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FAA REAUTHORIZATION AND REFORM ACT OF 2011

MARCH 10, 2011.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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

REPORT

together with

DISSENTING VIEWS

[To accompany H.R. 658]

[Including cost estimate of the Congressional Budget Office]

The Committee on Transportation and Infrastructure, to whom was referred the bill (H.R. 658) to amend title 49, United States Code, to authorize appropriations for the Federal Aviation Administration for fiscal years 2011 through 2014, to streamline programs, create efficiencies, reduce waste, and improve aviation safety and capacity, to provide stable funding for the national aviation system, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

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The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "FAA Reauthorization and Reform Act of 2011".

(b) TABLE OF CONTENTS.—

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

TITLE I—AUTHORIZATIONS

Subtitle A—Funding of FAA Programs

Sec. 101. Airport planning and development and noise compatibility planning and programs.
Sec. 102. Air navigation facilities and equipment.
Sec. 103. FAA operations.
Sec. 104. Funding for aviation programs.
Sec. 105. Delineation of Next Generation Air Transportation System projects.
Sec. 106. Funding for administrative expenses for airport programs.

Subtitle B—Passenger Facility Charges

Sec. 111. Passenger facility charges.
Sec. 112. Airport access flexibility program.
Sec. 113. GAO study of alternative means of collecting PFCs.
Sec. 114. Qualifications-based selection.

Subtitle C—Fees for FAA Services

Sec. 121. Update on overflights.
Sec. 122. Registration fees.

Subtitle D—Airport Improvement Program Modifications

Sec. 131. Airport master plans.
Sec. 132. Aerotropolis transportation systems.
Sec. 133. AIP definitions.
Sec. 134. Recycling plans for airports.
Sec. 135. Contents of competition plans.
Sec. 136. Grant assurances.
Sec. 137. Agreements granting through-the-fence access to general aviation airports.
Sec. 138. Government share of project costs.
Sec. 139. Allowable project costs.
Sec. 140. Veterans' preference.
Sec. 141. Standardizing certification of disadvantaged business enterprises.
Sec. 142. Special apportionment rules.
Sec. 143. Apportionments.
Sec. 144. Marshall Islands, Micronesia, and Palau.
Sec. 145. Designating current and former military airports.
Sec. 146. Contract tower program.
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Sec. 148. Sale of private airports to public sponsors.
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Sec. 150. Midway Island Airport.
Sec. 151. Miscellaneous amendments.
Sec. 152. Extension of grant authority for compatible land use planning and projects by State and local governments.
Sec. 153. Priority review of construction projects in cold weather States.
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TITLE II—NEXTGEN AIR TRANSPORTATION SYSTEM AND AIR TRAFFIC CONTROL MODERNIZATION

Sec. 201. Definitions.
Sec. 202. NextGen demonstrations and concepts.
Sec. 203. Clarification of authority to enter into reimbursable agreements.
Sec. 204. Chief NextGen Officer.
Sec. 205. Definition of air navigation facility.
Sec. 206. Clarification to acquisition reform authority.
Sec. 207. Assistance to foreign aviation authorities.
Sec. 208. Next Generation Air Transportation System Joint Planning and Development Office.
Sec. 209. Next Generation Air Transportation Senior Policy Committee.
Sec. 210. Improved management of property inventory.
Sec. 211. Automatic dependent surveillance-broadcast services.
Sec. 212. Expert review of enterprise architecture for NextGen.
Sec. 213. Acceleration of NextGen technologies.
Sec. 214. Performance metrics.
Sec. 215. Certification standards and resources.
Sec. 216. Surface systems acceleration.
Sec. 217. Inclusion of stakeholders in air traffic control modernization projects.
Sec. 218. Siting of wind farms near FAA navigational aids and other assets.
Sec. 219. Airspace redesign.

TITLE III—SAFETY

Subtitle A—General Provisions

Sec. 301. Judicial review of denial of airman certificates.
Sec. 302. Release of data relating to abandoned type certificates and supplemental type certificates.
Sec. 303. Design and production organization certificates.
Sec. 304. Aircraft certification process review and reform.
Sec. 305. Consistency of regulatory interpretation.
Sec. 306. Runway safety.
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Sec. 309. Flight Standards Evaluation Program.
Sec. 310. Cockpit smoke.
Sec. 311. Safety of air ambulance operations.
Sec. 312. Off-airport, low-altitude aircraft weather observation technology.
Sec. 313. Feasibility of requiring helicopter pilots to use night vision goggles.
Sec. 314. Prohibition on personal use of electronic devices on flight deck.
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Sec. 426. Airfares for members of the Armed Forces.
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Sec. 701. General authority.
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Sec. 801. Disclosure of data to Federal agencies in interest of national security.
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Sec. 806. Consolidation or elimination of obsolete, redundant, or otherwise unnecessary reports; use of electronic media format.
Sec. 807. Prohibition on use of certain funds.
Sec. 808. Study on aviation fuel prices.
Sec. 809. Wind turbine lighting.
Sec. 810. Air-rail code sharing study.
Sec. 811. D.C. Metropolitan Area Special Flight Rules Area.
Sec. 812. FAA review and reform.
Sec. 813. Cylinders of compressed oxygen or other oxidizing gases.

TITLE IX—NATIONAL MEDIATION BOARD

Sec. 901. Authority of Inspector General.
Sec. 902. Evaluation and audit of National Mediation Board.
Sec. 903. Repeal of rule.

TITLE X—COMMERCIAL SPACE TRANSPORTATION

Sec. 1001. Space flight passengers.

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

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

SEC. 3. EFFECTIVE DATE.

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

TITLE I—AUTHORIZATIONS

Subtitle A—Funding of FAA Programs

SEC. 101. AIRPORT PLANNING AND DEVELOPMENT AND NOISE COMPATIBILITY PLANNING AND PROGRAMS.

(a) AUTHORIZATION.—Section 48103 is amended to read as follows:

"§ 48103. Airport planning and development and noise compatibility planning and programs

"(a) IN GENERAL.—There shall be available to the Secretary of Transportation out of the Airport and Airway Trust Fund established under section 9502 of the Internal Revenue Code of 1986 to make grants for airport planning and airport development under section 47104, airport noise compatibility planning under section 47505(a)(2), and carrying out noise compatibility programs under section 47504(c)—

"(1) $3,176,000,000 for fiscal year 2011;
"(2) $3,000,000,000 for fiscal year 2012;
"(3) $3,000,000,000 for fiscal year 2013; and
"(4) $3,000,000,000 for fiscal year 2014.

"(b) AVAILABILITY OF AMOUNTS.—Amounts made available under subsection (a) shall remain available until expended.

"(c) LIMITATION.—Amounts made available under subsection (a) may not be used for carrying out the Airport Cooperative Research Program or the Airports Technology Research Program.".

(b) OBLIGATIONAL AUTHORITY.—Section 47104(c) is amended by striking "March 31, 2011" and inserting "September 30, 2014".

SEC. 102. AIR NAVIGATION FACILITIES AND EQUIPMENT.

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 48101(a) is amended by striking paragraphs (1) through (6) and inserting the following:

"(1) $2,700,000,000 for fiscal year 2011.
"(2) $2,600,000,000 for fiscal year 2012.
"(3) $2,600,000,000 for fiscal year 2013.
"(4) $2,600,000,000 for fiscal year 2014.".

(b) SET-ASIDES.—Section 48101 is amended—

(1) by striking subsections (c), (d), (e), (h), and (i); and

(2) by redesignating subsections (f) and (g) as subsections (c) and (d), respectively.

SEC. 103. FAA OPERATIONS.

(a) IN GENERAL.—Section 106(k)(1) is amended by striking subparagraphs (A) through (F) and inserting the following:

"(A) $9,403,000,000 for fiscal year 2011;

"(B) $9,168,000,000 for fiscal year 2012;

"(C) $9,168,000,000 for fiscal year 2013; and

"(D) $9,168,000,000 for fiscal year 2014.".

(b) AUTHORIZED EXPENDITURES.—Section 106(k)(2) is amended—

(1) by striking subparagraphs (A), (B), (C), and (D);

(2) by redesignating subparagraphs (E), (F), and (G) as subparagraphs (A), (B), and (C), respectively; and

(3) in subparagraphs (A), (B), and (C) (as so redesignated) by striking "2004 through 2007" and inserting "2011 through 2014".

(c) AUTHORITY TO TRANSFER FUNDS.—Section 106(k) is amended by adding at the end the following:

"(3) ADMINISTERING PROGRAM WITHIN AVAILABLE FUNDING.—Notwithstanding any other provision of law, in each of fiscal years 2011 through 2014, if the Secretary determines that the funds appropriated under paragraph (1) are insufficient to meet the salary, operations, and maintenance expenses of the Federal Aviation Administration, as authorized by this section, the Secretary shall reduce nonsafety-related activities of the Administration as necessary to reduce such expenses to a level that can be met by the funding available under paragraph (1).".

SEC. 104. FUNDING FOR AVIATION PROGRAMS.

(a) AIRPORT AND AIRWAY TRUST FUND GUARANTEE.—Section 48114(a)(1)(A) is amended to read as follows:

"(A) IN GENERAL.—The total budget resources made available from the Airport and Airway Trust Fund each fiscal year pursuant to sections 48101, 48102, 48103, and 106(k) shall—

"(i) in fiscal year 2011, be equal to 90 percent of the estimated level of receipts plus interest credited to the Airport and Airway Trust Fund for that fiscal year; and

"(ii) in fiscal year 2012 and each fiscal year thereafter, be equal to the sum of—

"(I) 90 percent of the estimated level of receipts plus interest credited to the Airport and Airway Trust Fund for that fiscal year; and

"(II) the actual level of receipts plus interest credited to the Airport and Airway Trust Fund for the second preceding fiscal year minus the total amount made available for obligation from the Airport and Airway Trust Fund for the second preceding fiscal year.

Such amounts may be used only for aviation investment programs listed in subsection (b).".

(b) ADDITIONAL AUTHORIZATIONS OF APPROPRIATIONS FROM THE GENERAL FUND.—Section 48114(a)(2) is amended by striking "2007" and inserting "2014".

(c) ESTIMATED LEVEL OF RECEIPTS PLUS INTEREST DEFINED.—Section 48114(b)(2) is amended—

(1) in the paragraph heading by striking "LEVEL" and inserting "ESTIMATED LEVEL"; and

(2) by striking "level of receipts plus interest" and inserting "estimated level of receipts plus interest".

(d) ENFORCEMENT OF GUARANTEES.—Section 48114(c)(2) is amended by striking "2007" and inserting "2014".

SEC. 105. DELINEATION OF NEXT GENERATION AIR TRANSPORTATION SYSTEM PROJECTS.

Section 44501(b) is amended—

(1) in paragraph (3) by striking "and" after the semicolon;

(2) in paragraph (4)(B) by striking "defense." and inserting "defense; and"; and

(3) by adding at the end the following:

"(5) a list of capital projects that are part of the Next Generation Air Transportation System and funded by amounts appropriated under section 48101(a).".

SEC. 106. FUNDING FOR ADMINISTRATIVE EXPENSES FOR AIRPORT PROGRAMS.

(a) IN GENERAL.—Section 48105 is amended to read as follows:

"§ 48105. Airport programs administrative expenses

"(a) IN GENERAL.—Of the funds made available under section 48103, the following amounts may be available for administrative expenses of the Federal Aviation Administration described in subsection (b):

"(1) $85,987,000 for fiscal year 2011.
"(2) $80,676,000 for fiscal year 2012.
"(3) $80,676,000 for fiscal year 2013.
"(4) $80,676,000 for fiscal year 2014.

"(b) ELIGIBLE ADMINISTRATIVE EXPENSES.—Amounts made available under subsection (a) may be used for administrative expenses relating to the airport improvement program, passenger facility charge approval and oversight, national airport system planning, airport standards development and enforcement, airport certification, airport-related environmental activities (including legal services), and other airport-related activities.

"(c) AVAILABILITY OF AMOUNTS.—Amounts made available under subsection (a) shall remain available until expended.".

(b) CLERICAL AMENDMENT.—The analysis for chapter 481 is amended by striking the item relating to section 48105 and inserting the following:

"48105. Airport programs administrative expenses.".

Subtitle B—Passenger Facility Charges

SEC. 111. PASSENGER FACILITY CHARGES.

(a) PFC DEFINED.—Section 40117(a)(5) is amended to read as follows:

"(5) PASSENGER FACILITY CHARGE.—The term 'passenger facility charge' means a charge or fee imposed under this section.".

(b) PILOT PROGRAM FOR PFC AUTHORIZATIONS AT NONHUB AIRPORTS.—Section 40117(l) is amended—

(1) by striking paragraph (7); and
(2) by redesignating paragraph (8) as paragraph (7).

(c) CORRECTION OF REFERENCES.—

(1) SECTION 40117.—Section 40117 is amended—

(A) in the section heading by striking "**fees**" and inserting "**charges**";
(B) in the heading for subsection (e) by striking "FEES" and inserting "CHARGES";
(C) in the heading for subsection (l) by striking "FEE" and inserting "CHARGE";
(D) in the heading for paragraph (5) of subsection (l) by striking "FEE" and inserting "CHARGE";
(E) in the heading for subsection (m) by striking "FEES" and inserting "CHARGES";
(F) in the heading for paragraph (1) of subsection (m) by striking "FEES" and inserting "CHARGES";
(G) by striking "fee" each place it appears (other than the second sentence of subsection (g)(4)) and inserting "charge"; and
(H) by striking "fees" each place it appears and inserting "charges".

(2) OTHER REFERENCES.—Subtitle VII is amended by striking "fee" and inserting "charge" each place it appears in each of the following sections:

(A) Section 47106(f)(1).
(B) Section 47110(e)(5).
(C) Section 47114(f).
(D) Section 47134(g)(1).
(E) Section 47139(b).
(F) Section 47524(e).
(G) Section 47526(2).

(3) CLERICAL AMENDMENT.—The analysis for chapter 401 is amended by striking the item relating to section 40117 and inserting the following:

"40117. Passenger facility charges.".

SEC. 112. AIRPORT ACCESS FLEXIBILITY PROGRAM.

Section 40117 is amended by adding at the end the following:

"(n) AIRPORT ACCESS FLEXIBILITY PROGRAM.—

"(1) PFC ELIGIBILITY.—Subject to the requirements of this subsection, the Secretary shall establish a pilot program under which the Secretary may authorize, at no more than 5 airports, a passenger facility charge imposed under subsection (b)(1) or (b)(4) to be used to finance the eligible cost of an intermodal ground access project.

"(2) INTERMODAL GROUND ACCESS PROJECT DEFINED.—In this subsection, the term 'intermodal ground access project' means a project for constructing a local facility owned or operated by an eligible agency that is directly and substantially related to the movement of passengers or property traveling in air transportation.

"(3) ELIGIBLE COSTS.—

"(A) IN GENERAL.—For purposes of paragraph (1), the eligible cost of an intermodal ground access project at an airport shall be the total cost of the project multiplied by the ratio that—

"(i) the number of individuals projected to use the project to gain access to or depart from the airport; bears to

"(ii) the total number of the individuals projected to use the facility.

"(B) DETERMINATIONS REGARDING PROJECTED PROJECT USE.—

"(i) IN GENERAL.—Except as provided by clause (ii), the Secretary shall determine the projected use of a project for purposes of subparagraph (A) at the time the project is approved under this subsection.

"(ii) PUBLIC TRANSPORTATION PROJECTS.—In the case of a project approved under this section to be financed in part using funds administered by the Federal Transit Administration, the Secretary shall use the travel forecasting model for the project at the time the project is approved by the Federal Transit Administration to enter preliminary engineering to determine the projected use of the project for purposes of subparagraph (A).".

SEC. 113. GAO STUDY OF ALTERNATIVE MEANS OF COLLECTING PFCS.

(a) IN GENERAL.—The Comptroller General shall conduct a study of alternative means of collecting passenger facility charges imposed under section 40117 of title 49, United States Code, that would permit such charges to be collected without being included in the ticket price. In conducting the study, the Comptroller General shall consider, at a minimum—

(1) collection options for arriving, connecting, and departing passengers at airports;

(2) cost sharing or allocation methods based on passenger travel to address connecting traffic; and

(3) examples of airport charges collected by domestic and international airports that are not included in ticket prices.

(b) REPORT.—Not later than one year after the date of enactment of this Act, the Comptroller General shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report on the study, including the Comptroller General's findings, conclusions, and recommendations.

SEC. 114. QUALIFICATIONS-BASED SELECTION.

(a) QUALIFICATIONS-BASED SELECTION DEFINED.—In this section, the term "qualifications-based selection" means a competitive procurement process under which firms compete for capital improvement projects on the basis of qualifications, past experience, and specific expertise.

(b) SENSE OF CONGRESS.—It is the sense of Congress that airports should consider the use of qualifications-based selection in carrying out capital improvement projects funded using passenger facility charges collected under section 40117 of title 49, United States Code, with the goal of serving the needs of all stakeholders.

Subtitle C—Fees for FAA Services

SEC. 121. UPDATE ON OVERFLIGHTS.

(a) ESTABLISHMENT AND ADJUSTMENT OF FEES.—Section 45301(b) is amended to read as follows:

"(b) ESTABLISHMENT AND ADJUSTMENT OF FEES.—

"(1) IN GENERAL.—In establishing and adjusting fees under this section, the Administrator shall ensure that the fees are reasonably related to the Administration's costs, as determined by the Administrator, of providing the services rendered.

"(2) SERVICES FOR WHICH COSTS MAY BE RECOVERED.—Services for which costs may be recovered under this section include the costs of air traffic control, navigation, weather services, training, and emergency services that are available to facilitate safe transportation over the United States and the costs of other services provided by the Administrator, or by programs financed by the Administrator, to flights that neither take off nor land in the United States.

"(3) LIMITATIONS ON JUDICIAL REVIEW.—Notwithstanding section 702 of title 5 or any other provision of law, the following actions and other matters shall not be subject to judicial review:

"(A) The establishment or adjustment of a fee by the Administrator under this section.

"(B) The validity of a determination of costs by the Administrator under paragraph (1), and the processes and procedures applied by the Administrator when reaching such determination.

"(C) An allocation of costs by the Administrator under paragraph (1) to services provided, and the processes and procedures applied by the Administrator when establishing such allocation.

"(4) ADJUSTMENT OF OVERFLIGHT FEES.—In accordance with section 106(f)(3)(A), the Administrator shall adjust the overflight fees established by subsection (a)(1) by issuing a final rule with respect to the notice of proposed rulemaking published in the Federal Register on September 28, 2010 (75 Fed. Reg. 59661).

"(5) AIRCRAFT ALTITUDE.—Nothing in this section shall require the Administrator to take into account aircraft altitude in establishing any fee for aircraft operations in en route or oceanic airspace.

"(6) COSTS DEFINED.—In this subsection, the term 'costs' includes operation and maintenance costs, leasing costs, and overhead expenses associated with the services provided and the facilities and equipment used in providing such services.".

(b) ADJUSTMENT OF FEES.—Section 45301 is amended by adding at the end the following:

"(e) ADJUSTMENT OF FEES.—In addition to adjustments under subsection (b), the Administrator may periodically adjust the fees established under this section.".

SEC. 122. REGISTRATION FEES.

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

"§ 45305. Registration, certification, and related fees

"(a) GENERAL AUTHORITY AND FEES.—Subject to subsection (b), the Administrator of the Federal Aviation Administration shall establish and collect a fee for each of the following services and activities of the Administration that does not exceed the estimated costs of the service or activity:

"(1) Registering an aircraft.

"(2) Reregistering, replacing, or renewing an aircraft registration certificate.

"(3) Issuing an original dealer's aircraft registration certificate.

"(4) Issuing an additional dealer's aircraft registration certificate (other than the original).

"(5) Issuing a special registration number.

"(6) Issuing a renewal of a special registration number reservation.

"(7) Recording a security interest in an aircraft or aircraft part.

"(8) Issuing an airman certificate.

"(9) Issuing a replacement airman certificate.

"(10) Issuing an airman medical certificate.

"(11) Providing a legal opinion pertaining to aircraft registration or recordation.

"(b) LIMITATION ON COLLECTION.—No fee may be collected under this section unless the expenditure of the fee to pay the costs of activities and services for which the fee is imposed is provided for in advance in an appropriations Act.

"(c) FEES CREDITED AS OFFSETTING COLLECTIONS.—

"(1) IN GENERAL.—Notwithstanding section 3302 of title 31, any fee authorized to be collected under this section shall—

"(A) be credited as offsetting collections to the account that finances the activities and services for which the fee is imposed;

"(B) be available for expenditure only to pay the costs of activities and services for which the fee is imposed, including all costs associated with collecting the fee; and

"(C) remain available until expended.

