



U.S. Department
of Transportation
**Federal Aviation
Administration**

Memorandum

Subject: **ACTION:** Program Guidance Letter 94-1

Date: JUN 3 1994

From: Manager, Airports Financial Assistance
Division, APP-500

Reply to
Attn. of:

To: PGL Distribution List

President Clinton signed Public Law 103-260, the AIP Temporary Extension Act of 1994, on May 26. This act extends the AIP through June 30, 1994, with \$889 Million authority; \$800 Million of that amount is newly available. A summary of the major features of this act is provided for your ready reference as Attachment 1. Features 1, 2, and 5 are self-explanatory; features 3 and 4 will be calculated here in Washington; features 6, 7, and 8 are explained below in this program guidance letter; and features 9, 10, and 11 are not related to the AIP. A copy of AIP Temporary Extension Act of 1994 is provided as Attachment 2 and a "cut and paste" copy of the Airport and Airway Improvement Act of 1982, as amended, is provided as Attachment 3.

Throughout, we refer to the Airport and Airway Improvement Act of 1982, as amended, as the "AAIA;" and the AIP Temporary Extension Act of 1994 as P.L. 103-260.

94-1.1 Reimbursement for Past Expenditures - Jim Borsari,
(202)267-8822.

Section 106 of P.L. 103-260 provides for an expansion of the definition of allowable costs at a primary or cargo service airport to include project costs that are incurred prior to a grant agreement if-

1. the costs were incurred during fiscal year (FY) 1994;
2. the project is in accordance with an approved airport layout plan and is in accordance with all statutory and administrative requirements (Davis-Bacon, DBE, etc.); and,
3. the work was related to a project for which a grant agreement had been previously executed during FY 1994.

The intent of the Congress in drafting this provision was to authorize a sponsor to receive a second grant for reimbursement of work started after issuance of a grant during this temporary extension but not funded by the grant. The work in the second grant must be related to the work in the first grant and only sponsor entitlements can be used to reimburse in the second grant. The subsequent grant could be issued when the AIP is reauthorized for a longer period later this fiscal year.

This guidance assumes that subsequent legislation is enacted this fiscal year to allow the issuance of a second grant during this fiscal year. Therefore, if a sponsor is issued a grant in FY 1994 for less than the total anticipated costs of a project, the sponsor may obtain a subsequent grant for the remainder of costs incurred during FY 1994. The subsequent grant agreement may only be funded using the sponsor's passenger or cargo entitlements if it is intended to cover only costs that are incurred between the issuance of the first and second grants.

This second grant, like any "normal" grant, may be prospective in that it could cover costs that are incurred after the execution of a grant agreement. If a sponsor intends to apply the proceeds of a second grant toward reimbursement, however, Regions and ADO's must ensure that sufficient entitlements are available in the second grant to reimburse any allowable costs incurred after execution of the first grant and prior to the execution of the second grant.

When using this provision, a special statement should be inserted in the first grant after the phrase, "all as more particularly described in the Project Application," following the project description, on page 1 of FAA Form 5100-37, substantially as follows:

"The FAA and the Sponsor understand and agree that the maximum Federal obligation under this offer may not be sufficient to perform all work related to the project described above and in Sponsor's Project Application. A subsequent grant may be offered in accordance with section 513(a)(2)(C) of the Airport and Airway Improvement Act of 1982, as amended."

Another special statement should be inserted in the same place in the second and subsequent grants substantially as follows:

"This offer is made pursuant to Section 513(a)(2)(C) of the Airport and Airway Improvement Act of 1982, as amended, and is related to Project No. 3-xx-xxxx-xx94, Contract No. DTFAXX-94-XXXXX. None of the costs reimbursed under the aforementioned contract may be reimbursed under this Agreement."

Amendments to grants to increase the maximum Federal obligation introduce new considerations. The maximum Federal obligation of the first grant (which initiates the project and establishes eligibility for reimbursement in subsequent grants) can be

increased (up to the statutory maximum of 15%) through amendments using either entitlements or discretionary funding. The maximum Federal obligation for any portion of the second grant used to reimburse for FY 1994 costs may be increased using passenger or cargo entitlements only if the increase is due to costs incurred subsequent to the first grant but prior to the second grant. Should other questions arise concerning amendment of this type of grant, please contact us to discuss the proper procedures and limitations for such amendment.

94-1.2 Amendments to Increase the Maximum Federal Obligation - Jim Borsari, (202)267-8822.

Section 109 of P.L. 103-260 provides that the maximum Federal obligation of prior year grants using funds recovered from prior year obligations may be increased up to the limits (10%, 15%, and increases for land acquisition) contained in section 512 of the AAIA, even if the obligating authority has expired. This provision, retroactive to October 1, 1993, in effect ratifies any amendments issued since October 1 and does not expire with the June 30 expiration of obligating authority under P.L. 103-260. Regions may advise sponsors that payments and drawdowns under Letters of Credit may be processed on the amendments previously issued. Amendments that were withdrawn or withheld prior to execution are now authorized to be processed.

94-1.3 Terminals - Mark Beisse (202) 267-8826.

P.L. 103-260, section 107, amends section 513(b)(2) of the AAIA to allow discretionary and small airport funds to be used for eligible terminal development at nonhub primary airports. No statutory limit has been specified in this amendment on the amount of such funding.

^{47110(d)}
In addition, section 513(b)(2) of the AAIA has been amended to allow terminal development at reliever airports on conditions similar to those at nonhub primary and nonprimary commercial service airports. Terminals at privately owned reliever airports are likewise eligible to the extent that the building is to be used by the traveling public. Applicable definitions, including certain minor discrepancies that continue with this amendment, are covered in PGL 93-3.2 which describes amendments enacted in 1992.

^{90%}
The Federal share of allowable project costs for reliever airport terminal development is ~~75~~ percent. Sponsors of such projects, like sponsors of other airports eligible for terminal development, must make the applicable certifications set forth in section 513(b)(1) of the AAIA.

The lines dividing private and public use areas at a reliever airport could be inherently less clear than at commercial service airports. Regions, therefore, should

exercise care to ensure AIP participation only in terminal areas to be used by the traveling public and not an airport administrative area or maintenance area of a fixed base operation.

94-1.4 Carryover Funds - Mark Beisse (202)267-8826.

Funds apportioned under P.L. 103-260 for primary or cargo service airports, States, and Alaskan airports under sections 507(a) and (b)(5) of the AAIA will remain available for obligation during the remainder of this fiscal year and fiscal years 1995 and 1996. This is based on section 508(a) of the AAIA which provides the carryover feature for States or sponsors from the year the funds are first authorized through the two fiscal years immediately following.

Grants using prorated apportionments authorized by P.L. 103-260 may be issued now or during any of the 9 quarters (ending September 30, 1996) beyond the temporary extension. This will be true whether or not the AIP is extended beyond June 30. In addition, carryovers from fiscal years 1992 and 1993 will continue to be available for the periods previously authorized.

FY 1992 carryovers must be used or converted to discretionary funds before September 30. We will provide additional guidance at a later date pending follow-on legislation. If you have specific questions about the use of a State's or sponsor's FY 1992 carryover funds, please contact APP-520.



Lowell H. Johnson

Attachments

AIP TEMPORARY EXTENSION ACT OF 1994

Major features:

1. Extends AIP to June 30, 1994 with \$889 Million authority.
2. Increases minimum entitlements for primary airports to \$500 Thousand (from \$400 K).
3. Establishes cap of 44% of AIP for primary and cargo entitlements, if authorization is less than \$1.9 Billion.
4. If, after calculations of set-asides, discretionary is less than \$325 Million, apportionments (except Alaska) and set-asides are reduced by equal percentages to produce \$325 Million. (Eff. 7/1/94)
5. Set-aside changes:

Reliever -	5% of AIP	was 10%
Commercial Service -	1.5% of AIP	was 2.5%
System Planning -	0.75% of AIP	was 0.5%
6. Allows terminal development at Reliever airports and allows discretionary funds to be used for terminals at nonhub primary airports.
7. Allows upward adjustments to prior grants even if obligating authority expires (retroactive to 10/1/93).
8. Allows reimbursement, using entitlements, for costs incurred in FY 94 prior to grant agreement, for work related to a project for which a grant agreement had been previously executed during FY 94.
9. Requires study by FAA of improving Air Traffic without changing organization.
10. Establishes temporary mechanism for handling airport rates and charges.
11. Grandfathers FAA Pay Demonstration Project

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Attachment 2



United States Senate

COMMITTEE ON COMMERCE, SCIENCE,
AND TRANSPORTATION

If you have any problems receiving this transmission, please call 202-224-9300

DATE: 5/12/94

FAX #: 267-5194

TO: Bert R.

FROM: Sam Whitehouse

TOTAL # PAGES (INCLUDING COVER): 15

Please give to Gwen etc....

Staff Draft
May 12, 1994

AMENDMENT NO. _____ Ex. _____ Calendar No. _____

Purpose: To make an amendment in the nature of a substitute.

IN THE SENATE OF THE UNITED STATES - 103d Cong., 2d Sess.

S. 2024 _____

(or TREATY _____)

H.R. _____

(title) An Act to provide temporary obligational authority for the airport improvement program and to provide for certain airport fees to be maintained at existing levels for up to 60 days, and for other purposes.

() Referred to the Committee on _____
and ordered to be printed

() Ordered to lie on the table and to be printed

INTENDED to be proposed by _____

1 Viz: Strike all after the enacting clause and insert the following:

2 SECTION 1. SHORT TITLE.

3 This Act may be cited as the "Airport Improvement Program
4 Temporary Extension Act of 1994".

5 **TITLE I--AIRPORT IMPROVEMENT PROGRAM**

6 **SEC. 101. AIRPORT IMPROVEMENT PROGRAM AUTHORIZATION.**

7 (a) AUTHORIZATION.--The second sentence of section 505(a) of
8 the Airport and Airway Improvement Act of 1982 (49 App. U.S.C.
9 2204(a)) is amended--

10 (1) by striking "and" after "1992,"; and

1 (2) by inserting ", and \$15,413,157,000 for fiscal years
2 ending before October 1, 1994" before the period at the end.

3 (b) OBLIGATIONAL AUTHORITY.--Section 505(b)(1) of the Airport
4 and Airway Improvement Act of 1982 (49 App. U.S.C. 2204(b)(1)) is
5 amended by striking "September 30, 1993" and inserting "June 30,
6 1994".

7 **SEC. 102. APPORTIONMENT OF FUNDS.**

8 Section 507(b)(3)(A) of the Airport and Airway Improvement Act
9 of 1982 (49 App. U.S.C. 2206(b)(3)(A)) is amended--

10 (1) by striking "or reducing the amount authorized or"
11 and inserting "the amount";

12 (2) by inserting "to less than \$1,900,000,000" after "to
13 be obligated"; and

14 (3) by striking "limited or reduced".

15 **SEC. 103. MINIMUM AMOUNT FOR PRIMARY AIRPORTS.**

16 Section 507(b)(1) of the Airport and Airway Improvement Act of
17 1982 (49 App. U.S.C. 2206(b)(1)) is amended by striking "\$400,000"
18 and inserting "\$500,000".

19 **SEC. 104. DISCRETIONARY FUND.**

20 (a) MINIMUM AMOUNT TO BE CREDITED.--Section 507(c) of the
21 Airport and Airway Improvement Act of 1982 (49 App. U.S.C. 2206(c))
22 is amended by adding at the end the following new paragraph:

23 "(5) SPECIAL RULE.--(A) In any fiscal year not less than
24 \$325,000,000 of the amount made available under section 505(a)
25 shall be credited to the discretionary fund established by

1 paragraph (1), and such \$325,000,000 shall be exclusive of
2 amounts that have been apportioned in a prior year under this
3 section and which remain available for obligation.

4 "(B) In any fiscal year in which the amount credited to
5 the discretionary fund pursuant to paragraph (1) is less than
6 \$325,000,000, the total amount calculated under subparagraph
7 (C) of this paragraph shall be reduced by an amount which,
8 when credited to the discretionary fund, will, together with
9 the amount credited pursuant to paragraph (1), equal
10 \$325,000,000.

11 "(C) The total amount, for any fiscal year, that is
12 subject to reduction pursuant to subparagraph (B) shall be the
13 sum of--

14 "(i) the amount determined under subsection (a)(1);

15 "(ii) the amount determined under subsection (a)(2);

16 "(iii) the amount determined under subsection
17 (a)(3);

18 "(iv) the amount determined under section 508(d)(1);

19 "(v) the amount determined under section 508(d)(2);

20 "(vi) the amount determined under section 508(d)(3);

21 "(vii) the amount determined under section
22 508(d)(4); and

23 "(viii) the amount determined under section
24 508(d)(5).

"(D) To accomplish a reduction pursuant to subparagraph (B), each of the amounts described in subparagraphs (C)(i) through (C)(viii), respectively, shall be reduced by an equal percentage."

(b) EFFECTIVE DATE.--The amendment made by subsection (a) shall take effect on July 1, 1994.

SEC. 105. USE OF APPORTIONED AND DISCRETIONARY FUNDS.

Section 508(d) of the Airport and Airway Improvement Act of 1982 (49 App. U.S.C. 2207(d)) is amended--

- (1) in paragraph (1), by striking "10" and inserting "5";
- (2) in paragraph (3), by striking "2.5" wherever it appears and inserting "1.5"; and
- (3) in paragraph (4), by striking "¼" and inserting "½".

SEC. 106. REIMBURSEMENT FOR PAST EXPENDITURES.

Section 513(a)(2) of the Airport and Airway Improvement Act of 1982 (49 App. U.S.C. 2212(a)(2)) is amended--

- (1) by striking "or" at the end of subparagraph (A);
- (2) by inserting "or" after the semicolon at the end of subparagraph (B); and
- (3) by inserting after subparagraph (B) the following:
 - "(C)(i) it was incurred--
 - "(I) during fiscal year 1994;
 - "(II) before execution of a grant agreement with respect to the project but in accordance with an airport layout plan approved by the Secretary and in accordance

1 with all applicable statutory and administrative
2 requirements that would have been applicable to the
3 project if the grant agreement had been executed; and

4 "(III) for work related to a project for which a
5 grant agreement was previously executed during fiscal
6 year 1994; and

7 "(ii) its Federal share is only paid with sums
8 apportioned under sections 507(a) (1) and 507(a) (2).".

