108TH CONGRESS
1ST SESSION

S. 824

To reauthorize the Federal Aviation Administration, and for other purposes.

IN THE SENATE OF THE UNITED STATES

APRIL 8, 2003

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

A BILL

To reauthorize the Federal Aviation Administration, and for other purposes.

1 Be it enacted by the Senate and House of Representa-
2 tives of the United States of America in Congress assembled,
3 SECTION 1. SHORT TITLE; AMENDMENT OF TITLE 49.
4 (a) SHORT TITLE.—This Act may be cited as the
5 “Aviation Investment and Revitalization Vision Act”.
6 (b) AMENDMENT OF TITLE 49.—Except as otherwise
7 expressly provided, whenever in this Act an amendment
8 or repeal is expressed in terms of an amendment to, or
9 a repeal of, a section or other provision, the reference shall
be considered to be made to a section or other provision of title 49, United States Code.

SEC. 2. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

See. 1. Short title; amendment of title 49.
See. 2. Table of contents.
    Title I—Reauthorizations; FAA Management
    See. 101. Airport improvement program.
    See. 102. Airway facilities improvement program.
    See. 103. FAA operations.
    See. 104. Research, engineering, and development.
    See. 105. Other programs.
    See. 106. Reorganization of the Air Traffic Services Subcommittee.
    See. 107. Clarification of responsibilities of chief operating officer.
    Title II—Airport Development
    See. 201. National capacity projects.
    See. 203. Alternatives analysis.
    See. 204. Increase in apportionment for, and flexibility of, noise compatibility planning programs.
    See. 205. Secretary of Transportation to identify airport congestion-relief projects and forecast airport operations annually.
    See. 206. Design-build contracting.
    See. 207. Special rule for airport in Illinois.
    See. 208. Elimination of duplicative requirements.
    See. 209. Streamlining the passenger facility fee program.
    See. 211. Noise disclosure requirements.
    See. 212. Prohibition on requiring airports to provide rent-free space for FAA or TSA.
    Title III—Airline Service Development
    See. 301. Delay reduction meetings.
    See. 302. Reauthorization of essential air service program.
    See. 303. Small community air service development pilot program.
    See. 304. DOT study of competition and access problems at large and medium hub airports.
    See. 305. Competition disclosure requirement for large and medium hub airports.
    Title IV—Aviation Security
    See. 401. Study of effectiveness of transportation security system.
    See. 402. Aviation security capital fund.
    See. 403. Technical amendments related to security-related airport development.
    Title V—Miscellaneous
    See. 502. Cost-sharing of air traffic modernization projects.
    See. 503. Counterfeit or fraudulently represented parts violations.
    See. 504. Clarifications to procurement authority.
TITLE I—REAUTHORIZATIONS;
FAA MANAGEMENT

SEC. 101. AIRPORT IMPROVEMENT PROGRAM.
(a) Authorization of Appropriations.—Section 48103 is amended—
   (1) by inserting "(a) In General.—" before "The";
   (2) by striking "and" in paragraph (4);
   (3) by striking "2003." in paragraph (5) and inserting "2003;";
   (4) by inserting after paragraph (5) the following:
   "(6) $3,400,000,000 for fiscal year 2004;
   "(7) $3,500,000,000 for fiscal year 2005; and
   "(8) $3,600,000,000 for fiscal year 2006."; and
   (5) by adding at the end the following:
   "(b) Administrative Expenses.—From the amounts authorized by paragraphs (6) through (8) of subsection (a), there shall be available for administrative expenses relating to the airport improvement program, passenger facility fee approval and oversight, national airport system planning, airport standards development and enforcement, airport certification, airport-related environmental activities (including legal service), to remain available until expended—"
“(1) for fiscal year 2004, $69,737,000;
(2) for fiscal year 2005, $71,816,000; and
(3) for fiscal year 2006, $74,048,000.”.

(b) Obligational Authority.—Section 47104(c) is amended by striking “2003,” and inserting “2006,”.

SEC. 102. AIRWAY FACILITIES IMPROVEMENT PROGRAM.

Section 48101(a) is amended by adding at the end the following:

“(6) $2,916,000,000 for fiscal year 2004.
(7) $2,971,000,000 for fiscal year 2005.
(8) $3,030,000,000 for fiscal year 2006.”.

SEC. 103. FAA OPERATIONS.

Section 106(k)(1) is amended—

(1) by striking “and” in subparagraph (C);
(2) by striking “2003.” in subparagraph (D) and inserting “2003;”;
(3) by adding at the end the following:

“(E) $7,591,000,000 for fiscal year 2004;
(F) $7,732,000,000 for fiscal year 2005;
and
(G) $7,889,000,000 for fiscal year 2006.”.

SEC. 104. RESEARCH, ENGINEERING AND DEVELOPMENT.

Section 48102 is amended—
(1) by striking paragraphs (1) through (8) of subsection (a) and inserting:

“(1) For fiscal year 2004, $289,000,000.
“(2) For fiscal year 2005, $204,000,000.
“(3) For fiscal year 2006, $317,000,000.”; and

(2) by redesignating subsection (h) as subsection (g).

SEC. 105. OTHER PROGRAMS.

Section 106 of the Wendell H. Ford Aviation Investment and Reform Act for the 21st Century is amended—

(1) by striking “2003” in subsection (a)(1)(A) and subsection (c)(2) and inserting “2006”; and

(2) by striking “2003,” in subsection (a)(2) and inserting “2006,”.

SEC. 106. REORGANIZATION OF THE AIR TRAFFIC SERVICES SUBCOMMITTEE.

(a) IN GENERAL.—Section 106 is amended—

(1) by redesignating subsections (q) and (r) as subsections (r) and (s), respectively; and

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

“(q) AIR TRAFFIC MANAGEMENT COMMITTEE.—
“(1) ESTABLISHMENT.—The Secretary of Transportation shall establish an advisory committee which shall be known as the Air Traffic Services
Committed (in this subsection referred to as the 'Committee').

"(2) MEMBERSHIP.—

"(A) COMPOSITION AND APPOINTMENT.—

The Committee shall be composed of—

"(i) the Administrator of the Federal Aviation Administration, who shall serve as chair; and

"(ii) 4 members, to be appointed by the Secretary, after consultation with the Committee on Transportation and Infrastructure of the House of Representatives, and the Committee on Commerce, Science, and Transportation of the Senate.

"(B) NO FEDERAL OFFICER OR EMPLOYEE.—No member appointed under subparagraph (A)(ii) may serve as an officer or employee of the United States Government while serving as a member of the Committee.

"(C) ELIGIBILITY.—Members appointed under subparagraph (A)(ii) shall—

"(i) have a fiduciary responsibility to represent the public interest;

"(ii) be citizens of the United States; and
“(iii) be appointed without regard to political affiliation and solely on the basis of their professional experience and expertise in one or more of the following areas:

“(I) Management of large service organizations.

“(II) Customer service.

“(III) Management of large procurements.

“(IV) Information and communications technology.

“(V) Organizational development.

“(VI) Labor relations.

At least one of such members should have a background in managing large organizations successfully. In the aggregate, such members should collectively bring to bear expertise in all of the areas described in subclauses (I) through (VI).

Prohibitions on Members of Committee.—No member appointed under subparagraph (A)(ii) may—

“(i) have a pecuniary interest in, or own stock in or bonds of, an aviation or aeronautical enterprise, except an interest
in a diversified mutual fund or an interest
that is exempt from the application of sec-
tion 208 of title 18;

“(ii) engage in another business re-
lated to aviation or aeronautics; or

“(iii) be a member of any organization
that engages, as a substantial part of its
activities, in activities to influence aviation-
related legislation.