"(2) CONTINUING APPROPRIATIONS.—The Administrator may continue to assess, collect, and spend fees established under this section during any period in which the funding for the Federal Aviation Administration is provided under an Act providing continuing appropriations in lieu of the Administration's regular appropriations.

"(3) ADJUSTMENTS.—The Administrator shall adjust a fee established under subsection (a) for a service or activity if the Administrator determines that the

actual cost of the service or activity is higher or lower than was indicated by the cost data used to establish such fee.".

(b) CLERICAL AMENDMENT.—The analysis for chapter 453 is amended by adding at the end the following:

"45305. Registration, certification, and related fees.".

(c) FEES INVOLVING AIRCRAFT NOT PROVIDING AIR TRANSPORTATION.—Section 45302(e) is amended—

(1) by striking "A fee" and inserting the following:

"(1) IN GENERAL.—A fee"; and

(2) by adding at the end the following:

"(2) EFFECT OF IMPOSITION OF OTHER FEES.—A fee may not be imposed for a service or activity under this section during any period in which a fee for the same service or activity is imposed under section 45305.".

Subtitle D—Airport Improvement Program Modifications

SEC. 131. AIRPORT MASTER PLANS.

Section 47101(g)(2) is amended—

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

(2) by redesignating subparagraph (C) as subparagraph (D); and

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

"(C) consider passenger convenience, airport ground access, and access to airport facilities; and".

SEC. 132. AEROTROPOLIS TRANSPORTATION SYSTEMS.

Section 47101(g) is amended by adding at the end the following:

"(4) AEROTROPOLIS TRANSPORTATION SYSTEMS.—Encourage the development of aerotropolis transportation systems, which are planned and coordinated multimodal freight and passenger transportation networks that, as determined by the Secretary, provide efficient, cost-effective, sustainable, and intermodal connectivity to a defined region of economic significance centered around a major airport.".

SEC. 133. AIP DEFINITIONS.

(a) AIRPORT DEVELOPMENT.—Section 47102(3) is amended—

(1) in subparagraph (B)(iv) by striking "20" and inserting "9";

(2) in subparagraph (G) by inserting "and including acquiring glycol recovery vehicles," after "aircraft,"; and

(3) by adding at the end the following:

"(M) construction of mobile refueler parking within a fuel farm at a non-primary airport meeting the requirements of section 112.8 of title 40, Code of Federal Regulations.

"(N) terminal development under section 47119(a).

"(O) acquiring and installing facilities and equipment to provide air conditioning, heating, or electric power from terminal-based, nonexclusive use facilities to aircraft parked at a public use airport for the purpose of reducing energy use or harmful emissions as compared to the provision of such air conditioning, heating, or electric power from aircraft-based systems.".

(b) AIRPORT PLANNING.—Section 47102(5) is amended to read as follows:

"(5) 'airport planning' means planning as defined by regulations the Secretary prescribes and includes—

"(A) integrated airport system planning;

"(B) developing an environmental management system; and

"(C) developing a plan for recycling and minimizing the generation of airport solid waste, consistent with applicable State and local recycling laws, including the cost of a waste audit.".

(c) GENERAL AVIATION AIRPORT.—Section 47102 is amended—

(1) by redesignating paragraphs (23) through (25) as paragraphs (25) through (27), respectively;

(2) by redesignating paragraphs (8) through (22) as paragraphs (9) through (23), respectively; and

(3) by inserting after paragraph (7) the following:

"(8) 'general aviation airport' means a public airport that is located in a State and that, as determined by the Secretary—

"(A) does not have scheduled service; or

"(B) has scheduled service with less than 2,500 passenger boardings each year.".

(d) REVENUE PRODUCING AERONAUTICAL SUPPORT FACILITIES.—Section 47102 is amended by inserting after paragraph (23) (as redesignated by subsection (c)(2) of this section) the following:

"(24) 'revenue producing aeronautical support facilities' means fuel farms, hangar buildings, self-service credit card aeronautical fueling systems, airplane wash racks, major rehabilitation of a hangar owned by a sponsor, or other aeronautical support facilities that the Secretary determines will increase the revenue producing ability of the airport.".

(e) TERMINAL DEVELOPMENT.—Section 47102 (as amended by subsection (c) of this section) is further amended by adding at the end the following:

"(28) 'terminal development' means—

"(A) development of—

"(i) an airport passenger terminal building, including terminal gates;

"(ii) access roads servicing exclusively airport traffic that leads directly to or from an airport passenger terminal building; and

"(iii) walkways that lead directly to or from an airport passenger terminal building; and

"(B) the cost of a vehicle described in section 47119(a)(1)(B).".

SEC. 134. RECYCLING PLANS FOR AIRPORTS.

Section 47106(a) is amended—

(1) in paragraph (4) by striking "and" at the end;

(2) in paragraph (5) by striking "proposed." and inserting "proposed; and"; and

(3) by adding at the end the following:

"(6) if the project is for an airport that has an airport master plan, the master plan addresses issues relating to solid waste recycling at the airport, including—

"(A) the feasibility of solid waste recycling at the airport;

"(B) minimizing the generation of solid waste at the airport;

"(C) operation and maintenance requirements;

"(D) the review of waste management contracts; and

"(E) the potential for cost savings or the generation of revenue.".

SEC. 135. CONTENTS OF COMPETITION PLANS.

Section 47106(f)(2) is amended—

(1) by striking "patterns of air service,";

(2) by inserting "and" before "whether"; and

(3) by striking ", and airfare levels" and all that follows before the period.

SEC. 136. GRANT ASSURANCES.

(a) GENERAL WRITTEN ASSURANCES.—Section 47107(a)(16)(D)(ii) is amended by inserting before the semicolon at the end the following: ", except in the case of a relocation or replacement of an existing airport facility that meets the conditions of section 47110(d)".

(b) WRITTEN ASSURANCES ON ACQUIRING LAND.—

(1) USE OF PROCEEDS.—Section 47107(c)(2)(A)(iii) is amended by striking "paid to the Secretary" and all that follows before the semicolon and inserting "reinvested in another project at the airport or transferred to another airport as the Secretary prescribes under paragraph (4)".

(2) ELIGIBLE PROJECTS.—Section 47107(c) is amended by adding at the end the following:

"(4) In approving the reinvestment or transfer of proceeds under paragraph (2)(A)(iii), the Secretary shall give preference, in descending order, to the following actions:

"(A) Reinvestment in an approved noise compatibility project.

"(B) Reinvestment in an approved project that is eligible for funding under section 47117(e).

"(C) Reinvestment in an approved airport development project that is eligible for funding under section 47114, 47115, or 47117.

"(D) Transfer to a sponsor of another public airport to be reinvested in an approved noise compatibility project at such airport.

"(E) Payment to the Secretary for deposit in the Airport and Airway Trust Fund.".

(c) CLERICAL AMENDMENT.—Section 47107(c)(2)(B)(iii) is amended by striking "the Fund" and inserting "the Airport and Airway Trust Fund established under section 9502 of the Internal Revenue Code of 1986".

(d) EXTENSION OF COMPETITIVE ACCESS REPORTS.—Section 47107(s) is amended by striking paragraph (3).

SEC. 137. AGREEMENTS GRANTING THROUGH-THE-FENCE ACCESS TO GENERAL AVIATION AIRPORTS.

(a) IN GENERAL.—Section 47107 is amended by adding at the end the following:

"(t) AGREEMENTS GRANTING THROUGH-THE-FENCE ACCESS TO GENERAL AVIATION AIRPORTS.—

"(1) IN GENERAL.—Subject to paragraph (2), a sponsor of a general aviation airport shall not be considered to be in violation of this subtitle, or to be in violation of a grant assurance made under this section or under any other provision of law as a condition for the receipt of Federal financial assistance for airport development, solely because the sponsor enters into an agreement that grants to a person that owns residential real property adjacent to the airport access to the airfield of the airport for the following:

"(A) Aircraft of the person.

"(B) Aircraft authorized by the person.

"(2) THROUGH-THE-FENCE AGREEMENTS.—

"(A) IN GENERAL.—An agreement described in paragraph (1) between an airport sponsor and a property owner shall be a written agreement that prescribes the rights, responsibilities, charges, duration, and other terms the airport sponsor determines are necessary to establish and manage the airport sponsor's relationship with the property owner.

"(B) TERMS AND CONDITIONS.—An agreement described in paragraph (1) between an airport sponsor and a property owner shall require the property owner, at minimum—

"(i) to pay airport access charges that, as determined by the airport sponsor, are comparable to those charged to tenants and operators on-airport making similar use of the airport;

"(ii) to bear the cost of building and maintaining the infrastructure that, as determined by the airport sponsor, is necessary to provide aircraft located on the property adjacent to the airport access to the airfield of the airport;

"(iii) to maintain the property for residential, noncommercial use for the duration of the agreement; and

"(iv) to prohibit access to the airport from other properties through the property of the property owner.".

(b) APPLICABILITY.—The amendment made by subsection (a) shall apply to an agreement between an airport sponsor and a property owner entered into before, on, or after the date of enactment of this Act.

SEC. 138. GOVERNMENT SHARE OF PROJECT COSTS.

Section 47109 is amended—

(1) in subsection (a) by striking "provided in subsection (b) or subsection (c) of this section" and inserting "otherwise provided in this section"; and

(2) by adding at the end the following:

"(e) SPECIAL RULE FOR TRANSITION FROM SMALL HUB TO MEDIUM HUB STATUS.—If the status of a small hub airport changes to a medium hub airport, the Government's share of allowable project costs for the airport may not exceed 90 percent for the first 2 fiscal years following such change in hub status.

"(f) SPECIAL RULE FOR ECONOMICALLY DEPRESSED COMMUNITIES.—The Government's share of allowable project costs shall be 95 percent for a project at an airport that—

"(1) is receiving subsidized air service under subchapter II of chapter 417; and

"(2) is located in an area that meets one or more of the criteria established in section 301(a) of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3161(a)), as determined by the Secretary of Commerce.".

SEC. 139. ALLOWABLE PROJECT COSTS.

(a) ALLOWABLE PROJECT COSTS.—Section 47110(b)(2)(D) is amended to read as follows:

"(D) if the cost is for airport development and is incurred before execution of the grant agreement, but in the same fiscal year as execution of the grant agreement, and if—

"(i) the cost was incurred before execution of the grant agreement due to climactic conditions affecting the construction season in the vicinity of the airport;

"(ii) the cost is in accordance with an airport layout plan approved by the Secretary and with all statutory and administrative requirements that would have been applicable to the project if the project had been carried out after execution of the grant agreement, including submission of a complete grant application to the appropriate regional or district office of the Federal Aviation Administration;

"(iii) the sponsor notifies the Secretary before authorizing work to commence on the project;

"(iv) the sponsor has an alternative funding source available to fund the project; and

"(v) the sponsor's decision to proceed with the project in advance of execution of the grant agreement does not affect the priority assigned to the project by the Secretary for the allocation of discretionary funds;".

(b) INCLUSION OF MEASURES TO IMPROVE EFFICIENCY OF AIRPORT BUILDINGS IN AIRPORT IMPROVEMENT PROJECTS.—Section 47110(b) is amended—

(1) in paragraph (5) by striking "; and" and inserting a semicolon;

(2) in paragraph (6) by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following:

"(7) if the cost is incurred on a measure to improve the efficiency of an airport building (such as a measure designed to meet one or more of the criteria for being considered a high-performance green building as set forth under section 401(13) of the Energy Independence and Security Act of 2007 (42 U.S.C. 17061(13))) and—

"(A) the measure is for a project for airport development;

"(B) the measure is for an airport building that is otherwise eligible for construction assistance under this subchapter; and

"(C) if the measure results in an increase in initial project costs, the increase is justified by expected savings over the life cycle of the project.".

(c) RELOCATION OF AIRPORT-OWNED FACILITIES.—Section 47110(d) is amended to read as follows:

"(d) RELOCATION OF AIRPORT-OWNED FACILITIES.—The Secretary may determine that the costs of relocating or replacing an airport-owned facility are allowable for an airport development project at an airport only if—

"(1) the Government's share of such costs will be paid with funds apportioned to the airport sponsor under section 47114(c)(1) or 47114(d);

"(2) the Secretary determines that the relocation or replacement is required due to a change in the Secretary's design standards; and

"(3) the Secretary determines that the change is beyond the control of the airport sponsor.".

(d) NONPRIMARY AIRPORTS.—Section 47110(h) is amended—

(1) by inserting "construction" before "costs of revenue producing"; and

(2) by striking ", including fuel farms and hangars,".

SEC. 140. VETERANS' PREFERENCE.

Section 47112(c) is amended—

(1) in paragraph (1)—

(A) in subparagraph (B) by striking "separated from" and inserting "discharged or released from active duty in"; and

(B) by adding at the end the following:

"(C) 'Afghanistan-Iraq war veteran' means an individual who served on active duty (as defined in section 101 of title 38) in the Armed Forces in support of Operation Enduring Freedom, Operation Iraqi Freedom, or Operation New Dawn for more than 180 consecutive days, any part of which occurred after September 11, 2001, and before the date prescribed by presidential proclamation or by law as the last day of Operation Enduring Freedom, Operation Iraqi Freedom, or Operation New Dawn (whichever is later), and who was discharged or released from active duty in the armed forces under honorable conditions.

"(D) 'Persian Gulf veteran' means an individual who served on active duty in the Armed Forces in the Southwest Asia theater of operations during the Persian Gulf War for more than 180 consecutive days, any part of which occurred after August 2, 1990, and before the date prescribed by presidential proclamation or by law, and who was discharged or released from active duty in the armed forces under honorable conditions."; and

(2) in paragraph (2) by striking "Vietnam-era veterans and disabled veterans" and inserting "Vietnam-era veterans, Persian Gulf veterans, Afghanistan-Iraq war veterans, disabled veterans, and small business concerns (as defined in section 3 of the Small Business Act (15 U.S.C. 632)) owned and controlled by disabled veterans".

SEC. 141. STANDARDIZING CERTIFICATION OF DISADVANTAGED BUSINESS ENTERPRISES.

Section 47113 is amended by adding at the end the following:

"(e) MANDATORY TRAINING PROGRAM.—

"(1) IN GENERAL.—Not later than one year after the date of enactment of this subsection, the Secretary shall establish a mandatory training program for persons described in paragraph (3) to provide streamlined training on certifying

whether a small business concern qualifies as a small business concern owned and controlled by socially and economically disadvantaged individuals under this section and section 47107(e).

"(2) IMPLEMENTATION.—The training program may be implemented by one or more private entities approved by the Secretary.

"(3) PARTICIPANTS.—A person referred to in paragraph (1) is an official or agent of an airport sponsor—

"(A) who is required to provide a written assurance under this section or section 47107(e) that the airport owner or operator will meet the percentage goal of subsection (b) of this section or section 47107(e)(1), as the case may be; or

"(B) who is responsible for determining whether or not a small business concern qualifies as a small business concern owned and controlled by socially and economically disadvantaged individuals under this section or section 47107(e).".

SEC. 142. SPECIAL APPORTIONMENT RULES.

(a) ELIGIBILITY TO RECEIVE PRIMARY AIRPORT MINIMUM APPORTIONMENT AMOUNT.—Section 47114(d) is amended by adding at the end the following:

"(7) ELIGIBILITY TO RECEIVE PRIMARY AIRPORT MINIMUM APPORTIONMENT AMOUNT.—Notwithstanding any other provision of this subsection, the Secretary may apportion to an airport sponsor in a fiscal year an amount equal to the minimum apportionment available under subsection (c)(1)(B) if the Secretary finds that the airport—

"(A) received scheduled or unscheduled air service from a large certificated air carrier (as defined in part 241 of title 14, Code of Federal Regulations, or such other regulations as may be issued by the Secretary under the authority of section 41709) in the calendar year used to calculate the apportionment; and

"(B) had more than 10,000 passenger boardings in the calendar year used to calculate the apportionment.".

(b) SPECIAL RULE FOR FISCAL YEARS 2011 AND 2012.—Section 47114(c)(1) is amended—

(1) by striking subparagraphs (F) and (G); and

(2) by inserting after subparagraph (E) the following:

"(F) SPECIAL RULE FOR FISCAL YEARS 2011 AND 2012.—Notwithstanding subparagraph (A), for an airport that had more than 10,000 passenger boardings and scheduled passenger aircraft service in calendar year 2007, but in either calendar year 2009 or 2010, or in both years, the number of passenger boardings decreased to a level below 10,000 boardings per year at such airport, the Secretary may apportion in each of fiscal years 2011 and 2012 to the sponsor of such airport an amount equal to the amount apportioned to that sponsor in fiscal year 2009.".

SEC. 143. APPORTIONMENTS.

Chapter 471 is amended by striking "$3,200,000,000" and inserting "$3,000,000,000" in each of the following sections:

(1) 47114(c)(1)(C).
(2) 47114(c)(2)(C).
(3) 47114(d)(3).
(4) 47114(e)(4).
(5) 47117(e)(1)(C).

SEC. 144. MARSHALL ISLANDS, MICRONESIA, AND PALAU.

Section 47115(j) is amended by striking "fiscal years 2004 through 2010, and for the portion of fiscal year 2011 ending before April 1, 2011," and inserting "fiscal years 2010 through 2014,".

SEC. 145. DESIGNATING CURRENT AND FORMER MILITARY AIRPORTS.

(a) CONSIDERATIONS.—Section 47118(c) is amended—

(1) in paragraph (1) by striking "or" after the semicolon;

(2) in paragraph (2) by striking "delays." and inserting "delays; or"; and

(3) by adding at the end the following:

"(3) preserve or enhance minimum airfield infrastructure facilities at former military airports to support emergency diversionary operations for transoceanic flights in locations—

"(A) within United States jurisdiction or control; and

"(B) where there is a demonstrable lack of diversionary airports within the distance or flight-time required by regulations governing transoceanic flights.".

(b) DESIGNATION OF GENERAL AVIATION AIRPORTS.—Section 47118(g) is amended—

(1) in the subsection heading by striking "AIRPORT" and inserting "AIRPORTS"; and

(2) by striking "one of the airports bearing a designation under subsection (a) may be a general aviation airport that was a former military installation" and inserting "3 of the airports bearing designations under subsection (a) may be general aviation airports that were former military installations".

(c) SAFETY-CRITICAL AIRPORTS.—Section 47118 is amended by adding at the end the following:

"(h) SAFETY-CRITICAL AIRPORTS.—Notwithstanding any other provision of this chapter, a grant under section 47117(e)(1)(B) may be made for a federally owned airport designated under subsection (a) if the grant is for a project that is—

"(1) to preserve or enhance minimum airfield infrastructure facilities described in subsection (c)(3); and

"(2) necessary to meet the minimum safety and emergency operational requirements established under part 139 of title 14, Code of Federal Regulations.".

SEC. 146. CONTRACT TOWER PROGRAM.

(a) COST-BENEFIT REQUIREMENT.—Section 47124(b) is amended—

(1) by striking paragraph (1) and inserting the following:

"(1) CONTRACT TOWER PROGRAM.—

"(A) CONTINUATION AND EXTENSION.—The Secretary shall continue the low activity (Visual Flight Rules) Level I air traffic control tower contract program established under subsection (a) for towers existing on December 30, 1987, and shall extend the program to other low activity air traffic control towers for which a qualified entity (as determined by the Secretary), a State, or a subdivision of the State meeting the requirements set forth by the Secretary has requested to participate in the program.

"(B) SPECIAL RULE.—If the Secretary determines that a tower already operating under the program continued under this paragraph has a benefit-to-cost ratio of less than 1.0, the airport sponsor or State or local government having jurisdiction over the airport shall not be required to pay the portion of the costs that exceeds the benefit for a period of 18 months after such determination is made.

"(C) USE OF EXCESS FUNDS.—If the Secretary finds that all or part of an amount made available to carry out the program continued under this paragraph is not required during a fiscal year, the Secretary may use, during such fiscal year, the amount not so required to carry out the program established under paragraph (3).."; and

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

"(2) GENERAL AUTHORITY.—The Secretary".

(b) COSTS EXCEEDING BENEFITS.—Section 47124(b)(3)(D) is amended—

(1) by striking "If the costs" and inserting the following:

"(i) COST SHARING.—If the costs"; and

(2) by adding at the end the following:

"(ii) MAXIMUM LOCAL COST SHARE.—The maximum allowable local cost share allocated under clause (i) for an airport certified under part 139 of title 14, Code of Federal Regulations, with fewer than 50,000 annual passenger enplanements shall be capped at 20 percent of the cost of operating an air traffic tower under the program.

"(iii) SUNSET.—Clause (ii) shall not be in effect after September 30, 2014.".

(c) FUNDING; USE OF EXCESS FUNDS.—Section 47124(b)(3) is amended by striking subparagraph (E) and inserting the following:

"(E) FUNDING.—Of the amounts appropriated pursuant to section 106(k)(1), not more than $8,500,000 for each of fiscal years 2011 through 2014 may be used to carry out this paragraph.

