conference substitute*

Requires the Department of Transportation to initiate rulemaking proceeding to consider the regulations described in the Senate amendment. Notice of Proposed Rulemaking must be issued in 180 days. Monthly status reports required.

## (B) SEAT STRENGTH

*House bill*

No comparable provision.

*Senate amendment*

Requires rulemaking to begin within 120 days and be completed within 425 days following date of enactment to require all seats on-board air carrier aircraft to meet improved crashworthiness standards based on best available testing standards.

*Conference substitute*

Requires Department of Transportation to initiate a rulemaking proceeding to consider the regulations described in the Senate amendment. Notice of Proposed Rulemaking must be issued in 120 days. Monthly status reports required.

## (C) CABIN FLAMMABILITY STANDARDS

*House bill*

No comparable provision.

*Senate amendment*

Requires FAA rulemaking to require air carrier interior cabins to meet improved flammability standards. Requires rulemaking to begin within 120 days and be completed within 425 days following date of enactment.

*Conference substitute*

House bill.

With respect to the need for improved flammability standards for airline aircraft cabin materials, the conferees support the standards and the deadlines of the Final Rule issued by FAA on July 21, 1986. The conferees believe that this Final Rule will bring about significant safety improvements and that there should be neither a relaxation of the flammability standards nor an extension of the August 20, 1990 compliance deadline. The conferees believe the Federal Aviation Administration and the industry should redouble their efforts to achieve these standards on a timely basis.

## (D) FIRE PREVENTION

*House bill*

No comparable provision.

*Senate amendment*

Requires a rulemaking to establish regulations to minimize the incidence of fire or explosion, including crash resistant inner fuel tanks and breakaway self-closing fittings throughout the fuel system. Requires rulemaking to begin within 120 days and be completed within 425 days following date of enactment.

*Conference substitute*

Require a study of the feasibility of the safety improvements specified in the Senate amendment. Study to be completed in one year.

## (E) FAA INSPECTION

*House bill*

No comparable provision.

*Senate amendment*

Requires Department of Transportation to report within 90 days on specified regulations which the Secretary has adopted or intends to adopt to modernize and improve the oversight and inspection of air carrier maintenance and safety related procedures.

*Conference substitute*

Senate amendment.

## 53. POLICY STATEMENTS

*House bill*

No comparable provision.

*Senate amendment*

States Congressional policy on importance of cargo hub airports, increased airport capacity, and non-aviation use of airspace.

*Conference substitute*

Senate amendment.

## 54. TALL TOWERS

*House bill*

No comparable provision.

*Senate amendment*

Requires Secretary of Transportation, in reviewing National Plan of Integrated Airport System, to consider tall structures which reduce safety or capacity and needs of air cargo, STOL/VSTOL, and rotary wing aircraft. Requires notice to Secretary of construction of structures which may limit safety or efficiency of aviation system. Secretary is required to issue a report on construction which will have an adverse impact on safety and efficient use of airspace. Federal Communications Commission and Federal Aviation Administration are directed to coordinate their actions in considering broadcast applications and aeronautical studies relating to broadcast towers.

*Conference substitute*

Senate provision, modified to clarify that requirements cover structures which create electro-magnetic interference.

This provision makes clear the FAA's responsibility to carry out obstruction evaluations and notifications in light of the proposed structure's impact on aviation safety and on efficient use and preservation of airspace and airport capacity. Obstruction evaluations shall include the impact on arrival, departure, and en route procedures for VFR and IFR traffic; the impact on all existing and planned public-use airports and aeronautical facilities; and the cumulative impact of the proposed construction or alteration of tall structures. The FAA should coordinate such evaluations with state and local aviation officials.

Following this evaluation, the FAA report should fully disclose the extent of the proposed structure's adverse impact on the safe and efficient use of navigable airspace and airport capacity. The FAA is currently reviewing Part 77 regulations. The current Part 77 "Hazard/No Hazard" system does not meet the requirements of section 1101 of the Federal Aviation Act of 1958, as modified by this provision.

The "Hazard" determination should be maintained for those proposed structures which clearly endanger safety. Of those structures which currently receive a "No Hazard" determination, those which would have a negligible aeronautical impact should receive a "No

Adverse Aeronautical Impact” or similarly-worded determination. For the balance, the FAA should fully disclose the adverse aeronautical impact as determined by the obstruction evaluation.