“(E) CLAIMS AGAINST MEMBERS.—

“(i) IN GENERAL.—A member ap-
pointed under subparagraph (A)(ii) shall
have no personal liability under Federal
law with respect to any claim arising out
of or resulting from an act or omission by
such member within the scope of service as
a member of the Air Traffic Services Com-
mittee.

“(ii) EFFECT ON OTHER LAW.—This
subparagraph shall not be construed—

“(I) to affect any other immunity
or protection that may be available to
a member of the Committee under ap-
pllicable law with respect to such
transactions;
“(II) to affect any other right or remedy against the United States under applicable law; or
“(III) to limit or alter in any way the immunities that are available under applicable law for Federal officers and employees.
“(F) ETHICAL CONSIDERATIONS.—
“(i) FINANCIAL DISCLOSURE.—During the entire period that an individual appointed under subparagraph (A)(ii) is a member of the Committee, such individual shall be treated as serving as an officer or employee referred to in section 101(f) of the Ethics in Government Act of 1978 for purposes of title I of such Act; except that section 101(d) of such Act shall apply without regard to the number of days of service in the position.
“(ii) RESTRICTIONS ON POST-EMPLOYMENT.—For purposes of section 207(e) of title 18, an individual appointed under subparagraph (A)(ii) shall be treated as an employee referred to in section 207(e)(2)(A)(i) of such title during the en-
tire period the individual is a member of the Committee; except that subsections (e)(2)(B) and (f) of section 207 of such title shall not apply.

“(G) TERMS FOR AIR TRAFFIC SERVICES COMMITTEE MEMBERS.—A member appointed under subparagraph (A)(ii) shall be appointed for a term of 5 years.

“(H) REAPPOINTMENT.—An individual may not be appointed under subparagraph (A)(ii) to more than two 5-year terms.

“(I) VACANCY.—Any vacancy on the Committee shall be filled in the same manner as the original appointment. Any member appointed to fill a vacancy occurring before the expiration of the term for which the member’s predecessor was appointed shall be appointed for the remainder of that term.

“(J) CONTINUATION IN OFFICE.—A member whose term expires shall continue to serve until the date on which the member’s successor takes office.

“(K) REMOVAL.—Any member appointed under subparagraph (A)(ii) may be removed for cause by the Secretary.
“(3) General Responsibilities.—

(A) Oversight.—The Committee shall oversee the administration, management, conduct, direction, and supervision of the air traffic control system.

(B) Confidentiality.—The Committee shall ensure that appropriate confidentiality is maintained in the exercise of its duties.

(4) Specific Responsibilities.—The Committee shall have the following specific responsibilities:

(A) Strategic Plans.—To review, approve, and monitor the strategic plan for the air traffic control system, including the establishment of—

(i) a mission and objectives;

(ii) standards of performance relative to such mission and objectives, including safety, efficiency, and productivity; and

(iii) annual and long-range strategic plans.

(B) Modernization and Improvement.—To review and approve—

(i) methods to accelerate air traffic control modernization and improvements in
aviation safety related to air traffic control; and

"(ii) procurements of air traffic control equipment in excess of $100,000,000.

"(C) OPERATIONAL PLANS.—To review the operational functions of the air traffic control system, including—

"(i) plans for modernization of the air traffic control system;

"(ii) plans for increasing productivity or implementing cost-saving measures; and

"(iii) plans for training and education.

"(D) MANAGEMENT.—To—

"(i) review and approve the Administrator’s appointment of a Chief Operating Officer under section 106(s);

"(ii) review the Administrator’s selection, evaluation, and compensation of senior executives of the Administration who have program management responsibility over significant functions of the air traffic control system;

"(iii) review and approve the Administrator’s plans for any major reorganization of the Administration that would impact
on the management of the air traffic control system;

“(iv) review and approve the Administrator’s cost accounting and financial management structure and technologies to help ensure efficient and cost-effective air traffic control operation; and

“(v) review the performance and compensation of managers responsible for major acquisition projects, including the ability of the managers to meet schedule and budget targets.

“(E) BUDGET.—To—

“(i) review and approve the budget request of the Administration related to the air traffic control system prepared by the Administrator;

“(ii) submit such budget request to the Secretary; and

“(iii) ensure that the budget request supports the annual and long-range strategic plans.

“(5) CONGRESSIONAL REVIEW OF PRE-OMB BUDGET REQUEST.—The Secretary shall submit the budget request referred to in paragraph (4)(E)(ii) for any
fiscal year to the President who shall transmit such
request, without revision, to the Committees on
Transportation and Infrastructure and Appropriations of the House of Representatives and the Com-
mittees on Commerce, Science, and Transportation
and Appropriations of the Senate, together with the
President's annual budget request for the Federal
Aviation Administration for such fiscal year.

“(6) COMMITTEE PERSONNEL MATTERS.—

“(A) COMPENSATION OF MEMBERS.—Each
member of the Committee, other than the chair
and vice chair, shall be compensated at a rate
of $25,000 per year.

“(B) STAFF.—The chairperson of the
Committee may appoint and terminate any per-
sonnel that may be necessary to enable the
Committee to perform its duties.

“(C) PROCUREMENT OF TEMPORARY AND
INTERMITTENT SERVICES.—The chairperson of
the Committee may procure temporary and
intermittent services under section 3109(b) of
title 5, United States Code.

“(7) ADMINISTRATIVE MATTERS.—

“(A) POWERS OF CHAIR.—Except as oth-
erwise provided by a majority vote of the Com-
mittee, the powers of the chairperson shall include—

“(i) establishing subcommittees;
“(ii) setting meeting places and times;
“(iii) establishing meeting agendas;
and
“(iv) developing rules for the conduct of business.

“(B) MEETINGS.—The Committee shall meet at least quarterly and at such other times as the chairperson determines appropriate.

“(C) QUORUM.—Three members of the Committee shall constitute a quorum. A majority of members present and voting shall be required for the Committee to take action.

“(D) APPLICATION OF SUBSECTION (p) PROVISIONS.—The following provisions of subsection (p) apply to the Committee to the same extent as they apply to the Management Advisory Council:

“(i) Paragraph (4)(C) (relating to access to documents and staff).
“(ii) Paragraph (5) (relating to non-application of Federal Advisory Committee Act).
“(iii) Paragraph (6)(G) (relating to travel and per diem).
“(iv) Paragraph (6)(H) (relating to detail of personnel).
“(8) REPORTS.—
“(A) ANNUAL.—The Committee shall each year report with respect to the conduct of its responsibilities under this title to the Administrator, the Management Advisory Council, the Committee on Transportation and Infrastructure of the House of Representatives, and the Committee on Commerce, Science, and Transportation of the Senate.
“(B) COMPTROLLER GENERAL'S REPORT.—Not later than April 30, 2003, the Comptroller General of the United States shall transmit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report on the success of the Committee in improving the performance of the air traffic control system.”.
(b) CONFORMING AMENDMENTS.—
(1) Subsection (p) of section 106 is amended—
(A) by striking "18" in paragraph (2) and inserting "13";

(B) by inserting "and" after the semicolon in subparagraph (C) of paragraph (2);

(C) by striking "Transportation; and" in subparagraph (D) of paragraph (2) and inserting "Transportation."