"(F) USE OF EXCESS FUNDS.—If the Secretary finds that all or part of an amount made available under this paragraph is not required during a fiscal year, the Secretary may use, during such fiscal year, the amount not so required to carry out the program continued under paragraph (1).".

(d) FEDERAL SHARE.—Section 47124(b)(4)(C) is amended by striking "$1,500,000" and inserting "$2,000,000".

(e) SAFETY AUDITS.—Section 47124 is amended by adding at the end the following:

"(c) SAFETY AUDITS.—The Secretary shall establish uniform standards and requirements for regular safety assessments of air traffic control towers that receive funding under this section.".

SEC. 147. RESOLUTION OF DISPUTES CONCERNING AIRPORT FEES.

(a) IN GENERAL.—Section 47129 is amended—

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

"§ 47129. Resolution of disputes concerning airport fees";

(2) by inserting "AND FOREIGN AIR CARRIER" after "CARRIER" in the heading for subsection (d);

(3) by inserting "AND FOREIGN AIR CARRIER" after "CARRIER" in the heading for subsection (d)(2);

(4) by striking "air carrier" each place it appears and inserting "air carrier or foreign air carrier";

(5) by striking "air carrier's" each place it appears and inserting "air carrier's or foreign air carrier's";

(6) by striking "air carriers" and inserting "air carriers or foreign air carriers"; and

(7) by striking "(as defined in section 40102 of this title)" in subsection (a) and inserting "(as those terms are defined in section 40102)".

(b) CONFORMING AMENDMENT.—The analysis for chapter 471 is amended by striking the item relating to section 47129 and inserting the following:

"47129. Resolution of disputes concerning airport fees.".

SEC. 148. SALE OF PRIVATE AIRPORTS TO PUBLIC SPONSORS.

(a) IN GENERAL.—Section 47133(b) is amended—

(1) by striking "Subsection (a) shall not apply if" and inserting the following: "(1) PRIOR LAWS AND AGREEMENTS.—Subsection (a) shall not apply if"; and

(2) by adding at the end the following:

"(2) SALE OF PRIVATE AIRPORT TO PUBLIC SPONSOR.—In the case of a privately owned airport, subsection (a) shall not apply to the proceeds from the sale of the airport to a public sponsor if—

"(A) the sale is approved by the Secretary;

"(B) funding is provided under this subchapter for any portion of the public sponsor's acquisition of airport land; and

"(C) an amount equal to the remaining unamortized portion of any airport improvement grant made to that airport for purposes other than land acquisition, amortized over a 20-year period, plus an amount equal to the Federal share of the current fair market value of any land acquired with an airport improvement grant made to that airport on or after October 1, 1996, is repaid to the Secretary by the private owner.

"(3) TREATMENT OF REPAYMENTS.—Repayments referred to in paragraph (2)(C) shall be treated as a recovery of prior year obligations.".

(b) APPLICABILITY TO GRANTS.—The amendments made by subsection (a) shall apply to grants issued on or after October 1, 1996.

SEC. 149. REPEAL OF CERTAIN LIMITATIONS ON METROPOLITAN WASHINGTON AIRPORTS AUTHORITY.

Section 49108, and the item relating to section 49108 in the analysis for chapter 491, are repealed.

SEC. 150. MIDWAY ISLAND AIRPORT.

Section 186(d) of the Vision 100—Century of Aviation Reauthorization Act (117 Stat. 2518) is amended by striking "October 1, 2010, and for the portion of fiscal year 2011 ending before April 1, 2011," and inserting "October 1, 2014,".

SEC. 151. MISCELLANEOUS AMENDMENTS.

(a) TECHNICAL CHANGES TO NATIONAL PLAN OF INTEGRATED AIRPORT SYSTEMS.—Section 47103 is amended—

(1) in subsection (a)—

(A) by striking "each airport to—" and inserting "the airport system to—";

(B) in paragraph (1) by striking "system in the particular area;" and inserting "system, including connection to the surface transportation network; and";

(C) in paragraph (2) by striking "; and" and inserting a period; and

(D) by striking paragraph (3);

(2) in subsection (b)—

(A) in paragraph (1) by striking the semicolon and inserting "; and";

(B) by striking paragraph (2) and redesignating paragraph (3) as paragraph (2); and

(C) in paragraph (2) (as so redesignated) by striking ", Short Takeoff and Landing/Very Short Takeoff and Landing aircraft operations,"; and

(3) in subsection (d) by striking "status of the".

(b) CONSOLIDATION OF TERMINAL DEVELOPMENT PROVISIONS.—Section 47119 is amended—

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

(2) by inserting before subsection (b) (as so redesignated) the following:

"(a) TERMINAL DEVELOPMENT PROJECTS.—

"(1) IN GENERAL.—The Secretary of Transportation may approve a project for terminal development (including multimodal terminal development) in a nonrevenue-producing public-use area of a commercial service airport—

"(A) if the sponsor certifies that the airport, on the date the grant application is submitted to the Secretary, has—

"(i) all the safety equipment required for certification of the airport under section 44706;

"(ii) all the security equipment required by regulation; and

"(iii) provided for access by passengers to the area of the airport for boarding or exiting aircraft that are not air carrier aircraft;

"(B) if the cost is directly related to moving passengers and baggage in air commerce within the airport, including vehicles for moving passengers between terminal facilities and between terminal facilities and aircraft; and

"(C) under terms necessary to protect the interests of the Government.

"(2) PROJECT IN REVENUE-PRODUCING AREAS AND NONREVENUE-PRODUCING PARKING LOTS.—In making a decision under paragraph (1), the Secretary may approve as allowable costs the expenses of terminal development in a revenue-producing area and construction, reconstruction, repair, and improvement in a nonrevenue-producing parking lot if—

"(A) except as provided in section 47108(e)(3), the airport does not have more than .05 percent of the total annual passenger boardings in the United States; and

"(B) the sponsor certifies that any needed airport development project affecting safety, security, or capacity will not be deferred because of the Secretary's approval.";

(3) in subsection (b)(4)(B) (as redesignated by paragraph (1) of this subsection) by striking "Secretary of Transportation" and inserting "Secretary";

(4) in subsections (b)(3) and (b)(4)(A) (as redesignated by paragraph (1) of this subsection) by striking "section 47110(d)" and inserting "subsection (a)";

(5) in subsection (b)(5) (as redesignated by paragraph (1) of this subsection) by striking "subsection (b)(1) and (2)" and inserting "subsections (c)(1) and (c)(2)";

(6) in subsections (c)(2)(A), (c)(3), and (c)(4) (as redesignated by paragraph (1) of this subsection) by striking "section 47110(d) of this title" and inserting "subsection (a)";

(7) in subsection (c)(2)(B) (as redesignated by paragraph (1) of this subsection) by striking "section 47110(d)" and inserting "subsection (a)";

(8) in subsection (c)(5) (as redesignated by paragraph (1) of this subsection) by striking "section 47110(d)" and inserting "subsection (a)"; and

(9) by adding at the end the following:

"(f) LIMITATION ON DISCRETIONARY FUNDS.—The Secretary may distribute not more than $20,000,000 from the discretionary fund established under section 47115 for terminal development projects at a nonhub airport or a small hub airport that is eligible to receive discretionary funds under section 47108(e)(3).".

(c) ANNUAL REPORT.—Section 47131(a) is amended—

(1) by striking "April 1" and inserting "June 1"; and

(2) by striking paragraphs (1), (2), (3), and (4) and inserting the following:

"(1) a summary of airport development and planning completed;

"(2) a summary of individual grants issued;

"(3) an accounting of discretionary and apportioned funds allocated;

"(4) the allocation of appropriations; and".

(d) CORRECTION TO EMISSION CREDITS PROVISION.—Section 47139 is amended—

(1) in subsection (a) by striking "47102(3)(F),"; and

(2) in subsection (b)—

(A) by striking "47102(3)(F),"; and

(B) by striking "47103(3)(F),".

(e) CONFORMING AMENDMENT TO CIVIL PENALTY ASSESSMENT AUTHORITY.—Section 46301(d)(2) is amended by inserting "46319," after "46318,".

(f) OTHER CONFORMING AMENDMENTS.—

(1) Section 40117(a)(3)(B) is amended by striking "section 47110(d)" and inserting "section 47119(a)".

(2) Section 47108(e)(3) is amended—

(A) by striking "section 47110(d)(2)" and inserting "section 47119(a)"; and

(B) by striking "section 47110(d)" and inserting "section 47119(a)".

(g) CORRECTION TO SURPLUS PROPERTY AUTHORITY.—Section 47151(e) is amended by striking "(other than real property" and all that follows through "(10 U.S.C. 2687 note))".

(h) DEFINITIONS.—

(1) CONGESTED AIRPORT.—Section 47175(2) is amended by striking "2001" and inserting "2004 or any successor report".

(2) JOINT USE AIRPORT.—Section 47175 is amended by adding at the end the following:

"(7) JOINT USE AIRPORT.—The term 'joint use airport' means an airport owned by the Department of Defense, at which both military and civilian aircraft make shared use of the airfield.".

SEC. 152. EXTENSION OF GRANT AUTHORITY FOR COMPATIBLE LAND USE PLANNING AND PROJECTS BY STATE AND LOCAL GOVERNMENTS.

Section 47141(f) is amended by striking "March 31, 2011" and inserting "September 30, 2014".

SEC. 153. PRIORITY REVIEW OF CONSTRUCTION PROJECTS IN COLD WEATHER STATES.

The Administrator of the Federal Aviation Administration, to the extent practicable, shall schedule the Administrator's review of construction projects so that projects to be carried out in States in which the weather during a typical calendar year prevents major construction projects from being carried out before May 1 are reviewed as early as possible.

SEC. 154. STUDY ON NATIONAL PLAN OF INTEGRATED AIRPORT SYSTEMS.

(a) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the Secretary of Transportation shall begin a study to evaluate the formulation of the national plan of integrated airport systems (in this section referred to as the "plan") under section 47103 of title 49, United States Code.

(b) CONTENTS OF STUDY.—The study shall include a review of the following:

(1) The criteria used for including airports in the plan and the application of such criteria in the most recently published version of the plan.

(2) The changes in airport capital needs as shown in the 2005–2009 and 2007–2011 plans, compared with the amounts apportioned or otherwise made available to individual airports between 2005 and 2010.

(3) A comparison of the amounts received by airports under the airport improvement program in airport apportionments, State apportionments, and discretionary grants during such fiscal years with capital needs as reported in the plan.

(4) The effect of transfers of airport apportionments under title 49, United States Code.

(5) An analysis on the feasibility and advisability of apportioning amounts under section 47114(c)(1) of title 49, United States Code, to the sponsor of each primary airport for each fiscal year an amount that bears the same ratio to the amount subject to the apportionment for fiscal year 2009 as the number of passenger boardings at the airport during the prior calendar year bears to the aggregate of all passenger boardings at all primary airports during that calendar year.

(6) A documentation and review of the methods used by airports to reach the 10,000 passenger enplanement threshold, including whether such airports subsidize commercial flights to reach such threshold, at every airport in the United States that reported between 10,000 and 15,000 passenger enplanements during each of the 2 most recent calendar years for which such data is available.

(7) Any other matters pertaining to the plan that the Secretary determines appropriate.

(c) REPORT TO CONGRESS.—

(1) SUBMISSION.—Not later than 36 months after the date that the Secretary begins the study under this section, the Secretary shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report on the results of the study.

(2) CONTENTS.—The report shall include—

(A) the findings of the Secretary on each of the issues described in subsection (b);

(B) recommendations for any changes to policies and procedures for formulating the plan; and

(C) recommendations for any changes to the methods of determining the amounts to be apportioned or otherwise made available to individual airports.

SEC. 155. TRANSFERS OF TERMINAL AREA AIR NAVIGATION EQUIPMENT TO AIRPORT SPONSORS.

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

"§ 44518. Transfers of terminal area air navigation equipment to airport sponsors

"(a) IN GENERAL.—Subject to the requirements of this section, the Administrator of the Federal Aviation Administrator may carry out a pilot program under which the Administrator may transfer ownership, operating, and maintenance responsibilities for terminal area air navigation equipment at an airport to the airport sponsor.

"(b) PARTICIPATION.—The Administrator may select the sponsors of not more than 3 nonhub airports, 3 small hub airports, 3 medium hub airports, and 1 large hub airport to participate in the pilot program.

"(c) TERMS AND CONDITIONS OF TRANSFER FOR AIRPORT SPONSORS.—As a condition of participating in the pilot program, the airport sponsor shall provide assurances satisfactory to the Administrator that the sponsor will—

"(1) operate and maintain the terminal area air navigation equipment transferred to the sponsor under this section in accordance with standards to be established by the Administrator;

"(2) permit the Administrator (or a person designated by the Administrator) to conduct inspections of such terminal area air navigation equipment under a schedule established by the Administrator; and

"(3) acquire and maintain new terminal area air navigation equipment at the airport as needed to replace equipment at the end of its useful life or to meet new standards established by the Administrator.

"(d) TERMS AND CONDITIONS OF TRANSFER FOR ADMINISTRATOR.—When the Administrator approves an airport sponsor's participation in the pilot program, the Administrator shall transfer, at no cost to the sponsor, all rights, title, and interests of the United States in and to the terminal area air navigation equipment to be transferred to the sponsor under the program, including the real property on which the equipment is located.

"(e) TREATMENT OF AIRPORT COSTS.—Any costs incurred by an airport sponsor for ownership and maintenance of terminal area air navigation equipment transferred under this section shall be considered a cost of providing airfield facilities and services under standards and guidelines issued by the Secretary of Transportation under section 47129(b)(2) and may be recovered in rates and charges assessed for use of the airport's airfield.

"(f) DEFINITIONS.—In this section, the following definitions apply:

"(1) SPONSOR.—The term 'sponsor' has the meaning given that term in section 47102.

"(2) TERMINAL AREA AIR NAVIGATION EQUIPMENT.—The term 'terminal area air navigation equipment' means an air navigation facility as defined in section 40102 that exists to provide approach and landing guidance to aircraft, but does not include buildings used for air traffic control functions.

"(g) GUIDELINES.—The Administrator shall issue guidelines on the implementation of the program.".

(b) CLERICAL AMENDMENT.—The analysis for chapter 445 is amended by adding at the end the following:

"44518. Transfers of terminal area air navigation equipment to airport sponsors.".

SEC. 156. AIRPORT PRIVATIZATION PROGRAM.

(a) APPROVAL OF APPLICATIONS.—Section 47134(b) is amended—

(1) in the matter preceding paragraph (1) by striking "5 airports" and inserting "10 airports"; and

(2) paragraph (1)—

(A) by striking subparagraph (A) and inserting the following:

"(A) IN GENERAL.—The Secretary may grant an exemption to an airport sponsor from the requirements of sections 47107(b) and 47133 (and any other law, regulation, or grant assurance) to the extent necessary to permit the sponsor to recover from the sale or lease of the airport such amount as may be approved by the Secretary after the sponsor has consulted—

"(i) in the case of a primary airport, with each air carrier and foreign air carrier serving the airport, as determined by the Secretary; and

"(ii) in the case of a nonprimary airport, with at least 65 percent of the owners of aircraft based at that airport, as determined by the Secretary."; and

(B) by striking subparagraph (C).

(b) TERMS AND CONDITIONS.—Section 47134(c) is amended—

(1) by striking paragraphs (4), (5), and (9);

(2) by redesignating paragraphs (6), (7), and (8) as paragraphs (4), (5), and (6), respectively; and

(3) by adding at the end the following:

"(7) A fee imposed by the airport on an air carrier or foreign air carrier may not include any portion for a return on investment or recovery of principal with respect to consideration paid to a public agency for the lease or sale of the airport unless that portion of the fee is approved by the air carrier or foreign air carrier.".

(c) PARTICIPATION OF CERTAIN AIRPORTS.—Section 47134 is amended—

(1) by striking subsection (d); and

(2) by redesignating subsections (e) through (m) as subsections (d) through (l), respectively.

(d) APPLICABILITY.—The amendments made by this section shall apply with respect to an exemption issued to an airport under section 47134 of title 49, United States Code, before, on, or after the date of enactment of this Act.

TITLE II—NEXTGEN AIR TRANSPORTATION SYSTEM AND AIR TRAFFIC CONTROL MODERNIZATION

SEC. 201. DEFINITIONS.

In this title, the following definitions apply:

(1) NEXTGEN.—The term "NextGen" means the Next Generation Air Transportation System.

(2) ADS–B.—The term "ADS–B" means automatic dependent surveillance-broadcast.

(3) ADS–B OUT.—The term "ADS–B Out" means automatic dependent surveillance-broadcast with the ability to transmit information from the aircraft to ground stations and to other equipped aircraft.

(4) ADS–B IN.—The term "ADS–B In" means automatic dependent surveillance-broadcast with the ability to transmit information from the aircraft to ground stations and to other equipped aircraft as well as the ability of the aircraft to receive information from other transmitting aircraft and the ground infrastructure.

(5) RNAV.—The term "RNAV" means area navigation.

(6) RNP.—The term "RNP" means required navigation performance.

SEC. 202. NEXTGEN DEMONSTRATIONS AND CONCEPTS.

In allocating amounts appropriated pursuant to section 48101(a) of title 49, United States Code, the Secretary of Transportation shall give priority to the following NextGen activities:

(1) NextGen demonstrations and infrastructure.
(2) NextGen trajectory-based operations.
(3) NextGen reduced weather impact.
(4) NextGen high-density arrivals/departures.
(5) NextGen collaborative air traffic management.
(6) NextGen flexible terminals and airports.
(7) NextGen safety, security, and environmental reviews.
(8) NextGen networked facilities.
(9) The Center for Advanced Aviation System Development.
(10) NextGen system development.
(11) Data communications system implementation.
(12) ADS–B infrastructure deployment and operational implementation.
(13) Systemwide information management.
(14) NextGen facility consolidation and realignment.
(15) En route automation modernization.
(16) National airspace system voice switch.
(17) NextGen network enabled weather.

SEC. 203. CLARIFICATION OF AUTHORITY TO ENTER INTO REIMBURSABLE AGREEMENTS.

Section 106(m) is amended in the last sentence by inserting "with or" before "without reimbursement".

SEC. 204. CHIEF NEXTGEN OFFICER.

Section 106 is amended by adding at the end the following:

"(s) CHIEF NEXTGEN OFFICER.—

"(1) IN GENERAL.—

"(A) APPOINTMENT.—There shall be a Chief NextGen Officer appointed by the Administrator. The Chief NextGen Officer shall report directly to the Administrator and shall be subject to the authority of the Administrator.

"(B) QUALIFICATIONS.—The Chief NextGen Officer shall have a demonstrated ability in management and knowledge of or experience in aviation and systems engineering.

"(C) TERM.—The Chief NextGen Officer shall be appointed for a term of 5 years.

"(D) REMOVAL.—The Chief NextGen Officer shall serve at the pleasure of the Administrator, except that the Administrator shall make every effort to ensure stability and continuity in the leadership of the implementation of NextGen.

"(E) VACANCY.—Any individual appointed to fill a vacancy in the position of Chief NextGen Officer occurring before the expiration of the term for which the individual's predecessor was appointed shall be appointed for the remainder of that term.

"(2) COMPENSATION.—

"(A) IN GENERAL.—The Chief NextGen Officer shall be paid at an annual rate of basic pay to be determined by the Administrator. The annual rate may not exceed the annual compensation paid under section 102 of title 3. The Chief NextGen Officer shall be subject to the postemployment provisions of section 207 of title 18 as if the position of Chief NextGen Officer were described in section 207(c)(2)(A)(i) of that title.

"(B) BONUS.—In addition to the annual rate of basic pay authorized by subparagraph (A), the Chief NextGen Officer may receive a bonus for any calendar year not to exceed 30 percent of the annual rate of basic pay, based upon the Administrator's evaluation of the Chief NextGen Officer's performance in relation to the performance goals set forth in the performance agreement described in paragraph (3).

"(3) ANNUAL PERFORMANCE AGREEMENT.—The Administrator and the Chief NextGen Officer, in consultation with the Federal Aviation Management Advisory Council, shall enter into an annual performance agreement that sets forth measurable organization and individual goals for the Chief NextGen Officer in key operational areas. The agreement shall be subject to review and renegotiation on an annual basis.

"(4) ANNUAL PERFORMANCE REPORT.—The Chief NextGen Officer shall prepare and transmit to the Secretary of Transportation, the Committee on Transportation and Infrastructure of the House of Representatives, the Committee on Science and Technology of the House of Representatives, and the Committee on Commerce, Science, and Transportation of the Senate an annual management report containing such information as may be prescribed by the Secretary.