Frequently, the proposed structure is a broadcast tower. It is clearly in the national interest that the FAA and the Federal Communications Commission work together in reviewing broadcast applications and tower proposals. This provision directs these agencies to take whatever action is necessary to establish procedures for the receipt, consideration of, and action upon broadcast applications and associated aeronautical studies.

#### 55. STUDY OF SPECIAL USE AIRSPACE

##### *House bill*

No comparable provision.

##### *Senate amendment*

Secretary of Transportation and Secretary of Defense directed to conduct a study of special use airspace.

##### *Conference substitute*

Senate amendment. This provision does not contemplate the development of Environmental Impact Statements.

#### 56. REGULATIONS FOR AIRPORT GRANT PROGRAM

##### *House bill*

No comparable provision.

##### *Senate amendment*

Secretary of Transportation is directed to promulgate implementing regulations for airport grant program within one year of enactment.

##### *Conference substitute*

House bill.

#### 57. RESEARCH, ENGINEERING AND DEVELOPMENT

##### *House bill*

For Research, Engineering and Development and Demonstrations the authorizations are, for fiscal years 1988 and 1989 respectively, \$127,192,000 and \$135,866,000 for air traffic control projects and activities, \$7,743,000 and \$15,716,000 for air traffic control advanced computer projects and activities, \$9,818,000 and \$11,395,000 for navigation projects and activities, \$21,957,000 and \$21,797,000 for aviation weather projects and activities, \$6,307,000 and \$6,613,000 for aviation medicine projects and activities, \$24,988,000 and \$21,013,000 for aircraft safety projects and activities, and \$3,000,000 and \$2,600,000 for environmental projects and activities. Funds may be reprogrammed among these projects and activities in any fiscal year up to 10 percent of the amount authorized. Amounts exceeding 10 percent may be reprogrammed 30 days after notifying the authorizing and appropriating committees or after

each such committee transmits written notice that it has no objection to the proposed reprogramming. Within the amounts authorized, not less than \$25,000,000 is earmarked each year for research and development on preserving and enhancing airport capacity. Within 60 days after the end of fiscal years 1988 and 1989, the FAA must report to the authorizing committees on its compliance with the airport capacity provision. Funds appropriated pursuant to this authorization remain available until expended.

#### *Senate amendment*

For Research, Engineering and Development and Demonstrations the authorizations are \$200,000,000 for fiscal year 1988, \$200,000,000 for fiscal year 1989, and \$225,000,000 for fiscal year 1990. In fiscal year 1988 not less than \$250,000 is made available for equipment designed to provide improved access by handicapped persons to commercial aircraft. In fiscal years 1988 and 1989, not less than \$25,000,000 is authorized to be appropriated each year for research, engineering and development regarding airport capacity improvements.

#### *Conference substitute*

For Research, Engineering and Development and Demonstrations, the authorizations, for fiscal years 1988 and 1989, are as specified in the House bill (total amounts: \$201,005,000 and \$215,000,000 for 1988 and 1989 respectively) and for fiscal year 1990, \$222,000,000. In fiscal year 1988, \$250,000 is intended to support research on means to provide improved access by handicapped persons to commuter aircraft, including lifting devices and boarding chairs for boarding and deplaning people in wheelchairs from small commuter aircraft where level boarding ramps and gateways are not available. In conducting this work, the FAA is directed to consult with representatives of regional airlines, airports, and groups of mobility impaired people.

The conferees believe that, in light of the increasing problems with congestion and delay in the air transportation system, increased funding must be dedicated toward research and development programs that will increase and preserve airport capacity. According to FAA estimates, 16 major U.S. airports are now seriously congested and 58 airports (accounting for 76 percent of all passengers) will become congested by the year 2000. Accordingly, the conferees direct the FAA to undertake increased research and development activities directed toward technologically advancing the design, construction, safety, maintenance, and operation of airports. In this light, the conferees establish a minimum authorization of \$25 million in 1988, 1989 and 1990 for airport capacity research and development programs. A report from the FAA on compliance with this provision is required after each fiscal year.