(D) by striking subparagraph (E) of paragraph (2);

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

"(3) NO FEDERAL OFFICER OR EMPLOYEE.—No member appointed under paragraph (2)(C) may serve as an officer or employee of the United States Government while serving as a member of the Council."

(F) by striking subparagraphs (C), (D), (H), and (I) of paragraph (6) and redesignating subparagraphs (E), (F), (G), (J), (K), and (L) as subparagraphs (C), (D), (E), (F), (G), and (H), respectively; and

(G) by striking paragraphs (7) and (8).

(2) Section 106(s) (as redesignated by subsection (a) of this section) is amended—
(A) by striking "Air Traffic Services Subcommittee of the Aviation Management Advisory Council." and inserting "Air Traffic Services Committee." in paragraphs (1)(A) and (2)(A); and

(B) by striking "Air Traffic Services Subcommittee of the Aviation Management Advisory Council," and inserting "Air Traffic Services Committee," in paragraph (3).

(3) Section 106 is amended by adding at the end the following:

"(t) **AIR TRAFFIC CONTROL SYSTEM DEFINED.**—In this section, the term 'air traffic control system' has the meaning such term has under section 40102(a)."

(c) **TRANSITION FROM AIR TRAFFIC SERVICE SUBCOMMITTEE TO AIR TRAFFIC SERVICE COMMITTEE.**—

(1) **TERMINATION OF MANAGEMENT ADVISORY COUNCIL MEMBERSHIP.**—Effective on the day after the date of enactment of this Act, any member of the Management Advisory Council appointed under section 106(p)(2)(E) of title 49, United States Code, (as such section was in effect on the day before such date of enactment) who is a member of the Council on such date of enactment shall cease to be a member of the Council.
(2) Commencement of membership on Air Traffic Services Committee.—Effective on the day after the date of enactment of this Act, any member of the Management Advisory Council whose membership is terminated by paragraph (1) shall become a member of the Air Traffic Services Committee as provided by section 106(q)(2)(G) of title 49, United States Code, to serve for the remainder of the term to which that member was appointed to the Council.

SEC. 107. CLARIFICATION OF RESPONSIBILITIES OF CHIEF OPERATING OFFICER.

Section 106(s) (as redesignated by section 106(a)(1) of this Act) is amended—

(1) by striking “Transportation and Congress” in paragraph (4) and inserting “Transportation, the Committee on Transportation and Infrastructure of the House of Representatives, and the Committee on Commerce, Science, and Transportation of the Senate,”;

(2) by striking “develop a strategic plan of the Administration for the air traffic control system, including the establishment of—” in paragraph (5)(A) and inserting “implement the strategic plan of the
Administration for the air traffic control system in order to further—”;

(3) by striking “To review the operational functions of the Administration,” in paragraph (5)(B) and inserting “To oversee the day-to-day operational functions of the Administration for air traffic control,”;

(4) by striking “system prepared by the Administrator;” in paragraph (5)(C)(i) and inserting “system;”;

(5) by striking “Administrator and the Secretary of Transportation;” in paragraph (5)(C)(ii) and inserting “Administrator;” and

(6) by striking paragraph (5)(C)(iii) and inserting the following:

“(iii) ensure that the budget request supports the agency’s annual and long-range strategic plans for air traffic control services.”.

TITLE II—AIRPORT DEVELOPMENT

SEC. 201. NATIONAL CAPACITY PROJECTS.

(a) IN GENERAL.—Part B of subtitle VII is amended by adding at the end the following:

"CHAPTER 477. NATIONAL CAPACITY PROJECTS"
§ 47701. Capacity enhancement

(a) IN GENERAL.—Within 30 days after the date of enactment of the Aviation Investment and Revitalization Vision Act, the Secretary of Transportation shall identify those airports among the 31 airports covered by the Federal Aviation Administration’s Airport Capacity Benchmark Report 2001 with delays that significantly affect the national air transportation system.

(b) TASK FORCE; CAPACITY ENHANCEMENT STUDY.—

(1) IN GENERAL.—The Secretary shall direct any airport identified by the Secretary under subsection (a) that is not engaged in a runway expansion process and has not initiated a capacity enhancement study (or similar capacity assessment) since 1996—

(A) to establish a delay reduction task force to study means of increasing capacity at the airport, including air traffic, airline scheduling, and airfield expansion alternatives; or
“(B) to conduct a capacity enhancement study.

“(2) SCOPE.—The scope of the study shall be determined by the airport and the Federal Aviation Administration, and where appropriate shall consider regional capacity solutions.

“(3) RECOMMENDATIONS SUBMITTED TO SECRETARY.—

“(A) TASK FORCE.—A task force established under this subsection shall submit a report containing its findings and conclusions, together with any recommendations for capacity enhancement at the airport, to the Secretary within 9 months after the task force is established.

“(B) CES.—A capacity enhancement study conducted under this subsection shall be submitted, together with its findings and conclusions, to the Secretary as soon as the study is completed.

“(c) RUNWAY EXPANSION AND RECONFIGURATION.—If the report or study submitted under subsection (b)(3) includes a recommendation for the construction or reconfiguration of runways at the airport, then the Secretary and the airport shall complete the planning and en-
v) the Secretary may extend the 5-year deadline under this subsection for up to 1 year if the Secretary determines that such an extension is necessary and in the public interest. The Secretary shall notify the Senate Committee on Commerce, Science, and Transportation, and to the House of Representatives Committee on Transportation and Infrastructure of any such extension.

"(d) AIRPORTS THAT DECLINE TO UNDERTAKE EXPANSION PROJECTS.—

"(1) IN GENERAL.—If an airport at which the construction or reconfiguration of runways is recommended does not take action to initiate a planning and environmental assessment process for the construction or reconfiguration of those runways within 30 days after the date on which the report or study is submitted to the Secretary, then—

"(A) the airport shall be ineligible for planning and other expansion funds under subchapter I of chapter 471, notwithstanding any provision of that subchapter to the contrary;

"(B) no passenger facility fee may be approved at that airport during the 5-year period beginning 30 days after the date on which the

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report or study is submitted to the Secretary, for—

“(i) projects that, but for subpara-
graph (A), could have been funded under
chapter 471; or

“(ii) any project other than on-airport
airfield-side capacity or safety-related
projects.

“(2) SAFETY-RELATED AND ENVIRONMENTAL
PROJECTS EXCEPTED.—Paragraph (1) does not
apply to the use of funds for safety-related, security,
or environment projects.

“(e) AIRPORTS THAT TAKE ACTION.—The Secretary
shall take all actions possible to expedite funding and pro-
vide options for funding to any airport undertaking run-
way construction or reconfiguration projects in response
to recommendations by its task force.

“§ 47702. Designation of national capacity projects

“(a) IN GENERAL.—In response to a petition from
an airport sponsor, or in the case of an airport on the
list of airports covered by the Federal Aviation Adminis-
tration’s Airport Capacity Benchmarks study, the Sec-
retary of Transportation may designate an airport devel-
opment project as a national capacity project if the Sec-
retary determines that the project to be designated will
1 significantly enhance the capacity of the national air
2 transportation system.
3
4 (b) Designation To Remain in Effect For 5
5 Years.—The designation of a project as a national capac-
6 ity project under paragraph (1) shall remain in effect for
7 5 years. The Secretary may extend the 5-year period for
8 up to 2 additional years upon request if the Secretary
9 finds that substantial progress is being made toward com-
10 pletion of the project.
11
12 § 47703. Expedited coordinated environmental re-
13 view process; project coordinators and
14 environment impact teams.
15
16 (a) In General.—The Secretary of Transportation
17 shall implement an expedited coordinated environmental
18 review process for national capacity projects that—
19
20 (1) provides for better coordination among the
21 Federal, regional, State, and local agencies con-
22 cerned with the preparation of environmental impact
23 statements or environmental assessments under the
24 National Environmental Policy Act of 1969 (42
25 U.S.C. 4321 et seq.);
26
27 (2) provides for an expedited and coordinated
28 process in the conduct of environmental reviews that
29 ensures that, where appropriate, the reviews are
30 done concurrently and not consecutively; and
“(3) provides for a date certain for completing all environmental reviews.