9 SEC. 107. TERMINAL DEVELOPMENT.

10 Section 513(b) (2) of the Airport and Airway Improvement Act of
11 1982 (49 App. U.S.C. 2212(b) (2)) is amended--

12 (1) in the second sentence--

13 (A) by inserting after "may be used" the following:
14 ", subject to the approval of the Secretary, (A)"; and

15 (B) by striking the period at the end and inserting
16 the following: ", and (B) by the sponsor of a reliever
17 airport for the types of project costs allowable under
18 paragraph (1) of this subsection, including project costs
19 allowable for a commercial service airport which annually
20 has .05 percent or less of the total enplanements in the
21 United States."; and

22 (2) by adding at the end the following: "All or any
23 portion of the sums to be distributed at the discretion of the
24 Secretary under sections 507(c) and 507(d) for any fiscal year
25 may be distributed for use by primary airports each of which

1 annually has .05 percent or less of the total enplanements in
2 the United States for project costs allowable under paragraph
3 (1) of this subsection."

4 **SEC. 108. EXPENDITURES FROM AIRPORT AND AIRWAY TRUST FUND.**

5 Section 9502(d)(1)(A) of the Internal Revenue Code of 1986
6 (relating to expenditures from Airport and Airway Trust Fund) is
7 amended by striking "(as such Acts were in effect on the date of
8 the enactment of the Airport and Airway Safety, Capacity, Noise
9 Improvement, and Intermodal Transportation Act of 1992)" and
10 inserting "or the Airport Improvement Program Temporary Extension
11 Act of 1994 (as such Acts were in effect on the date of the
12 enactment of the Airport Improvement Program Temporary Extension
13 Act of 1994)".

14 **SEC. 109. UPWARD ADJUSTMENTS.**

15 (a) IN GENERAL.--The second sentence of section 505(b)(1) of
16 the Airport and Airway Improvement Act of 1982 (49 App. U.S.C.
17 2204(b)(1)) is further amended by--

18 (1) inserting "(A)" before "apportioned"; and

19 (2) inserting before the period at the end "; and (B)
20 funds which have been recovered by the United States from
21 grants made under this title if such funds are obligated only
22 for increases under sections 512(b)(2) and 512(b)(3) of this
23 title in the maximum obligation of the United States for any
24 other grant made under this title".

1 (b) RETROACTIVE EFFECTIVE DATE.--The amendment made by
2 subsection (a) shall take effect October 1, 1993.

3 **TITLE II--AIRPORT-AIR CARRIER DISPUTES**

4 **REGARDING AIRPORT FEES**

1 **SEC. 201. EMERGENCY AUTHORITY TO FREEZE CERTAIN AIRPORT FEES.**

2 (a) COMPLAINT BY AIR CARRIER.--

3 (1) FILING.--An air carrier may file prior to June 30,
4 1994, with the Secretary a written complaint alleging that any
5 increased fee imposed upon such air carrier by the owner or
6 operator of an airport is not reasonable. The air carrier
7 shall simultaneously file with the Secretary proof that a copy
8 of the complaint has been served on the owner or operator of
9 the airport.

10 (2) OPPORTUNITY TO RESPOND.--Before issuing an order
11 under subsection (b), the Secretary shall provide the owner or
12 operator of the airport an opportunity to respond to the filed
13 complaint.

14 (3) FRIVOLOUS COMPLAINT.--If the Secretary determines
15 that a complaint is frivolous, the Secretary may refuse to
16 accept the complaint for filing.

17 (b) ORDER BY THE SECRETARY.--

18 (1) IN GENERAL.--Except as provided by paragraph (2), the
19 Secretary shall issue, within 7 days after the filing of a
20 complaint in accordance with subsection (a), an order

1 prohibiting the owner or operator of the airport from
2 collecting the increased portion of the fee that is the
3 subject of the complaint, unless the Secretary makes a
4 preliminary determination that the increased fee is
5 reasonable. Subject to subsection (d), the order shall cease
6 to be effective on June 30, 1994.

7 (2) LIMITATION.--The Secretary shall not issue an order
8 under this subsection prohibiting the collection of any
9 portion of a fee for which the Secretary's informal mediation
10 assistance was requested on March 21, 1994.

11 (c) OPPORTUNITY TO COMMENT AND FURNISH RELATED MATERIAL.--
12 Within a period prescribed by the Secretary, the owner or operator
13 of the airport and any affected air carrier may submit comments to
14 the Secretary on a complaint filed under subsection (a) and furnish
15 to the Secretary any related documents or other material.

16 (d) ACTION ON COMPLAINT.--Based on comments and material
17 provided under subsection (c), the Secretary may take appropriate
18 action on the complaint, including termination or other
19 modification of any order issued under subsection (b).

20 (e) APPLICABILITY.--This section does not apply to a fee
21 imposed pursuant to a written agreement binding on air carriers
22 using the facilities of an airport.

23 (f) EFFECT ON EXISTING AGREEMENTS.--Nothing in this section
24 shall adversely affect any existing written agreement between an
25 air carrier and the owner or operator of an airport.

SEC. 202. DEFINITIONS.

For purposes of this title:-

(1) the term "fee" means any rate, rental charge, landing fee, or other service charge for the use of airport facilities; and

(2) the term "Secretary" means the Secretary of Transportation.

**TITLE III--REFORM OF AIR TRAFFIC CONTROL
SYSTEM**

SEC. 301. AIR TRAFFIC CONTROL SYSTEM.

(a) STUDY.--The Secretary of Transportation shall undertake a study of management, regulatory, and legislative reforms which would enable the air traffic control system of the Federal Aviation Administration to provide better services to users and reduce the costs of providing services, without reducing the safety of the system or the availability of the system to all categories of users and without changing the basic organizational structure under which the system is part of the Federal Aviation Administration.

(b) COMPONENTS.--The study to be conducted under subsection (a) shall include the following:

(1) Evaluation of reforms which would streamline procurement, enhance the ability to attract and retain adequate staff at hard-to-staff facilities, simplify the personnel process, provide funding stability, ensure

1 continuity of leadership, and reduce the incidence of
2 unnecessarily detailed management oversight.

3 (2) Identification of any existing laws or regulations
4 governing procurement or personnel which are having an adverse
5 effect on the operation or modernization of the air traffic
6 control system.

7 (3) Evaluation of a range of possible reforms and the
8 advantages and disadvantages of each possible reform.

9 (4) Comparison of the advantages and disadvantages of
10 each possible reform with the comparable advantages and
11 disadvantages to be achieved under any proposal of the
12 Secretary of Transportation to create a separate Federal
13 corporate entity to operate the air traffic control system.

14 (c) DEADLINE.--The results of the study to be conducted under
15 subsection (a) shall be contained in a report which shall be
16 completed by the Secretary of Transportation on or before the date
17 which is 180 days after the date of the enactment of this Act, or
18 the date on which the Secretary submits to Congress proposed
19 legislation to create a separate corporate entity to operate the
20 air traffic control system, whichever date occurs first.

21 (d) TRANSMITTAL.--On the date of completion of the report
22 under subsection (c), the Secretary of Transportation shall
23 transmit copies of the report to the Committee on Commerce,
24 Science, and Transportation of the Senate and the Committee on
25 Public Works and Transportation of the House of Representatives.

1 **TITLE IV--MISCELLANEOUS PROVISIONS**

2 **SEC. 401. GRANDFATHER PROVISION FOR FAA DEMONSTRATION PROJECT.**

3 (a) IN GENERAL.--Notwithstanding the termination of the
4 personnel demonstration project for certain Federal Aviation
5 Administration employees on June 17, 1994, pursuant to section 4703
6 of title 5, United States Code, the Federal Aviation
7 Administration, subject to subsection (d), shall continue to pay
8 quarterly retention allowance payments in accordance with
9 subsection (b) to those employees who are entitled to quarterly
10 retention allowance payments under the demonstration project as of
11 June 16, 1994.

12 (b) COMPUTATION RULES.--

13 (1) IN GENERAL.--The amount of each quarterly retention
14 allowance payment to which an employee is entitled under
15 subsection (a) shall be the amount of the last quarterly
16 retention allowance payment paid to such employee under the
17 personnel demonstration project prior to June 17, 1994,
18 reduced by that portion of the amount of any increase in the
19 employee's annual rate of basic pay subsequent to June 17,
20 1994, from any source, which is allocable to the quarter for
21 which the allowance is to be paid (or, if applicable, to that
22 portion of the quarter for which the allowance is to be paid).
23 For purposes of the preceding sentence, the increase in an
24 employee's annual rate of basic pay includes--

1 (A) any increase under section 5303 of title 5,
2 United States Code;

3 (B) any increase in locality-based comparability
4 payments under section 5304 of such title 5 (except if,
5 or to the extent that, such increase is offset by a
6 reduction of an interim geographic adjustment under
7 section 302 of the Federal Employees Pay Comparability
8 Act of 1990 (5 U.S.C. 5304 note));

9 (C) any establishment or increase in a special rate
10 of pay under section 5305 of such title 5;

11 (D) any increase in basic pay pursuant to a
12 promotion under section 5334 of such title 5;

13 (E) any periodic step-increase under section 5335 of
14 such title 5;

15 (F) any additional step-increase under section 5336
16 of such title 5; and

17 (G) any other increase in annual rate of basic pay
18 under any other provision of law.

19 (2) SPECIAL RULE.--In the case of an employee on leave
20 without pay or other similar status for any part of the
21 quarter prior to June 17, 1994, based on which the amount of
22 the allowance payments for such employee under subsection (a)
23 are computed, the "amount of the last quarterly retention
24 allowance payment paid to such employee under the personnel
25 demonstration project prior to June 17, 1994" shall, for

1 purposes of paragraph (1), be deemed to be the amount of the
2 allowance which would have been payable to such employee for
3 such quarter under such project had such employee been in pay
4 status throughout such quarter.

5 (c) TERMINATION.--An employee's entitlement to quarterly
6 retention allowance payments under this section shall cease when--

7 (1) the amount of such allowance is reduced to zero under
8 subsection (b), or

9 (2) the employee separates or moves to a position in
10 which the employee would not, prior to June 17, 1994, have
11 been entitled to receive an allowance under the demonstration
12 project,

13 whichever is earlier.

14 (d) SPECIAL PAYMENT RULE.--The Administrator of the Federal
15 Aviation Administration may make payment for the costs incurred
16 under the program established by subsection (a) for the period
17 between June 18, 1994, and September 30, 1994, following the end of
18 the first full pay period that begins on or after October 1, 1994,
19 subject to appropriations made available in fiscal year 1995.

20 (e) STUDY OF RECRUITMENT AND RETENTION INCENTIVES.--The
21 Administrator of the Federal Aviation Administration shall conduct
22 a study of impediments that may exist to achieving appropriate air
23 traffic controller staffing levels at hard-to-staff facilities. In
24 conducting such study, the Administrator shall identify and
25 evaluate the extent to which special incentives, of a financial or

1 non-financial nature, could be useful in recruiting or retaining
2 air traffic controllers at such facilities. The Administrator shall
3 submit to the Committee on Commerce, Science, and Transportation of
4 the Senate and the Committee on Public Works and Transportation of
5 the House of Representatives not later than 180 days after the date
6 of enactment of this Act a report on (1) the results of such study,
7 (2) planned administrative actions, and (3) any recommended
8 legislation.

AIRPORT AND AIRWAY IMPROVEMENT ACT OF 1982

Title V of Public Law 97-248; 96 Stat. 671; 49 U.S.C. App. 2201
et seq.

**TITLE V—AIRPORT AND AIRWAY
IMPROVEMENT****SECTION 501. SHORT TITLE.**

This title may be cited as the "Airport and Airway Improvement Act of 1982".

SEC. 502. DECLARATION OF POLICY.

(a) IN GENERAL.—The Congress hereby finds and declares that—

(1) the safe operation of the airport and airway system will continue to be the highest aviation priority;

(2) the continuation of airport and airway improvement programs and more effective management and utilization of the Nation's airport and airway system are required to meet the current and projected growth of aviation and the requirements of interstate commerce, the Postal Service, and the national defense;

(3) this title should be administered in a manner to provide adequate navigation aids and airport facilities, including reliever airports and reliever heliports, for points where scheduled commercial air service is provided;

(4) this title should be administered in a manner consistent with a comprehensive airspace system plan to maximize the use of safety facilities, with highest priority for commercial service airports, including but not limited to, the goal of installing, operating, and maintaining, to the extent possible under available funds and given other safety needs, a precision approach system, a vertical visual guidance system, and a full approach light system for each primary runway, grooving, or friction treatment of all primary and secondary runways, a nonprecision instrument approach for all secondary runways, runway end identifier lights on all runways that do not have an approach light system, electronic or visual vertical guidance on all runways, 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, runway edge lighting and marking, and radar approach coverage for all airport terminal areas;

(5) all airport and airway programs should be administered in a manner consistent with the provisions of sections

102 and 103 of the Federal Aviation Act of 1958, with due regard for the goals expressed therein of fostering competition, preventing unfair methods of competition in air transportation, maintaining essential air transportation, and preventing unjust and discriminatory practices, including as they may be applied between category and class of aircraft;

(6) reliever airports make an important contribution to the efficient operation of the airport and airway system, and special emphasis should be given to their development;

(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;

(8) aviation facilities should be constructed and operated with due regard to minimizing current and projected noise impacts on nearby communities;

(9) the Federal administrative requirements placed upon airport sponsors can be reduced and simplified through the use of a single project application to cover all airport improvement projects contained in the airport's annual expenditure program;

(10) it is in the national interest to develop in metropolitan areas an integrated system of airports designed to provide expeditious access and maximum safety;

(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;

(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 and should not unjustly discriminate between categories and classes of aircraft; and

(14) special emphasis should be placed on the conversion of appropriate former military air bases to civil use and on the identification and improvement of additional joint-use facilities.