Language in the House bill relating to reprogramming of funds among projects and activities is retained. In fiscal year 1988, within the amount specified for aircraft safety, \$1,200,000 is authorized for increased research in fire safety studies. The increase in research is being directed toward studies of new fire resistant materials used in aircraft interiors and for studies to reduce the toxicity of smoke resulting from interior aircraft fires. The conferees wish to reaf-

firm language in the House report regarding the Civil Aeromedical Institute and research on aircraft noise reduction and control. The Civil Aeromedical Institute conducts research to determine human causes of aviation accidents. The Institute has been underutilized in terms of its facility and personnel in the areas of Human Performance Research and Protection and Survival Research. The Administrator is requested to evaluate potential roles of the Institute in aeromedical research and investigate the possibilities of expanding its activities with respect to Human Performance Research including assessments of pilot/controller errors and stresses, and Protection and Survival Research including work on seat and restraint systems, crashworthiness, emergency escape and survival, and fire and smoke toxicity. The Administrator is to report his findings no later than January 1, 1988. Of the funds authorized for Environmental Programs, no less than \$2,000,000 is earmarked for research in Aircraft Noise Reduction and Control. The research shall examine new and innovate technologies, in cooperation with other agencies including NASA, to control noise generated by aircraft and in the development of effective noise abatement operating procedures. Specifically, the research should investigate noise abatement for airports that have a high density of private residences and educational and medical facilities in close proximity. The innovative noise abatement research should also include effective noise insulation of private residences.

## 58. ESSENTIAL AIR SERVICE

### (A) SHORT TITLE

#### *House bill*

No comparable provision.

#### *Senate amendment*

Provides that the Act may be cited as the "Small Community Air Service Improvement Act of 1987."

#### *Conference substitute*

House bill.

### (B) DEFINITION OF ELIGIBLE POINT

#### *House bill*

Defines an eligible point as any community which (a) is defined as an eligible point under current law, (b) is still receiving air service, and (c) is 35 highway miles or more from the nearest hub airport or from a non-hub airport which the Secretary determines has significant scheduled air transportation. A hub is defined as an airport that annually enplanes 0.05 percent or more of the total annual enplanements in the United States.

#### *Senate amendment*

Defines an eligible point as any community for which a determination of essential air transportation was previously made and which is more than 50 statute miles from a hub airport. A hub is

defined an an airport that annually enplanes more than 0.25 percent of the total annual enplanements in the United States.

*Conference substitute*

Defines an eligible point as any community that (a) is defined as an eligible point under current law (P.L. 95-504), (b) is still receiving air service, and (c) is 45 highway miles or more from a hub. A hub is defined as an airport that annually enplanes 0.25 percent or more of the total annual enplanements in the United States.

Under current law, all communities that were listed on an airline's certificate on the date of enactment of the Airline Deregulation Act are defined as eligible points even if their air service was suspended at that time. With the above described definition, the conferees intend to continue basic essential air service to all these communities except those within 45 miles of the nearest medium or large hub, those whose service was suspended and never restarted, and those who had lost or given up their essential air service and never made a request to restart it.

In detemining which communities are within 45 miles of the nearest hub, the conferees expect the Department of Transportation (DOT) to rely on the mileages listed in Apendix P of its February 1987 study of essential air service.

(C) BASIC ESSENTIAL AIR SERVICE

*House bill*

Guarantees that passengers and cargo at all eligible points will receive at least 2 flights per day, 6 days per week, to a medium or large hub (unless the nearest such hub is in Alaska or more than 400 miles away), with no more than 1 stop. The flights must be at reasonable times taking into account the needs of passengers with connecting flights. The medium or large hubs are defined as any airport that annually enplanes 0.25 percent or more of the total annual enplanements in the United States. These hubs must have connecting air service to a substantial number of cities beyond the hub.

The aircraft used at an eligible point must (a) have 2 engines and 2 pilots unless such aircraft had not been used there for at least 60 consecutive days since October 31, 1978, (b) be pressurized when the flights will regularly exceed 8,000 feet and (c) have 15 seats unless average daily enplanements at the eligible point have been 11 passengers or less in every year since 1976, the community states in writing that it wants smaller aircraft, or the use of 15-seat aircraft at the point would require the payment of subsidy where no subsidy would otherwise be required for basic EAS.