“(b) HIGH PRIORITY FOR AIRPORT ENVIRONMENTAL REVIEWS.—Each department and agency of the United States Government with jurisdiction over environmental reviews shall accord any such review involving a national capacity project the highest possible priority and conduct the review expeditiously. If the Secretary finds that any such department or agency is not complying with the requirements of this subsection, the Secretary shall notify the Senate Committee on Commerce, Science, and Transportation, and to the House of Representatives Committee on Transportation and Infrastructure immediately.

“(c) PROJECT COORDINATORS; EIS TEAMS.—

“(1) DESIGNATION.—For each project designated by the Secretary as a national capacity project under subsection (a) for which an environmental impact statement or environmental assessment must be filed, the Secretary shall—

“(A) designate a project coordinator within the Department of Transportation; and

“(B) establish an environmental impact team within the Department.

“(2) FUNCTION.—The project coordinator and the environmental impact team shall—
“(A) coordinate the activities of all Federal, State, and local agencies involved in the project;

“(B) to the extent possible, working with Federal, State and local officials, reduce and eliminate duplicative and overlapping Federal, State, and local permit requirements;

“(C) to the extent possible, eliminate duplicate Federal, State, and local environmental review procedures; and

“(D) provide direction for compliance with all applicable Federal, State, and local environmental requirements for the project.

§47704. Compatible land use initiative for national capacity projects

“(a) In General.—The Secretary of Transportation may make grants under chapter 471 to States and units of local government for land use compatibility plans directly related to national capacity projects for the purposes of making the use of land areas around the airport compatible with aircraft operations if the land use plan or project meets the requirements of this section.

“(b) Conditions.—A land use plan or project meets the requirements of this section if it—
“(1) is sponsored by the public agency that has the authority to plan and adopt land use control measures, including zoning, in the planning area in and around the airport and that agency provides written assurances to the Secretary that it will work with the affected airport to identify and adopt such measures;

“(2) does not duplicate, and is not inconsistent with, an airport noise compatibility program prepared by an airport owner or operator under chapter 475 or with other planning carried out by the airport.

“(3) is subject to an agreement between the public agency sponsor and the airport owner or operator that the development of the land use compatibility plan will be done cooperatively;

“(4) is consistent with the airport operation and planning, including the use of any noise exposure contours on which the land use compatibility planning or project is based; and

“(5) has been approved jointly by the airport owner or operator and the public agency sponsor.

“(c) ASSURANCES FROM SPONSORS.— The Secretary may require the airport sponsor, public agency, or other entity to which a grant may be awarded under this section
to provide such additional assurances, progress reports, and other information as the Secretary determines to be necessary to carry out this section.

§47705. Air traffic procedures at national capacity projects

(a) IN GENERAL.—The Secretary of Transportation may consider prescribing flight procedures to avoid or minimize potentially significant adverse noise impacts of the project during the environmental planning process for a national capacity project that involves the construction of new runways or the reconfiguration of existing runways. If the Secretary determines that noise mitigation flight procedures are consistent with safe and efficient use of the navigable airspace, then, at the request of the airport sponsor, the Administrator may, in a manner consistent with applicable Federal law, commit to prescribing such procedures in any record of decision approving the project.

(b) MODIFICATION.—Notwithstanding any commitment by the Secretary under subsection (a), the Secretary may initiate changes to such procedures if necessary to maintain safety and efficiency in light of new information or changed circumstances.
§ 47706. Pilot program for environmental review at national capacity projects

(a) In General.—The Secretary of Transportation shall initiate a 5-year pilot program funded by airport sponsors—

"(1) to hire additional fulltime-equivalent environmental specialists and attorneys, or

"(2) to obtain the services of such specialists and attorneys from outside the United States Government, to assist in the provision of an appropriate nationwide level of staffing for planning and environmental review of runway development projects for national capacity projects at the Federal Aviation Administration.

(b) Eligible Participants.—Participation in the pilot program shall be available, on a voluntary basis, to airports with an annual passenger enplanement of not less than 3 million passengers. The Secretary shall specify the minimum contribution necessary to qualify for participation in the pilot program, which shall be not less than the amount necessary to compensate the Department of Transportation for the expense of a fulltime equivalent environmental specialist and attorney qualified at the GS-14 equivalent level.

(c) Retention of Revenues.—The salaries and expenses account of the Federal Aviation Administration
shall retain as an offsetting collection such sums as may be necessary from such proceeds for the costs of developing and implementing the program required by subsection (a). Such offsetting collections shall be available for obligation subject to the terms and conditions of the receiving appropriations account, and shall be deposited in such accounts on a quarterly basis. Such offsetting collections are authorized to remain available until expended for such purpose.

“§ 47707. Definitions

“In this chapter:

“(1) NATIONAL CAPACITY PROJECT.—The term ‘national capacity project’ means a project designated by the Secretary under section 44702.

“(2) OTHER TERMS.—The definitions in section 47102 apply to any terms used in this chapter that are defined in that section.”.

(b) ADDITIONAL STAFF AUTHORIZED.—The Secretary of Transportation is authorized to hire additional environmental specialists and attorneys needed to process environmental impact statements in connection with airport construction projects and to serve as project coordinators and environmental impact team members under section 47703 of title 49, United States Code.
(c) CLERICAL AMENDMENT.—The analysis for subtitle VII is amended by inserting after the item relating to section 475 the following:

"477. National capacity projects ..................................47701".

SEC. 202. CATEGORICAL EXCLUSIONS.

Not later than 30 days after the date of enactment of this Act, the Secretary of Transportation shall report to the Senate Committee on Commerce, Science, and Transportation on the categorical exclusions currently recognized and provide a list of proposed additional categorical exclusions from the requirement that an environmental assessment or an environmental impact statement be prepared under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) for projects at airports. In determining the list of additional proposed categorical exclusions, the Secretary shall include such other projects as the Secretary determines should be categorically excluded in order to ensure that Department of Transportation environmental staff resources are not diverted to lower priority tasks and are available to expedite the environmental reviews of airport capacity enhancement projects at congested airports.

SEC. 203. ALTERNATIVES ANALYSIS.

(a) NOTICE REQUIREMENT.—Not later than 30 days after the date on which the Secretary of Transportation identifies an airport capacity enhancement project at a
congested airport under section 47171(c) of title 49, United States Code, the Secretary shall publish a notice in the Federal Register requesting comments on whether reasonable alternatives exist to the project.