"(5) RESPONSIBILITIES.—The responsibilities of the Chief NextGen Officer include the following:

"(A) Implementing NextGen activities and budgets across all program offices of the Federal Aviation Administration.

"(B) Coordinating the implementation of NextGen activities with the Office of Management and Budget.

"(C) Reviewing and providing advice on the Administration's modernization programs, budget, and cost accounting system with respect to NextGen.

"(D) With respect to the budget of the Administration—

"(i) developing a budget request of the Administration related to the implementation of NextGen;

"(ii) submitting such budget request to the Administrator; and

"(iii) ensuring that the budget request supports the annual and long-range strategic plans of the Administration with respect to NextGen.

"(E) Consulting with the Administrator on the Capital Investment Plan of the Administration prior to its submission to Congress.

"(F) Developing an annual NextGen implementation plan.

"(G) Ensuring that NextGen implementation activities are planned in such a manner as to require that system architecture is designed to allow for the incorporation of novel and currently unknown technologies into NextGen in the future and that current decisions do not bias future decisions unfairly in favor of existing technology at the expense of innovation.

"(H) Coordinating with the NextGen Joint Planning and Development Office with respect to facilitating cooperation among all Federal agencies whose operations and interests are affected by the implementation of NextGen.

"(6) EXCEPTION.—If the Administrator appoints as the Chief NextGen Officer, pursuant to paragraph (1)(A), an Executive Schedule employee covered by section 5315 of title 5, then paragraphs (1)(B), (1)(C), (2), and (3) of this subsection shall not apply to such employee.

"(7) NEXTGEN DEFINED.—For purposes of this subsection, the term 'NextGen' means the Next Generation Air Transportation System.".

SEC. 205. DEFINITION OF AIR NAVIGATION FACILITY.

Section 40102(a)(4) is amended—

(1) by redesignating subparagraph (D) as subparagraph (E);

(2) by striking subparagraphs (B) and (C) and inserting the following:

"(B) runway lighting and airport surface visual and other navigation aids;

"(C) apparatus, equipment, software, or service for distributing aeronautical and meteorological information to air traffic control facilities or aircraft;

"(D) communication, navigation, or surveillance equipment for air-to-ground or air-to-air applications;";

(3) in subparagraph (E) (as redesignated by paragraph (1) of this section)—

(A) by striking "another structure" and inserting "any structure, equipment,"; and

(B) by striking the period at the end and inserting "; and"; and

(4) by adding at the end the following:

"(F) buildings, equipment, and systems dedicated to the national airspace system.".

SEC. 206. CLARIFICATION TO ACQUISITION REFORM AUTHORITY.

Section 40110(c) is amended—

(1) by inserting "and" after the semicolon in paragraph (3);

(2) by striking paragraph (4); and

(3) by redesignating paragraph (5) as paragraph (4).

SEC. 207. ASSISTANCE TO FOREIGN AVIATION AUTHORITIES.

Section 40113(e) is amended—

(1) in paragraph (1)—

(A) by inserting "(whether public or private)" after "authorities"; and

(B) by striking "safety." and inserting "safety or efficiency. The Administrator is authorized to participate in, and submit offers in response to, competitions to provide these services, and to contract with foreign aviation authorities to provide these services consistent with section 106(l)(6).";

(2) in paragraph (2) by adding at the end the following: "The Administrator is authorized, notwithstanding any other provision of law or policy, to accept payments for services provided under this subsection in arrears."; and

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

"(3) CREDITING APPROPRIATIONS.—Funds received by the Administrator pursuant to this section shall—

"(A) be credited to the appropriation current when the amount is received;

"(B) be merged with and available for the purposes of such appropriation; and

"(C) remain available until expended.".

SEC. 208. NEXT GENERATION AIR TRANSPORTATION SYSTEM JOINT PLANNING AND DEVELOPMENT OFFICE.

(a) REDESIGNATION OF JPDO DIRECTOR TO ASSOCIATE ADMINISTRATOR.—

(1) ASSOCIATE ADMINISTRATOR FOR NEXT GENERATION AIR TRANSPORTATION SYSTEM PLANNING, DEVELOPMENT, AND INTERAGENCY COORDINATION.—Section 709(a) of the Vision 100—Century of Aviation Reauthorization Act (49 U.S.C. 40101 note; 117 Stat. 2582) is amended—

(A) by redesignating paragraphs (2), (3), and (4) as paragraphs (3), (4), and (5), respectively; and

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

"(2) The head of the Office shall be the Associate Administrator for Next Generation Air Transportation System Planning, Development, and Interagency Coordination, who shall be appointed by the Administrator of the Federal Aviation Administration. The Administrator shall appoint the Associate Administrator after consulting with the Chairman of the Next Generation Senior Policy Committee and providing advanced notice to the other members of that Committee.".

(2) RESPONSIBILITIES.—Section 709(a)(3) of such Act (as redesignated by paragraph (1) of this subsection) is amended—

(A) in subparagraph (G) by striking "; and" and inserting a semicolon;

(B) in subparagraph (H) by striking the period at the end and inserting a semicolon; and

(C) by adding at the end the following:

"(I) establishing specific quantitative goals for the safety, capacity, efficiency, performance, and environmental impacts of each phase of Next Generation Air Transportation System planning and development activities and measuring actual operational experience against those goals, taking into account noise pollution reduction concerns of affected communities to the extent practicable in establishing the environmental goals;

"(J) working to ensure global interoperability of the Next Generation Air Transportation System;

"(K) working to ensure the use of weather information and space weather information in the Next Generation Air Transportation System as soon as possible;

"(L) overseeing, with the Administrator and in consultation with the Chief NextGen Officer, the selection of products or outcomes of research and development activities that should be moved to a demonstration phase; and

"(M) maintaining a baseline modeling and simulation environment for testing and evaluating alternative concepts to satisfy Next Generation Air Transportation System enterprise architecture requirements.".

(3) COOPERATION WITH OTHER FEDERAL AGENCIES.—Section 709(a)(4) of such Act (as redesignated by paragraph (1) of this subsection) is amended—

(A) by striking "(4)" and inserting "(4)(A)"; and

(B) by adding at the end the following:

"(B) The Secretary of Defense, the Administrator of the National Aeronautics and Space Administration, the Secretary of Commerce, the Secretary of Homeland Security, and the head of any other Federal agency from which the Secretary of Transportation requests assistance under subparagraph (A) shall designate a senior official in the agency to be responsible for—

"(i) carrying out the activities of the agency relating to the Next Generation Air Transportation System in coordination with the Office, including the execution of all aspects of the work of the agency in developing and implementing the integrated work plan described in subsection (b)(5);

"(ii) serving as a liaison for the agency in activities of the agency relating to the Next Generation Air Transportation System and coordinating with other Federal agencies involved in activities relating to the System; and

"(iii) ensuring that the agency meets its obligations as set forth in any memorandum of understanding executed by or on behalf of the agency relating to the Next Generation Air Transportation System.

"(C) The head of a Federal agency referred to in subparagraph (B) shall—

"(i) ensure that the responsibilities of the agency relating to the Next Generation Air Transportation System are clearly communicated to the senior official of the agency designated under subparagraph (B);

"(ii) ensure that the performance of the senior official in carrying out the responsibilities of the agency relating to the Next Generation Air Transportation System is reflected in the official's annual performance evaluations and compensation;

"(iii) establish or designate an office within the agency to carry out its responsibilities under the memorandum of understanding under the supervision of the designated official; and

"(iv) ensure that the designated official has sufficient budgetary authority and staff resources to carry out the agency's Next Generation Air Transportation System responsibilities as set forth in the integrated plan under subsection (b).

"(D) Not later than 6 months after the date of enactment of this subparagraph, the head of each Federal agency that has responsibility for carrying out any activity under the integrated plan under subsection (b) shall execute a memorandum of understanding with the Office obligating that agency to carry out the activity.".

(4) COORDINATION WITH OMB.—Section 709(a) of such Act (117 Stat. 2582) is further amended by adding at the end the following:

"(6)(A) The Office shall work with the Director of the Office of Management and Budget to develop a process whereby the Director will identify projects related to the Next Generation Air Transportation System across the agencies referred to in paragraph (4)(A) and consider the Next Generation Air Transportation System as a unified, cross-agency program.

"(B) The Director of the Office of Management and Budget, to the extent practicable, shall—

"(i) ensure that—

"(I) each Federal agency covered by the plan has sufficient funds requested in the President's budget, as submitted under section 1105(a) of title 31, United States Code, for each fiscal year covered by the plan to carry out its responsibilities under the plan; and

"(II) the development and implementation of the Next Generation Air Transportation System remains on schedule;

"(ii) include, in the President's budget, a statement of the portion of the estimated budget of each Federal agency covered by the plan that relates to the activities of the agency under the Next Generation Air Transportation System; and

"(iii) identify and justify as part of the President's budget submission any inconsistencies between the plan and amounts requested in the budget.

"(7) The Associate Administrator of the Next Generation Air Transportation System Planning, Development, and Interagency Coordination shall be a voting member of the Joint Resources Council of the Federal Aviation Administration.".

(b) INTEGRATED PLAN.—Section 709(b) of such Act (117 Stat. 2583) is amended—

(1) in the matter preceding paragraph (1)—

(A) by striking "meets air" and inserting "meets anticipated future air"; and

(B) by striking "beyond those currently included in the Federal Aviation Administration's operational evolution plan";

(2) at the end of paragraph (3) by striking "and";

(3) at the end of paragraph (4) by striking the period and inserting "; and"; and

(4) by adding at the end the following:

"(5) a multiagency integrated work plan for the Next Generation Air Transportation System that includes—

"(A) an outline of the activities required to achieve the end-state architecture, as expressed in the concept of operations and enterprise architecture documents, that identifies each Federal agency or other entity responsible for each activity in the outline;

"(B) details on a year-by-year basis of specific accomplishments, activities, research requirements, rulemakings, policy decisions, and other milestones of progress for each Federal agency or entity conducting activities relating to the Next Generation Air Transportation System;

"(C) for each element of the Next Generation Air Transportation System, an outline, on a year-by-year basis, of what is to be accomplished in that year toward meeting the Next Generation Air Transportation System's end-state architecture, as expressed in the concept of operations and enterprise architecture documents, as well as identifying each Federal agency or other entity that will be responsible for each component of any research, development, or implementation program;

"(D) an estimate of all necessary expenditures on a year-by-year basis, including a statement of each Federal agency or entity's responsibility for costs and available resources, for each stage of development from the basic research stage through the demonstration and implementation phase;

"(E) a clear explanation of how each step in the development of the Next Generation Air Transportation System will lead to the following step and of the implications of not successfully completing a step in the time period described in the integrated work plan;

"(F) a transition plan for the implementation of the Next Generation Air Transportation System that includes date-specific milestones for the implementation of new capabilities into the national airspace system;

"(G) date-specific timetables for meeting the environmental goals identified in subsection (a)(3)(I); and

"(H) a description of potentially significant operational or workforce changes resulting from deployment of the Next Generation Air Transportation System.".

(c) NEXTGEN IMPLEMENTATION PLAN.—Section 709(d) of such Act (117 Stat. 2584) is amended to read as follows:

"(d) NEXTGEN IMPLEMENTATION PLAN.—The Administrator shall develop and publish annually the document known as the NextGen Implementation Plan, or any successor document, that provides a detailed description of how the agency is implementing the Next Generation Air Transportation System.".

(d) CONTINGENCY PLANNING.—The Associate Administrator for the Next Generation Air Transportation System Planning, Development, and Interagency Coordination shall, as part of the design of the System, develop contingency plans for dealing with the degradation of the System in the event of a natural disaster, major equipment failure, or act of terrorism.

SEC. 209. NEXT GENERATION AIR TRANSPORTATION SENIOR POLICY COMMITTEE.

(a) MEETINGS.—Section 710(a) of the Vision 100—Century of Aviation Reauthorization Act (49 U.S.C. 40101 note; 117 Stat. 2584) is amended by inserting before the period at the end the following "and shall meet at least twice each year".

(b) ANNUAL REPORT.—Section 710 of such Act (117 Stat. 2584) is amended by adding at the end the following:

"(e) ANNUAL REPORT.—

"(1) SUBMISSION TO CONGRESS.—Not later than one year after the date of enactment of this subsection, and annually thereafter on the date of submission of the President's budget request to Congress under section 1105(a) of title 31, United States Code, the Secretary shall submit to Congress a report summarizing the progress made in carrying out the integrated work plan required by section 709(b)(5) and any changes in that plan.

"(2) CONTENTS.—The report shall include—

"(A) a copy of the updated integrated work plan;

"(B) a description of the progress made in carrying out the integrated work plan and any changes in that plan, including any changes based on funding shortfalls and limitations set by the Office of Management and Budget;

"(C) a detailed description of—

"(i) the success or failure of each item of the integrated work plan for the previous year and relevant information as to why any milestone was not met; and

"(ii) the impact of not meeting the milestone and what actions will be taken in the future to account for the failure to complete the milestone;

"(D) an explanation of any change to future years in the integrated work plan and the reasons for such change; and

"(E) an identification of the levels of funding for each agency participating in the integrated work plan devoted to programs and activities under the plan for the previous fiscal year and in the President's budget request.".

SEC. 210. IMPROVED MANAGEMENT OF PROPERTY INVENTORY.

Section 40110(a) is amended by striking paragraphs (2) and (3) and inserting the following:

"(2) may construct and improve laboratories and other test facilities; and

"(3) may dispose of any interest in property for adequate compensation, and the amount so received shall—

"(A) be credited to the appropriation current when the amount is received;

"(B) be merged with and available for the purposes of such appropriation; and

"(C) remain available until expended.".

SEC. 211. AUTOMATIC DEPENDENT SURVEILLANCE-BROADCAST SERVICES.

(a) REVIEW BY DOT INSPECTOR GENERAL.—

(1) IN GENERAL.—The Inspector General of the Department of Transportation shall conduct a review concerning the Federal Aviation Administration's award and oversight of any contracts entered into by the Administration to provide ADS–B services for the national airspace system.

(2) CONTENTS.—The review shall include, at a minimum—

(A) an examination of how the Administration manages program risks;

(B) an assessment of expected benefits attributable to the deployment of ADS–B services, including the Administration's plans for implementation of advanced operational procedures and air-to-air applications, as well as the extent to which ground radar will be retained;

(C) an assessment of the Administration's analysis of specific operational benefits, and benefit/costs analyses of planned operational benefits conducted by the Administration, for ADS–B In and ADS–B Out avionics equipage for airspace users;

(C) a determination of whether the Administration has established sufficient mechanisms to ensure that all design, acquisition, operation, and maintenance requirements have been met by the contractor;

(D) an assessment of whether the Administration and any contractors are meeting cost, schedule, and performance milestones, as measured against the original baseline of the Administration's program for providing ADS–B services;

(E) an assessment of how security issues are being addressed in the overall design and implementation of the ADS–B system; and

(F) any other matters or aspects relating to contract implementation and oversight that the Inspector General determines merit attention.

(3) REPORTS TO CONGRESS.—The Inspector General shall submit, periodically (and on at least an annual basis), to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report on the results of the review conducted under this subsection.

(b) RULEMAKINGS.—

(1) ADS–B IN.—Not later than one year after the date of enactment of this Act, the Administrator of the Federal Aviation Administration shall initiate a rulemaking proceeding to issue guidelines and regulations relating to ADS–B In technology that—

(A) identify the ADS–B In technology that will be required under NextGen;

(B) subject to paragraph (2), require all aircraft operating in capacity constrained airspace, at capacity constrained airports, or in any other airspace deemed appropriate by the Administrator to be equipped with ADS–B In technology by 2020; and

(C) identify—

(i) the type of avionics required of aircraft for all classes of airspace;

(ii) the expected costs associated with the avionics; and

(iii) the expected uses and benefits of the avionics.

(2) READINESS VERIFICATION.—Before the date on which all aircraft are required to be equipped with ADS–B In technology pursuant to rulemakings conducted under paragraph (1), the Chief NextGen Officer shall verify that—

(A) the necessary ground infrastructure is installed and functioning properly;

(B) certification standards have been approved; and

(C) appropriate operational platforms interface safely and efficiently.

(c) USE OF ADS–B TECHNOLOGY.—

(1) PLANS.—Not later than 18 months after the date of enactment of this Act, the Administrator shall develop, in consultation with appropriate employee and industry groups, a plan for the use of ADS–B technology for surveillance and active air traffic control.

(2) CONTENTS.—The plan shall—

(A) include provisions to test the use of ADS–B technology for surveillance and active air traffic control in specific regions of the United States with the most congested airspace;

(B) identify the equipment required at air traffic control facilities and the training required for air traffic controllers;

(C) identify procedures, to be developed in consultation with appropriate employee and industry groups, to conduct air traffic management in mixed equipage environments; and

(D) establish a policy in test regions referred to in subparagraph (A), in consultation with appropriate employee and industry groups, to provide incentives for equipage with ADS–B technology, including giving priority to aircraft equipped with such technology before the 2020 equipage deadline.

SEC. 212. EXPERT REVIEW OF ENTERPRISE ARCHITECTURE FOR NEXTGEN.

(a) REVIEW.—The Administrator of the Federal Aviation Administration shall enter into an arrangement with the National Research Council to review the enterprise architecture for the NextGen.

(b) CONTENTS.—At a minimum, the review to be conducted under subsection (a) shall—

(1) highlight the technical activities, including human-system design, organizational design, and other safety and human factor aspects of the system, that will be necessary to successfully transition current and planned modernization programs to the future system envisioned by the Joint Planning and Development Office of the Administration;

(2) assess technical, cost, and schedule risk for the software development that will be necessary to achieve the expected benefits from a highly automated air traffic management system and the implications for ongoing modernization projects; and

(3) determine how risks with automation efforts for the NextGen can be mitigated based on the experiences of other public or private entities in developing complex, software-intensive systems.

(c) REPORT.—Not later than one year after the date of enactment of this Act, the Administrator shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and

Transportation of the Senate a report containing the results of the review conducted pursuant to subsection (a).

SEC. 213. ACCELERATION OF NEXTGEN TECHNOLOGIES.

(a) AIRPORT PROCEDURES.—

(1) IN GENERAL.—Not later than 6 months after the date of enactment of this Act, the Administrator of the Federal Aviation Administration shall publish a report, after consultation with representatives of appropriate Administration employee groups, airport operators, air carriers, general aviation representatives, flight path service providers, and aircraft manufacturers that includes the following:

(A) RNP/RNAV OPERATIONS.—The required navigation performance and area navigation operations, including the procedures to be developed, certified, and published and the air traffic control operational changes, to maximize the efficiency and capacity of NextGen commercial operations at the 35 operational evolution partnership airports identified by the Administration.

(B) COORDINATION AND IMPLEMENTATION ACTIVITIES.—A description of the activities and operational changes and approvals required to coordinate and utilize those procedures at those airports.

(C) IMPLEMENTATION PLAN.—A plan for implementing those procedures that establishes—

(i) clearly defined budget, schedule, project organization, and leadership requirements;

(ii) specific implementation and transition steps; and

(iii) baseline and performance metrics for—

(I) measuring the Administration's progress in implementing the plan, including the percentage utilization of required navigation performance in the national airspace system; and

(II) achieving measurable fuel burn and carbon dioxide emissions reductions compared to current performance; and

(iv) expedited environmental review procedures for timely environmental approval of area navigation and required navigation performance that offer significant efficiency improvements as determined by baseline and performance metrics under clause (iii).

(D) ADDITIONAL PROCEDURES.—A process for the identification, certification, and publication of additional required navigation performance and area navigation procedures that may be required at such airports in the future.

(2) IMPLEMENTATION SCHEDULE.—The Administrator shall certify, publish, and implement—

(A) 30 percent of the required procedures not later than 18 months after the date of enactment of this Act;

(B) 60 percent of the procedures not later than 36 months after the date of enactment of this Act; and

(C) 100 percent of the procedures before June 30, 2015.

(b) ESTABLISHMENT OF PRIORITIES.—The Administrator shall extend the charter of the Performance Based Navigation Aviation Rulemaking Committee as necessary to establish priorities for the development, certification, publication, and implementation of the navigation performance and area navigation procedures based on their potential safety and efficiency benefits to other airports in the national airspace system, including small and medium hub airports.

(c) COORDINATED AND EXPEDITED REVIEW.—Navigation performance and area navigation procedures developed, certified, published, and implemented under this section shall be presumed to be covered by a categorical exclusion (as defined in section 1508.4 of title 40, Code of Federal Regulations) under chapter 3 of FAA Order 1050.1E unless the Administrator determines that extraordinary circumstances exist with respect to the procedure.