Basic essential air service also requires that passengers and cargo each be accommodated at 50 percent load factors when less than 15-seat aircraft are used and 60 percent load factor when 15-seat or larger aircraft are used, adjusted as needed to take into account seasonal demands for such service.

In addition, fares cannot be excessive when compared to generally prevailing fares of other air carriers for like service between eligible points. Special provisions with respect to Alaska are continued from current law.

*Senate amendment*

Guarantees that all eligible points will receive at least 2 flights per day, 6 days per week, to a hub with no more than 1 stop. The flights must be at the beginning and end of the business day. Hub is defined as an airport that annually enplanes more than 0.25 percent of the total annual enplanements in the United States. These hubs must offer convenient connecting or single-plan service to and from a substantial number of major destinations beyond the hub.

The aircraft used must (a) have 2 pilots, 2 engines, and an effective capacity of at least 15 passengers, unless no such aircraft were used at the eligible point for more than 60 consecutive days after October 31, 1978, and (b) be pressurized when flights will regularly exceed 8,000 feet.

Passenger and non-passenger traffic must be accommodated at 50 percent load factors. The language on fares is the same as the House bill. Special provisions for Alaska are included similar to current law.

*Conference substitute*

Same as the House bill with the following exceptions:

Flights must go to a hub unless the nearest such hub is in Alaska or more than 400 miles away. A hub is defined as an airport that annually enplanes 0.25 percent or more of the total annual enplanements in the U.S. These hubs must provide convenient connecting and single-plane service to and from a substantial number of major destinations beyond the hub. Although basic EAS in Alaska does not mandate service to a hub, DOT is free to require such service in individual cases.

The 15-seat aircraft size requirement is modified to include the Senate amendment language on "effective capacity" to ensure that the 15-seat aircraft used are aircraft that are actually capable of carrying 15 passengers and their baggage.

With respect to the cargo requirement, the conferees do not expect DOT to force airlines to reconfigure their aircraft after their subsidy rate has been established in order to accommodate cargo but DOT should take the community's cargo needs into account when establishing the frequency and aircraft size needed to meet that community's basic essential air service requirements. The load factor for cargo should be established by using a weight, cubic dimension, or passenger equivalency standard, depending on which measure will best ensure that the community's cargo needs are met.

Even where not explicitly stated in the statute, it is the conferees' intention that an eligible point should be able to request service that is less than the basic EAS requirements described above. DOT is authorized to grant such requests but shall not impose them on its own initiative.

## (D) PROCEDURES

*House bill*

Requires DOT to establish a basic essential air service (EAS) level within 1 year of the bill's effective date and to periodically review that level. Prior to the initial establishment of this basis

EAS level, carriers must continue to meet the previously established essential air transportation requirements applicable to the eligible point concerned. In selecting a carrier to provide basic EAS, DOT is directed to consider—

The carrier's demonstrated reliability in providing scheduled air service;

Contractual and marketing arrangements, such as code-sharing, between the carrier and a major airline to assure service beyond the hub.

Interline arrangements that the carrier has made with a major carrier at the hub;

Preferences of the users, giving great weight to the views of elected officials;

With respect to Alaska, the experience of the carrier.

There is also a provision to encourage the submission of joint proposals by 2 or more carriers that would increase service from the eligible point to major destinations beyond the hub.

Any carrier providing basic EAS that wants to end that service or reduce it below the basic EAS level, must provide 90 days notice to DOT and the community. DOT, in turn, must prohibit that termination or reduction until a replacement is found. If the carrier forced to continue its service was already receiving a subsidy, it would continue to receive that subsidy for the first 180 days after the 90-day notice takes effect. After that, the carrier is treated as if it had not been receiving a subsidy. These carriers receive compensation that is sufficient to cover their fully allocated actual costs plus return on used and useful investment (at market value) attributable to the service at the time the notice was filed plus the reasonable demonstrable costs of opportunities foregone as a result of being required to continue the service. A procedure, similar to the Contracts Disputes Act, is included to give a carrier an opportunity to appeal an adverse determination by DOT on a claim for compensation.

### *Senate amendment*

Requires DOT, in selecting a carrier to provide basic EAS, to consider—

The carrier's demonstrated reliability in providing scheduled air service;

Contractual arrangements the carrier has made with other carriers to assure service beyond the hub;

Preferences of actual and potential users, giving substantial weight to views of elected officials.