(b) **TRANSPORTATION PLANNING.**—It is declared to be in the national interest to encourage and promote the development of transportation systems embracing various modes of transportation in a manner that will serve the States and local communities efficiently and effectively. To accomplish this objective, the Secretary shall cooperate with State and local officials in the development of airport plans and programs which are formulated on the basis of overall transportation needs and coordinated with other transportation planning with due consideration to comprehensive long-range land-use and access plans and overall social, economic, environmental, system performance, and energy conservation goals and objectives. The process shall be continuing, cooperative, and comprehensive to

the degree appropriate based on the complexity of the transportation problems.

(c) NATIONAL TRANSPORTATION POLICY.—

(1) It is a goal of the United States to develop a national intermodal transportation system that moves people and goods in an efficient manner. The Nation's future economic direction is dependent on its ability to confront directly the enormous challenges of the global economy, declining productivity growth, energy vulnerability, air pollution, and the need to rebuild the Nation's infrastructure.

(2) United States leadership in the world economy, the expanding wealth of the Nation, the competitiveness of the Nation's industry, the standard of living, and the quality of life are at stake.

(3) A national intermodal transportation system is a coordinated, flexible network of diverse but complementary forms of transportation which moves people and goods in the most efficient manner. By reducing transportation costs, these intermodal systems will enhance United States industry's ability to compete in the global marketplace.

(4) All forms of transportation, including aviation and other transportation systems of the future, will be full partners in the effort to reduce energy consumption and air pollution while promoting economic development.

(5) An intermodal transportation system consists of transportation hubs which connect different forms of appropriate transportation and provides users with the most efficient means of transportation and with access to commercial centers, business locations, population centers, and the Nation's vast rural areas, as well as providing links to other forms of transportation and to intercity connections.

(6) Intermodality and flexibility are paramount issues in the process of developing an integrated system that will obtain the optimum yield of United States resources.

(7) The United States transportation infrastructure must be reshaped to provide the economic underpinnings for the Nation to compete in the 21st century global economy. The United States can no longer rely on the sheer size of its economy to dominate international economic rivals and must recognize fully that its economy is no longer a separate entity but is part of the global marketplace. The Nation's future economic prosperity depends on its ability to compete in an international marketplace that is teeming with competitors but where a full one-quarter of the Nation's economic activity takes place.

(8) The United States must make a national commitment to rebuild its infrastructure through development of a national intermodal transportation system. The United States must provide the foundation for its industries to improve productivity and their ability to compete in the global economy with a system that will move people and goods faster in an efficient manner.

(d) CAPACITY EXPANSION AND NOISE ABATEMENT.—It is in the public interest to recognize the effects of airport capacity expansion projects on aircraft noise. Efforts to increase capacity through any

means can have an impact on surrounding communities. Noncompatible land uses around airports must be reduced and efforts to mitigate noise must be given a high priority. [49 U.S.C. App. 2201]

SEC. 503. DEFINITIONS.

(a) **IN GENERAL.**—As used in this title—

(1) “Airport” (A) means any area of land or water which is used, or intended for use, for the landing and takeoff of aircraft, and any appurtenant areas which are used, or intended for use, for airport buildings or other airport facilities or rights-of-way, together with all airport buildings and facilities located thereon; and (B) includes any heliport

(2) “Airport development” means any of the following activities, if undertaken by the sponsor, owner or operator of a public-use airport:

(A) any work involved in constructing, reconstructing, repairing, or improving a public-use airport or portion thereof, including—

(i) the removal, lowering, relocation, and marking and lighting of airport hazards; and

(ii) the preparation of plans and specifications, including field investigations incidental thereto;

(B) any acquisition or installation at or by a public-use airport of—

(i) navigation and other aids (including, but not limited to, precision approach systems) used by aircraft for landing at or taking off from such airport, including any necessary site preparation thereby required;

(ii) safety or security equipment required by the Secretary by rule or regulation for the safety or security of persons and property at such airport, or specifically approved by the Secretary as contributing significantly to the safety or security of persons and property at such airport;

(iii) snow removal equipment;

(iv) aviation-related weather reporting equipment;

(v) equipment to measure runway surface friction;

(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;

(vii)¹ aircraft deicing equipment and structures (other than aircraft deicing fluids and storage facilities for such equipment and fluids); or

(viii)¹ interactive training systems;

(C) any acquisition of land or of any interest therein, or of any easement through or other interest in airspace, including land for future airport development, which is necessary to permit any airport development described in subparagraph (A) or (B) of this paragraph or to remove,

¹ Indentation is incorrect. Clauses (vii) and (viii) probably should be move 2 ems to the right.

mitigate, prevent, or limit the establishment of airport hazards;

(D) any acquisition of land for, or work involved to construct, a burn area training structure on or off the airport for the purpose of providing live fire drill training for aircraft rescue and firefighting personnel required to receive such training by a regulation of the Department of Transportation, including basic equipment and minimum structures to support such training in accordance with standards of the Federal Aviation Administration;

(E) the relocation, after December 31, 1991, of an air traffic control tower and any navigational aid (including radar) if such relocation is necessary to carry out a project approved by the Secretary under this title;

(F) and if funded by a grant under this title, any construction, reconstruction, repair, or improvement of an airport (or any purchase of capital equipment for an airport) which is necessary for compliance with the responsibilities of the operator or owner of the airport under the Americans with Disabilities Act of 1990, the Clean Air Act, and the Federal Water Pollution Control Act with respect to the airport, other than construction or purchase of capital equipment which would primarily benefit a revenue producing area of the airport used by a nonaeronautical business; and

(G) any acquisition of land for, or work necessary to construct, a pad suitable for deicing aircraft prior to take-off at a commercial service airport, including construction or reconstruction of paved areas, drainage collection structures, treatment and discharge systems, appropriate lighting, and paved access for deicing vehicles and aircraft, but excluding acquisition of aircraft deicing fluids and construction and reconstruction of storage facilities for aircraft deicing equipment and fluids.

(3) "Airport hazard" means any structure or object of natural growth located on or in the vicinity of a public-use airport, or any use of land near such an airport, which obstructs the airspace required for the flight of aircraft in landing or taking off at such airport or is otherwise hazardous to such landing or taking off of aircraft.

(4) "Airport planning" means planning as defined by such regulations as the Secretary shall prescribe, and includes integrated airport system planning.

(5) "Commercial service airport" means a public airport which is determined by the Secretary to enplane annually 2,500 or more passengers and receive scheduled passenger service of aircraft.

(6) "Government aircraft" means aircraft owned and operated by the United States.

(7) "Integrated airport system planning" means the initial as well as continuing development for planning purposes of information and guidance to determine the extent, type, nature, location, and timing of airport development needed in a specific area to establish a viable, balanced, and integrated system of

public-use airports. It includes identification of system needs, development of estimates of systemwide development costs, and the conduct of such studies, surveys, and other planning actions, including those related to airport access, as may be necessary to determine the short-, intermediate-, and long-range aeronautical demands required to be met by a particular system of airports. It also includes the establishment by a State of standards, other than standards for safety of approaches, for airport development at public-use airports which are not primary airports.

(8) "Landing area" means that area used or intended to be used for the landing, takeoff, or surface maneuvering of aircraft.

(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.

(10) "Passengers enplaned" means domestic, territorial, and international revenue passenger enplanements in the States in scheduled and nonscheduled service of aircraft in intrastate, interstate, and foreign commerce as shall be determined by the Secretary pursuant to such regulations as the Secretary may prescribe and includes passengers on board international flights which transit an airport located in the 48 contiguous States or Alaska or Hawaii for nontraffic purposes.

(11) "Planning agency" means any planning agency designated by the Secretary which is authorized by the laws of the State or States or political subdivisions concerned to engage in areawide planning for the areas in which assistance under this title is to be used.

(12) "Primary airport" means a commercial service airport which is determined by the Secretary to have more than 10,000 passengers enplaned annually.

(13) "Project" means a project (or separate projects submitted together) for the accomplishment of airport development or airport planning, including the combined submission of all projects which are to be undertaken at an airport in a fiscal year.

(14) "Project costs" means any costs involved in accomplishing a project.

(15) "Project grant" means a grant of funds by the Secretary to a sponsor for the accomplishment of one or more projects.

(16) "Public agency" means a State or any agency of a State, a municipality or other political subdivision of a State, a tax-supported organization, or an Indian tribe or pueblo.

(17) "Public airport" means any airport which is used or to be used for public purposes, under the control of a public agency, the landing area of which is publicly owned.

(18) "Public-use airport" means—

(A) any public airport,

(B) any privately owned reliever airport, and

(C) any privately owned airport which is determined by the Secretary to enplane annually 2,500 or more passengers and receive scheduled passenger service of aircraft, which is used or to be used for public purposes.

(19) "Reliever airport" means an airport designated by the Secretary as having the function of relieving congestion at a commercial service airport and providing more general aviation access to the overall community.

(20) "Reliever heliport" means a heliport designated by the Secretary as having the function of relieving congestion at a commercial service airport, by means of diverting potential fixed-wing enplaned passengers to helicopter carriers.

(21) "Secretary" means the Secretary of Transportation.

(22) "Sponsor" means (A) any public agency which, either individually or jointly with one or more other public agencies, submits to the Secretary, in accordance with this title, an application for financial assistance, and (B) any private owner of a public-use airport who submits to the Secretary, in accordance with this title, an application for financial assistance for such airport.

(23) "State" means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, the Government of the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and Guam.

(24) "Trust Fund" means the Airport and Airway Trust Fund established by section 9502 of the Internal Revenue Code of 1954.

(25) "United States share" means that portion of the project costs of projects for airport development or airport planning approved pursuant to section 509 of this title which is to be paid from funds made available for the purposes of this title.

(b) AMOUNTS MADE AVAILABLE.—Whenever in this title reference is made to the amount made available for a fiscal year under section 505 of this title, such reference shall mean the amount made available for obligation under subsection (a) of section 505 for that fiscal year as reduced or limited by any Act of Congress enacted after the date of enactment of this title. [49 U.S.C. App. 2202]

SEC. 504. NATIONAL AIRPORT AND AIRWAY SYSTEM PLANS.

(a) FORMULATION OF AIRPORT PLAN.—

(1) PUBLICATION, CONTENTS, AND REVIEW OF PLAN.—Not later than two years after the date of enactment of this title and every two years thereafter, the Secretary shall publish the status of the existing national airport system plan to provide for the development of public-use airports in the United States. The plan shall include the type and estimated cost of eligible airport development considered by the Secretary to be necessary to provide a safe, efficient, and integrated system of public-use airports to anticipate and meet the needs of civil aeronautics, to meet requirements in support of the national

defense as determined by the Secretary of Defense, and to meet identified needs of the Postal Service. Airport development identified by this plan shall not be limited to the requirements of any classes or categories of public-use airports. In reviewing and revising the plan, the Secretary shall consider the needs of all segments of civil aviation, and take into consideration, among other things, the relationship of each airport to (1)¹ the rest of the transportation system in the particular area, (2)¹ the forecasted technological developments in aeronautics, and (3)¹ developments forecasted in other modes of intercity transportation. After the date of enactment of this title, the revised national airport system plan shall be known as the national plan of integrated airport systems.

(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.

(b) FORMULATION OF AIRWAY PLAN.—The Administrator of the Federal Aviation Administration shall prepare (subject to the requirements of section 506(f) of this title) and submit to the Congress, not later than ninety days after the date of enactment of this title, a national airways system plan. The Administrator shall review, revise, and publish such plan before the beginning of each fiscal year thereafter. For fiscal year 1991 and thereafter, the revised plan shall be known as the "Airway Capital Investment Plan". The plan shall set forth, for a ten-year period, the research, engineering, and development programs and the facilities and equipment considered by the Administrator necessary for a system of airways, air traffic services, and navigation aids which will meet the forecasted needs of civil aeronautics, meet requirements in support of the national defense as determined by the Secretary of Defense, and provide the highest degree of safety in air commerce. In addition, such plan shall set forth—

(1) for the first two years of the plan, detailed annual estimates of (A) the number, type, location, and cost of acquisition, operation, and maintenance of required facilities and services, (B) the cost of research, engineering, and development required to improve safety, system capacity, and efficiency, and (C) manpower levels required for all the activities described in this subparagraph;

(2) for the third, fourth, and fifth years of the plan, estimates of the total cost of each major program for such three-year period, and any additional major research programs, acquisition of systems and facilities, and changes in manpower levels that may be required to meet long-range objectives and that may have significant impact on future funding requirements; and

(3) a ten-year investment plan which considers long-range objectives considered by the Administrator to be necessary to

¹ Public Law 100-223 did not redesignate these references.

ensure that safety is given the highest priority in providing for a safe and efficient airway system and to meet the current and projected growth of aviation and the requirements of interstate commerce, the Postal Service, and the national defense.

(c) **CONSULTATION WITH FEDERAL AND PUBLIC AGENCIES AND AVIATION COMMUNITY.**—In reviewing and revising the national airport system plan, the Secretary shall consult, to the extent feasible and as appropriate, with other Federal and public agencies, and with the aviation community.

(d) **CONSULTATION WITH DEPARTMENT OF DEFENSE.**—

(1) **CIVIL USE OF DOMESTIC MILITARY AIRPORTS.**—The Department of Defense shall make domestic military airports and airport facilities available for civil use to the maximum extent feasible. In advising the Secretary of national defense requirements pursuant to subsection (a) of this section, the Secretary of Defense shall indicate the extent to which domestic military airports and airport facilities will be available for civil use.

(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. [49 U.S.C. App. 2203]

SEC. 505. AIRPORT IMPROVEMENT PROGRAM

(a) **AIRPORT DEVELOPMENT AND AIRPORT PLANNING.**—In order to maintain a safe and efficient nationwide system of public-use airports to meet the present and future needs of civil aeronautics, the Secretary is authorized to make grants from the Trust Fund for airport development and airport planning by project grants in accordance with the provisions of this title. 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, \$13,916,700,000 for fiscal years ending before October 1, 1992, and \$15,966,700,000 for fiscal years ending before October 1, 1993

, and \$15,413,157,000 for fiscal years ending before October 1, 1994.