(d) DEPLOYMENT PLAN FOR NATIONWIDE DATA COMMUNICATIONS SYSTEM.—Not later than one year after the date of enactment of this Act, the Administrator shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a plan for implementation of a nationwide data communications system. The plan shall include—

(1) clearly defined budget, schedule, project organization, and leadership requirements;

(2) specific implementation and transition steps; and

(3) baseline and performance metrics for measuring the Administration's progress in implementing the plan.

(e) IMPROVED PERFORMANCE STANDARDS.—

(1) ASSESSMENT OF WORK BEING PERFORMED UNDER NEXTGEN IMPLEMENTATION PLAN.—The Administrator shall clearly outline in the NextGen Implementation Plan document of the Administration the work being performed under the plan to determine—

(A) whether utilization of ADS–B, RNP, and other technologies as part of NextGen implementation will display the position of aircraft more accurately and frequently so as to enable a more efficient use of existing airspace and result in reduced consumption of aviation fuel and aircraft engine emissions; and

(B) the feasibility of reducing aircraft separation standards in a safe manner as a result of the implementation of such technologies.

(2) AIRCRAFT SEPARATION STANDARDS.—If the Administrator determines that the standards referred to in paragraph (1)(B) can be reduced safely, the Administrator shall include in the NextGen Implementation Plan a timetable for implementation of such reduced standards.

(f) THIRD-PARTY USAGE.—The Administration shall establish a program under which the Administration will use third parties in the development, testing, and maintenance of flight procedures.

SEC. 214. PERFORMANCE METRICS.

(a) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Administrator of the Federal Aviation Administration shall establish and begin tracking national airspace system performance metrics, including, at a minimum, metrics with respect to—

(1) actual arrival and departure rates per hour measured against the currently published aircraft arrival rate and aircraft departure rate for the 35 operational evolution partnership airports;

(2) average gate-to-gate times;

(3) fuel burned between key city pairs;

(4) operations using the advanced navigation procedures, including performance based navigation procedures;

(5) the average distance flown between key city pairs;

(6) the time between pushing back from the gate and taking off;

(7) continuous climb or descent;

(8) average gate arrival delay for all arrivals;

(9) flown versus filed flight times for key city pairs;

(10) implementation of NextGen Implementation Plan, or any successor document, capabilities designed to reduce emissions and fuel consumption;

(11) the Administration's unit cost of providing air traffic control services; and

(12) runway safety, including runway incursions, operational errors, and loss of standard separation events.

(b) BASELINES.—The Administrator, in consultation with aviation industry stakeholders, shall identify baselines for each of the metrics established under subsection (a) and appropriate methods to measure deviations from the baselines.

(c) PUBLICATION.—The Administrator shall make data obtained under subsection (a) available to the public in a searchable, sortable, and downloadable format through the Web site of the Administration and other appropriate media.

(d) REPORT.—Not later than 180 days after the date of enactment of this Act, the Administrator shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report that contains—

(1) a description of the metrics that will be used to measure the Administration's progress in implementing NextGen capabilities and operational results;

(2) information on any additional metrics developed; and

(3) a process for holding the Administration accountable for meeting or exceeding the metrics baselines identified in subsection (b).

SEC. 215. CERTIFICATION STANDARDS AND RESOURCES.

Not later than 180 days after the date of enactment of this Act, the Administrator of the Federal Aviation Administration shall develop a plan to accelerate and streamline the process for certification of NextGen technologies, including—

(1) establishment of updated project plans and timelines;

(2) identification of the specific activities needed to certify NextGen technologies, including the establishment of NextGen technical requirements for the manufacture of equipage, installation of equipage, airline operational procedures, pilot training standards, air traffic control procedures, and air traffic controller training;

(3) identification of staffing requirements for the Air Certification Service and the Flight Standards Service, taking into consideration the leveraging of assistance from third parties and designees;

(4) establishment of a program under which the Administration will use third parties in the certification process; and

(5) establishment of performance metrics to measure the Administration's progress.

SEC. 216. SURFACE SYSTEMS ACCELERATION.

(a) IN GENERAL.—The Chief Operating Officer of the Air Traffic Organization shall—

(1) evaluate the Airport Surface Detection Equipment-Model X program for its potential contribution to implementation of the NextGen initiative;

(2) evaluate airport surveillance technologies and associated collaborative surface management software for potential contributions to implementation of NextGen surface management;

(3) accelerate implementation of the program referred to in paragraph (1); and

(4) carry out such additional duties as the Administrator of the Federal Aviation Administration may require.

(b) EXPEDITED CERTIFICATION AND UTILIZATION.—The Administrator shall—

(1) consider options for expediting the certification of Ground-Based Augmentation System technology; and

(2) develop a plan to utilize such a system at the 35 operational evolution partnership airports by September 30, 2012.

SEC. 217. INCLUSION OF STAKEHOLDERS IN AIR TRAFFIC CONTROL MODERNIZATION PROJECTS.

(a) PROCESS FOR EMPLOYEE INCLUSION.—Notwithstanding any other law or agreement, the Administrator of the Federal Aviation Administration shall establish a process or processes for including qualified employees to serve in a collaborative and expert capacity in the planning and development of air traffic control modernization projects, including NextGen.

(b) ADHERENCE TO DEADLINES.—Participants in these processes shall adhere to all deadlines and milestones established pursuant to this title.

(c) NO CHANGE IN EMPLOYEE STATUS.—Participation in these processes by an employee shall not—

(1) serve as a waiver of any bargaining obligations or rights;

(2) entitle the employee to any additional compensation or benefits; or

(3) entitle the employee to prevent or unduly delay the exercise of management prerogatives.

(d) WORKING GROUPS.—Except in extraordinary circumstances, the Administrator shall not pay overtime related to work group participation.

(e) REPORT.—Not later than 180 days after the date of enactment of this Act, the Administrator shall report to Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate concerning the disputes between participating employees and Administration management that have led to delays to the implementation of NextGen, including information on the source of the dispute, the resulting length of delay, and associated cost increases.

SEC. 218. SITING OF WIND FARMS NEAR FAA NAVIGATIONAL AIDS AND OTHER ASSETS.

(a) SURVEY AND ASSESSMENT.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, in order to address safety and operational concerns associated with the construction, alteration, establishment, or expansion of wind farms in proximity to critical Federal Aviation Administration facilities, the Administrator of the Federal Aviation Administration shall complete a survey and assessment of leases for critical Administration facility sites, including—

(A) an inventory of the leases that describes, for each such lease—

(i) the periodic cost, location, site, terms, number of years remaining, and lessor;

(ii) other Administration facilities that share the leasehold, including surveillance and communications equipment; and

(iii) the type of transmission services supported, including the terms of service, cost, and support contract obligations for the services; and

(B) a list of those leases for facilities located in or near areas suitable for the construction and operation of wind farms, as determined by the Administrator in consultation with the Secretary of Energy.

(2) MEMORANDUM OF UNDERSTANDING.—The Administrator and the Secretary of Energy shall enter into a memorandum of understanding regarding the use and distribution of the list referred to in paragraph (1)(B), including considerations of privacy and proprietary information, database development, or other relevant applications.

(3) REPORT.—Upon completion of the survey and assessment, the Administrator shall submit a report to the Committee on Commerce, Science, and Transportation of the Senate, the Committee on Transportation and Infrastructure of the House of Representatives, and the Comptroller General containing the Administrator's findings, conclusions, and recommendations.

(b) GAO ASSESSMENT.—Not later than 180 days after receiving the Administrator's report under subsection (a)(3), the Comptroller General, in consultation with the Administrator and other interested parties, shall report on—

(1) the current and potential impact of wind farms on the national airspace system;

(2) the extent to which the Department of Defense and the Administration have guidance, processes, and procedures in place to evaluate the impact of wind farms on the implementation of the NextGen air traffic control system; and

(3) potential mitigation strategies, if necessary, to ensure that wind farms do not have an adverse impact on the implementation of the Next Generation air traffic control system, including the installation of navigational aids associated with that system.

(c) ISSUANCE OF GUIDELINES.—Not later than 180 days after the Administrator receives the Comptroller's recommendations, the Administrator shall consult with State, Federal, and industry stakeholders and publish guidelines for the construction and operation of wind farms that are to be located in proximity to critical Administration facilities. The guidelines may include—

(1) the establishment of a zone system for wind farms based on proximity to critical Administration assets;

(2) the establishment of turbine height and density limitations on such wind farms; and

(3) any other requirements or recommendations designed to address Administration safety or operational concerns related to the construction, alteration, establishment, or expansion of such wind farms.

(d) REPORTS.—The Administrator and the Comptroller General shall provide a copy of reports under subsections (a) and (b), respectively, to—

(1) the Committee on Commerce, Science, and Transportation, the Committee on Homeland Security and Governmental Affairs, the Committee on Armed Services of the Senate; and

(2) the Committee on Transportation and Infrastructure, the Committee on Homeland Security, the Committee on Armed Services, and the Committee on Science and Technology of the House of Representatives.

SEC. 219. AIRSPACE REDESIGN.

(a) FINDINGS.—Congress finds the following:

(1) The airspace redesign efforts of the Federal Aviation Administration will play a critical near-term role in enhancing capacity, reducing delays, transitioning to more flexible routing, and ultimately saving money in fuel costs for airlines and airspace users.

(2) The critical importance of airspace redesign efforts is underscored by the fact that they are highlighted in strategic plans of the Administration, including Flight Plan 2009–2013 and the NextGen Implementation Plan.

(3) Funding cuts have led to delays and deferrals of critical capacity enhancing airspace redesign efforts.

(4) Several new runways planned for the period of fiscal years 2011 and 2012 will not provide estimated capacity benefits without additional funds.

(b) NOISE IMPACTS OF NEW YORK/NEW JERSEY/PHILADELPHIA METROPOLITAN AREA AIRSPACE REDESIGN.—

(1) MONITORING.—The Administrator of the Federal Aviation Administration, in conjunction with the Port Authority of New York and New Jersey and the Philadelphia International Airport, shall monitor the noise impacts of the New York/New Jersey/Philadelphia Metropolitan Area Airspace Redesign.

(2) REPORT.—Not later than one year following the first day of completion of the New York/New Jersey/Philadelphia Metropolitan Area Airspace Redesign, the Administrator shall submit to Congress a report on the findings of the Administrator with respect to monitoring conducted under paragraph (1).

TITLE III—SAFETY

Subtitle A—General Provisions

SEC. 301. JUDICIAL REVIEW OF DENIAL OF AIRMAN CERTIFICATES.

(a) JUDICIAL REVIEW OF NTSB DECISIONS.—Section 44703(d) is amended by adding at the end the following:

"(3) A person who is substantially affected by an order of the Board under this subsection, or the Administrator if the Administrator decides that an order of the Board will have a significant adverse impact on carrying out this subtitle, may seek judicial review of the order under section 46110. The Administrator shall be made a party to the judicial review proceedings. The findings of fact of the Board in any such case are conclusive if supported by substantial evidence.".

(b) CONFORMING AMENDMENT.—Section 1153(c) is amended by striking "section 44709 or" and inserting "section 44703(d), 44709, or".

SEC. 302. RELEASE OF DATA RELATING TO ABANDONED TYPE CERTIFICATES AND SUPPLEMENTAL TYPE CERTIFICATES.

Section 44704(a) is amended by adding at the end the following:

"(5) RELEASE OF DATA.—

"(A) IN GENERAL.—Notwithstanding any other provision of law, the Administrator may make available upon request, to a person seeking to maintain the airworthiness or develop product improvements of an aircraft, engine, propeller, or appliance, engineering data in the possession of the Administration relating to a type certificate or a supplemental type certificate for such aircraft, engine, propeller, or appliance, without the consent of the owner of record, if the Administrator determines that—

"(i) the certificate containing the requested data has been inactive for 3 or more years, except that the Administrator may reduce this time if required to address an unsafe condition associated with the product;

"(ii) after using due diligence, the Administrator is unable to find the owner of record, or the owner of record's heir, of the type certificate or supplemental type certificate; and

"(iii) making such data available will enhance aviation safety.

"(B) ENGINEERING DATA DEFINED.—In this section, the term 'engineering data' as used with respect to an aircraft, engine, propeller, or appliance means type design drawing and specifications for the entire aircraft, engine, propeller, or appliance or change to the aircraft, engine, propeller, or appliance, including the original design data, and any associated supplier data for individual parts or components approved as part of the particular certificate for the aircraft, engine, propeller, or appliance.

"(C) REQUIREMENT TO MAINTAIN DATA.—The Administrator shall maintain engineering data in the possession of the Administration relating to a type certificate or a supplemental type certificate that has been inactive for 3 or more years.".

SEC. 303. DESIGN AND PRODUCTION ORGANIZATION CERTIFICATES.

(a) IN GENERAL.—Section 44704(e) is amended to read as follows:

"(e) DESIGN AND PRODUCTION ORGANIZATION CERTIFICATES.—

"(1) ISSUANCE.—Beginning January 1, 2013, the Administrator may issue a certificate to a design organization, production organization, or design and production organization to authorize the organization to certify compliance of aircraft, aircraft engines, propellers, and appliances with the requirements and minimum standards prescribed under section 44701(a). An organization holding a certificate issued under this subsection shall be known as a certified design and production organization (in this subsection referred to as a 'CDPO').

"(2) APPLICATIONS.—On receiving an application for a CDPO certificate, the Administrator shall examine and rate the organization submitting the application, in accordance with regulations to be prescribed by the Administrator, to determine whether the organization has adequate engineering, design, and production capabilities, standards, and safeguards to make certifications of compliance as described in paragraph (1).

"(3) ISSUANCE OF CERTIFICATES BASED ON CDPO FINDINGS.—The Administrator may rely on certifications of compliance by a CDPO when making determinations under this section.

"(4) PUBLIC SAFETY.—The Administrator shall include in a CDPO certificate terms required in the interest of safety.

"(5) NO EFFECT ON POWER OF REVOCATION.—Nothing in this subsection affects the authority of the Secretary of Transportation to revoke a certificate.".

(b) APPLICABILITY.—Before January 1, 2013, the Administrator of the Federal Aviation Administration may continue to issue certificates under section 44704(e) of title 49, United States Code, as in effect on the day before the date of enactment of this Act.

(c) CLERICAL AMENDMENTS.—Chapter 447 is amended—

(1) in the heading for section 44704 by striking "**and design organization certificates**" and inserting "**, and design and production organization certificates**"; and

(2) in the analysis for such chapter by striking the item relating to section 44704 and inserting the following:

"44704. Type certificates, production certificates, airworthiness certificates, and design and production organization certificates.".

SEC. 304. AIRCRAFT CERTIFICATION PROCESS REVIEW AND REFORM.

(a) GENERAL.—The Administrator of the Federal Aviation Administration, in consultation with representatives of the aviation industry, shall conduct an assessment of the certification and approval process under section 44704 of title 49, United States Code.

(b) CONTENTS.—In conducting the assessment, the Administrator shall consider—

(1) the expected number of applications for product certifications and approvals the Administrator will receive under section 44704 of such title in the 1-year, 5-year, and 10-year periods following the date of enactment of this Act;

(2) process reforms and improvements necessary to allow the Administrator to review and approve the applications in a fair and timely fashion;

(3) the status of recommendations made in previous reports on the Administration's certification process;

(4) methods for enhancing the effective use of delegation systems, including organizational designation authorization;

(5) methods for training the Administration's field office employees in the safety management system and auditing; and

(6) the status of updating airworthiness requirements, including implementing recommendations in the Administration's report entitled "Part 23—Small Airplane Certification Process Study" (OK–09–3468, dated July 2009).

(c) RECOMMENDATIONS.—In conducting the assessment, the Administrator shall make recommendations to improve efficiency and reduce costs through streamlining and reengineering the certification process under section 44704 of such title to ensure that the Administrator can conduct certifications and approvals under such section in a manner that supports and enables the development of new products and technologies and the global competitiveness of the United States aviation industry.

(d) REPORT.—Not later than 180 days after the date of enactment of this Act, the Administrator shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report on the results of the assessment, together with an explanation of how the Administrator will implement recommendations made under subsection (c) and measure the effectiveness of the recommendations.

(e) IMPLEMENTATION OF RECOMMENDATIONS.—Not later than one year after the date of enactment of this Act, the Administrator shall begin to implement the recommendations made under subsection (c).

SEC. 305. CONSISTENCY OF REGULATORY INTERPRETATION.

(a) ESTABLISHMENT OF ADVISORY PANEL.—Not later than 90 days after the date of enactment of this Act, the Administrator of the Federal Aviation Administration shall establish an advisory panel comprised of both Government and industry representatives to—

(1) review the October 2010 report by the Government Accountability Office on certification and approval processes (GAO–11–14); and

(2) develop recommendations to address the findings in the report and other concerns raised by interested parties, including representatives of the aviation industry.

(b) MATTERS TO BE CONSIDERED.—The advisory panel shall—

(1) determine the root causes of inconsistent interpretation of regulations by the Administration's Flight Standards Service and Aircraft Certification Service;

(2) develop recommendations to improve the consistency of interpreting regulations by the Administration's Flight Standards Service and Aircraft Certification Service; and

(3) develop recommendations to improve communications between the Administration's Flight Standards Service and Aircraft Certification Service and appli-

cants and certificate and approval holders for the identification and resolution of potentially adverse issues in an expeditious and fair manner.

(c) REPORT.—Not later than 6 months after the date of enactment of this Act, the Administrator shall transmit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report on the findings of the advisory panel, together with an explanation of how the Administrator will implement the recommendations of the advisory panel and measure the effectiveness of the recommendations.

SEC. 306. RUNWAY SAFETY.

(a) STRATEGIC RUNWAY SAFETY PLAN.—

(1) IN GENERAL.—Not later than 6 months after the date of enactment of this Act, the Administrator of the Federal Aviation Administration shall develop and submit to Congress a report containing a strategic runway safety plan.

(2) CONTENTS OF PLAN.—The strategic runway safety plan—

(A) shall include, at a minimum—

(i) goals to improve runway safety;

(ii) near and long term actions designed to reduce the severity, number, and rate of runway incursions, losses of standard separation, and operational errors;

(iii) time frames and resources needed for the actions described in clause (ii);

(iv) a continuous evaluative process to track performance toward the goals referred to in clause (i); and

(v) a review of every commercial service airport (as defined in section 47102 of title 49, United States Code) in the United States and proposed action to improve airport lighting, provide better signs, and improve runway and taxiway markings; and

(B) shall address the increased runway safety risk associated with the expected increased volume of air traffic.

(b) PROCESS.—Not later than 6 months after the date of enactment of this Act, the Administrator shall develop a process for tracking and investigating operational errors, losses of standard separation, and runway incursions that includes procedures for—

(1) identifying who is responsible for tracking operational errors, losses of standard separation, and runway incursions, including a process for lower level employees to report to higher supervisory levels and for frontline managers to receive the information in a timely manner;

(2) conducting periodic random audits of the oversight process; and

(3) ensuring proper accountability.

(c) PLAN FOR INSTALLATION AND DEPLOYMENT OF SYSTEMS TO PROVIDE ALERTS OF POTENTIAL RUNWAY INCURSIONS.—Not later than December 31, 2011, the Administrator shall submit to Congress a report containing a plan for the installation and deployment of systems the Administrator is installing to alert controllers or flight crewmembers, or both, of potential runway incursions. The plan shall be integrated into the annual NextGen Implementation Plan document of the Administration or any successor document.

SEC. 307. IMPROVED PILOT LICENSES.

(a) IN GENERAL.—Not later than 9 months after the date of enactment of this Act, the Administrator of the Federal Aviation Administration shall begin to issue improved pilot licenses consistent with the requirements of title 49, United States Code, and title 14, Code of Federal Regulations.

(b) REQUIREMENTS.—Improved pilot licenses issued under subsection (a) shall—

(1) be resistant to tampering, alteration, and counterfeiting;

(2) include a photograph of the individual to whom the license is issued; and

(3) be capable of accommodating a digital photograph, a biometric identifier, and any other unique identifier that the Administrator considers necessary.

(c) TAMPERING.—To the extent practical, the Administrator shall develop methods to determine or reveal whether any component or security feature of a license issued under subsection (a) has been tampered with, altered, or counterfeited.

(d) USE OF DESIGNEES.—The Administrator may use designees to carry out subsection (a) to the extent feasible in order to minimize the burdens on pilots.

(e) REPORT.—

(1) IN GENERAL.—Not later than one year after the date of enactment of this Act, and annually thereafter, the Administrator shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report on the issuance of improved pilot licenses under this section.

(2) EXPIRATION.—The Administrator shall not be required to submit annual reports under this subsection after the date on which the Administrator begins issuing improved pilot licenses under this section or December 31, 2015, whichever occurs first.

SEC. 308. FLIGHT ATTENDANT FATIGUE.

(a) STUDY.—The Administrator of the Federal Aviation Administration, acting through the Civil Aerospace Medical Institute, shall conduct a study on the issue of flight attendant fatigue.