(b) CERTAIN REASONABLE ALTERNATIVES DEFINED.—For purposes of this section, an alternative shall be considered reasonable if—

(1) the alternative does not create an unreasonable burden on interstate commerce, the national aviation system, or the navigable airspace;

(2) the alternative is not inconsistent with maintaining the safe and efficient use of the navigable airspace;

(3) the alternative does not conflict with a law or regulation of the United States;

(4) the alternative would result in at least the same reduction in congestion at the airport or in the national aviation system as the proposed project; and

(5) in any case in which the alternative is a proposed construction project at an airport other than a congested airport, firm commitments to provide such alternate airport capacity exists, and the Secretary determines that such alternate airport capacity will be available no later than 4 years after
the date of the Secretary's determination under this section.

(c) COMMENT PERIOD.—The Secretary shall provide a period of 60 days for comments on a project identified by the Secretary under this section after the date of publication of notice with respect to the project.

(d) DETERMINATION OF EXISTENCE OF REASONABLE ALTERNATIVES.—Not later than 90 days after the last day of a comment period established under subsection (c) for a project, the Secretary shall determine whether reasonable alternatives exist to the project. The determination shall be binding on all persons, including Federal and State agencies, acting under or applying Federal laws when considering the availability of alternatives to the project.

(e) LIMITATION ON APPLICABILITY.—This section does not apply to—

(1) any alternatives analysis required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et. seq.); or

(2) a project at an airport if the airport sponsor requests, in writing, to the Secretary that this section not apply to the project.
SEC. 204. INCREASE IN APPORTIONMENT FOR, AND FLEXIBILITY OF, NOISE COMPATIBILITY PLANNING PROGRAMS.

Section 47117(e)(1)(A) is amended—

(1) by striking the first sentence and inserting:

"At least 35 percent for grants for airport noise compatibility planning under section 47505(a)(2) for a national capacity project, for carrying out noise compatibility programs under section 47504(c) of this title, and for noise mitigation projects approved in an environmental record of decision for an airport development project designated as a national capacity project under section 47702."; and

(2) by striking "or not such 34 percent requirement" in the second sentence and inserting "the funding level required by the preceding sentence".

SEC. 205. SECRETARY OF TRANSPORTATION TO IDENTIFY AIRPORT CONGESTION-RELIEF PROJECTS AND FORECAST AIRPORT OPERATIONS ANNUALLY.

(a) IDENTIFICATION OF PROJECTS.—

(1) IN GENERAL.—Within 90 days after the date of enactment of this Act, the Secretary of Transportation shall provide—

(A) a list of planned air traffic and airport-capacity projects at congested Airport C-
capacity Benchmark airports the completion of which will substantially relieve congestion at those airports; and

(B) a list of options for expanding capacity at the 8 airports on the list at which the most severe delays are occurring, to the Senate Committee on Commerce, Science, and Transportation, and to the House of Representatives Committee on Transportation and Infrastructure. The Secretary shall provide updated lists to those Committees 2 years after the date of enactment of this Act.

(2) DELISTING OF PROJECTS.—The Secretary shall remove a project from the list provided to the Committees under paragraph (1) upon the request, in writing, of an airport operator if the operator states in the request that construction of the project will not be completed within 10 years from the date of the request.

SEC. 206. DESIGN-BUILD CONTRACTING.

(a) In general.—Subchapter I of chapter 471 is amended by adding at the end the following:

“§ 47138. Design-build contracting

“(a) In general.—The Administrator may approve an application of an airport sponsor under this section to
authorize the airport sponsor to award a design-build con-
tract using a selection process permitted under applicable
State or local law if—

“(1) the Administrator approves the application
using criteria established by the Administrator;
“(2) the design-build contract is in a form that
is approved by the Administrator;
“(3) the Administrator is satisfied that the con-
tract will be executed pursuant to competitive proce-
dures and contains a schematic design adequate for
the Administrator to approve the grant;
“(4) use of a design-build contract will be cost
effective and expedite the project;
“(5) the Administrator is satisfied that there
will be no conflict of interest; and
“(6) the Administrator is satisfied that the se-
lection process will be as open, fair, and objective as
the competitive bid system and that at least three or
more bids will be submitted for each project under
the selection process.

“(b) REIMBURSEMENT OF COSTS.—The Adminis-
trator may reimburse an airport sponsor for design and
construction costs incurred before a grant is made pursu-
ant to this section if the project is approved by the Admin-
istrator in advance and is carried out in accordance with
all administrative and statutory requirements that would
have been applicable under this chapter 471, if the project
were carried out after a grant agreement had been exe-
cuted.
“(c) DESIGN-BUILD CONTRACT DEFINED.—In this
section, the term ‘design-build contract’ means an agree-
ment that provides for both design and construction of a
project by a contractor.”.
(b) CONFORMING AMENDMENT.—The chapter anal-
ysis for chapter 471 is amended by inserting after the item
relating to section 47137 the following:
“47138. Design-build contracting.”.

SEC. 207. SPECIAL RULE FOR AIRPORT IN ILLINOIS.
(a) IN GENERAL.—Nothing in this title shall be con-
strued to preclude the application of any provision of this
Act to the State of Illinois or any other sponsor of a new
airport proposed to be constructed in the State of Illinois.
(b) AUTHORITY OF THE GOVERNOR.—Nothing in
this title shall be construed to preempt the authority of
the Governor of the State of Illinois as of August 1, 2001,
to approve or disapprove airport development projects.

SEC. 208. ELIMINATION OF DUPLICATIVE REQUIREMENTS.
(a) IN GENERAL.—Section 47106(c)(1) is amend-
ed—
(1) by inserting “and” after “project;” in sub-
paragraph (A)(ii);
(2) by striking subparagraph (B); and
(3) by redesignating subparagraph (C) as subparagraph (B).

(b) CONFORMING AMENDMENTS.—Section 47106(c) of such title is amended—

(1) by striking paragraph (4);
(2) by redesignating paragraph (5) as paragraph (4); and
(3) by striking “(1)(C)” in paragraph (4), as redesignated, and inserting “(1)(B)”.

SEC. 209. STREAMLINING THE PASSENGER FACILITY FEE PROGRAM.

Section 40117 is amended—

(1) by striking from “finds—” in paragraph (4) of subsection (b) through the end of that paragraph and inserting “finds that the project cannot be paid for from funds reasonably expected to be available for the programs referred to in section 48103.”;
(2) by adding at the end of subsection (e)(2) the following:

“(E) The agency will include in its application or notice submitted under subsection (1) copies of all certifications of agreement or disagreement received under subparagraph (D).
“(F) For the purpose of this section, an eligible agency providing notice and consultation to an air carrier and foreign air carrier is deemed to have satisfied this requirement if it limits such notices and consultations to air carriers and foreign air carriers that have a significant business interest on the airport. In developing regulations to implement this provision, the Secretary shall consider a significant business interest to be defined as an air carrier or foreign air carrier that has no less than 1.0 percent of boardings at the airport in the prior calendar year, except that no air carrier or foreign air carrier may be considered excluded under this section if it has at least 25,000 boardings at the airport in the prior calendar year, or if it operates scheduled service, without regard to such percentage requirements.”;

(3) by redesignating paragraph (3) of subsection (c) as paragraph (4) and inserting after paragraph (2) the following:

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

“(A) a requirement that the eligible agency
provide public notice of intent to collect a pas-
senger facility fee so as to inform those inter-
ested persons and agencies who may be af-
feated, including—

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

“(ii) publication in other local media;
and

“(iii) posting the notice on the agen-
cy’s website;

“(B) a requirement for submission of pub-
lic comments no sooner than 30 days after pub-
lishing of the notice and not later than 45 days
after publication; and

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

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

(5) by adding at the end the following:
“(1) PILOT PROGRAM FOR PASSENGER FACILITY FEE

AUTHORIZATIONS AT SMALL AIRPORTS.—

“(1) There is established a pilot program for the Secretary to test alternative procedures for authorizing small airports to impose passenger facility fees. An eligible agency may impose a passenger facility fee at a non-hub airport (as defined in section 47102 of this title) that it controls for use on eligible airport-related projects at that airport, in accordance with the provisions of this subsection. These procedures shall be in lieu of the procedures otherwise specified in this section.