Those amounts credited to the supplementary discretionary fund pursuant to this subsection shall

not be subject to any of the apportionments or distributions set forth in sections 507(a)(1), 507(a)(2), 507(a)(3), 507(c), and 508(d) of this title.

(b) OBLIGATIONAL AUTHORITY.—(1) The Secretary is authorized to incur obligations to make grants from funds made available under subsection (a) of this section, and such authority shall exist with respect to funds available for the making of grants for any fiscal year or part thereof pursuant to subsection (a) immediately after such funds are apportioned pursuant to section 507(a) of this title. No such obligation shall be incurred by the Secretary after

June 30, 1994,

except that nothing in this section shall preclude the obligation by grant agreement of

(A) apportioned funds which remain available pursuant to section 508(a) of this title after such date

and (B)

funds which have been recovered by the United States from grants made under this title if such funds are obligated only for increases under sections 512(b)(2) and 512(b)(3) of this title in the maximum obligation of the United States for any other grant made under this title.

* (B)
Effective
October 1, 1994

(2) No obligation shall be incurred by the Secretary for airport development at a privately owned public-use airport unless the Secretary receives appropriate assurances that such airport will continue to function as a public-use airport during the economic life (which in no case shall be less than ten years) of any facility at such airport that was developed with Federal financial assistance under this title.

(c) NOISE ABATEMENT PROJECTS TO BE CONSIDERED AS AIRPORT DEVELOPMENT FOR FISCAL YEAR 1982.—For purposes of amounts apportioned for fiscal year 1982, airport development shall be considered to include any of the following activities, if undertaken by the sponsor, owner, or operator of a public-use airport:

(1) any acquisition or installation of the following items for improving noise compatibility at a public-use airport:

(A) noise suppressing equipment, physical barriers, or landscaping, for the purpose of diminishing the effect of aircraft noise on any area adjacent to such airport; and

(B) land, including land associated with future airport development, or any interest therein, or any easement through or other interest in airspace, necessary to insure that such land is used only for purposes which are compatible with the noise levels attributable to the operation of such airport; and

(2) any project to carry out an approved airport noise compatibility program, or part thereof, approved by the Secretary pursuant to section 104(b) of the Aviation Safety and Noise Abatement Act of 1979.

(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

disadvantaged individual or individuals which has average annual gross receipts over the preceding 3 fiscal years in excess of \$16,015,000, 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, analysis of bonding capacity, listing of work completed, resume of principal owners, financial capacity, and type of work preferred. [49 U.S.C. App. 2204]

SEC. 506. AIRWAY IMPROVEMENT PROGRAM.

(a) AIRWAY FACILITIES AND EQUIPMENT.—

(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, 1990, aggregate amounts not to exceed \$2,500,000,000 for fiscal year 1991, \$5,500,000,000 for the fiscal years ending before October 1, 1992, \$8,200,000,000 for fiscal years ending before October 1, 1993, \$11,100,000,000 for fiscal years ending before October 1, 1994, and \$14,000,000,000 for fiscal years ending before October 1, 1995. Amounts appropriated under this subsection shall remain available until expended.

(2) CAPITAL INVESTMENT PLAN AUGMENTATION.—If the Secretary determines that it is necessary to augment or substantially modify elements of the Airway Capital Investment Plan submitted to Congress under section 504 of this title (including a determination that it is necessary to establish more than 23 area control facilities), there is authorized to be appropriated from the Trust Fund for fiscal year 1994 to carry out such augmentation or modification \$100,000,000. Amounts appropriated under this paragraph shall remain available until expended.

(3) SITE PREPARATION WORK.—The costs of site preparation work associated with acquisition, establishment, or improvement of air navigation facilities by the Secretary pursuant to section 307(b) of the Federal Aviation Act of 1958 shall be charged to appropriated funds available to the Secretary for

that purpose pursuant to paragraph (1) of this subsection. Nothing in this title shall preclude the Secretary from providing, in a grant agreement or other agreement with an airport owner or sponsor, for the performance of such site preparation work in connection with airport development, subject to payment or reimbursement for such site preparation work by the Secretary from such appropriated funds.

(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 1993—

(i) \$14,700,000 solely for management and analysis projects and activities;

(ii) \$87,000,000 solely for capacity and air traffic management technology projects and activities;

(iii) \$28,000,000 solely for communications, navigation, and surveillance projects and activities;

(iv) \$7,700,000 solely for weather projects and activities;

(v) \$6,800,000 solely for airport technology projects and activities;

(vi) \$44,000,000 solely for aircraft safety technology projects and activities;

(vii) \$41,100,000 solely for system security technology projects and activities;

(viii) \$31,000,000 solely for human factors and aviation medicine projects and activities;

(ix) \$4,500,000 for environment and energy projects and activities; and

(x) \$5,200,000 for innovative/cooperative research projects and activities; and

(B) for fiscal year 1994, \$297,000,000.

Not less than 15 percent of the amount appropriated pursuant to this paragraph shall be for long-term research projects, and not less than 3 percent of the amount appropriated under this paragraph shall be available to the Administrator for making grants under section 312(g) of the Federal Aviation Act of 1958.

(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, 1990, 1991, and 1992, 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, 1990, 1991, and 1992, 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.

(c) OTHER EXPENSES.—

(1) DESCRIPTION.—The balance of the moneys available in the Trust Fund may be appropriated for (A) costs of services provided under international agreements relating to the joint financing of air navigation services which are assessed against the United States Government, and (B) direct costs incurred by the Secretary to flight check, operate, and maintain air navigation facilities referred to in subsection (a) of this section in a safe and efficient manner.

(2) FISCAL YEARS 1982–1987.—The amount appropriated from the Trust Fund for the purposes of clauses (A) and (B) of paragraph (1) of this subsection for fiscal year 1982 may not exceed \$800,000,000, and for any fiscal year beginning after September 30, 1982, and ending before October 1, 1987, may not exceed the amount made available for purposes of section

505 for that fiscal year multiplied by a factor equal to 1.83 in the case of fiscal year 1983; 1.25 in the case of fiscal year 1984; 1.28 in the case of fiscal year 1985; 1.28 in the case of fiscal year 1986; and 1.34 in the case of fiscal year 1987. The amount authorized to be appropriated from the Trust Fund under this paragraph for any fiscal year shall be reduced by an amount equal to two times the excess, if any, of (A) the portion of the amount authorized to be appropriated under subsection (a) of this section for such fiscal year which was not authorized to be appropriated for any previous fiscal year, over (B) the amount appropriated under such subsection for such fiscal year.

(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 and, \$3,863,000,000 in the case of fiscal year 1990, 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.

(4) FISCAL YEARS 1991-1995.—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 1991, 1992, 1993, 1994, and 1995 may not exceed—

(A) 75 percent of the amount of funds made available under section 505, subsections (a) and (b) of this section,

and section 106(k) of title 49, United States Code, for such fiscal year; less

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

(d) **WEATHER SERVICES.**—The Secretary is authorized to reimburse the National Oceanic and Atmospheric Administration from the funds authorized in subsection (c) for fiscal years beginning after September 30, 1982, for the cost of providing the Federal Aviation Administration with weather reporting services. Expenditures for the purposes of carrying out this subsection shall be limited to \$35,596,000 for fiscal year 1993, \$37,800,000 for fiscal year 1994, and \$39,000,000 for fiscal year 1995.

(e) **PRESERVATION OF FUNDS AND PRIORITY FOR AIRPORT AND AIRWAY PROGRAMS.**—(1) Notwithstanding any other provision of law to the contrary, no amounts may be appropriated from the Trust Fund to carry out any program or activity under the Federal Aviation Act of 1958, except programs or activities referred to in this section and section 505.

(2) Amounts equal to the amounts authorized for each fiscal year by section 505 of this title, subsections (a), (b), (c), and (d) of this section shall remain available in the Trust Fund until appropriated for the purposes described in such subsections.

(3) No amounts in the Trust Fund may be appropriated for any fiscal year to carry out administrative expenses of the Department of Transportation or of any unit thereof except to the extent authorized by subsection (c) of this section.

(4) No provision of law, except for a statute enacted after the date of enactment of this title which expressly limits the application of this paragraph, shall impair the authority of the Secretary to obligate to an airport by grant agreement in any fiscal year the unobligated balance of amounts which were apportioned in prior fiscal years and which remain available for approved airport development projects pursuant to section 508(a) of this title, in addition to the amounts authorized for that fiscal year by section 505.

(5) No provision of law shall be construed as authorizing the Secretary to obligate or expend any amounts appropriated from the Trust Fund for the purposes described in subsection (c) in any fiscal year after September 30, 1995, unless the provision expressly amends the provisions of and the formulas in subsection (c) of this section.

(f) **TRANSMITTAL OF BUDGET ESTIMATES.**—Whenever the Administrator of the Federal Aviation Administration submits or transmits any budget estimate, budget request, supplemental budget estimate, or other budget information, legislative recommendation, or comment on legislation to the Secretary, the President of the United States, or to the Office of Management and Budget pertaining to funds authorized in subsection (a) or (b) of this section, it shall concurrently transmit a copy thereof to the Speaker of the House of Representatives, the Committees on Public Works and Transportation and Appropriations of the House of Representatives, the President of the Senate, and the Committees on Commerce, Science, and Transportation and Appropriations of the Senate. [49 U.S.C. App. 2205]

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, 3.5 percent of the amount made available under section 505 for such fiscal year 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 ~~\$400,000~~ 500,000 nor more than \$22,000,000 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 ap-

portionment 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

to less than \$1,900,000,000 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 44 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 44 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).

(F) INCLUDED AIRPORTS.—For purposes of this paragraph, the airports referred to in subparagraph (A) include

those public airports that received scheduled service as of September 3, 1982, but were not apportioned funds in fiscal year 1980 under section 15(a) of the Airport and Airway Development Act of 1970 because the airports were not under the control of State or local public agencies.

(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.

(7) REDUCTION IN APPORTIONMENTS TO CERTAIN LARGE AND MEDIUM HUBS.—

(A) GENERAL RULE.—The amount which, but for this paragraph, would be apportioned under this section (other than subsection (a)(2)) for a fiscal year to a sponsor of an airport that annually has 0.25 percent or more of the total annual enplanements in the United States and for which a fee is imposed in such fiscal year pursuant to section 1113(e) of the Federal Aviation Act of 1958 shall be reduced by an amount equal to 50 percent of the projected revenues derived from such fee in such fiscal year.

(B) LIMITATIONS.—The maximum reduction in an apportionment to a sponsor of an airport as a result of this paragraph in a fiscal year shall be 50 percent of the amount which, but for this paragraph, would be apportioned to such airport under this section.

(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. Twenty-five percent of the amounts which are not apportioned under this section as a result of subsection (b)(7) shall be added to such discretionary fund. Fifty percent of amounts added to such discretionary fund pursuant to the preceding sentence shall be used for making grants for projects at small hub airports (as such term is defined in section 419(k) of the Federal Aviation Act of 1958). 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.

* (5) SPECIAL RULE.—(A) In any fiscal year not less than \$325,000,000 of the amount made available under section 505(a) shall be credited to the discretionary fund established by paragraph (1), and such \$325,000,000 shall be exclusive of amounts that have been apportioned in a prior year under this section and which remain available for obligation.

(B) In any fiscal year in which the amount credited to the discretionary fund pursuant to paragraph (1) is less than \$325,000,000, the total amount calculated under subparagraph (C) of this paragraph shall be reduced by an amount which, when credited to the discretionary fund, will, together with the amount credited pursuant to paragraph (1), equal \$325,000,000.

* This special rule is effective July 1, 1994.

(C) The total amount, for any fiscal year, that is subject to reduction pursuant to subparagraph (B) shall be the sum of--

- (i) the amount determined under subsection (a) (1);
- (ii) the amount determined under subsection (a) (2);
- (iii) the amount determined under subsection (a) (3);
- (iv) the amount determined under section 508(d) (1);
- (v) the amount determined under section 508(d) (2);
- (vi) the amount determined under section 508(d) (3);
- (vii) the amount determined under section 508(d) (4); and
- (viii) the amount determined under section 508(d) (5).

(D) To accomplish a reduction pursuant to subparagraph (B), each of the amounts described in subparagraphs (C) (i) through (C) (viii), respectively, shall be reduced by an equal percentage.

(d) SMALL AIRPORT FUND.—

(1) ESTABLISHMENT.—Seventy-five percent of the amounts which are not apportioned under this section as a result of subsection (b)(7) shall constitute a small airport fund to be distributed at the discretion of the Secretary.

(2) SET-ASIDE FOR GENERAL AVIATION AIRPORTS.—One-third of the amounts in the small airport fund established by this subsection and distributed by the Secretary under this subsection in a fiscal year shall be used for making grants to sponsors of public-use airports (other than commercial service airports) for any purpose for which funds are made available under section 505.

(3) SET-ASIDE FOR NONHUB AIRPORTS.—Two-thirds of the amounts in the small airport fund established by this subsection and distributed by the Secretary under this subsection in a fiscal year shall be used for making grants to sponsors of commercial service airports each of which annually has less than 0.05 percent of the total annual enplanements in the United States for any purpose for which funds are made available under section 505.

(4) TREATMENT OF AIRPORTS PARTICIPATING IN STATE BLOCK PROGRAM.—An airport in a State which is participating in the State block grant program under section 534 shall be eligible to receive grants pursuant to this subsection to the same extent that the airport would be eligible to receive such grants if the State was not participating in such program.

(e) CALENDAR YEAR AS BASIS FOR DETERMINING CERTAIN AP-
PORTIONMENTS.—

(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.

(f) **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. [49 U.S.C. App. 2206]

SEC. 508. USE OF APPORTIONED AND DISCRETIONARY FUNDS; MISCELLANEOUS CONDITIONS.