(b) CONTENTS.—The study shall include the following:

(1) A survey of field operations of flight attendants.

(2) A study of incident reports regarding flight attendant fatigue.

(3) A review of international policies and practices regarding flight limitations and rest of flight attendants.

(4) An analysis of potential benefits of training flight attendants regarding fatigue.

(c) REPORT.—Not later than September 30, 2012, the Administrator shall submit to Congress a report on the results of the study.

SEC. 309. FLIGHT STANDARDS EVALUATION PROGRAM.

(a) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Administrator of the Federal Aviation Administration shall modify the Flight Standards Evaluation Program—

(1) to include periodic and random reviews as part of the Administration's oversight of air carriers; and

(2) to prohibit an individual from participating in a review or audit of an office with responsibility for an air carrier under the program if the individual, at any time in the 5-year period preceding the date of the review or audit, had responsibility for inspecting, or overseeing the inspection of, the operations of that carrier.

(b) ANNUAL REPORT.—Not later than one year after the date of enactment of this Act, and annually thereafter, the Administrator shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report on the Flight Standards Evaluation Program, including the Administrator's findings and recommendations with respect to the program.

(c) FLIGHT STANDARDS EVALUATION PROGRAM DEFINED.—In this section, the term "Flight Standards Evaluation Program" means the program established by the Federal Aviation Administration in FS 1100.1B CHG3, including any subsequent revisions thereto.

SEC. 310. COCKPIT SMOKE.

(a) STUDY.—The Comptroller General shall conduct a study on the effectiveness of oversight activities of the Federal Aviation Administration relating to the use of new technologies to prevent or mitigate the effects of dense, continuous smoke in the cockpit of a commercial aircraft.

(b) REPORT.—Not later than one year after the date of enactment of this Act, the Comptroller General shall submit to Congress a report on the results of the study.

SEC. 311. SAFETY OF AIR AMBULANCE OPERATIONS.

(a) IN GENERAL.—Chapter 447 is amended by adding at the end the following:

"§ 44730. Helicopter air ambulance operations

"(a) COMPLIANCE REGULATIONS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), not later than 6 months after the date of enactment of this section, part 135 certificate holders providing air ambulance services shall comply, whenever medical personnel are onboard the aircraft, with regulations pertaining to weather minimums and flight and duty time under part 135.

"(2) EXCEPTION.—If a certificate holder described in paragraph (1) is operating, or carrying out training, under instrument flight rules, the weather reporting requirement at the destination shall not apply until such time as the Administrator of the Federal Aviation Administration determines that portable, reliable, and accurate ground-based weather measuring and reporting systems are available.

"(b) RULEMAKING.—The Administrator shall conduct a rulemaking proceeding to improve the safety of flight crewmembers, medical personnel, and passengers onboard helicopters providing air ambulance services under part 135.

"(c) MATTERS TO BE ADDRESSED.—In conducting the rulemaking proceeding under subsection (b), the Administrator shall address the following:

"(1) Flight request and dispatch procedures, including performance-based flight dispatch procedures.

"(2) Pilot training standards, including—

"(A) mandatory training requirements, including a minimum time for completing the training requirements;

"(B) training subject areas, such as communications procedures and appropriate technology use; and

"(C) establishment of training standards in—

"(i) crew resource management;

"(ii) flight risk evaluation;

"(iii) preventing controlled flight into terrain;

"(iv) recovery from inadvertent flight into instrument meteorological conditions;

"(v) operational control of the pilot in command; and

"(vi) use of flight simulation training devices and line-oriented flight training.

"(3) Safety-enhancing technology and equipment, including—

"(A) helicopter terrain awareness and warning systems;

"(B) radar altimeters;

"(C) devices that perform the function of flight data recorders and cockpit voice recorders, to the extent feasible; and

"(D) safety equipment that should be worn or used by flight crewmembers and medical personnel on a flight, including the possible use of shoulder harnesses, helmets, seatbelts, and fire resistant clothing to enhance crash survivability.

"(4) Such other matters as the Administrator considers appropriate.

"(d) MINIMUM REQUIREMENTS.—In issuing a final rule under subsection (b), the Administrator, at a minimum, shall provide for the following:

"(1) FLIGHT RISK EVALUATION PROGRAM.—The Administrator shall ensure that a part 135 certificate holder providing helicopter air ambulance services—

"(A) establishes a flight risk evaluation program, based on FAA Notice 8000.301 issued by the Administration on August 1, 2005, including any updates thereto;

"(B) as part of the flight risk evaluation program, develops a checklist for use by pilots in determining whether a flight request should be accepted; and

"(C) requires the pilots of the certificate holder to use the checklist.

"(2) OPERATIONAL CONTROL CENTER.—The Administrator shall ensure that a part 135 certificate holder providing helicopter air ambulance services using 10 or more helicopters has an operational control center that meets such requirements as the Administrator may prescribe.

"(e) RULEMAKING.—The Administrator shall—

"(1) not later than 180 days after the date of enactment of this section, issue a notice of proposed rulemaking under subsection (b); and

"(2) not later than 16 months after the last day of the comment period on the proposed rule, issue a final rule.

"(f) DEFINITIONS.—In this section, the following definitions apply:

"(1) PART 135.—The term 'part 135' means part 135 of title 14, Code of Federal Regulations.

"(2) PART 135 CERTIFICATE HOLDER.—The term 'part 135 certificate holder' means a person holding a certificate issued under part 135.

"§ 44731. Collection of data on helicopter air ambulance operations

"(a) IN GENERAL.—The Administrator of the Federal Aviation Administration shall require a part 135 certificate holder providing helicopter air ambulance services to submit to the Administrator, not later than one year after the date of enactment of this section, and annually thereafter, a report containing, at a minimum, the following data:

"(1) The number of helicopters that the certificate holder uses to provide helicopter air ambulance services and the base locations of the helicopters.

"(2) The number of flights and hours flown, by registration number, during which helicopters operated by the certificate holder were providing helicopter air ambulance services.

"(3) The number of flight requests for a helicopter providing air ambulance services that were accepted or declined by the certificate holder and the type of each such flight request (such as scene response, interfacility transport, organ transport, or ferry or repositioning flight).

"(4) The number of accidents, if any, involving helicopters operated by the certificate holder while providing air ambulance services and a description of the accidents.

"(5) The number of flights and hours flown under instrument flight rules by helicopters operated by the certificate holder while providing air ambulance services.

"(6) The time of day of each flight flown by helicopters operated by the certificate holder while providing air ambulance services.

"(7) The number of incidents, if any, in which a helicopter was not directly dispatched and arrived to transport patients but was not utilized for patient transport.

"(b) REPORTING PERIOD.—Data contained in a report submitted by a part 135 certificate holder under subsection (a) shall relate to such reporting period as the Administrator determines appropriate.

"(c) DATABASE.—Not later than 6 months after the date of enactment of this section, the Administrator shall develop a method to collect and store the data collected under subsection (a), including a method to protect the confidentiality of any trade secret or proprietary information provided in response to this section.

"(d) REPORT TO CONGRESS.—Not later than 24 months after the date of enactment of this section, and annually thereafter, the Administrator shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report containing a summary of the data collected under subsection (a).

"(e) PART 135 CERTIFICATE HOLDER DEFINED.—In this section, the term 'part 135 certificate holder' means a person holding a certificate issued under part 135 of title 14, Code of Federal Regulations.".

(b) AUTHORIZED EXPENDITURES.—Section 106(k)(2)(C) (as redesignated by this Act) is amended by inserting before the period the following: "and the development and maintenance of helicopter approach procedures".

(c) CLERICAL AMENDMENT.—The analysis for chapter 447 is amended by adding at the end the following:

"444730. Helicopter air ambulance operations.
"444731. Collection of data on helicopter air ambulance operations.".

SEC. 312. OFF-AIRPORT, LOW-ALTITUDE AIRCRAFT WEATHER OBSERVATION TECHNOLOGY.

(a) STUDY.—The Administrator of the Federal Aviation Administration shall conduct a review of off-airport, low-altitude aircraft weather observation technologies.

(b) SPECIFIC REVIEW.—The review shall include, at a minimum, an examination of off-airport, low-altitude weather reporting needs, an assessment of technical alternatives (including automated weather observation stations), an investment analysis, and recommendations for improving weather reporting.

(c) REPORT.—Not later than one year after the date of enactment of this Act, the Administrator shall submit to Congress a report containing the results of the review.

SEC. 313. FEASIBILITY OF REQUIRING HELICOPTER PILOTS TO USE NIGHT VISION GOGGLES.

(a) STUDY.—The Administrator of the Federal Aviation Administration shall carry out a study on the feasibility of requiring pilots of helicopters providing air ambulance services under part 135 of title 14, Code of Federal Regulations, to use night vision goggles during nighttime operations.

(b) CONSIDERATIONS.—In conducting the study, the Administrator shall consult with owners and operators of helicopters providing air ambulance services under such part 135 and aviation safety professionals to determine the benefits, financial considerations, and risks associated with requiring the use of night vision goggles.

(c) REPORT TO CONGRESS.—Not later than one year after the date of enactment of this Act, the Administrator shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report on the results of the study.

SEC. 314. PROHIBITION ON PERSONAL USE OF ELECTRONIC DEVICES ON FLIGHT DECK.

(a) IN GENERAL.—Chapter 447 (as amended by this Act) is further amended by adding at the end the following:

"§ 44732. Prohibition on personal use of electronic devices on flight deck

"(a) IN GENERAL.—It is unlawful for a flight crewmember of an aircraft used to provide air transportation under part 121 of title 14, Code of Federal Regulations, to use a personal wireless communications device or laptop computer while at the flight crewmember's duty station on the flight deck of such an aircraft while the aircraft is being operated.

"(b) EXCEPTIONS.—Subsection (a) shall not apply to the use of a personal wireless communications device or laptop computer for a purpose directly related to operation of the aircraft, or for emergency, safety-related, or employment-related communications, in accordance with procedures established by the air carrier and the Administrator of the Federal Aviation Administration.

"(c) ENFORCEMENT.—In addition to the penalties provided under section 46301 applicable to any violation of this section, the Administrator of the Federal Aviation Administration may enforce compliance with this section under section 44709 by amending, modifying, suspending, or revoking a certificate under this chapter.

"(d) PERSONAL WIRELESS COMMUNICATIONS DEVICE DEFINED.—In this section, the term 'personal wireless communications device' means a device through which personal wireless services (as defined in section 332(c)(7)(C)(i) of the Communications Act of 1934 (47 U.S.C. 332(c)(7)(C)(i))) are transmitted.".

(b) PENALTY.—Section 44711(a) is amended—

(1) by striking "or" after the semicolon in paragraph (8);

(2) by striking "title." in paragraph (9) and inserting "title; or"; and

(3) by adding at the end the following:

"(10) violate section 44732 or any regulation issued thereunder.".

(c) CONFORMING AMENDMENT.—The analysis for chapter 447 (as amended by this Act) is further amended by adding at the end the following:

"44732. Prohibition on personal use of electronic devices on flight deck.".

(d) REGULATIONS.—Not later than 90 days after the date of enactment of this Act, the Administrator of the Federal Aviation Administration shall initiate a rulemaking procedure for regulations to carry out section 44733 of title 49, United States Code, and shall issue a final rule thereunder not later than 2 years after the date of enactment of this Act.

(e) STUDY.—

(1) IN GENERAL.—The Administrator of the Federal Aviation Administration shall review relevant air carrier data and carry out a study—

(A) to identify common sources of distraction for the flight crewmembers on the flight deck of a commercial aircraft; and

(B) to determine the safety impacts of such distractions.

(2) REPORT.—Not later than one year after the date of enactment of this Act, the Administrator shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report that contains—

(A) the findings of the study conducted under paragraph (1); and

(B) recommendations regarding how to reduce distractions for flight crewmembers on the flight deck of a commercial aircraft.

SEC. 315. NONCERTIFICATED MAINTENANCE PROVIDERS.

(a) REGULATIONS.—Not later than 3 years after the date of enactment of this Act, the Administrator of the Federal Aviation Administration shall issue regulations requiring that covered work on an aircraft used to provide air transportation under part 121 of title 14, Code of Federal Regulations, be performed by persons in accordance with subsection (b).

(b) PERSONS AUTHORIZED TO PERFORM CERTAIN WORK.—A person may perform covered work on aircraft used to provide air transportation under part 121 of title 14, Code of Federal Regulations, only if the person is employed by—

(1) a part 121 air carrier;

(2) a part 145 repair station or a person authorized under section 43.17 of title 14, Code of Federal Regulations; or

(3) subject to subsection (c), a person that—

(A) provides contract maintenance workers, services, or maintenance functions to a part 145 repair station or part 121 air carrier; and

(B) meets the requirements of the part 121 air carrier or the part 145 repair station.

(c) TERMS AND CONDITIONS.—Covered work performed by a person who is employed by a person described in subsection (b)(3) shall be subject to the following terms and conditions:

(1) The part 121 air carrier or the part 145 repair station shall be directly in charge of the covered work being performed.

(2) The covered work shall be carried out in accordance with the part 121 air carrier's maintenance manual.

(d) DEFINITIONS.—In this section, the following definitions apply:

(1) COVERED WORK.—The term "covered work" means a required inspection item, as defined by the Administrator.

(2) PART 121 AIR CARRIER.—The term "part 121 air carrier" means an air carrier that holds a certificate issued under part 121 of title 14, Code of Federal Regulations.

(3) PART 145 REPAIR STATION.—The term "part 145 repair station" means a repair station that holds a certificate issued under part 145 of title 14, Code of Federal Regulations.

SEC. 316. INSPECTION OF FOREIGN REPAIR STATIONS.

(a) IN GENERAL.—Chapter 447 (as amended by this Act) is further amended by adding at the end the following:

"§ 44733. Inspection of foreign repair stations

"(a) IN GENERAL.—Not later than one year after the date of enactment of this section, the Administrator of the Federal Aviation Administration shall establish and implement a safety assessment system for each part 145 repair station based on the type, scope, and complexity of work being performed by the repair station, which shall—

"(1) ensure that repair stations outside the United States are subject to appropriate inspections that are based on identified risks and consistent with United States requirements;

"(2) accept consideration of inspection results and findings submitted by foreign civil aviation authorities operating under a maintenance safety or maintenance implementation agreement with the United States in meeting the requirements of the safety assessment system; and

"(3) require all maintenance safety or maintenance implementation agreements with the United States to provide an opportunity for the Federal Aviation Administration to conduct independent inspections of covered part 145 repair stations when safety concerns warrant such inspections.

"(b) NOTICE TO CONGRESS OF NEGOTIATIONS.—The Administrator shall notify the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives on or before the 30th day after initiating formal negotiations with a foreign aviation authority or other appropriate foreign government agency on a new maintenance safety or maintenance implementation agreement.

"(c) ANNUAL REPORT.—Not later than one year after the date of enactment of this section, and annually thereafter, the Administrator shall publish a report on the Administration's oversight of part 145 repair stations and implementation of the safety assessment system required by subsection (a), which shall—

"(1) describe in detail any improvements in the Federal Aviation Administration's ability to identify and track where part 121 air carrier repair work is performed;

"(2) include a staffing model to determine the best placement of inspectors and the number of inspectors needed for the oversight and implementation;

"(3) describe the training provided to inspectors with respect to the oversight and implementation;

"(4) include an assessment of the quality of monitoring and surveillance by the Federal Aviation Administration of work provided by its inspectors and the inspectors of foreign authorities operating under a maintenance safety or maintenance implementation agreement with the United States; and

"(5) specify the number of sample inspections performed by Federal Aviation Administration inspectors at each repair station that is covered by a maintenance safety or maintenance implementation agreement with the United States.

"(d) ALCOHOL AND CONTROLLED SUBSTANCE TESTING PROGRAM REQUIREMENTS.—

"(1) IN GENERAL.—The Secretary of State and the Secretary of Transportation shall request, jointly, the governments of foreign countries that are members of the International Civil Aviation Organization to establish international standards for alcohol and controlled substances testing of persons that perform safety-sensitive maintenance functions on commercial air carrier aircraft.

"(2) APPLICATION TO PART 121 AIRCRAFT WORK.—Not later than one year after the date of enactment of this section, the Administrator shall promulgate a proposed rule requiring that all part 145 repair station employees responsible for safety-sensitive maintenance functions on part 121 air carrier aircraft are subject to an alcohol and controlled substances testing program that is determined acceptable by the Administrator and is consistent with the applicable laws of the country in which the repair station is located.

"(e) INSPECTIONS.—The Administrator shall require part 145 repair stations to be inspected as frequently as determined warranted by the safety assessment system required by subsection (a), regardless of where the station is located, and in a manner consistent with United States obligations under international agreements.

"(f) DEFINITIONS.—In this section, the following definitions apply:

"(1) PART 121 AIR CARRIER.—The term 'part 121 air carrier' means an air carrier that holds a certificate issued under part 121 of title 14, Code of Federal Regulations.

"(2) PART 145 REPAIR STATION.—The term 'part 145 repair station' means a repair station that holds a certificate issued under part 145 of title 14, Code of Federal Regulations.".

(b) CONFORMING AMENDMENT.—The analysis for chapter 447 (as amended by this Act) is further amended by adding at the end the following:

"44733. Inspection of foreign repair stations.".

SEC. 317. SUNSET OF LINE CHECK.

Section 44729(h) is amended by adding at the end the following:

"(4) SUNSET OF LINE CHECK.—Paragraph (2) shall cease to be effective following the one-year period beginning on the date of enactment of the FAA Reauthorization and Reform Act of 2011 unless the Secretary certifies that the requirements of paragraph (2) are necessary to ensure safety.".

Subtitle B—Unmanned Aircraft Systems

SEC. 321. DEFINITIONS.

In this subtitle, the following definitions apply:

(1) CERTIFICATE OF WAIVER; CERTIFICATE OF AUTHORIZATION.—The term "certificate of waiver" or "certificate of authorization" means a Federal Aviation Administration grant of approval for a specific flight operation.

(2) SENSE AND AVOID CAPABILITY.—The term "sense and avoid capability" means the capability of an unmanned aircraft to remain a safe distance from and to avoid collisions with other airborne aircraft.

(3) PUBLIC UNMANNED AIRCRAFT SYSTEM.—The term "public unmanned aircraft system" means an unmanned aircraft system that meets the qualifications and conditions required for operation of a public aircraft, as defined by section 40102 of title 49, United States Code.

(4) SMALL UNMANNED AIRCRAFT.—The term "small unmanned aircraft" means an unmanned aircraft weighing less than 55 pounds.

(5) TEST RANGE.—The term "test range" means a defined geographic area where research and development are conducted.

(6) UNMANNED AIRCRAFT.—The term "unmanned aircraft" means an aircraft that is operated without the possibility of direct human intervention from within or on the aircraft.

(7) UNMANNED AIRCRAFT SYSTEM.—The term "unmanned aircraft system" means an unmanned aircraft and associated elements (including communication links and the components that control the unmanned aircraft) that are required for the pilot in command to operate safely and efficiently in the national airspace system.

SEC. 322. COMMERCIAL UNMANNED AIRCRAFT SYSTEMS INTEGRATION PLAN.

(a) INTEGRATION PLAN.—

(1) COMPREHENSIVE PLAN.—Not later than 270 days after the date of enactment of this Act, the Secretary of Transportation, in consultation with representatives of the aviation industry and the unmanned aircraft systems industry, shall develop a comprehensive plan to safely integrate commercial unmanned aircraft systems into the national airspace system.

(2) MINIMUM REQUIREMENTS.—In developing the plan under paragraph (1), the Secretary shall, at a minimum—

(A) review technologies and research that will assist in facilitating the safe integration of commercial unmanned aircraft systems into the national airspace system;

(B) provide recommendations or projections for the rulemaking to be conducted under subsection (b)—

(i) to define the acceptable standards for operations and certification of commercial unmanned aircraft systems;

(ii) to ensure that commercial unmanned aircraft systems include a sense and avoid capability, if necessary for safety purposes; and

(iii) to develop standards and requirements for the operator and pilot of a commercial unmanned aircraft system, including standards and requirements for registration and licensing;

(C) recommend how best to enhance the technologies and subsystems necessary to provide for the safe and routine operations of commercial unmanned aircraft systems in the national airspace system; and

(D) recommend how a phased-in approach for the integration of commercial unmanned aircraft systems into the national airspace system can best be achieved and a timeline upon which such a phase-in shall occur.

(3) DEADLINE.—The plan to be developed under paragraph (1) shall provide for the safe integration of commercial unmanned aircraft systems into the national airspace system not later than September 30, 2015.

(4) REPORT TO CONGRESS.—The Secretary shall submit to Congress—

(A) not later than one year after the date of enactment of this Act, a copy of the plan developed under paragraph (1); and

(B) annually thereafter, a report on the activities of the Secretary under this section.