Also includes provision similar to the House bill on joint contract proposals, notice by carriers seeking to terminate basic EAS, and the requirement that DOT force these carriers to continue basic EAS until a replacement is found. Carriers forced to continue basic EAS that are already receiving a subsidy continue to receive that subsidy until the notice takes effect. After that 90-day period, all carriers forced to continue service receive compensation sufficient to cover their fully allocated actual costs plus return on used and useful investment (at market value) plus the reasonable demonstrable costs of opportunities foregone as a result of being required to continue the service.

*Conference substitute*

House bill with the following exceptions:

DOT is required to issue new basic EAS determinations for eligible points within 1 year of the date of enactment. Although DOT is given 1 year, it is hoped that action would be completed as soon as possible because communities will not benefit from the new service levels until the basic EAS determinations are issued.

The weight to be given to the views of elected officials is characterized as "substantial" as in the Senate amendment.

The provision on compensating carriers who are required to continue service against their will is changed so that a carrier already receiving a subsidy continues to receive that subsidy for 90 days after its 90-day notice takes effect. Any carrier not receiving a subsidy or a carrier required to continue service beyond that 90-day period would receive compensation sufficient to cover that carrier's fully allocated actual cost of performing the basic EAS at the time the notice was filed plus a return on investment that shall not be less than 5 percent of operating costs and an additional return that reflects additional lost profits from opportunities foregone and the likelihood that such lost profits increase as the duration of the required EAS increases.

The provision establishing an appeal procedure for carriers dissatisfied with their compensation has been dropped. Nevertheless, the conferees expect DOT to use reasonable and fair procedures in such circumstances.

## (E) SUBSIDY

*House bill*

Requires DOT to continue the subsidy guidelines in current law but to expand them to require (a) that a carrier's subsidy be reduced in any case where that carrier fails to perform some of the EAS and (b) that advertising and promotional expenses are taken into account in setting subsidy level and included as a separate, segregated element of the subsidy rate. Also, a 15-day deadline on the payment of valid subsidy claims is imposed on DOT.

*Senate amendment*

No comparable provision.

*Conference substitute*

House bill.

## (F) ENHANCED EAS

*House bill*

Provides two ways (a cost-sharing option and a use-or-lose option) for an eligible point to get enhancements in its service. The community may submit a proposal to DOT asking for more flights, larger aircraft, or other enhancements, and agree to pay 50 percent of the added subsidy cost. Or, the community may submit a proposal to DOT asking for more flights, larger aircraft, or other enhancements, but must agree to give up all rights to any essential air service if the requested improvements do not meet the DOT crite-

ria (which DOT is required to establish) for increasing passenger usage and reducing subsidy. DOT must issue a decision on the eligible point's proposal within 90 days. The eligible point's proposal shall be accepted by DOT unless DOT finds the proposal to be unreasonable. If DOT accepts the proposal it must establish the enhanced EAS level as the required level of service and subsidize the carrier involved accordingly (50 percent of the added subsidy is paid by DOT under the cost sharing option while DOT picks up 100 percent of the cost under the use-or-lose option). The level of enhanced service must be periodically reviewed by DOT. This review could lead to the the loss of even basic EAS under the use-or-lose option.

If the carrier providing the enhanced service wants to terminate or reduce that service it can do so provided it gives 30 days notice. The 30-day notice would only relieve it of its obligation to provide enhanced EAS. The carrier would have to comply with the provisions applicable to basic EAS if it wanted to reduce service below that level.

#### *Senate amendment*

Requires DOT to guarantee enhanced air service to an eligible point whenever the State or local government is willing to pay 50 percent of the added subsidy. DOT must pay the other 50 percent.

#### *Conference substitute*

House bill. The conferees wish to make clear that if a carrier providing enhanced EAS reduces its service to the basic EAS level, that carrier's subsidy should be reduced accordingly. Moreover, DOT should take such action as may be necessary to ensure that the eligible point's service is raised back up to the enhanced EAS level.

### (G) NEW COMMUNITIES

#### *House bill*

Provides two ways for a community that is not an eligible point to apply for guaranteed air service. Under the first option, the community submits a proposal to DOT. DOT must decide within 90 days whether the community should qualify for guaranteed air service.