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

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

“(A) information that the Secretary may require by regulation on each project for which authority to impose a passenger facility charge is sought;
“(B) the amount of revenue from passenger facility charges that is proposed to be collected for each project; and

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

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

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

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

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

“(8) An acknowledgement issued under paragraph (4) shall not be considered an order of the Secretary issued under section 46110 of this title.”.
SEC. 210. QUARTERLY STATUS REPORTS.

Beginning with the second calendar quarter ending after the date of enactment of this Act, the Secretary of Transportation shall provide quarterly status reports to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure on the status of construction of each major runway project undertaken at the largest 40 commercial airports in terms of annual enplanements.

SEC. 211. NOISE DISCLOSURE REQUIREMENTS.

(a) DEFINITIONS.—Section 47501 is amended by adding at the end—

"(3) 'Federal agency' means any department, agency, corporation, or other establishment or instrumentality of the executive branch of the Federal Government, and includes the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation.

"(4) 'Federal entity for lending regulation' means the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Comptroller of the Currency, the Office of Thrift Supervision, the National Credit Union Administration, and the Farm Credit Administration, and with respect to a particular regulated lending
institution means the entity primarily responsible for
the supervision of the institution.

“(5) ‘Federal agency lender’ means a Federal
agency that makes direct loans secured by improved
real estate or a mobile home, to the extent such
agency acts in such capacity.

“(6) ‘residential real estate’ means real estate
upon which a residential dwelling is located.

“(7) ‘noise exposure map’ means a noise expo-
sure map that complies with section 47503 of this
title and part 150 of title 14, Code of Federal Regu-
lations.

“(8) ‘regulated lending institution’ means any
bank, savings and loan association, credit union,
farm credit bank, Federal land bank association,
production credit association, or similar institution
subject to the supervision of a Federal entity for
lending regulation.”.

(b) NOISE EXPOSURE MAPS.—Section 47503(b) is
amended to read as follows:

“(b) REvised MAPS.—If, in an area surrounding an
airport, a change in the operation of the airport would
establish a substantial new noncompatible use, or would
significantly reduce noise over existing noncompatible
uses, beyond the forecast year, the airport operator shall
submit a revised noise exposure map to the Secretary showing the new noncompatible use or noise reduction.”.

(c) NOTIFICATION OF NOISE EXPOSURE.—Chapter 457 is amended by adding at the end the following:

“§ 47511. Notification of noise exposure

“(a) NOISE EXPOSURE MAP.—An airport operator shall make available to lending institutions, upon request, the most recent noise exposure map submitted under section 47503 of this title.

“(b) LIST OF AIRPORTS.—The Secretary shall maintain a list of airports for which the airport operators have submitted a noise exposure map under section 47503 of this title.

“(c) REGULATED LENDING INSTITUTIONS.—Each Federal entity for lending regulation (after consultation and coordination with the Federal Financial Institutions Examination Council) shall direct by regulation that a regulated lending institution may not make, increase, extend or renew any loan secured by residential real estate or a mobile home that is located or to be located in the vicinity of an airport on the Secretary’s list described in subsection (b), unless the loan applicant’s purchase agreement for the residential real estate or mobile home provides notice to the purchaser (or satisfactory assurances are provided that the seller has provided written notice to the purchaser
prior to the purchaser's signing of the purchase agree-
ment) that the property is within the area of the noise
contours on a noise exposure map submitted under section
47503 of this chapter. The notice to the purchaser shall
be acknowledged by the purchaser's signing of the pur-
chase agreement or other notification document and the
regulated lending institution shall retain a record of the
receipt of the notice by the purchaser.

“(d) FEDERAL AGENCY LENDERS.—Each Federal
agency lender shall by regulation require notification in
the manner provided in subsection (c) with respect to any
loan that is made by the Federal agency lender and se-
cured by residential real estate or a mobile home located
or to be located in the vicinity of an airport on the Sec-
retary's list described in subsection (b).

“(e) CONTENTS OF NOTICE.—The notice required
under this section shall disclose—

“(1) that the property is located within the
noise contours depicted on the most recent noise ex-
posure map submitted by the airport operator ac-
cording to section 47503 of this chapter, and is sub-
ject to aircraft noise exposure; and

“(2) the name and telephone number of the air-
port where the purchaser may obtain more informa-
tion on the aircraft noise exposure.”.
SEC. 212. PROHIBITION ON REQUIRING AIRPORTS TO PROVIDE RENT-FREE SPACE FOR FAA OR TSA.

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

“§ 40129. Prohibition on rent-free space requirements for FAA or TSA

“(a) IN GENERAL.—Neither the Secretary of Transportation nor the Secretary of Homeland Security may require airport sponsors to provide building construction, maintenance, utilities and expenses, or space in airport sponsor-owned buildings to the Federal Aviation Administration or the Transportation Security Administration without cost for services relating to air traffic control, air navigation, aviation security, or weather reporting.

“(b) NEGOTIATED AGREEMENTS.—Subsection (a) does not prohibit—

“(1) the negotiation of agreements between either Secretary and an airport sponsor to provide building construction, maintenance, utilities and expenses, or space in airport sponsor-owned buildings to the Federal Aviation Administration or the Transportation Security Administration without cost or at below-market rates; or

“(2) either Secretary from requiring airport sponsors to provide land without cost to the Federal Aviation Administration for air traffic control facili-
ties or space without cost to the Transportation Se-
curity Administration for necessary security check-
points.”.

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

“40129. Prohibition on rent-free space requirements for FAA or TSA.”.

SEC. 213. SPECIAL RULES FOR FISCAL YEAR 2004.

(a) APPORTIONMENT TO CERTAIN AIRPORTS WITH
DECLINING BOARDINGS.—

(1) IN GENERAL.—For fiscal year 2004, the
Secretary of Transportation may apportion funds
under section 47114 of title 49, United States Code,
to the sponsor of an airport described in paragraph
(2) in an amount equal to the amount apportioned
to that airport under that section for fiscal year
2002, notwithstanding any provision of section
47114 to the contrary.

(2) AIRPORTS TO WHICH PARAGRAPH (1) AP-
PLIES.—Paragraph (1) applies to any airport deter-
mined by the Secretary to have had—

(A) less than one-half of 1 percent of the
total United States passenger boardings (as de-
defined in section 47102(10) of title 49, United
States Code) for the calendar year used for de-
termining apportionments under section 47114 for fiscal year 2004;

(B) less than 10,000 passenger boardings in calendar year 2002; and

(C) 10,000 or more passenger boardings in calendar year 2000.

(b) Temporary Increase in Government Share of AIP Project Costs at Certain Airports.—Notwithstanding section 47109(a)(3) of title 49, United States Code, the Government's share of allowable project costs for a grant made in fiscal year 2004 under chapter 471 of that title to an airport described in that section shall be 95 percent.

TITLE III—AIRLINE SERVICE DEVELOPMENT

SEC. 301. DELAY REDUCTION MEETINGS.