(b) RULEMAKING.—Not later than 18 months after the date on which the integration plan is submitted to Congress under subsection (a)(4), the Administrator of the Federal Aviation Administration shall publish in the Federal Register a notice of proposed rulemaking to implement the recommendations of the integration plan.

SEC. 323. SPECIAL RULES FOR CERTAIN UNMANNED AIRCRAFT SYSTEMS.

(a) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Secretary shall determine if certain unmanned aircraft systems may operate safely in the national airspace system. The Secretary may make such determination before completion of the plan and rulemaking required by section 322 of this Act or the guidance required by section 324 of this Act.

(b) ASSESSMENT OF UNMANNED AIRCRAFT SYSTEMS.—In making the determination under subsection (a), the Secretary shall determine, at a minimum—

(1) which types of unmanned aircraft systems, if any, as a result of their size, weight, speed, operational capability, proximity to airports and population areas, and operation within visual line-of-sight do not create a hazard to users of the national airspace system or the public or pose a threat to national security; and

(2) whether a certificate of waiver, certificate of authorization, or airworthiness certification under section 44704 of title 49, United States Code, is required for the operation of unmanned aircraft systems identified under paragraph (1).

(c) REQUIREMENTS FOR SAFE OPERATION.—If the Secretary determines under this section that certain unmanned aircraft systems may operate safely in the national airspace system, the Secretary shall establish requirements for the safe operation of such aircraft systems in the national airspace system.

SEC. 324. PUBLIC UNMANNED AIRCRAFT SYSTEMS.

(a) GUIDANCE.—Not later than 270 days after the date of enactment of this Act, the Secretary shall issue guidance regarding the operation of public unmanned aircraft systems to—

(1) expedite the issuance of a certificate of authorization process;

(2) provide for a collaborative process with public agencies to allow for an incremental expansion of access to the national airspace system as technology matures. the necessary safety analysis and data become available, and until standards are completed and technology issues are resolved; and

(3) facilitate the capability of public agencies to develop and use test ranges, subject to operating restrictions required by the Federal Aviation Administration, to test and operate unmanned aircraft systems.

(b) STANDARDS FOR OPERATION AND CERTIFICATION.—Not later than December 31, 2015, the Secretary shall develop and implement operational and certification standards for operation of public unmanned aircraft systems.

SEC. 325. UNMANNED AIRCRAFT SYSTEMS TEST RANGES.

(a) IN GENERAL.—Not later than one year after the date of enactment of this Act, the Administrator of the Federal Aviation Administration shall establish a program to integrate unmanned aircraft systems into the national airspace system at 4 test ranges.

(b) PROGRAM REQUIREMENTS.—In establishing the program under subsection (a), the Administrator shall—

(1) safely designate nonexclusionary airspace for integrated manned and unmanned flight operations in the national airspace system;

(2) develop certification standards and air traffic requirements for unmanned flight operations at test ranges;

(3) coordinate with and leverage the resources of the National Aeronautics and Space Administration and the Department of Defense;

(4) address both commercial and public unmanned aircraft systems;

(5) ensure that the program is coordinated with the Next Generation Air Transportation System; and

(6) provide for verification of the safety of unmanned aircraft systems and related navigation procedures before integration into the national airspace system.

(c) TEST RANGE LOCATIONS.—In determining the location of the 4 test ranges of the program under subsection (a), the Administrator shall—

(1) take into consideration geographic and climatic diversity; and

(2) after consulting with the Administrator of the National Aeronautics and Space Administration and the Secretary of the Air Force, take into consideration the location of available research radars.

Subtitle C—Safety and Protections

SEC. 331. POSTEMPLOYMENT RESTRICTIONS FOR FLIGHT STANDARDS INSPECTORS.

(a) IN GENERAL.—Section 44711 is amended by adding at the end the following:

"(d) POSTEMPLOYMENT RESTRICTIONS FOR FLIGHT STANDARDS INSPECTORS.—

"(1) PROHIBITION.—A person holding an operating certificate issued under title 14, Code of Federal Regulations, may not knowingly employ, or make a contractual arrangement that permits, an individual to act as an agent or representative of the certificate holder in any matter before the Federal Aviation Administration if the individual, in the preceding 2-year period—

"(A) served as, or was responsible for oversight of, a flight standards inspector of the Administration; and

"(B) had responsibility to inspect, or oversee inspection of, the operations of the certificate holder.

"(2) WRITTEN AND ORAL COMMUNICATIONS.—For purposes of paragraph (1), an individual shall be considered to be acting as an agent or representative of a certificate holder in a matter before the Administration if the individual makes any written or oral communication on behalf of the certificate holder to the Administration (or any of its officers or employees) in connection with a particular matter, whether or not involving a specific party and without regard to whether the individual has participated in, or had responsibility for, the particular matter while serving as a flight standards inspector of the Administration.".

(b) APPLICABILITY.—The amendment made by subsection (a) shall not apply to an individual employed by a certificate holder as of the date of enactment of this Act.

SEC. 332. REVIEW OF AIR TRANSPORTATION OVERSIGHT SYSTEM DATABASE.

(a) REVIEWS.—The Administrator of the Federal Aviation Administration shall establish a process by which the air transportation oversight system database of the Administration is reviewed by regional teams of employees of the Administration, including at least one employee on each team representing aviation safety inspectors, on a monthly basis to ensure that—

(1) any trends in regulatory compliance are identified; and

(2) appropriate corrective actions are taken in accordance with Administration regulations, advisory directives, policies, and procedures.

(b) MONTHLY TEAM REPORTS.—

(1) IN GENERAL.—A regional team of employees conducting a monthly review of the air transportation oversight system database under subsection (a) shall submit to the Administrator, the Associate Administrator for Aviation Safety, and the Director of Flight Standards Service a report each month on the results of the review.

(2) CONTENTS.—A report submitted under paragraph (1) shall identify—

(A) any trends in regulatory compliance discovered by the team of employees in conducting the monthly review; and

(B) any corrective actions taken or proposed to be taken in response to the trends.

(c) BIANNUAL REPORTS TO CONGRESS.—The Administrator, on a biannual basis, shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report on the results of the reviews of the air transportation oversight system database conducted under this section, including copies of reports received under subsection (b).

SEC. 333. IMPROVED VOLUNTARY DISCLOSURE REPORTING SYSTEM.

(a) VOLUNTARY DISCLOSURE REPORTING PROGRAM DEFINED.—In this section, the term "Voluntary Disclosure Reporting Program" means the program established by the Federal Aviation Administration through Advisory Circular 00–58A, dated September 8, 2006, including any subsequent revisions thereto.

(b) VERIFICATION.—The Administrator of the Federal Aviation Administration shall modify the Voluntary Disclosure Reporting Program to require inspectors to—

(1) verify that air carriers are implementing comprehensive solutions to correct the underlying causes of the violations voluntarily disclosed by such air carriers; and

(2) confirm, before approving a final report of a violation, that a violation with the same root causes, has not been previously discovered by an inspector or self-disclosed by the air carrier.

(c) SUPERVISORY REVIEW OF VOLUNTARY SELF-DISCLOSURES.—The Administrator shall establish a process by which voluntary self-disclosures received from air carriers are reviewed and approved by a supervisor after the initial review by an inspector.

(d) INSPECTOR GENERAL STUDY.—

(1) IN GENERAL.—The Inspector General of the Department of Transportation shall conduct a study of the Voluntary Disclosure Reporting Program.

(2) REVIEW.—In conducting the study, the Inspector General shall examine, at a minimum, if the Administration—

(A) conducts comprehensive reviews of voluntary disclosure reports before closing a voluntary disclosure report under the provisions of the program;

(B) evaluates the effectiveness of corrective actions taken by air carriers; and

(C) effectively prevents abuse of the voluntary disclosure reporting program through its secondary review of self-disclosures before they are accepted and closed by the Administration.

(3) REPORT.—Not later than one year after the date of enactment of this Act, the Inspector General shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and Committee on Commerce, Science, and Transportation of the Senate a report on the results of the study conducted under this section.

SEC. 334. AVIATION WHISTLEBLOWER INVESTIGATION OFFICE.

Section 106 (as amended by this Act) is further amended by adding at the end the following:

"(t) AVIATION SAFETY WHISTLEBLOWER INVESTIGATION OFFICE.—

"(1) ESTABLISHMENT.—There is established in the Federal Aviation Administration (in this section referred to as the 'Agency') an Aviation Safety Whistleblower Investigation Office (in this subsection referred to as the 'Office').

"(2) DIRECTOR.—

"(A) APPOINTMENT.—The head of the Office shall be the Director, who shall be appointed by the Secretary of Transportation.

"(B) QUALIFICATIONS.—The Director shall have a demonstrated ability in investigations and knowledge of or experience in aviation.

"(C) TERM.—The Director shall be appointed for a term of 5 years.

"(D) VACANCY.—Any individual appointed to fill a vacancy in the position of the Director occurring before the expiration of the term for which the individual's predecessor was appointed shall be appointed for the remainder of that term.

"(3) COMPLAINTS AND INVESTIGATIONS.—

"(A) AUTHORITY OF DIRECTOR.—The Director shall—

"(i) receive complaints and information submitted by employees of persons holding certificates issued under title 14, Code of Federal Regulations, and employees of the Agency concerning the possible existence of an activity relating to a violation of an order, regulation, or standard of the Agency or any other provision of Federal law relating to aviation safety;

"(ii) assess complaints and information submitted under clause (i) and determine whether a substantial likelihood exists that a violation of an order, regulation, or standard of the Agency or any other provision of Federal law relating to aviation safety has occurred; and

"(iii) based on findings of the assessment conducted under clause (ii), make recommendations to the Administrator in writing for further investigation or corrective actions.

"(B) DISCLOSURE OF IDENTITIES.—The Director shall not disclose the identity of an individual who submits a complaint or information under subparagraph (A)(i) unless—

"(i) the individual consents to the disclosure in writing; or

"(ii) the Director determines, in the course of an investigation, that the disclosure is required by regulation, statute, or court order, or is

otherwise unavoidable, in which case the Director shall provide the individual reasonable advanced notice of the disclosure.

"(C) INDEPENDENCE OF DIRECTOR.—The Secretary, the Administrator, or any officer or employee of the Agency may not prevent or prohibit the Director from initiating, carrying out, or completing any assessment of a complaint or information submitted under subparagraph (A)(i) or from reporting to Congress on any such assessment.

"(D) ACCESS TO INFORMATION.—In conducting an assessment of a complaint or information submitted under subparagraph (A)(i), the Director shall have access to all records, reports, audits, reviews, documents, papers, recommendations, and other material necessary to determine whether a substantial likelihood exists that a violation of an order, regulation, or standard of the Agency or any other provision of Federal law relating to aviation safety may have occurred.

"(4) RESPONSES TO RECOMMENDATIONS.—Not later than 60 days after the date on which the Administrator receives a report with respect to an investigation, the Administrator shall respond to a recommendation made by the Director under subparagraph (A)(iii) in writing and retain records related to any further investigations or corrective actions taken in response to the recommendation.

"(5) INCIDENT REPORTS.—If the Director determines there is a substantial likelihood that a violation of an order, regulation, or standard of the Agency or any other provision of Federal law relating to aviation safety has occurred that requires immediate corrective action, the Director shall report the potential violation expeditiously to the Administrator and the Inspector General of the Department of Transportation.

"(6) REPORTING OF CRIMINAL VIOLATIONS TO INSPECTOR GENERAL.—If the Director has reasonable grounds to believe that there has been a violation of Federal criminal law, the Director shall report the violation expeditiously to the Inspector General.

"(7) ANNUAL REPORTS TO CONGRESS.—Not later than October 1 of each year, the Director shall submit to Congress a report containing—

"(A) information on the number of submissions of complaints and information received by the Director under paragraph (3)(A)(i) in the preceding 12-month period;

"(B) summaries of those submissions;

"(C) summaries of further investigations and corrective actions recommended in response to the submissions; and

"(D) summaries of the responses of the Administrator to such recommendations.".

SEC. 335. DUTY PERIODS AND FLIGHT TIME LIMITATIONS APPLICABLE TO FLIGHT CREWMEMBERS.

(a) RULEMAKING ON APPLICABILITY OF PART 121 DUTY PERIODS AND FLIGHT TIME LIMITATIONS TO PART 91 OPERATIONS.—Not later than 180 days after the date of enactment of this Act, the Administrator of the Federal Aviation Administration shall initiate a rulemaking proceeding, if such a proceeding has not already been initiated, to require a flight crewmember who is employed by an air carrier conducting operations under part 121 of title 14, Code of Federal Regulations, and who accepts an additional assignment for flying under part 91 of such title from the air carrier or from any other air carrier conducting operations under part 121 or 135 of such title, to apply the period of the additional assignment (regardless of whether the assignment is performed by the flight crewmember before or after an assignment to fly under part 121 of such title) toward any limitation applicable to the flight crewmember relating to duty periods or flight times under part 121 of such title.

(b) RULEMAKING ON APPLICABILITY OF PART 135 DUTY PERIODS AND FLIGHT TIME LIMITATIONS TO PART 91 OPERATIONS.—Not later than one year after the date of enactment of this Act, the Administrator shall initiate a rulemaking proceeding to require a flight crewmember who is employed by an air carrier conducting operations under part 135 of title 14, Code of Federal Regulations, and who accepts an additional assignment for flying under part 91 of such title from the air carrier or any other air carrier conducting operations under part 121 or 135 of such title, to apply the period of the additional assignment (regardless of whether the assignment is performed by the flight crewmember before or after an assignment to fly under part 135 of such title) toward any limitation applicable to the flight crewmember relating to duty periods or flight times under part 135 of such title.

(c) SEPARATE RULEMAKING PROCEEDINGS REQUIRED.—The rulemaking proceeding required under subsection (b) shall be separate from the rulemaking proceeding required under subsection (a).

TITLE IV—AIR SERVICE IMPROVEMENTS

Subtitle A—Essential Air Service

SEC. 401. ESSENTIAL AIR SERVICE MARKETING.

Section 41733(c)(1) is amended—

(1) by redesignating subparagraph (E) as subparagraph (F);

(2) by striking "and" at the end of subparagraph (D); and

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

"(E) whether the air carrier has included a plan in its proposal to market its services to the community; and".

SEC. 402. NOTICE TO COMMUNITIES PRIOR TO TERMINATION OF ELIGIBILITY FOR SUBSIDIZED ESSENTIAL AIR SERVICE.

Section 41733 is amended by adding at the end the following:

"(f) NOTICE TO COMMUNITIES PRIOR TO TERMINATION OF ELIGIBILITY.—

"(1) IN GENERAL.—The Secretary shall notify each community receiving basic essential air service for which compensation is being paid under this subchapter on or before the 45th day before issuing any final decision to end the payment of such compensation due to a determination by the Secretary that providing such service requires a rate of subsidy per passenger in excess of the subsidy cap.

"(2) PROCEDURES TO AVOID TERMINATION.—The Secretary shall establish, by order, procedures by which each community notified of an impending loss of subsidy under paragraph (1) may work directly with an air carrier to ensure that the air carrier is able to submit a proposal to the Secretary to provide essential air service to such community for an amount of compensation that would not exceed the subsidy cap.

"(3) ASSISTANCE PROVIDED.—The Secretary shall provide, by order, to each community notified under paragraph (1) information regarding—

"(A) the procedures established pursuant to paragraph (2); and

"(B) the maximum amount of compensation that could be provided under this subchapter to an air carrier serving such community that would comply with the subsidy cap.

"(4) SUBSIDY CAP DEFINED.—In this subsection, the term 'subsidy cap' means the subsidy cap established by section 332 of Public Law 106–69 (113 Stat. 1022).".

SEC. 403. ESSENTIAL AIR SERVICE CONTRACT GUIDELINES.

(a) COMPENSATION GUIDELINES.—Section 41737(a)(1) is amended—

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

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

(3) by adding at the end the following:

"(D) include provisions under which the Secretary may encourage an air carrier to improve air service for which compensation is being paid under this subchapter by incorporating financial incentives in an essential air service contract based on specified performance goals, including goals related to improving on-time performance, reducing the number of flight cancellations, establishing convenient connections to flights providing service beyond hub airports, and increasing marketing efforts; and

"(E) include provisions under which the Secretary may execute a long-term essential air service contract to encourage an air carrier to provide air service to an eligible place if it would be in the public interest to do so.".

(b) DEADLINE FOR ISSUANCE OF REVISED GUIDANCE.—Not later than 18 months after the date of enactment of this Act, the Secretary of Transportation shall issue revised guidelines governing the rate of compensation payable under subchapter II of chapter 417 of title 49, United States Code, that incorporate the amendments made by this section.

(c) REPORT.—Not later than 2 years after the date of issuance of revised guidelines pursuant to subsection (b), the Secretary shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report on the extent to which the revised guidelines have been implemented and the impact, if any, such implementation has had on air carrier performance and community satisfaction with air service for which compensation is being paid under subchapter II of chapter 417 of title 49, United States Code.

SEC. 404. ESSENTIAL AIR SERVICE REFORM.

(a) AUTHORIZATION.—Section 41742(a)(1) is amended—

(1) by striking "the sum of $50,000,000 is" and inserting "the following sums are"; and

(2) by striking "subchapter for each fiscal year." and inserting "subchapter:

"(A) $50,000,000 for each fiscal year through fiscal year 2013.

"(B) The amount necessary, as determined by the Secretary, to carry out the essential air service program in Alaska and Hawaii for fiscal year 2014 and each fiscal year thereafter.".

(b) ADDITIONAL FUNDS.—Section 41742(a)(2) is amended by striking "there is authorized to be appropriated $77,000,000 for each fiscal year" and inserting "there is authorized to be appropriated out of the Airport and Airway Trust Fund established under section 9502 of the Internal Revenue Code of 1986 $97,500,000 for fiscal year 2011, $60,000,000 for fiscal year 2012, and $30,000,000 for fiscal year 2013".

(c) DISTRIBUTION OF EXCESS FUNDS.—Section 41742(a) is amended by adding at the end the following:

"(4) DISTRIBUTION OF EXCESS FUNDS.—

"(A) SMALL COMMUNITY AIR SERVICE DEVELOPMENT.—For each of fiscal years 2011 through 2014, if the funds credited to the account established under section 45303 in a fiscal year exceed the amount made available under paragraph (1) for that fiscal year, the excess funds, but not more than $6,000,000, shall be made available immediately for obligation and expenditure to carry out section 41743.

"(B) NEXTGEN.—For each of fiscal years 2011 through 2014, if the funds credited to the account established under section 45303 in a fiscal year exceed the amount made available under paragraph (1) and subparagraph (A) of this paragraph for that fiscal year, the excess funds shall be made available immediately for obligation and expenditure to carry out Next Generation Air Transportation System activities, including any activity specified in section 202 of the FAA Reauthorization and Reform Act of 2011.

"(5) AVAILABILITY OF FUNDS.—The funds made available under this subsection shall remain available until expended.".

(d) ADMINISTERING PROGRAM WITHIN AVAILABLE FUNDING.—Section 41742(b) is amended to read as follows:

"(b) ADMINISTERING PROGRAM WITHIN AVAILABLE FUNDING.—Notwithstanding any other provision of law, the Secretary is authorized to take such actions as may be necessary to administer the essential air service program under this subchapter within the amount of funding made available for the program.".

SEC. 405. SMALL COMMUNITY AIR SERVICE.

(a) PRIORITIES.—Section 41743(c)(5) is amended—

(1) by striking "and" at the end of subparagraph (D);

(2) in subparagraph (E) by striking "fashion." and inserting "fashion; and"; and

(3) by adding at the end the following:

"(F) multiple communities cooperate to submit a regional or multistate application to consolidate air service into one regional airport.".

(b) AUTHORITY TO MAKE AGREEMENTS.—Section 41743(e) is amended to read as follows:

"(e) AUTHORITY TO MAKE AGREEMENTS.—Subject to the availability of amounts made available under section 41742(a)(4)(A), the Secretary may make agreements to provide assistance under this section.".

SEC. 406. ADJUSTMENTS TO COMPENSATION FOR SIGNIFICANTLY INCREASED COSTS.

(a) EMERGENCY ACROSS-THE-BOARD ADJUSTMENT.—Subject to the availability of funds, the Secretary of Transportation may increase the rates of compensation payable to air carriers under subchapter II of chapter 417 of title 49, United States Code, to compensate such carriers for increased aviation fuel costs without regard to any agreement or requirement relating to the renegotiation of contracts or any notice requirement under section 41734 of such title.