DOT may withdraw the community's air service guarantee if the community has actually received such service for at least 2 years and DOT finds, after notice and comment, that the withdrawal would be in the public interest. DOT is directed to establish standards, by regulation, for making this public interest determination. These standards should include such factors as passenger usage, cost of the service, and the quality of service being provided.

Under the second option, a community in the 48 contiguous States that had certificated air service prior to deregulation, is more than 50 miles from the nearest small hub, and more than 150 miles from the nearest medium or large hub, may submit a proposal for guaranteed air service to DOT. DOT must decide in favor of the community's proposal if the community meets the above criteria and is willing and able to pay 10 percent of the subsidy.

Under both options, DOT, after considering the views of the community, has 6 months to set the air service level for the community. This service level must be periodically reviewed and adjusted as necessary. If the carrier providing the required service wants to end that service, it can do so if it first provides a 30-day notice. DOT would then be expected to secure another carrier to provide that service.

*Senate amendment*

Ensures that each community that is not an eligible point may receive the type and quality of air service specified by a State or local government that has agreed to pay 50 percent of the subsidy. These communities would be defined as new eligible points.

*Conference substitute*

House bill except that the local share under the second option in that bill is raised from 10 percent to 25 percent.

(H) MISCELLANEOUS PROVISIONS

*House bill*

Continues the requirement in current law that subsidized carriers comply with DOT rules on insurance.

Continues the requirement in current law that carriers be found fit, willing, and able before being allowed to provide essential air service and that their aircraft comply with FAA safety standards. Adds a requirement that DOT not pay subsidy to a carrier to provide EAS unless it finds that that carrier will provide the service in a reliable manner.

Imposes a new obligation on all air carriers involved in the sharing of their two-letter code in a computer reservation system. It requires the carrier whose code is being used by other carriers to share responsibility with these other carriers for the quality of service they provide under its code.

Adds a new provision requiring an airline that wants to end basic EAS to turn over its slots to its replacement.

*Senate amendment*

No comparable provisions.

*Conference substitute*

House bill.

With respect to the new obligations on major carriers in code-sharing arrangements, the conferees believe that where passengers are on a trip involving two carriers using a common designator code, the carrier whose code is being used should accept responsibility for seeing that passenger service complaints directed to it are handled promptly, regardless of whether the complaint relates to service by that carrier or its code-sharing partner.

With respect to the requirement that a carrier turn over slots to its replacement, the provision has been modified to make it effective retroactive to October 1, 1987. In addition, exceptions have been provided where the replacement carrier does not need the slots and where the same slot is being used for service to more

than one eligible point but the carrier is ending service to only one of them. The conferees expect DOT to administer this requirement in a manner consistent with the requirement that basic EAS flights depart at reasonable times taking into account the needs of passengers with connecting flights.

(I) AUTHORIZATION

*House bill*

No comparable provision.

*Senate amendment*

Authorizes such sums as may be necessary.

*Conference substitute*

House bill.

(J) EFFECTIVE DATE

*House bill*

Provides that this bill takes effect on October 24, 1988, when the current law expires, and ends on December 31, 1998.

*Senate amendment*

Provides an effective date of October 1, 1988. The program would end 10 years after the date of enactment.

*Conference substitute*

Senate amendment except that the expiration date shall be September 30, 1998, which is 10 years after the effective date rather than 10 years after the enactment date.

EXTENSION OF AIRPORT AND AIRWAY TRUST FUND TAXES (AIRPORT AND AIRWAY REVENUE ACT OF 1987)

A. EXTENSION OF AVIATION TAXES

1. *Extension of present-law aviation taxes; "tax reduction trigger"*

*Present law*

Excise taxes are imposed on air passenger tickets (8 percent), domestic air freight (5 percent), international passenger departures (\$3), and fuels for noncommercial aviation (12 cents per gallon on gasoline and 14 cents per gallon on other fuels). These taxes are scheduled to expire after December 31, 1987.

Revenues from the aviation excise taxes are transferred to the Airport and Airway Trust Fund to finance certain Federal airport and airway programs. There is no provision for reduction or suspension of these taxes before the scheduled expiration if Trust Fund authorizations are not fully appropriated or if the unobligated Trust Fund balance exceeds a specific amount.