(a) **DURATION OF AVAILABILITY OF APPORTIONED AMOUNTS.**—Each amount apportioned under subsection (a) or (b)(5) of section 507 of this title shall be available for obligation under such apportionment during the fiscal year for which it was first authorized to be obligated and the two fiscal years immediately following. Any amount so apportioned which has not been obligated within such time shall be added to the discretionary fund established by section 507(c) of this title.

(b) **TRANSFER OF CERTAIN APPORTIONMENTS OF PRIMARY AIRPORTS.**—(1) Funds apportioned to a sponsor under section 507(a)(1) of this title may be used for any of the purposes for which funds are made available under section 505 at any public-use airport of such sponsor which is in the national plan of integrated airport systems.

(2) A sponsor may enter into an agreement with the Secretary whereby the sponsor waives receipt of all or part of the funds apportioned to it under such section on the condition that the Secretary make the waived amount available for any of the purposes for which funds are made available under section 505 to the sponsor of another public-use airport which is a part of the same State or geographical area as the airport of the sponsor making the waiver.

(c) **STATES.**—Funds apportioned to a State under section 507(a)(3) shall be available for any of the purposes for which funds are made available under section 505 to airports described in section 507(a)(3) which are located in such State. Each sponsor of such an airport may apply to the Secretary for grants from funds apportioned to such State.

(d) **GENERAL LIMITATIONS.**—(1) Not less than ~~10~~⁵ percent of the funds made available under section 505 for any fiscal year shall be distributed to reliever airports during such fiscal year.

(2) Not less than 12.5 percent of the funds made available under section 505 for any fiscal year shall be obligated during such fiscal year 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. ^(1.5)

(3) Not less than ~~2.5~~ percent of the funds made available under section 505 for any fiscal year shall be distributed during such fiscal year to—

(A) commercial service airports which are not primary airports,

(B) public airports (other than commercial service airports) which were eligible for Federal assistance from funds apportioned under section 15(a)(3) of the Airport and Airway Development Act of 1970, and to which section 15(a)(3)(A)(I) of such Act applied during fiscal year 1981, and

(C) public airports (other than commercial service airports) which were eligible for Federal assistance from funds apportioned under section 15(a)(3) of the Airport and Airway Development Act of 1970, and to which section 15(a)(3)(A)(II) of such Act applied during fiscal year 1981.

No amounts obligated from the funds apportioned under section 507(b)(5) shall be counted as part of the 2.5 percent required to be distributed under this paragraph for each fiscal year.

^(3/4) (4) Not less than ~~1~~ of 1 percent of the funds made available under section 505 for any fiscal year shall be distributed to planning agencies for the purpose of integrated airport system planning during such fiscal year.

(5)¹ MILITARY AIRPORT SET-ASIDE.—Not less than 1.5 percent of the funds made available under section 505 in each of fiscal years 1991 and 1992, not less than 2.25 percent of the funds made available under section 505 in fiscal year 1993, and not less than 2.5 percent of the funds made available under section 505 in each of fiscal years 1994 and 1995 shall be distributed during such fiscal year to sponsors of current or former military airports designated by the Secretary under subsection (f) for the purpose of developing current and former military airports to improve the capacity of the national air transportation system.

(6)¹ REALLOCATION.—If the Secretary determines that he will not be able to distribute the amount of funds required to be distributed under paragraph (1), (2), (3), (4), or (5) of this subsection for any fiscal year because the number of qualified applications submitted in compliance with this title is insufficient to meet such amount, the portion of such amount the Secretary determines will not be distributed shall be available for obligation during such fiscal year for other airports and for other purposes authorized by section 505 of this title.

(e) USE OF CERTAIN APPORTIONED FUNDS FOR DISCRETIONARY PURPOSES.—(1) Subject to paragraphs (2) and (3), if the Secretary determines, based upon notice provided under section 509(e), or otherwise that any of the amounts apportioned under section 507(a) or 507(b)(5) will not be obligated during a fiscal year, the Secretary may obligate during such fiscal year an amount equal to

¹ Indentation so in law.

such amounts at his discretion for any of the purposes for which funds are made available under section 505.

(2) The Secretary may make obligations in accordance with paragraph (1) only if the Secretary determines that the total of obligations for such fiscal year for purposes of section 505 will not exceed the amount authorized for such fiscal year under section 505(a) and if the Secretary determines that sufficient amounts are authorized under section 505(a) for later fiscal years for obligation for such apportioned amounts which were not obligated during such fiscal year and which remain available under section 508(a).

(3) For the purposes of carrying out this subsection—

(A) None of the funds provided in the joint resolution providing continuing appropriations for the fiscal year 1983 shall be available for the planning or execution of programs the commitments for which are in excess of \$1,050,000,000 for the two fiscal years ending prior to October 1, 1983, for grants-in-aid for airport planning, noise compatibility planning and programs, and development; and

(B) Section 506(e)(4) of this Act shall not in any manner whatsoever impair the limitation established by this paragraph.

(f) DESIGNATION OF CURRENT OR FORMER MILITARY AIRPORTS.—

(1) DESIGNATION.—The Secretary shall designate not more than 12 current or former military airports for participation in the grant program established under subsection (d)(5) and this subsection.

(2) SURVEY.—The Secretary shall conduct a survey of current and former military airports to identify which ones have the greatest potential to improve the capacity of the national air transportation system. The survey shall also identify the capital development needs of such airports in order to make them part of the national air transportation system and shall identify which capital development needs are eligible for grants under section 505. The survey shall be completed by September 30, 1991.

(3) LIMITATION.—In selecting airports for participation in the program established under subsection (d)(5) and this subsection and in conducting the survey under paragraph (2), the Secretary shall consider only those current or former military airports whose conversion in whole or in part to civilian commercial or reliever airport as part of the national air transportation system would enhance airport and air traffic control system capacity in major metropolitan areas and reduce current and projected flight delays.

(4) PERIOD OF ELIGIBILITY.—An airport designated by the Secretary under this subsection shall remain eligible to participate in the program under subsection (d)(5) and this subsection for the 5 fiscal years following such designation. An airport that does not attain a level of enplaned passengers during such 5 fiscal year period which qualifies it as a small hub airport as defined as of January 1, 1990, or reliever airport may be redesignated by the Secretary for participation in the program

for such additional fiscal years as may be determined by the Secretary.

(5) **ADDITIONAL FUNDING.**—Notwithstanding the provisions of section 513(b), not to exceed \$5,000,000 per airport of the sums to be distributed at the discretion of the Secretary under section 507(c) for any fiscal year may be used by the sponsor of a current or former military airport designated by the Secretary under this subsection for construction, improvement, or repair of terminal building facilities, including terminal gates used by aircraft for enplaning and deplaning revenue passengers. Under no circumstances shall any gates constructed, improved, or repaired with Federal funding under this paragraph be subject to long-term leases for periods exceeding 10 years or majority in interest clauses.

(6) **FUNDING FOR CONSTRUCTION OF PARKING LOTS, FUEL FARMS, AND UTILITIES.**—Not to exceed \$4,000,000 per airport of the sums to be distributed at the discretion of the Secretary under section 507(c) for fiscal years 1993, 1994, and 1995 may be used in the aggregate by the sponsor of a current or former military airport designated by the Secretary under this subsection for construction, improvement, or repair of airport surface parking lots, fuel farms, and utilities.[49 U.S.C. App. 2207]

SEC. 509. SUBMISSION AND APPROVAL OF PROJECT GRANT APPLICATIONS.

(a) **SUBMISSION.**—(1) Subject to the provisions of this subsection, (A) any public agency, or two or more public agencies acting jointly, or (B) any sponsor of a public-use airport, or two or more such sponsors acting jointly, may submit to the Secretary a project grant application for one or more projects, in a form and containing such information as the Secretary may prescribe, setting forth the project proposed to be undertaken. No project grant application shall propose airport development or airport planning except in connection with public-use airports included in the current national plan of integrated airport systems prepared pursuant to section 504 of this title. Nothing in this subsection shall authorize the submission of a project grant application by any public agency which is subject to the law of any State if the submission of such application by the public agency is prohibited by the law of that State. All proposed airport development shall be in accordance with standards established or approved by the Secretary, including, but not limited to, standards for site location, airport layout, site preparation, paving, lighting, and safety of approaches.

(2) Notwithstanding any provision of this title, the sponsor of any airport may submit a project-grant application for airport development (including noise compatibility projects) to the Secretary within 180 days after the date of enactment of this title, and the Secretary may incur obligations to fund such projects, in accordance with the provisions of this title, from funds available for obligation pursuant to section 507, if—

(A) a project-grant application or preapplication for such project was submitted to the Secretary before September 30, 1980; or

(B) the project was carried out after September 30, 1980, and before the date of enactment of this title.

(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 benefiting 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.

(b) APPROVAL.—(1) No project grant application may be approved by the Secretary unless the Secretary is satisfied that—

(A) the project is reasonably consistent with plans (existing at the time of approval of the project) of public agencies authorized by the State in which such airport is located to plan for the development of the area surrounding the airport and will contribute to the accomplishment of the purposes of this title;

(B) sufficient funds are available for that portion of the project costs which are not to be paid by the United States under this title;

(C) the project will be completed without undue delay;

(D) the sponsor which submitted the project grant application has legal authority to engage in the project as proposed; and

(E) all project sponsorship requirements prescribed by or under the authority of this title have been or will be met.

(2) No project grant application for airport development may be approved by the Secretary unless the sponsor, a public agency, or the United States or an agency thereof holds good title, satisfactory to the Secretary, to the landing area of the airport or site therefor, or gives assurance satisfactory to the Secretary that good title will be acquired.

(3) No project grant application for airport development may be approved by the Secretary which does not include provision for (A) land required for the installation of approach light systems; (B) touchdown zone and centerline runway lighting; or (C) high intensity runway lighting, when it is determined by the Secretary that any such item is required for the safe and efficient use of the airport by aircraft, taking into account the type and volume of traffic utilizing the airport.

(4) No project grant application for airport development may be approved unless the Secretary is satisfied that fair consideration has been given to the interest of communities in or near which the project may be located.

(5) It is declared to be national policy that airport development projects authorized pursuant to this title shall provide for the protection and enhancement of the natural resources and the quality of the environment of the Nation. In implementing this policy, the

Secretary shall consult with the Secretary of the Interior and the Administrator of the Environmental Protection Agency with regard to any project included in a project grant application involving airport location, a major runway extension, or runway location which may have a significant impact on natural resources including, but not limited to, fish and wildlife, natural, scenic, and recreation assets, water and air quality, and other factors affecting the environment, and shall authorize no such project found to have significant adverse effect unless the Secretary shall render a finding, in writing, following a full and complete review, which shall be a matter of public record, that no feasible and prudent alternative exists and that all reasonable steps have been taken to minimize such adverse effect.

(6)(A) No project grant application for airport development involving the location of an airport, an airport runway, or a major runway extension may be approved by the Secretary unless (i) the sponsor of the project certifies to the Secretary that there has been afforded the opportunity for public hearings for the purpose of considering the economic, social, and environmental effects of the airport or runway location and its consistency with the goals and objectives of such planning as has been carried out by the community, and (ii) the sponsor of the project certifies to the Secretary that the airport management board either has voting representation from the communities where the project is located or has advised the communities that they have the right to petition the Secretary concerning a proposed project.

(B) When hearings are held under subparagraph (A) of this paragraph, the project sponsor shall, when requested by the Secretary, submit a copy of the transcript to the Secretary.

(7)(A) No project grant application for a project involving airport location, a major runway extension, or runway location may be approved unless the Governor of the State in which such project is to be located certifies in writing to the Secretary that there is reasonable assurance that the project will be located, designed, constructed, and operated so as to comply with applicable air and water quality standards. In any case where such standards have not been approved and where applicable air and water quality standards have been promulgated by the Administrator of the Environmental Protection Agency, certification shall be obtained from such Administrator. Notice of certification or refusal to certify shall be provided within sixty days after the project application has been received by the Secretary.

(B) The Secretary shall condition approval of any such project grant application on compliance during construction and operation with applicable air and water quality standards.

(8) Notwithstanding any other provision of law, the Secretary may approve an application for an airport development project (other than an airport development project to which paragraph (7)(A) applies) at an existing airport without requiring the preparation of an environmental impact statement with respect to noise for such project if—

(A) completion of the project would allow existing aircraft operations at the airport that involve aircraft that do not comply with the noise standards prescribed for "stage 2" aircraft

in section 36.1 of title 14, Code of Federal Regulations, to be replaced by aircraft operations involving aircraft that do comply with such standards; and

(B) the project complies with all other statutory and administrative requirements imposed under this title.

(9) In establishing priorities for the distribution of funds available pursuant to section 507 of this title, the Secretary may give priority to approval of projects that are consistent with integrated airport system plans.

(c) **STATE STANDARDS.**—The Secretary is authorized to approve standards, other than standards for safety of approaches, established by a State for airport development at public-use airports in such State which are not primary airports, and, upon such approval, such State standards shall be the standards applicable to such airports in lieu of any comparable standard established under subsection (a) of this section. State standards approved under this subsection may be revised from time to time, as the State or the Secretary determines necessary, subject to approval of such revisions by the Secretary.

(d) **ACCEPTANCE OF CERTIFICATION.**—The Secretary is authorized in connection with any project to require a certification from a sponsor that such sponsor will comply with all of the statutory and administrative requirements imposed on such sponsor under this title in connection with such project. Acceptance by the Secretary of a certification from a sponsor may be rescinded by the Secretary at any time. Nothing in this subsection shall affect or discharge any responsibility or obligation of the Secretary under any other Federal law, including, but not limited to, the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), section 4(f) of the Department of Transportation Act (49 U.S.C. 1652), title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000b), title VIII of the Act of April 11, 1968 (42 U.S.C. 3601 et seq.), and the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601 et seq.).

(e) **REQUIREMENT OF NOTICE.**—Each sponsor to which funds are apportioned under section 507(a)(1) or 507(a)(2) of this title shall notify the Secretary, by such time and in a form containing such information as the Secretary may prescribe, of the fiscal year in which it intends to apply, by project grant application, for such funds. If a sponsor does not provide such notification, the Secretary may defer approval of any application for such funds until the fiscal year immediately following the fiscal year in which such application is submitted. [49 U.S.C. App. 2208]

SEC. 510. UNITED STATES SHARE OF PROJECT COSTS.