(a) In General.—Subchapter I of chapter 417 is amended by adding at the end the following new section:

"§ 41723. Delay reduction actions

"(a) Delay Reduction Meetings.—

"(1) Scheduling reduction meetings.—

The Secretary of Transportation may request that air carriers meet with the Administrator of the Federal Aviation Administration to discuss flight reductions at severely congested airports to reduce over-
scheduling and flight delays during hours of peak operation if—

"(A) the Administrator of the Federal Aviation Administration determines that it is necessary to convene such a meeting; and

"(B) the Secretary determines that the meeting is necessary to meet a serious transportation need or achieve an important public benefit.

"(2) MEETING CONDITIONS.—Any meeting under paragraph (1)—

"(A) shall be chaired by the Administrator;

"(B) shall be open to all scheduled air carriers; and

"(C) shall be limited to discussions involving the airports and time periods described in the Administrator’s determination.

"(3) FLIGHT REDUCTION TARGETS.—Before any such meeting is held, the Administrator shall establish flight reduction targets for the meeting and notify the attending air carriers of those targets not less than 48 hours before the meeting.

"(4) DELAY REDUCTION OFFERS.—An air carrier attending the meeting shall make any delay re-
duction offer to the Administrator rather than to an-
other carrier.

“(5) TRANSCRIPT.—The Administrator shall
ensure that a transcript of the meeting is kept and
made available to the public not later than 3 busi-
ness days after the conclusion of the meeting.
“(b) STORMY WEATHER AGREEMENTS LIMITED EX-
EMPTION.—
“(1) IN GENERAL.—The Secretary may estab-
lish a program to authorize by order discussions and
agreements between 2 or more air carriers for the
purpose of reducing flight delays during periods of
inclement weather.
“(2) REQUIREMENTS.—An authorization issued
under paragraph (1)—
“(A) may only be issued by the Secretary
after a determination by the Federal Aviation
Administration that inclement weather is likely
to adversely and directly affect capacity at an
airport for a period of at least 3 hours;
“(B) shall apply only to discussions and
agreements concerning flights directly affected
by the inclement weather; and
“(C) shall remain in effect for a period of
24 hours.
“(3) PROCEDURE.—The Secretary shall estab-

lish procedures within 30 days after such date of en-

actment for—

“(A) filing requests for an authorization

under paragraph (1);

“(B) participation under paragraph (5) by

representatives of the Department of Transpor-
tation in any meetings or discussions held pur-
suant to such an order; and

“(C) the determination by the Federal

Aviation Administration about the impact of in-
clement weather.

“(4) COPY OF PARTICIPATION REQUEST FILED

WITH SECRETARY.—Before an air carrier may re-
quest an order under paragraph (1), it shall file a
request with the Secretary, in such form and man-
ner as the Secretary may prescribe, to participate in
the program established under paragraph (1).

“(5) DOT PARTICIPATION.—The Secretary

shall ensure that the Department is represented at
any meetings authorized under this subsection.

“(e) EXEMPTION AUTHORIZED.—When the Secretary

finds that it is required by the public interest, the Sec-
retary, as part of an order issued under subsection (b)(1),
shall exempt a person affected by the order from the anti-
trust laws to the extent necessary to allow the person to
proceed with the activities approved in the order.

“(d) Antitrust Laws Defined.—In this section, the term ‘antitrust laws’ has the meaning given that term in the first section of the Clayton Act (15 U.S.C. 12).

“(e) Sunset.—The authority of the Secretary to issue an order under subsection (b)(1) of this section expires at the end of the 2-year period that begins 45 days after the date of enactment of the Aviation Investment and Revitalization Vision Act. The Secretary may extend the 2-year Period for an additional 2 years if the Secretary determines that such an extension is necessary and in the public interest. The Secretary shall notify the Senate Committee on Commerce, Science, and Transportation, and to the House of Representatives Committee on Transportation and Infrastructure of any such extension.”.

(b) Conforming Amendment.—The chapter analysis for chapter 417 is amended by inserting after the item relating to section 41722 the following new item:

“41723. Delay reduction actions.”.

SEC. 302. REAUTHORIZATION OF ESSENTIAL AIR SERVICE PROGRAM.

There are authorized to be appropriated to the Secretary of Transportation to carry out the essential air service program under subchapter II of chapter 417 of
title 49, United States Code, $113,000,000 for each of the fiscal years 2004, 2005, and 2006.

SEC. 303. SMALL COMMUNITY AIR SERVICE DEVELOPMENT PILOT PROGRAM.

(a) 3-YEAR EXTENSION.—Section 41743(e)(2) of title 49, United States Code, is amended—

(1) by striking “There is” and inserting “There are”;

(2) by striking “2001 and” and inserting “2001,”; and

(3) by striking “2003” and inserting “2003, and $27,500,000 for the 3 fiscal year period begin-
ning with fiscal year 2004.”.

(b) ADDITIONAL COMMUNITIES.—Section 41743(e)(4) of such title is amended by striking “pro-
gram.” and inserting “program each year. No community, consortia of communities, or combination thereof may par-

ticipate in the program twice.”.

SEC. 304. DOT STUDY OF COMPETITION AND ACCESS PROB-
LEMS AT LARGE AND MEDIUM HUB AIR-
PORTS.

(a) IN GENERAL.—The Secretary of Transportation shall study competition and airline access problems at hub airports (as defined in section 41731(a)(3)) of title 49, United States Code, and medium hub airports (as defined
in section 41714(h)(9) of that title). In the study, the Secretary shall examine, among other matters—
   
   (1) gate usage and availability; and
   
   (2) the effects of the pricing of gates and other facilities on competition and access.
   
   (b) REPORT.—The Secretary shall transmit a report of the Secretary’s findings and conclusions together with any recommendations, including legislative recommendations, the Secretary may have for improving competition and airline access at such airports to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure within 6 months after the date of enactment of this Act.

SEC. 305. COMPETITION DISCLOSURE REQUIREMENT FOR LARGE AND MEDIUM HUB AIRPORTS.

Section 47107 is amended by adding at the end the following:

“(q) COMPETITION DISCLOSURE REQUIREMENT.—

“(1) IN GENERAL.—The Secretary of Transportation may approve an application under this subchapter for an airport development project grant for a hub airport or a medium hub airport only if the Secretary receives assurances that the airport sponsor will provide the information required by para-
graph (2) at such time and in such form as the Sec-
retary may require.

“(2) COMPETITIVE ACCESS.—If an airport de-
nies an application by an air carrier to receive access
to gates or other facilities at that airport in order
to provide service to the airport or to expand service
at the airport, then, within 30 days after denying
the request, the airport sponsor shall—

“(A) notify the Secretary of the denial;

and

“(B) transmit a report to the Secretary

that—

“(i) describes the request;

“(ii) explains the reasons for the de-
nial; and

“(iii) provides a time frame within

which, if any, the airport will be able to ac-
commodate the request.

“(3) DEFINITIONS.—In this subsection:

“(A) HUB AIRPORT.—The term ‘hub air-
port’ has the meaning given that term by sec-
tion 41731(a)(3).

“(B) MEDIUM HUB AIRPORT.—The term
‘medium hub airport’ has the meaning given
that term by section 41714(h)(9).”.

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TITLE IV—AVIATION SECURITY

SEC. 401. STUDY OF EFFECTIVENESS OF TRANSPORTATION SECURITY SYSTEM.