### *House bill*

(a) *Extension of present-law taxes.*—The House bill generally extends the present-law aviation taxes for 5 years, from January 1, 1988 through December 31, 1992.

(b) *"Tax reduction trigger".*—The House bill provides an automatic reduction in the aviation tax rates (other than the \$3 departure tax) for transportation provided in any calendar year following a fiscal year (FY 1988 or later) for which total Trust Fund appropriations for (1) airport improvements, (2) airway facilities and equipment, plus (3) research, engineering and development fall below 90 percent of the amount authorized for these three programs.

The tax rates are to be reduced by the same percentage as the total appropriations shortfall for the three programs, but the tax rate reduction may not exceed 50 percent. Further, the tax rate reduction will apply only if the unobligated Trust Fund balance is \$2 billion or more as of the end of the applicable fiscal year.

### *Senate amendment*

(a) *Extension of present-law taxes.*—The Senate amendment generally extends the present-law aviation taxes for 4 years, from January 1, 1988 through December 31, 1991.

(b) *"Tax reduction trigger".*—The Senate amendment provides an automatic 50-percent reduction in each of the aviation taxes for 1991, if the unobligated Trust Fund balance exceeds \$3 billion at the end of fiscal year 1990.

### *Conference agreement*

(a) *Extension of present-law taxes.*—The conference agreement generally extends the present-law aviation taxes for 3 years, from January 1, 1988 through December 31, 1990.

(b) *"Tax reduction trigger".*—The conference agreement provides for an automatic 50-percent reduction in the aviation excise taxes (other than the \$3 departure tax) in calendar year 1990, if the total appropriations for fiscal years 1988 and 1989 for airport improvements, facilities and equipment, plus research, engineering and development are less than 85 percent of the total amounts authorized for these three programs for fiscal years 1988 and 1989. The reduction in taxes, if applicable, would apply to tickets (or way bills) sold, and fuels purchased, during calendar year 1990.

## *2. Treatment of certain helicopters*

### *Present law*

Exemptions are provided from the air passenger ticket tax and the aviation fuels taxes for helicopters engaged in certain timber and oil, gas, or hard mineral exploration and development activities, provided that the helicopters do not use the Federally assisted airport and airway system.

The air passenger and air freight taxes generally apply with respect to amounts paid to a person engaged in the business of transporting persons or property by air for hire (i.e., commercial airlines). The air passenger and air freight taxes do not apply to transportation by an aircraft with a maximum certificated takeoff

weight of 6,000 pounds or less, except when such aircraft is operated on an established line. Noncommercial aviation is subject to the fuels taxes rather than the ticket or freight taxes, as are aircraft subject to the 6,000 pound exception.

#### *House bill*

The House bill provides a general exemption from the air passenger, air freight, and aviation fuels taxes for emergency medical helicopters when engaged in providing emergency medical services, where the helicopters (1) do not use the Federally assisted airport or airway system, and (2) are owned or leased by a nonprofit health care facility and are operated exclusively under the control of such facility.

The provision is effective for transportation provided after September 30, 1987.

#### *Senate amendment*

The Senate amendment provides a general exemption from the air passenger ticket tax for helicopters not using the Federally assisted airport or airway system, while subjecting such helicopters (other than those specifically qualifying for the timber, and oil, gas, or hard mineral exceptions) to the air freight tax (if applicable) or fuels taxes.

The provision is effective for transportation provided after September 30, 1988, but does not apply to any amount paid on or before such date.

#### *Conference agreement*

The conference agreement generally follows the House bill, except that the exemption applies also to use of helicopters by for-profit health care facilities. The exemption is effective for transportation provided after September 30, 1988, but does not apply to any amount paid on or before such date.

The conferees intend that the mere use by these emergency medical helicopters of weather service information supplied by the FAA to all aircraft or the fact that such helicopters notify airports or air navigation stations of their location while in the air will not disqualify the qualified helicopters from the tax exemption.

### B. EXTENSION OF TRUST FUND AUTHORITY

#### *1. Transfer of revenues to the Trust Fund*

##### *Present law*

Revenues from the aviation excise taxes are transferred to the Airport and Airway Trust Fund through December 31, 1987.

##### *House bill*

The House bill extends the transfer of aviation tax revenues to the Trust Fund for 5 years, through December 31, 1992.