(a) **GENERAL PROVISION.**—Except as otherwise provided in this title, the United States share of allowable project costs payable on account of any project contained in an approved project grant application submitted in accordance with this title shall be 90 percent of the allowable project costs.

(b) **PROJECTS AT CERTAIN PRIMARY AIRPORTS.**—In the case of primary airports enplaning 0.25 percent or more of the total number of passengers enplaned annually at all commercial service airports, the United States share of allowable project costs payable on

account of any project contained in an approved project grant application shall be 75 per centum of the allowable project costs.

(c) **PROJECTS IN PUBLIC LAND STATES.**—In the case of any State containing unappropriated and unreserved public lands and nontaxable Indian lands (individual and tribal) exceeding 5 percent of the total area of all lands therein, the United States share under subsection (a) or (b) shall be increased by whichever is the smaller of the following percentages thereof: (1) 25 percent, or (2) a percentage equal to one-half of the percentage that the area of all such lands in that State is of its total area. In no event shall such United States share, as increased by this subsection, exceed the greater of (A) the percentage share determined under subsection (a) or (b) of this section, or (B) the percentage share applying on June 30, 1975, as determined under subsection 17(b) of the Airport and Airway Development Act of 1970. [49 U.S.C. App. 2209]

SEC. 511. PROJECT SPONSORSHIP.

(a) **SPONSORSHIP.**—As a condition precedent to approval of an airport development project contained in a project grant application submitted under this title, the Secretary shall receive assurances, in writing, satisfactory to the Secretary, that—

(1) the airport to which the project relates will be available for public use on fair and reasonable terms and without unjust discrimination, including the requirement that (A) each air carrier using such airport (whether as a tenant, nontenant, or subtenant of another air carrier tenant) shall be subject to such nondiscriminatory and substantially comparable rates, fees, rentals, and other charges with respect to facilities directly and substantially related to providing air transportation and such nondiscriminatory and substantially comparable rules, regulations, and conditions as are applicable to all such air carriers which make similar use of such airport and which utilize similar facilities, subject to reasonable classifications such as tenants or nontenants, and signatory carriers and nonsignatory carriers, and such classification or status as tenant or signatory shall not be unreasonably withheld by any airport provided an air carrier assumes obligations substantially similar to those already imposed on air carriers in such classification or status, and (B) each fixed-based operator at any airport shall be subject to the same rates, fees, rentals, and other charges as are uniformly applicable to all other fixed-based operators making the same or similar uses of such airport utilizing the same or similar facilities, and (C) each air carrier using such airport shall have the right to service itself or to use any fixed-base operator that is authorized by the airport or permitted by the airport to serve any air carrier at such airport;

(2) there will be no exclusive right for the use of the airport by any person providing, or intending to provide, aeronautical services to the public. For purposes of this paragraph, the providing of services at an airport by a single fixed-based operator shall not be construed as an exclusive right if it would be unreasonably costly, burdensome, or impractical for more than one fixed-based operator to provide such services, and if allowing more than one fixed-based operator to provide such

services would require the reduction of space leased pursuant to an existing agreement between such single fixed-based operator and such airport;

(3) the airport and all facilities thereon or connected therewith will be suitably operated and maintained, with due regard to climatic and flood conditions, and any proposal to temporarily close the airport for nonaeronautical purposes must first be approved by the Secretary;

(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;

(5) appropriate action, including the adoption of zoning laws has been or will be taken, to the extent reasonable, to restrict the use of land adjacent to or in the immediate vicinity of the airport to activities and purposes compatible with normal airport operations, including landing and takeoff of aircraft;

(6) all of the facilities of the airport developed with Federal financial assistance and all those usable for landing and takeoff of aircraft will be available to the United States for use by Government aircraft in common with other aircraft at all times without charge, except, if the use by Government aircraft is substantial, charge may be made for a reasonable share, proportional to such use, of the cost of operating and maintaining the facilities used;

(7) the airport operator or owner will furnish without cost to the Federal Government for use in connection with any air traffic control or navigation activities, or weather-reporting and communication activities related to air traffic control, any areas of land or water, or estate therein, or rights in buildings of the sponsor as the Secretary considers necessary or desirable for construction at Federal expense of space or facilities for such purposes;

(8) all project accounts and records will be kept in accordance with a standard system of accounting prescribed by the Secretary after consultation with appropriate public agencies;

(9) the airport operator or owner will maintain a fee and rental structure for the facilities and services being provided the airport users which will make the airport as self-sustaining as possible under the circumstances existing at that particular airport, taking into account such factors as the volume of traffic and economy of collection, except that no part of the Federal share of an airport development or airport planning project for which a grant is made under this title or under the Federal Airport Act or the Airport and Airway Development Act of 1970 shall be included in the rate base in establishing fees, rates, and charges for users of that airport;

(10) the airport operator or owner will submit to the Secretary such annual or special airport financial and operations reports as the Secretary may reasonably request;

(11) the airport and all airport records will be available for inspection by any duly authorized agent of the Secretary upon reasonable request and a report of the airport budget will be available to the public at reasonable times and places;

(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;

(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 December 31, 1987, for the purchase of land for airport development 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 or make available to the Secretary an amount equal to the United States proportionate share of the fair market value of the land;

(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;

(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—

(i) upon application to the Secretary, be reinvested in another eligible airport improvement project or projects approved by the Secretary at that airport or within the national airport system; or

(ii) be paid to the Secretary for deposit in the Trust Fund if no such eligible project exists;

subject to the requirement that land shall be considered to be needed for airport purposes under this paragraph if (I) it may be needed for aeronautical purposes (including runway protection zone) or serves as noise buffer land and (II) the revenue from interim uses of such land contributes to the financial self-sufficiency of the airport, and subject to the further requirement that land purchased with a grant received by an airport operator or owner before December 31, 1987, will be considered to be needed for airport purposes if the Secretary or the Federal agency making such grant before December 31, 1987, was notified by the operator or owner of the use of such land, did not object to such use, and the land continues to be used for that purpose;

(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 affects 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, effi-

ciency, and cost of operation existing before the unimproved change in the airport or its facilities;

(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

(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 or which provide ground transportation, baggage carts, automobile rentals, or other consumer services 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)).

(b) COMPLIANCE.—To insure compliance with this section, the Secretary shall prescribe such project sponsorship requirements, consistent with the terms of this title, as the Secretary considers necessary. Among other steps to insure such compliance, the Secretary is authorized to enter into contracts with public agencies on behalf of the United States. Whenever the Secretary obtains from a sponsor any area of land or water, or estate therein, or rights in buildings of the sponsor and constructs space or facilities thereon at Federal expense, the Secretary is authorized to relieve the sponsor from any contractual obligation entered into under this title, the Airport and Airway Development Act of 1970, or the Federal Airport Act to provide free space in airport buildings to the Federal Government to the extent the Secretary finds that space no longer required for the purposes set forth in paragraph (7) of subsection (a) of this section.

(c) CONSULTATION.—In making a decision to undertake any airport development project under this title, each sponsor of an airport shall undertake reasonable consultations with affected parties using the airport at which such project is proposed.

(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.

(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).

(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.

(g) USE OF AIRPORT GENERATED REVENUES IN HAWAII.—

(1) GENERAL RULE.—Notwithstanding the limitation on the use of revenues generated by airports contained in subsection (a)(12) of this section, the State of Hawaii may use for eligible transportation projects revenues generated on the sale at off-airport locations in the State of duty-free merchandise under a contract between the State and a duty-free sales enterprise.

(2) LIMITATIONS.—

(A) APPLICABILITY PERIOD.—This subsection only applies to revenues generated after the date of enactment of this subsection and before December 31, 1994, on sales referred to in paragraph (1) and to amounts in the Airport Revenue Fund of the State of Hawaii which are attributable to revenues generated before the date of enactment of this subsection on such sales.

(B) COVERAGE OF AIRPORT CAPITAL AND OPERATING COSTS.—The State of Hawaii may use under paragraph (1) revenues generated on sales referred to in paragraph (1) in a fiscal year of the State only if the amount of such revenues, when added to the amount of funds received in such year by the State for airport capital and operating costs from all other sources (including revenues generated by such airports from other sources, unrestricted cash on hand, and Federal funds made available under this Act for expenditure at such airports), exceeds 150 percent of the projected airport capital and operating costs for such year.

(C) ANNUAL CAP.—The amount of revenues generated on sales referred to in paragraph (1) in a fiscal year of the State of Hawaii which the State may use under paragraph (1) may not exceed the amount of the excess determined under subparagraph (B) for such year.

(D) **AGGREGATE CAP.**—The maximum amount of revenues which the State of Hawaii may use under paragraph (1) may not exceed \$250,000,000 in the aggregate.

(E) **REDUCTION DUE TO LANDING FEE INCREASE.**—If any fee levied or collected by an airport operated by the State of Hawaii for a rental charge, landing fee, or other service charge from an aircraft operator for the use of airport facilities is increased in the period beginning on the date of enactment of this subsection and ending December 31, 1994, by a percentage which is greater than the percentage change in the Consumer Price Index of All Urban Consumers for Honolulu, Hawaii, published by the Bureau of Labor Statistics of the Department of Labor in such period and if, as a result of such fee increase, there is an increase in the revenues derived from such fee, the \$250,000,000 limit established by subparagraph (D) shall be reduced by the amount of the projected increase in such revenues in such period less any portion of such increase which is attributable to changes in such Index in such period.

(F) **DETERMINATION OF COSTS AND PROJECTED INCREASES IN REVENUES.**—The State of Hawaii shall determine capital and operating costs and revenues under subparagraph (B) and the amount of projected increases in revenues from fee increases referred to in subparagraph (E). Determinations shall be submitted by the State to the Secretary for approval. A determination shall be treated as approved by the Secretary unless the Secretary disapproves such determination on or before the 30th day after the State submits such determination to the Secretary.

(G) **ELIGIBILITY FOR DISCRETIONARY GRANTS.**—The State of Hawaii shall not be eligible for a grant under section 507(c) in any fiscal year in which the State uses under paragraph (1) revenues generated on sales referred to in paragraph (1). If the State receives a grant in a fiscal year in which the State as a result of this subparagraph is not eligible to receive a grant, the State shall repay all amounts received by the State under such grant to the Secretary for deposit in the discretionary fund established under section 507(c).

(3) **PERIOD OF USE.**—Revenues generated on sales referred to in paragraph (1) in the period of applicability set forth in paragraph (2)(A) may be used under paragraph (1) in any fiscal year of the State, including a fiscal year of the State beginning after December 31, 1994.

(4) **DEFINITIONS.**—In this subsection, the following apply:

(A) **AIRPORT CAPITAL AND OPERATING COSTS.**—The term "airport capital and operating costs" means costs incurred by the State of Hawaii for operation of all airports operated by such State and costs for debt service incurred by such State in connection with capital projects for such airports, including interest and amortization of principal costs.

(B) DUTY-FREE SALES ENTERPRISE; DUTY-FREE MERCHANDISE.—The terms “duty-free sales enterprise” and “duty-free merchandise” have the meaning such terms have under section 555(b) of the Tariff Act of 1930 (19 U.S.C. 1555(b)).

(C) ELIGIBLE TRANSPORTATION PROJECT.—The term “eligible transportation project” means a project for construction or reconstruction of a highway on a Federal-aid system which will facilitate access to an airport and which is located within 10 miles by road of such airport.

(D) FEDERAL-AID SYSTEM; HIGHWAY.—The terms “Federal aid system” and “highway” have the meaning such terms have under section 101 of title 23, United States Code.

(h) ADMINISTRATION OF DBE ASSURANCE.—

(1) MANAGEMENT CONTRACTS.—In administering subsection (a)(17) of this section, an airport owner or operator is authorized to meet the overall percentage goal established under such subsection by including businesses operated through management contracts and subcontracts. The dollar amount of a management contract and subcontract with a DBE firm shall be added to the total of DBE participation in airport concessions and to the base from which the airport's overall percentage goal is calculated. The dollar amount of management contracts and subcontracts with non-DBE firms and the gross revenues of business activities to which management contracts and subcontracts pertain shall not be added to this base.

(2) PURCHASE OF GOODS AND SERVICES.—Except as provided in subsection (h)(3), an airport owner or operator may meet the overall percentage goal established under subsection (a)(17) of this section by including the purchase from DBE's of goods or services used in businesses conducted on the airport, provided that good faith efforts shall be made by the airport owner or operator and the businesses conducted on the airport to explore all available options to achieve, to the maximum extent practical, compliance with such goal through direct ownership arrangements, including, but not limited to, joint ventures and franchises.

(3) PROVISION FOR CAR RENTAL FIRMS.—

(A) In complying with subsection (a)(17) of this section, an airport owner or operator shall include the revenues of car rental firms on the airport in the base from which the overall percentage goal set forth in such subsection is calculated.

(B) An airport owner or operator may require a car rental firm to meet any requirement imposed under subsection (a)(17) of this section through the purchase or lease of goods or services from DBE's. In the event an airport owner or operator requires the purchase or lease of goods or services from DBE's, a car rental firm shall be permitted to meet such requirement by including purchases or leases of vehicles from any vendor that qualifies as a small business concern (as defined by the Secretary by regula-

tion) owned and controlled by socially and economically disadvantaged individuals (as defined under section 505(d)(2)(B)).

(C) Nothing in this subsection or subsection (a)(17) of this section shall require a car rental firm to change its corporate structure to provide for direct ownership arrangements in order to meet the requirements of such subsection or subsection (a)(17).

(4) GENERAL PROVISIONS.—

(A) Nothing in this subsection or subsection (a)(17) shall preempt any State or local law, regulation, or policy enacted by the governing body of an airport owner or operator, or the authority of any State or local government or airport owner or operator to adopt or enforce any law, regulation, or policy relating to DBE's.

(B) An airport owner or operator shall be permitted to afford opportunities for small business concerns owned and controlled by socially and economically disadvantaged individuals to participate through direct contractual agreement with such concerns.