(a) IN GENERAL.—The Secretary of Homeland Security shall study the effectiveness of the aviation security system, including the air marshal program, hardening of cockpit doors, and security screening of passengers, checked baggage, and cargo.

(b) REPORT.—The Secretary shall transmit a report of the Secretary’s findings and conclusions together with any recommendations, including legislative recommendations, the Secretary may have for improving the effectiveness of aviation security to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure within 6 months after the date of enactment of this Act. In the report the Secretary shall also describe any redeployment of Transportation Security Administration resources based on those findings and conclusions. The Secretary may submit the report to the Committees in classified and redacted form.

SEC. 402. AVIATION SECURITY CAPITAL FUND.

(a) IN GENERAL.—There is established within the Department of Transportation a fund to be known as the Aviation Security Capital Fund. There are appropriated
to the Fund $500,000,000 for each of the fiscal years 2004 through 2007, such amounts to be derived from fees received under section 44940 of title 49, United States Code. Amounts in the fund shall be allocated in such a manner that—

1. 40 percent shall be made available for hub airports;
2. 20 percent shall be made available for medium hub airports;
3. 15 percent shall be made available for small hub airports and non-hub airports; and
4. 25 percent may be distributed at the Secretary’s discretion.

(b) PURPOSE.—Amounts in the Fund shall be available to the Secretary of Transportation, after consultation with the Under Secretary of Homeland Security for Border and Transportation Security to provide financial assistance to airport sponsors to defray capital investment in transportation security at airport facilities in accordance with the provisions of this section. The program shall be administered in concert with the airport improvement program under chapter 417 of title 49, United States Code.

(c) APPORTIONMENT.—Amounts made available under subsection (a)(1), (a)(2), or (a)(3) shall be appor-
tioned among the airports in each category in accordance with a formula based on the ratio that passenger emplanements at each airport in the category bears to the total passenger emplanements at all airports in that category.

(d) MATCHING REQUIREMENTS.—

(1) IN GENERAL.—Not less than the following percentage of the costs of any project funded under this section shall be derived from non-Federal sources:

(A) For hub airports and medium hub airports, 25 percent.

(B) For airports other than hub airports and medium hub airports, 10 percent.

(2) USE OF BOND PROCEEDS.—In determining the amount of non-Federal sources of funds, the proceeds of State and local bond issues shall not be considered to be derived, directly or indirectly, from Federal sources without regard to the Federal income tax treatment of interest and principal of such bonds.

(e) LETTERS OF INTENT.—The Secretary of Transportation, or his delegate, may execute letters of intent to commit funding to airport sponsors from the Fund.
(f) **CONFORMING AMENDMENT.**—Section 44940(a)(1) of title 49, United States Code, is amended by adding at the end the following:

“(H) The costs of security-related capital improvements at airports.”.

(g) **DEFINITIONS.**—Any term used in this section that is defined or used in chapter 417 of title 49 United States Code has the meaning given that term in that chapter.

**SEC. 403. TECHNICAL AMENDMENTS RELATED TO SECURITY-RELATED AIRPORT DEVELOPMENT.**

(a) **DEFINITION OF AIRPORT DEVELOPMENT.**—Section 47102(3)(B) is amended—

(1) by inserting “and” after the semicolon in clause (viii);

(2) by striking “circular; and” in clause (ix) and inserting “circular.”; and

(3) by striking clause (x).

(b) **IMPROVEMENT OF FACILITIES AND EQUIPMENT.**—Section 301(a) of the Federal Aviation Reauthorization Act of 1996 (49 U.S.C. 44901 note) is amended by striking “travel.” and inserting “travel if the improvements or equipment will be owned and operated by the airport.”.
Title V—Miscellaneous


(a) Extension of Policies.—Section 44302(f)(1) is amended by striking “2003,” each place it appears and inserting “2006.”.

(b) Extension of Liability Limitation.—Section 44303(b) is amended by striking “2003,” and inserting “2006.”.

(c) Extension of Authority.—Section 44310 is amended by striking “2003.” and inserting “2006.”.


(a) In General.—Chapter 445 is amended by adding at the end the following:

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

“(a) In General.—Subject to the requirements of this section, the Secretary may carry out a program under which the Secretary may make grants to project sponsors for not more than 10 eligible projects per fiscal year for the purpose of improving aviation safety and enhancing mobility of the Nation’s air transportation system by encouraging non-Federal investment in critical air traffic control facilities and equipment.”
“(b) FEDERAL SHARE.—The Federal share of the cost of an eligible project carried out under the program shall not exceed 33 percent. The non-Federal share of the cost of an eligible project shall be provided from non-Federal sources, including revenues collected pursuant to section 40117 of this title.

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

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

“(e) DEFINITIONS.—In this section:

“(1) ELIGIBLE PROJECT.—The term ‘eligible project’ means a project relating to the Nation’s air traffic control system that is certified or approved by the Administrator and that promotes safety, efficiency, or mobility. Such projects may include—

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

“(B) automation tools to effect improvements in airport capacity, including passive
final approach spacing tools and traffic man-
agement advisory equipment; and

“(C) facilities and equipment that enhance
airspace control procedures, including consolida-
tion of terminal radar control facilities and
equipment, or assist in en route surveillance, in-
cluding oceanic and offshore flight tracking.

“(2) PROJECT SPONSOR.—The term ‘project
sponsor’ means any major user of the National Air-
space System, as determined by the Secretary, in-
cluding a public-use airport or a joint venture be-
tween a public-use airport and one or more air car-
riers.

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

“(g) GUIDELINES.—The Administrator shall issue
advisory guidelines on the implementation of the program,
which shall not be subject to administrative rulemaking
requirements under subchapter II of chapter 5 of title 5.”.

(b) CONFORMING AMENDMENT.—The chapter analy-
yses for chapter 445 is amended by adding at the end the
following:

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

SEC. 503. COUNTERFEIT OR FRAUDULENTLY REP-
RESENTED PARTS VIOLATIONS.

Section 44726(a)(1) is amended —

(1) by striking “or” after the semicolon in sub-
paragraph (A);

(2) by redesignating subparagraph (B) as sub-
paragraph (D);

(3) by inserting after subparagraph (A) the fol-
lowing:

“(B) who knowingly, and with intent to de-
fraud, carried out or facilitated an activity pun-
ishable under a law described in subparagraph
(A);

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

(4) by striking “convicted of such a violation.”
in subparagraph (D), as redesignated, and inserting
“described in subparagraph (A), (B) or (C).”.

§ 824 IS
SEC. 504. CLARIFICATIONS TO PROCUREMENT AUTHORITY.

(a) UPDATE AND CLARIFICATION OF AUTHORITY.—

(1) Section 40110(c) is amended to read as follows:

“(c) DUTIES AND POWERS.—When carrying out subsection (a) of this section, the Administrator of the Federal Aviation Administration may—

“(1) notwithstanding section 1341(a)(1) of title 31, lease an interest in property for not more than 20 years;

“(2) consider the reasonable probable future use of the underlying land in making an award for a condemnation of an interest in airspace; and

“(3) dispose of property under subsection (a)(2) of this section, except for airport and airway property and technical equipment used for the special purposes of the Administration, only under sections 121, 123, and 126 and chapter 5 of title 40.”.

(2) Section 40110(d)(1) is amended by striking “implement, not later than January 1, 1996,” and inserting “implement”.

(b) CLARIFICATION.—Section 106(f)(2)(A)(ii) is amended by striking “property” and inserting “property, services.”.