##### *Senate amendment*

The Senate amendment extends the transfer of aviation tax revenues to the Trust Fund for 4 years, through December 31, 1991.

### *Conference agreement*

The conference agreement extends the transfer of aviation tax revenues to the Trust Fund for 3 years, through December 31, 1990 (consistent with the 3-year extension of the aviation taxes, as indicated in item A.1.(a), above).

### *2. Trust Fund expenditure authority and purposes*

#### *Present law*

The Trust Fund provision of the Internal Revenue Code provides authority to make expenditures from the Trust Fund through September 30, 1987.

The Trust Fund statute authorizes expenditures from the Trust Fund for obligations incurred under the Airport and Airway Improvement Act of 1982 (and as authorized under applicable prior Acts) as in effect on the date of enactment of the 1982 Act.

#### *House bill*

The House bill extends the Trust Fund expenditure authority for 5 years, through September 30, 1992. (Title I of the House bill provides a 5-year extension of Trust Fund authorization programs, for fiscal years 1988-1992.)

The House bill updates the Trust Fund statute to include a reference to the Trust Fund programs authorized under H.R. 2310 as passed by the House.

#### *Senate amendment*

The Senate Amendment extends the Trust Fund expenditure authority for 3 years, through September 30, 1990. (Title I of the Senate amendment provides 3-year extension Trust Fund authorization programs, for fiscal years 1988-1990.)

The Senate amendment updates the Trust Fund statute to include a reference to the Trust Fund programs authorized under H.R. 2310 as amended by the Senate.

#### *Conference agreement*

In conformance with the conference agreement on the Trust Fund program authorizations in the bill, the conference agreement on Title IV of the bill extends the Trust Fund expenditure authority for 5 years, through September 30, 1992, with respect to expenditures for the Airport Improvement Program. The conferees point out that this 5-year extension of Trust Fund expenditure authority is only to cover the expenditures for the Airport Improvement Program; the other Trust Fund programs are limited to 3 years, through fiscal year 1990, as under the Title I authorizations. (Title I of the conference agreement generally extends the Trust Fund authorization programs for 3 years, fiscal years 1988-1990, except that it provides a 5-year authorization for the Airport Improvements Program, fiscal years 1988-1992.)

The conference agreement updates the Trust Fund statute to include a reference to the Trust Fund programs authorized under H.R. 2310 as agreed to in the program conference provisions.

From the Committee on Public Works and Transportation, for consideration to titles I and III of the House bill and title I of the Senate amendment, and modifications committed to conference:

JAMES J. HOWARD,  
GLENN M. ANDERSON,  
NORMAN Y. MINETA,  
JAMES L. OBERSTAR,  
HENRY J. NOWAK,  
NICK RAHALL,  
PETER J. VISCLOSKY  
(for consideration of sec. 109  
of the Senate amendment  
only in lieu of Mr. Rahall),  
JOHN PAUL HAMMERSCHMIDT,  
BUD SHUSTER,  
ARLAN STANGELAND,  
NEWT GINGRICH,  
RON PACKARD  
(for consideration of sec. 120  
of the Senate amendment  
only, in lieu of Mr. Shu-  
ster),

From the Committee on Science, Space, and Technology, for consideration of sec. 102(b) of the House bill and secs. 107 and 120 of the Senate amendment, and modifications committed to conference:

ROBERT A. ROE,  
DAVE MCCURDY,  
DAN GLICKMAN,  
MANUEL LUJAN, Jr.,  
TOM LEWIS,

From the Committee on Ways and Means, for consideration of title II and sec. 114 of the House bill and title II and sec. 114 of the Senate amendment, and modifications committed to conference:

DAN ROSTENKOWSKI,  
SAM M. GIBBONS,  
J.J. PICKLE,  
BARBARA B. KENNELLY,

*Managers on the Part of the House.*

From the Committee on Commerce, Science, and Transportation:

FRITZ HOLLINGS,  
WENDELL FORD,  
J.J. EXON,  
JOHN C. DANFORTH,  
N. KASSEBAUM,

From the Committee on Finance, solely for consideration  
of title II:

LLOYD BENTSEN,  
SPARK M. MATSUNAGA,  
BOB PACKWOOD,  
*Managers on the Part of the Senate.*

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