(5) **EXCLUSION OF AIR CARRIER SERVICES.**—Air carriers in providing passenger or freight-carrying services and other businesses that conduct aeronautical activities at an airport shall not be included in the overall percentage goal set forth in subsection (a)(17) of this section for participation of small business concerns at the airport. [49 U.S.C. App. 2210]

SEC. 512. GRANT AGREEMENTS.

(a) **OFFER AND ACCEPTANCE.**—Upon approving a project grant application, the Secretary, on behalf of the United States, shall transmit to the sponsor or sponsors of the application an offer to make a grant for the United States share of allowable project costs. An offer shall be made upon such terms and conditions as the Secretary considers necessary to meet the requirements of this title and any regulations prescribed thereunder. Each offer shall state a definite amount as the maximum obligation of the United States payable from funds authorized by this title, and shall stipulate the obligations to be assumed by the sponsor or sponsors. In any case where the Secretary approves a project grant application for a project which will not be completed in one fiscal year, the offer shall, upon request of the sponsor, provide for the obligation of funds apportioned or to be apportioned to the sponsor pursuant to section 507(a)(1) or 507(a)(2) of this title for such fiscal years (including future fiscal years) as may be necessary to pay the United States share of the cost of such project. If and when an offer is accepted in writing by the sponsor, the offer and acceptance shall comprise an agreement constituting an obligation of the United States and of the sponsor. Unless and until an agreement has been executed, the United States may not pay, nor be obligated to pay, any portion of the costs which have been or may be incurred.

(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 spon-

sor, 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; except that, for fiscal year 1993 and thereafter, for grants for the acquisition of land or interests in land, the maximum obligation of the United States may be increased for an airport (other than a primary airport) either by not more than 15 percent or by an amount not to exceed 25 percent of the total increase in allowable project costs attributable to the acquisition of land or interests in land, whichever is greater, based on current credible appraisals or a court award in a condemnation proceeding.

(c) **MAXIMUM OBLIGATION FOR GRANTS UNDER THE AIRPORT AND AIRWAY DEVELOPMENT OF 1970.**—Notwithstanding any other provision of law, in the case of grants made under the Airport and Airway Development Act of 1970 the maximum obligation of the United States may be increased by not more than 10 percent, and any such increase may be paid for only from funds recovered by the United States from other grants made under that Act.

(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. [49 U.S.C. App. 2211]

SEC. 513. PROJECT COSTS.

(a) **ALLOWABLE PROJECT COSTS.**—Except as provided in section 514 of this title, the United States may not pay, or be obligated to pay, from amounts appropriated to carry out the provisions of this title, any portion of a project cost incurred in carrying out a project for airport development or airport planning unless the Secretary has first determined that the cost is allowable. A project cost is allowable if—

(1) it was a necessary cost incurred in accomplishing an approved project in conformity with the terms and conditions of the grant agreement entered into in connection with the project, including any costs incurred by a recipient in connection with any audit required by the Secretary pursuant to section 518(b) of this title;

(2)(A) it was incurred subsequent to the execution of the grant agreement with respect to the project, and in connection with airport development or airport planning accomplished under the project after the execution of the agreement. However, the allowable costs of a project for airport development may include any necessary costs of formulating the project (including the costs of field surveys and the preparation of plans and specifications, the acquisition of land or interests therein or easements through or other interests in airspace, and any necessary administrative or other incidental costs incurred by the sponsor specifically in connection with the accomplishment of the project for airport development, which would not have been incurred otherwise) which were incurred prior to the execution of the grant agreement and subsequent to May 13, 1946, and the allowable costs of a project for airport planning may include any necessary and direct costs associated with developing the project work scope which were incurred subsequent to May 13, 1946; ~~or~~

(B) it was incurred after June 1, 1989, by the airport operator and before, on, or after the execution of the grant agreement and was incurred as part of the airport operator's federally approved airport noise compatibility program (including project formulation costs) and in accordance with all applicable statutory and administrative requirements; ~~or~~

(C) (i) it was incurred--

(I) during fiscal year 1994;

(II) before execution of a grant agreement with respect to the project but in accordance with an airport layout plan approved by the Secretary and in accordance with all applicable statutory and administrative requirements that would have been applicable to the project if the grant agreement had been executed; and

(III) for work related to a project for which a grant agreement was previously executed during fiscal year 1994; and

(ii) its Federal share is only paid with sums apportioned under sections 507(a)(1) and 507(a)(2).

(3) in the opinion of the Secretary it is reasonable in amount, and if the Secretary determines that a project cost is unreasonable in amount, the Secretary may allow as an allowable project cost only so much of such project cost as the Secretary determines to be reasonable, except that in no event may the Secretary allow project costs in excess of the definite amount stated in the grant agreement except to the extent authorized by section 512(b); and

(4) it has not been incurred in any project for airport planning or airport development for which Federal assistance has been granted.

The Secretary is authorized to prescribe such regulations, including regulations with respect to the auditing of project costs, as the Secretary considers necessary to accomplish the purposes of this section.

(b) TERMINAL DEVELOPMENT.—(1) Notwithstanding any other provision of this title, upon certification by the sponsor of any commercial service airport that such airport has, on the date of submittal of the project grant application, all the safety equipment required for certification of such airport under section 612 of the Federal Aviation Act of 1958 and all the security equipment required by rule or regulation, and has provided for access to the passenger enplaning and deplaning area of such airport to passengers enplan-

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ing or deplaning from aircraft other than air carrier aircraft, the Secretary may approve, as allowable project costs of a project for airport development at such airport, terminal development (including multimodal terminal development) in nonrevenue-producing public-use areas if such project cost is directly related to the movement of passengers and baggage in air commerce within the boundaries of the airport, including, but not limited to, vehicles for the movement of passengers between terminal facilities or between terminal facilities and aircraft. In the case of a commercial service airport which annually has .05 percent or less of the total enplanements in the United States, the Secretary may approve, under the preceding sentence as allowable project costs of a project for airport development at such airport, terminal development in revenue-producing areas and construction, reconstruction, repair, and improvement of nonrevenue-producing parking lots if the sponsor certifies that no project for needed airport development affecting safety, security, or capacity will be deferred by such approval.

(2) All or any portion of the sums apportioned under section 507(a)(1) of this title to the sponsor of a primary airport for any fiscal year may be obligated for project costs allowable under paragraph (1) of this subsection. Not more than \$200,000 of the sums to be distributed at the discretion of the Secretary under section 507(c) for any fiscal year may be used

, subject to the approval of the Secretary, (A)

by the sponsor of a commercial service airport which is not a primary airport for project costs allowable under paragraph (1) of this subsection

and (B) by the sponsor of a reliever airport for the types of project costs allowable under paragraph (1) of this subsection, including project costs allowable for a commercial service airport which annually has .05 percent or less of the total enplanements in the United States.

All or any portion of the sums to be distributed at the discretion of the Secretary under sections 507(c) and 507(d) for any fiscal year may be distributed for use by primary airports each of which annually has .05 percent or less of the total enplanements in the United States for project costs allowable under paragraph (1) of this subsection.

(3) Not more than \$25,000,000 may be obligated for projects allowable under paragraph (1) of this subsection in any fiscal year at commercial service airports which were not eligible for assistance for terminal development during the fiscal year ending September 30, 1980; under section 20(b) of the Airport and Airway Development Act of 1970.

(4) Sums apportioned under section 507(a) or 507(b)(5) and made available to the sponsor of an air carrier airport (within the meaning of section 11(1) of the Airport and Airway Development Act of 1970, as in effect immediately before the date of enactment of this paragraph) at which terminal development was carried out prior or after July 1, 1970, and before July 12, 1976, shall be available, subject to the limitations contained in paragraph (2) of this subsection, for the immediate retirement of the principal of bonds or other evidences of indebtedness the proceeds of which were used for that part of the terminal development at such airport the cost of which would be allowable under paragraph (1) of this subsection incurred after the effective date of this paragraph, subject to the following conditions:

(A) That such sponsor submit the certification required under paragraph (1) of this subsection.

(B) That the Secretary determine that no project for airport development at such airport outside the terminal area will be deferred if such sums are used for such retirement.

(C) That no funds available for airport development under this title will be obligated for any project for additional terminal development at such airport for a period of three years beginning on the date any such sums are used for such retirement.

(5) Notwithstanding any other provisions of this title, the United States share of project costs allowable under paragraph (1) of this subsection shall not exceed 75 percent; except that the United States share of project costs allowable for any project under such paragraph at a commercial service airport which annually has .05 percent or less of the total enplanements in the United States shall be 85 percent.

(6) The Secretary shall approve project costs allowable under paragraph (1) of this subsection under such terms and conditions as may be necessary to protect the interests of the United States.

(c) COSTS NOT ALLOWED.—Except as provided in subsection (b) of this section and section 508(f)(6) of this title, the following are not allowable project costs: (1) the cost of construction of that part of an airport development project intended for use as a public parking facility for passenger automobiles; (2) the cost of construction, alteration, or repair of a hangar or of any part of an airport building except such of those buildings or parts of buildings intended to house facilities or activities directly related to the safety of persons at the airport; or (3) the cost of decorative landscaping or the provision or installation of sculpture or art works.

(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.

(G) OTHER CONSIDERATIONS.—A letter of intent issued under this paragraph shall not condition the obligation of any funds on the imposition of a passenger facility charge.

(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. [49 U.S.C. App. 2212]

SEC. 514. PAYMENTS UNDER GRANT AGREEMENTS.

The Secretary, after consultation with the sponsor with which a project grant agreement has been entered into, may determine the times and amounts in which payments shall be made under the terms of such agreement. Payments in an aggregate amount not to exceed 90 percent of the United States share of the total estimated allowable project costs may be made from time to time in advance of accomplishment of the airport project to which the payments relate, if the sponsor certifies to the Secretary that the aggregate expenditures to be made from the advance payments will not at any time exceed the cost of the airport development work which has been performed up to that time. If the Secretary determines that the aggregate amount of payments made under a project grant agreement at any time exceeds the United States share of the total allowable project costs, the United States shall be entitled to recover the excess. If the Secretary finds that any airport development to which the advance payments relate has not been accomplished within a reasonable time or the project is not completed, the United States may recover any part of the advance payment for which the United States received no benefit. Payments under a project grant agreement shall be made to the official or depository

authorized by law to receive public funds and designated by the sponsor. [49 U.S.C. App. 2213]

SEC. 515. PERFORMANCE OF CONSTRUCTION WORK.

(a) **REGULATIONS.**—The construction work on any project for airport development contained in an approved project grant application submitted in accordance with this title shall be subject to inspection and approval by the Secretary and shall be in accordance with regulations prescribed by the Secretary. Such regulations shall require such cost and progress reporting by the sponsor or sponsors of such project as the Secretary shall deem necessary. No such regulation shall have the effect of altering any contract in connection with any project entered into without actual notice of the regulation.

(b) **MINIMUM RATES OF WAGES.**—All contracts in excess of \$2,000 for work on projects for airport development approved under this title which involve labor shall contain provisions establishing minimum rates of wages, to be predetermined by the Secretary of Labor, in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a—276a-5), which contractors shall pay to skilled and unskilled labor, and such minimum rates shall be stated in the invitation for bids and shall be included in proposals or bids for the work.

(c) **VETERANS PREFERENCE.**—All contracts for work under project grants for airport development approved under this title which involve labor shall contain such provisions as are necessary to insure that, in the employment of labor (except in executive, administrative, and supervisory positions), preference shall be given to veterans of the Vietnam era and disabled veterans. However, this preference shall apply only where the individuals are available and qualified to perform the work to which the employment relates. For the purposes of this subsection—

(1) a Vietnam-era veteran is an individual who served on active duty as defined by section 101(21) of title 38 of the United States Code in the Armed Forces for a period of more than 180 consecutive days any part of which occurred during the period beginning August 5, 1964, and ending May 7, 1975, and who was separated from the Armed Forces under honorable conditions; and

(2) a disabled veteran is an individual described in section 2108(2) of title 5 of the United States Code. [49 U.S.C. App. 2214]

SEC. 516. USE OF GOVERNMENT-OWNED LANDS.

(a) **REQUESTS FOR USE.**—Subject to the provisions of subsection (c) of this section, whenever the Secretary determines that use of any lands owned or controlled by the United States is reasonably necessary for carrying out a project under this title at a public airport, or for the operation of any public airport, including lands reasonably necessary to meet future development of an airport in accordance with the national plan of integrated airport systems, the Secretary shall file with the head of the department or agency having control of the lands a request that the necessary property interests therein be conveyed to the public agency sponsoring the project in question or owning or controlling the airport. The property inter-

est may consist of the title to, or any other interest in, land or any easement through or other interest in airspace.

(b) **MAKING OF CONVEYANCES.**—Upon receipt of a request from the Secretary under this section, the head of the department or agency having control of the lands in question shall determine whether the requested conveyance is inconsistent with the needs of the department or agency, and shall notify the Secretary of the determination within a period of four months after receipt of the Secretary's request. If the department or agency head determines that the requested conveyance is not inconsistent with the needs of that department or agency, the department or agency head is hereby authorized and directed, with the approval of the Attorney General of the United States, and without any expense to the United States, to perform any acts and to execute any instruments necessary to make the conveyance requested. A conveyance may be made only on the condition that, at the option of the Secretary, the property interest conveyed shall revert to the United States in the event that the lands in question are not developed for airport purposes or used in a manner consistent with the terms of the conveyance. If only a part of the property interest conveyed is not developed for airport purposes, or used in a manner consistent with the terms of the conveyance, only that particular part shall, at the option of the Secretary, revert to the United States.

(c) **EXEMPTION OF CERTAIN LANDS.**—Unless otherwise specifically provided by law, the provisions of subsections (a) and (b) of this section shall not apply with respect to lands owned or controlled by the United States within any national park, national monument, national recreation area, or similar area under the administration of the National Park Service; within any unit of the National Wildlife Refuge System or similar area under the jurisdiction of the United States Fish and Wildlife Service; or within any national forest or Indian reservation. [49 U.S.C. App. 2215]

SEC. 517. FALSE STATEMENTS.

Any officer, agent, or employee of the United States, or any officer, agent, or employee of any public agency, or any person, association, firm, or corporation who, with intent to defraud the United States—

(1) knowingly makes any false statement, false representation, or false report as to the character, quality, quantity, or cost of the material used or to be used, or the quantity or quality of the work performed or to be performed, or the costs thereof, in connection with the submission of plans, maps, specifications, contracts, or estimates of project costs for any project submitted to the Secretary for approval under this title;

(2) knowingly makes any false statement, false representation, or false report or claim for work or materials for any project approved by the Secretary under this title; or

(3) knowingly makes any false statement or false representation in any report or certification required to be made under this title;

shall, upon conviction thereof, be punished by imprisonment for not to exceed five years or by a fine of not to exceed \$10,000, or by both. [49 U.S.C. App. 2216]

SEC. 518. ACCESS TO RECORDS.

(a) **RECORDKEEPING REQUIREMENTS.**—Each recipient of a grant under this title shall keep such records as the Secretary may prescribe, including records which fully disclose the amount and the disposition by the recipient of the proceeds of the grant, the total cost of the plan or program in connection with which the grant is given or used, and the amount and nature of that portion of the cost of the plan or program supplied by other sources, and such other records as will facilitate an effective audit. The Secretary shall annually review the reporting and recordkeeping requirements under this title to insure that such requirements are kept to the minimum level necessary for the proper administration of this title.

(b) **AUDIT AND EXAMINATION.**—The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of the recipient that are pertinent to grants received under this title. The Secretary may require, as a condition to receipt of a grant under this title, that an appropriate audit be conducted by a recipient.

(c) **AUDIT REPORTS.**—In any case in which an independent audit is made of the accounts of a recipient of a grant under this title relating to the disposition of the proceeds of such grant or relating to the plan or program in connection with which the grant was given or used, the recipient shall file a certified copy of such audit with the Comptroller General of the United States not later than six months following the close of the fiscal year for which the audit was made. On or before April 15 of each year the Comptroller General shall report to the Congress describing the results of each audit conducted or reviewed by him under this section during the preceding fiscal year. The Comptroller General shall prescribe such regulations as are deemed necessary to carry out the provisions of this subsection.

(d) **WITHHOLDING INFORMATION.**—Nothing in this section shall authorize the withholding of information by the Secretary or the Comptroller General of the United States, or any officer or employee under the control of either of them, from the duly authorized committees of the Congress. [49 U.S.C. App. 2217]

SEC. 519. GENERAL POWERS.

(a) **GENERAL RULE.**—The Secretary is empowered to perform such acts, to conduct such investigations and public hearings, to issue and amend such orders, and to make and amend such regulations and procedures, pursuant to and consistent with the provisions of this title, as the Secretary considers necessary to carry out the provisions of, and to exercise and perform the Secretary's powers and duties, under this title.

(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. [49 U.S.C. App. 2218]

SEC. 520. CIVIL RIGHTS.

The Secretary shall take affirmative action to assure that no person shall, on the grounds of race, creed, color, national origin, or sex, be excluded from participating in any activity conducted with funds received from any grant made under this title. The Secretary shall promulgate such rules as the Secretary deems necessary to carry out the purposes of this section and may enforce this section, and any rules promulgated under this section, through agency and department provisions and rules which shall be similar to those established and in effect under title VI of the Civil Rights Act of 1964. The provisions of this section shall be considered to be in addition to and not in lieu of the provisions of title VI of the Civil Rights Act of 1964. [49 U.S.C. App. 2219]

SEC. 521. REPORTS TO CONGRESS.

On or before the first day of April of each year the Secretary shall make a report to the Congress describing his operations under this title during the preceding fiscal year. The report shall include a detailed statement of the airport development accomplished, the status of each project undertaken, the allocation of appropriations, and an itemized statement of expenditures and receipts. [49 U.S.C. App. 2220]

SEC. 522. REPORT ON ABILITY OF AIRPORTS TO FINANCE AIRPORT DEVELOPMENT NEEDS.

(a) **SUBMISSION TO CONGRESS.**—Not later than 1 year after the date of enactment of this title, the Secretary shall submit to the Congress a report on whether, and to what extent, those airports which have the ability to finance their capital and operating needs without Federal assistance should be made ineligible to receive Federal assistance for airport development and airport planning under this title.

(b) **CONSIDERATIONS.**—The study shall consider, among other things: (1) what effect, if any, making such airports ineligible for such Federal assistance would have on the national airport system; (2) whether airports which are made ineligible for assistance, or voluntarily withdraw from the program, should be permitted to collect a passenger facility charge; (3) how such a passenger facility charge could be collected in order to minimize any cost and inconvenience for passengers, airports, and air carriers; (4) the extent to which such a program would permit a reduction in Federal taxes on air transportation; (5) whether the net effect of such a program would lower or increase the cost of air transportation to passengers on our Nation's air carriers; and (6) whether the Congress should implement such a program prior to the expiration of this title.

(c) **CONSULTATION.**—In conducting the study, the Secretary shall consult with airport operators, air carriers, and representatives of any other groups which may be substantially affected by such a program. [49 U.S.C. App. 2221]

SEC. 523. REPEALS; EFFECTIVE DATE; SAVING PROVISIONS; AND SEPARABILITY.

(a) **REPEAL.**—Sections 1 through 30 of the Airport and Airway Development Act of 1970 (49 U.S.C. 1701–1730) are repealed on the date of enactment of this title.

(b) **EFFECTIVE DATE.**—This title and the amendments made by this title shall take effect on the date of enactment of this title.

(c) **SAVING PROVISIONS.**—(1) All orders, determinations, rules, regulations, permits, contracts, certificates, licenses, grants, rights, and privileges which have been issued, made, granted, or allowed to become effective by the President, the Secretary, or any court of competent jurisdiction or any provision of the Airport and Airway Development Act of 1970 or the Federal Airport Act which are in effect at the time this title takes effect, are continued in effect according to their terms until modified, terminated, superseded, set aside, or repealed by the Secretary or by any court of competent jurisdiction, or by operation of law.

(2) Notwithstanding any other provision of this title, amounts apportioned before October 1, 1981, pursuant to section 15(a)(3) of the Airport and Airway Development Act of 1970, which have not been obligated by grant agreement before that date, shall remain available for obligation, for the duration of time specified in section 15(a)(5) of that Act, in accordance with the provisions of that Act (other than the second sentence of section 14(b)(2)), to the same extent as though that Act had not been repealed.

(d) **SEPARABILITY.**—If any provision of this title or the application thereof to any person or circumstance is held invalid, the re-

mainder of the title and the application of the provision to other persons or circumstances is not affected thereby.

SEC. 524. MISCELLANEOUS AMENDMENTS.

[Amendments to other laws: Omitted.]

SEC. 525. SAFETY CERTIFICATION OF AIRPORTS.

[Amendments to other laws: Omitted.]

SEC. 526. CONTRACTING AUTHORITY.

In the powers granted under section 519 of this title, the Secretary, in entering into a contract or other agreement with any State or political subdivision thereof for the purpose of permitting such State or subdivision to operate any airport facility within such State or subdivision shall insure that such contract or agreement contain, among others, a provision relieving the United States of any and all liability for the payment of any claim or other obligation arising out of or in connection with acts or omissions of employees of such State or political subdivision in the operation of any such airport facility. [49 U.S.C. App. 2222]

SEC. 527. STUDY OF AIRPORT ACCESS.

(a) The Secretary shall appoint a task force, as provided in subsection (b), to study the problems of allocating the use of airport facilities and airspace (including, but not limited to, gate facilities, landing facilities, airspace slots, and ticketing and terminal space) among persons using or seeking to use such facilities. The task force shall make a study of present methods of allocating the use of airport facilities and airspace, and, if such action is determined to be appropriate, shall make recommendations for improving those methods and for resolving disputes with respect to the use of such facilities. The task force shall report its findings and recommendations to the chairman of the Committee on Public Works and Transportation of the House of Representatives and the chairman of the Committee on Commerce, Science, and Transportation of the Senate not later than one hundred and twenty days after the task force first meets under subsection (c).

(b) The task force shall consist of the Chairman of the Civil Aeronautics Board, who shall serve as chairman of the task force, and individuals appointed by the Secretary of Transportation not later than sixty days after the date of enactment of this title, including, but not limited to, a representative of each of the following:

- (1) the Department of Transportation;
- (2) the Department of Justice;
- (3) States;
- (4) owners and operators of airports, including those owners and operators of airports which do not restrict access, but which provide service to airports where access is currently restricted or is expected to be restricted in the future;
- (5) trunk air carriers;
- (6) regional air carriers (other than commuter air carriers);
- (7) charter air carriers;
- (8) commuter air carriers;
- (9) all-cargo air carriers;
- (10) general aviation;

(11) financial institutions with an interest in the aviation industry; and

(12) aviation consumer groups.

(c) The task force shall meet, at the direction of the chairman, not later than thirty days after all its members have been appointed under subsection (b), and at such other times as may be necessary to complete the study required by this section.

(d) The Secretary shall provide such staff and support services as may be necessary to assist the task force in completing the report required by this section. [49 U.S.C. App. 2223]

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). [49 U.S.C. App. 2224]

SEC. 529. EXPLOSIVE DETECTION K-9 TEAMS.

The Secretary may provide by grant for the continuation of the Explosive Detection K-9 Team Training Program for the purpose of detecting explosives at airports and aboard aircraft. [49 U.S.C. App. 2225]

SEC. 530. RELEASE OF CERTAIN CONDITIONS.

(a) CRYSTAL CITY, TEXAS.—(1) Notwithstanding section 16 of the Federal Airport Act (as in effect on January 3, 1949), the Secretary of Transportation is authorized, subject to the provisions of section 4 of the Act of October 1, 1949 (50 App. U.S.C. 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 January 3, 1949, or any other deed of conveyance dated after such date and before the date of enactment of this section, under which the United States conveyed certain property to Crystal City, Texas, for airport purposes.

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

(A) Crystal City, Texas, shall agree that in conveying any interest in the property which the United States conveyed to the city by a deed described in paragraph (1) the city will receive an amount for such interest which is equal to the fair

market value (as determined pursuant to regulations issued by such Secretary).

(B) Any such amount so received by the city shall be used by the city for the development, improvement, operation, or maintenance of a public airport.

(b) BROWNWOOD, TEXAS.—(1) Notwithstanding section 16 of the Federal Airport Act (as in effect on June 26, 1950), the Secretary of Transportation is authorized, subject to the provisions of section 4 of the Act of October 1, 1949 (50 App. U.S.C. 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 deeds of conveyance dated June 26, 1950, and April 1, 1963, under which the United States conveyed certain property to the city of Brownwood, Texas, for airport purposes.

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

(A) The city of Brownwood, Texas, shall agree that in conveying any interest in the property which the United States conveyed to the city by the deeds dated June 26, 1950, and April 1, 1963, the city will receive an amount for such interest which is equal to the fair market value (as determined pursuant to regulations issued by such Secretary).

(B) Any such amount so received by the city shall be used by the city for the development, improvement, operation, or maintenance of a public airport.

(c) GRAND JUNCTION, COLORADO.—(1) Notwithstanding section 16 of the Federal Airport Act (as in effect on September 14, 1951), the Secretary of Transportation is authorized, subject to the provisions of section 4 of the Act of October 1, 1949 (50 App. U.S.C. 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 September 14, 1951, under which the United States conveyed certain property to the city of Grand Junction, Colorado, for airport purposes and the deed of conveyance dated March 24, 1975, under which the city of Grand Junction, Colorado, conveyed such property to the Walker Field Public Airport Authority.

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

(A) The property for which releases are granted under this section shall not exceed a total of eighteen acres.

(B) The Walker Field Public Airport Authority shall agree that in leasing, or conveying any interest in, the property for which releases are granted under this section, such Authority will receive an amount which is equal to the fair lease value or the fair market value, as the case may be (as determined pursuant to regulations issued by such Secretary).

(C) Any such amount so received by the Walker Field Public Airport Authority, shall be used by such Authority for the development, improvement, operation, or maintenance of the Walker Field Public Airport.

(d) NEWPORT, ARKANSAS.—(1) Notwithstanding section 16 of the Federal Airport Act (as in effect on December 17, 1947), the Secretary of Transportation is authorized, subject to the provisions of section 4 of the Act of October 1, 1949 (50 App. U.S.C. 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 December 17, 1947, or any other deed of conveyance dated after such date and before the date of enactment of this section, under which the United States conveyed certain property to Newport, Arkansas, for airport purposes.

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

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

(B) Any such amount so received by the city shall be used by the city for the development, improvement, operation, or maintenance of a public airport.

SEC. 531. CONTINUATION OF CERTAIN CERTIFICATES.

Notwithstanding any other provision of law or of any certificate issued by the Civil Aeronautics Board to the contrary, any certificate to engage in temporary air transportation which was issued under section 401(d)(8) of the Federal Aviation Act of 1958 or pursuant to the Trans-Atlantic Route Proceeding, CAB Docket Number 25908, and any certificate which was issued in the California/Southwest-Mexico Route Proceeding, CAB Docket Number 32665, and which is in effect on the date of enactment of this title shall be effective for a period of two years beyond the period for which it was issued.

SEC. 532. STATE TAXATION.

[Amendments to other laws: Omitted.]

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 sub-

by nationals of a foreign country, shall be considered to be a service of such foreign country. [49 U.S.C. App. 2226]

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, 1996.

(b) **ASSUMPTION OF CERTAIN RESPONSIBILITIES.**—Such regulations shall provide that the Secretary may designate not more than 7 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. The 7 States to be selected for participation in the program in fiscal years 1993, 1994, 1995, and 1996 shall include the 3 States selected for the participation in the program in fiscal year 1992 (Illinois, Missouri, and North Carolina).

(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 January 31, 1992, report to Congress the results of such review, together with recommendations for further action relating to the program. [49 U.S.C. App. 2227]

section (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