(b) EXPEDITED PROCESS FOR ADJUSTMENTS TO INDIVIDUAL CONTRACTS.—

(1) IN GENERAL.—Section 41734(d) is amended by striking "continue to pay" and all that follows through "compensation sufficient" and inserting "provide the carrier with compensation sufficient".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to compensation to air carriers for air service provided after the 30th day following the date of enactment of this Act.

(c) SUBSIDY CAP.—Subject to the availability of funds, the Secretary may waive, on a case-by-case basis, the subsidy-per-passenger cap established by section 332 of

Public Law 106–69 (113 Stat. 1022). A waiver issued under this subsection shall remain in effect for a limited period of time, as determined by the Secretary.

SEC. 407. REPEAL OF EAS LOCAL PARTICIPATION PROGRAM.

Section 41747, and the item relating to section 41747 in the analysis for chapter 417, are repealed.

SEC. 408. SUNSET OF ESSENTIAL AIR SERVICE PROGRAM.

(a) IN GENERAL.—Subchapter II of chapter 417 is amended by adding at the end the following:

"§ 41749. Sunset

"(a) IN GENERAL.—Except as provided in subsection (b), the authority of the Secretary of Transportation to carry out the essential air service program under this subchapter shall sunset on October 1, 2013.

"(b) ALASKA AND HAWAII.—The Secretary may continue to carry out the essential air service program under this subchapter in Alaska and Hawaii following the sunset date specified in subsection (a).".

(b) CONFORMING AMENDMENT.—The analysis for chapter 417 is amended by inserting after the item relating to section 41748 the following:

"41749. Sunset.".

Subtitle B—Passenger Air Service Improvements

SEC. 421. SMOKING PROHIBITION.

(a) IN GENERAL.—Section 41706 is amended—

(1) in the section heading by striking "**scheduled**" and inserting "**passenger**"; and

(2) by striking subsections (a) and (b) and inserting the following:

"(a) SMOKING PROHIBITION IN INTERSTATE AND INTRASTATE AIR TRANSPORTATION.—An individual may not smoke—

"(1) in an aircraft in scheduled passenger interstate or intrastate air transportation; or

"(2) in an aircraft in nonscheduled passenger interstate or intrastate air transportation, if a flight attendant is a required crewmember on the aircraft (as determined by the Administrator of the Federal Aviation Administration).

"(b) SMOKING PROHIBITION IN FOREIGN AIR TRANSPORTATION.—The Secretary of Transportation shall require all air carriers and foreign air carriers to prohibit smoking—

"(1) in an aircraft in scheduled passenger foreign air transportation; and

"(2) in an aircraft in nonscheduled passenger foreign air transportation, if a flight attendant is a required crewmember on the aircraft (as determined by the Administrator or a foreign government).".

(b) CLERICAL AMENDMENT.—The analysis for chapter 417 is amended by striking the item relating to section 41706 and inserting the following:

"41706. Prohibitions against smoking on passenger flights.".

SEC. 422. MONTHLY AIR CARRIER REPORTS.

(a) IN GENERAL.—Section 41708 is amended by adding at the end the following:

"(c) DIVERTED AND CANCELLED FLIGHTS.—

"(1) MONTHLY REPORTS.—The Secretary shall require an air carrier referred to in paragraph (2) to file with the Secretary a monthly report on each flight of the air carrier that is diverted from its scheduled destination to another airport and each flight of the air carrier that departs the gate at the airport at which the flight originates but is cancelled before wheels-off time.

"(2) APPLICABILITY.—An air carrier that is required to file a monthly airline service quality performance report pursuant to part 234 of title 14, Code of Federal Regulations, shall be subject to the requirement of paragraph (1).

"(3) CONTENTS.—A monthly report filed by an air carrier under paragraph (1) shall include, at a minimum, the following information:

"(A) For a diverted flight—

"(i) the flight number of the diverted flight;

"(ii) the scheduled destination of the flight;

"(iii) the date and time of the flight;

"(iv) the airport to which the flight was diverted;

"(v) wheels-on time at the diverted airport;

"(vi) the time, if any, passengers deplaned the aircraft at the diverted airport; and

"(vii) if the flight arrives at the scheduled destination airport—
"(I) the gate-departure time at the diverted airport;
"(II) the wheels-off time at the diverted airport;
"(III) the wheels-on time at the scheduled arrival airport; and
"(IV) the gate-arrival time at the scheduled arrival airport.
"(B) For flights cancelled after gate departure—
"(i) the flight number of the cancelled flight;
"(ii) the scheduled origin and destination airports of the cancelled flight;
"(iii) the date and time of the cancelled flight;
"(iv) the gate-departure time of the cancelled flight; and
"(v) the time the aircraft returned to the gate.
"(4) PUBLICATION.—The Secretary shall compile the information provided in the monthly reports filed pursuant to paragraph (1) in a single monthly report and publish such report on the Internet Web site of the Department of Transportation.".

(b) EFFECTIVE DATE.—Beginning not later than 90 days after the date of enactment of this Act, the Secretary of Transportation shall require monthly reports pursuant to the amendment made by subsection (a).

SEC. 423. FLIGHT OPERATIONS AT RONALD REAGAN WASHINGTON NATIONAL AIRPORT.

(a) BEYOND-PERIMETER EXEMPTIONS.—Section 41718(a) is amended—
(1) by striking "Secretary" the first place it appears and inserting "Secretary of Transportation"; and
(2) by striking "24" and inserting "34".

(b) LIMITATIONS.—Section 41718(c)(2) is amended by striking "3 operations" and inserting "5 operations".

(c) SLOTS.—Section 41718(c) is amended—
(1) by redesignating paragraphs (3) and (4) as paragraphs (4) and (5), respectively; and
(2) by inserting after paragraph (2) the following:
"(3) SLOTS.—The Secretary shall reduce the hourly air carrier slot quota for Ronald Reagan Washington National Airport under section 93.123(a) of title 14, Code of Federal Regulations, by a total of 10 slots that are available for allocation. Such reductions shall be taken in the 6:00 a.m., 10:00 p.m., or 11:00 p.m. hours, as determined by the Secretary, in order to grant exemptions under subsection (a).".

(d) SCHEDULING PRIORITY.—Section 41718 is amended—
(1) by redesignating subsections (e) and (f) as subsections (f) and (g), respectively; and
(2) by inserting after subsection (d) the following:
"(e) SCHEDULING PRIORITY.—Operations conducted by new entrant air carriers and limited incumbent air carriers shall be provided a scheduling priority over operations conducted by other air carriers granted exemptions pursuant to this section, with the highest scheduling priority provided to beyond-perimeter operations conducted by the new entrant air carriers and limited incumbent air carriers.".

SEC. 424. MUSICAL INSTRUMENTS.

(a) IN GENERAL.—Subchapter I of chapter 417 is amended by adding at the end the following:

"§ 41724. Musical instruments

"(a) INSTRUMENTS IN PASSENGER COMPARTMENT.—An air carrier providing air transportation shall permit a passenger to carry a musical instrument in a closet, baggage compartment, or cargo stowage compartment (approved by the Administrator of the Federal Aviation Administration) in the passenger compartment of the aircraft used to provide such transportation if—
"(1) the instrument can be stowed in accordance with the requirements for carriage of carry-on baggage or cargo set forth by the Administrator; and
"(2) there is space for such stowage on the aircraft.

"(b) LARGE INSTRUMENTS IN PASSENGER COMPARTMENT.—An air carrier providing air transportation shall permit a passenger to carry a musical instrument that is too large to be secured in a closet, baggage compartment, or cargo stowage compartment pursuant to subsection (a) in the passenger compartment of the aircraft used to provide such transportation if—
"(1) the instrument can be stowed in accordance with the requirements for carriage of carry-on baggage or cargo set forth by the Administrator; and
"(2) the passenger has purchased a seat to accommodate the instrument.

"(c) INSTRUMENTS AS CHECKED BAGGAGE.—An air carrier providing air transportation shall transport as baggage a musical instrument that may not be carried in

the passenger compartment of the aircraft used to provide such transportation pursuant to subsection (a) or (b) and that is the property of a passenger on the aircraft if—

"(1) the sum of the length, width, and height of the instrument (measured in inches of the outside linear dimensions of the instrument, including the case) does not exceed 150 inches or the size restrictions for that aircraft;

"(2) the weight of the instrument does not exceed 165 pounds or the weight restrictions for that aircraft; and

"(3) the instrument can be stowed in accordance with the requirements for carriage of baggage or cargo set forth by the Administrator.

"(d) AIR CARRIER TERMS.—Nothing in this section shall be construed as prohibiting an air carrier from limiting the carrier's liability for carrying a musical instrument or requiring a passenger to purchase insurance to cover the value of a musical instrument transported by the carrier.".

(b) REGULATIONS.—The Secretary of Transportation may prescribe such regulations as may be necessary or appropriate to implement the amendment made by subsection (a).

(c) CLERICAL AMENDMENT.—The analysis for such subchapter is amended by adding at the end the following:

"41724. Musical instruments.".

SEC. 425. PASSENGER AIR SERVICE IMPROVEMENTS.

(a) IN GENERAL.—Subtitle VII is amended by inserting after chapter 421 the following:

"CHAPTER 423—PASSENGER AIR SERVICE IMPROVEMENTS

"Sec.
"42301. Emergency contingency plans.
"42302. Consumer complaints.
"42303. Use of insecticides in passenger aircraft.

"§ 42301. Emergency contingency plans

"(a) SUBMISSION OF AIR CARRIER AND AIRPORT PLANS.—Not later than 90 days after the date of enactment of this section, each of the following air carriers and airport operators shall submit to the Secretary of Transportation for review and approval an emergency contingency plan in accordance with the requirements of this section:

"(1) An air carrier providing covered air transportation at a large hub or medium hub airport.

"(2) An operator of a large hub or medium hub airport.

"(3) An operator of an airport used by an air carrier described in paragraph (1) for diversions.

"(b) AIR CARRIER PLANS.—

"(1) PLANS FOR INDIVIDUAL AIRPORTS.—An air carrier shall submit an emergency contingency plan under subsection (a) for—

"(A) each large hub and medium hub airport at which the carrier provides covered air transportation; and

"(B) each large hub and medium hub airport at which the carrier has flights for which the carrier has primary responsibility for inventory control.

"(2) CONTENTS.—An emergency contingency plan submitted by an air carrier for an airport under subsection (a) shall contain a description of how the carrier will—

"(A) provide food, potable water, restroom facilities, and access to medical treatment for passengers onboard an aircraft at the airport that is on the ground for an extended period of time without access to the terminal;

"(B) allow passengers to deplane following excessive tarmac delays; and

"(C) share facilities and make gates available at the airport in an emergency.

"(c) AIRPORT PLANS.—An emergency contingency plan submitted by an airport operator under subsection (a) shall contain a description of how the operator, to the maximum extent practicable, will—

"(1) provide for the deplanement of passengers following excessive tarmac delays;

"(2) provide for the sharing of facilities and make gates available at the airport in an emergency; and

"(3) provide a sterile area following excessive tarmac delays for passengers who have not yet cleared U.S. Customs and Border Protection.

"(d) UPDATES.—

"(1) AIR CARRIERS.—An air carrier shall update the emergency contingency plan submitted by the carrier under subsection (a) every 3 years and submit the update to the Secretary for review and approval.

"(2) AIRPORTS.—An airport operator shall update the emergency contingency plan submitted by the operator under subsection (a) every 5 years and submit the update to the Secretary for review and approval.

"(e) APPROVAL.—

"(1) IN GENERAL.—Not later than 60 days after the date of the receipt of an emergency contingency plan submitted under subsection (a) or an update submitted under subsection (d), the Secretary shall review and approve or, if necessary, require modifications to the plan or update to ensure that the plan or update will effectively address emergencies and provide for the health and safety of passengers.

"(2) FAILURE TO APPROVE OR REQUIRE MODIFICATIONS.—If the Secretary fails to approve or require modifications to a plan or update under paragraph (1) within the timeframe specified in that paragraph, the plan or update shall be deemed to be approved.

"(3) ADHERENCE REQUIRED.—An air carrier or airport operator shall adhere to an emergency contingency plan of the carrier or operator approved under this section.

"(f) MINIMUM STANDARDS.—The Secretary may establish, as necessary or desirable, minimum standards for elements in an emergency contingency plan required to be submitted under this section.

"(g) PUBLIC ACCESS.—An air carrier or airport operator required to submit an emergency contingency plan under this section shall ensure public access to the plan after its approval under this section on the Internet Web site of the carrier or operator or by such other means as determined by the Secretary.

"(h) DEFINITIONS.—In this section, the following definitions apply:

"(1) COVERED AIR TRANSPORTATION.—The term 'covered air transportation' means scheduled or public charter passenger air transportation provided by an air carrier that operates an aircraft that as originally designed has a passenger capacity of 30 or more seats.

"(2) TARMAC DELAY.—The term 'tarmac delay' means the period during which passengers are on board an aircraft on the tarmac—

"(A) awaiting takeoff after the aircraft doors have been closed or after passengers have been boarded if the passengers have not been advised they are free to deplane; or

"(B) awaiting deplaning after the aircraft has landed.

"§ 42302. Consumer complaints

"(a) IN GENERAL.—The Secretary of Transportation shall establish a consumer complaints toll-free hotline telephone number for the use of passengers in air transportation and shall take actions to notify the public of—

"(1) that telephone number; and

"(2) the Internet Web site of the Aviation Consumer Protection Division of the Department of Transportation.

"(b) NOTICE TO PASSENGERS ON THE INTERNET.—An air carrier or foreign air carrier providing scheduled air transportation using any aircraft that as originally designed has a passenger capacity of 30 or more passenger seats shall include on the Internet Web site of the carrier—

"(1) the hotline telephone number established under subsection (a);

"(2) the email address, telephone number, and mailing address of the air carrier for the submission of complaints by passengers about air travel service problems; and

"(3) the Internet Web site and mailing address of the Aviation Consumer Protection Division of the Department of Transportation for the submission of complaints by passengers about air travel service problems.

"(c) NOTICE TO PASSENGERS ON BOARDING DOCUMENTATION.—An air carrier or foreign air carrier providing scheduled air transportation using any aircraft that as originally designed has a passenger capacity of 30 or more passenger seats shall include the hotline telephone number established under subsection (a) on—

"(1) prominently displayed signs of the carrier at the airport ticket counters in the United States where the air carrier operates; and

"(2) any electronic confirmation of the purchase of a passenger ticket for air transportation issued by the air carrier.

"§ 42303. Use of insecticides in passenger aircraft

"(a) INFORMATION TO BE PROVIDED ON THE INTERNET.—The Secretary of Transportation shall establish, and make available to the general public, an Internet Web site that contains a listing of countries that may require an air carrier or foreign

air carrier to treat an aircraft passenger cabin with insecticides prior to a flight in foreign air transportation to that country or to apply an aerosol insecticide in an aircraft cabin used for such a flight when the cabin is occupied with passengers.

"(b) REQUIRED DISCLOSURES.—An air carrier, foreign air carrier, or ticket agent selling, in the United States, a ticket for a flight in foreign air transportation to a country listed on the Internet Web site established under subsection (a) shall refer the purchaser of the ticket to the Internet Web site established under subsection (a) for additional information.".

(b) PENALTIES.—Section 46301 is amended in subsections (a)(1)(A) and (c)(1)(A) by inserting "chapter 423," after "chapter 421,".

(c) APPLICABILITY OF REQUIREMENTS.—Except as otherwise provided, the requirements of chapter 423 of title 49, United States Code, as added by this section, shall begin to apply 60 days after the date of enactment of this Act.

(d) CLERICAL AMENDMENT.—The analysis for subtitle VII is amended by inserting after the item relating to chapter 421 the following:

"423. Passenger Air Service Improvements ..... 42301".

SEC. 426. AIRFARES FOR MEMBERS OF THE ARMED FORCES.

(a) FINDINGS.—Congress finds that—

(1) the Armed Forces is comprised of approximately 1,450,000 members who are stationed on active duty at more than 6,000 military bases in 146 different countries;

(2) the United States is indebted to the members of the Armed Forces, many of whom are in grave danger due to their engagement in, or exposure to, combat;

(3) military service, especially in the current war against terrorism, often requires members of the Armed Forces to be separated from their families on short notice, for long periods of time, and under very stressful conditions;

(4) the unique demands of military service often preclude members of the Armed Forces from purchasing discounted advance airline tickets in order to visit their loved ones at home; and

(5) it is the patriotic duty of the people of the United States to support the members of the Armed Forces who are defending the Nation's interests around the world at great personal sacrifice.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) all United States commercial air carriers should seek to lend their support with flexible, generous policies applicable to members of the Armed Forces who are traveling on leave or liberty at their own expense; and

(2) each United States air carrier, for all members of the Armed Forces who have been granted leave or liberty and who are traveling by air at their own expense, should—

(A) seek to provide reduced air fares that are comparable to the lowest airfare for ticketed flights and that eliminate to the maximum extent possible advance purchase requirements;

(B) seek to eliminate change fees or charges and any penalties;

(C) seek to eliminate or reduce baggage and excess weight fees;

(D) offer flexible terms that allow members to purchase, modify, or cancel tickets without time restrictions, and to waive fees (including baggage fees), ancillary costs, or penalties; and

(E) seek to take proactive measures to ensure that all airline employees, particularly those who issue tickets and respond to members of the Armed Forces and their family members, are trained in the policies of the airline aimed at benefitting members of the Armed Forces who are on leave.

SEC. 427. REVIEW OF AIR CARRIER FLIGHT DELAYS, CANCELLATIONS, AND ASSOCIATED CAUSES.

(a) REVIEW.—The Inspector General of the Department of Transportation shall conduct a review regarding air carrier flight delays, cancellations, and associated causes to update its 2000 report numbered CR–2000–112 and titled "Audit of Air Carrier Flight Delays and Cancellations".

(b) ASSESSMENTS.—In conducting the review under subsection (a), the Inspector General shall assess—

(1) the need for an update on delay and cancellation statistics, including with respect to the number of chronically delayed flights and taxi-in and taxi-out times;

(2) air carriers' scheduling practices;

(3) the need for a reexamination of capacity benchmarks at the Nation's busiest airports;

(4) the impact of flight delays and cancellations on air travelers, including recommendations for programs that could be implemented to address the impact of flight delays on air travelers;

(5) the effect that limited air carrier service options on routes have on the frequency of delays and cancellations on such routes;

(6) the effect of the rules and regulations of the Department of Transportation on the decisions of air carriers to delay or cancel flights; and

(7) the impact of flight delays and cancellations on the airline industry.

(c) REPORT.—Not later than one year after the date of enactment of this Act, the Inspector General shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report on the results of the review conducted under this section, including the assessments described in subsection (b).

SEC. 428. DENIED BOARDING COMPENSATION.

(a) EVALUATION OF DENIED BOARDING COMPENSATION.—Not later than 6 months after the date of enactment of this Act, and every 2 years thereafter, the Secretary of Transportation shall evaluate the amount provided by air carriers for denied boarding compensation.

(b) ADJUSTMENT OF AMOUNT.—If, upon completing an evaluation required under subsection (a), the Secretary determines that the amount provided for denied boarding compensation should be adjusted, the Secretary shall issue a regulation to adjust such compensation.

SEC. 429. COMPENSATION FOR DELAYED BAGGAGE.

(a) STUDY.—The Comptroller General shall conduct a study to—

(1) examine delays in the delivery of checked baggage to passengers of air carriers; and

(2) assess the options for and examine the impact of establishing minimum standards to compensate a passenger in the case of an unreasonable delay in the delivery of checked baggage.

(b) CONSIDERATION.—In conducting the study, the Comptroller General shall take into account the additional fees for checked baggage that are imposed by many air carriers and how the additional fees should improve an air carrier's baggage performance.

(c) REPORT.—Not later than 180 days after the date of enactment of this Act, the Comptroller General shall transmit to Congress a report on the results of the study.

SEC. 430. SCHEDULE REDUCTION.

(a) IN GENERAL.—If the Administrator of the Federal Aviation Administration determines that—

(1) the aircraft operations of air carriers during any hour at an airport exceed the hourly maximum departure and arrival rate established by the Administrator for such operations; and

(2) the operations in excess of the maximum departure and arrival rate for such hour at such airport are likely to have a significant adverse effect on the safe and efficient use of navigable airspace,

the Administrator shall convene a meeting of such carriers to reduce pursuant to section 41722 of title 49, United States Code, on a voluntary basis, the number of such operations so as not to exceed the maximum departure and arrival rate.

(b) NO AGREEMENT.—If the air carriers participating in a meeting with respect to an airport under subsection (a) are not able to agree to a reduction in the number of flights to and from the airport so as not to exceed the maximum departure and arrival rate, the Administrator shall take such action as is necessary to ensure such reduction is implemented.

SEC. 431. DOT AIRLINE CONSUMER COMPLAINT INVESTIGATIONS.

The Secretary of Transportation may investigate consumer complaints regarding—

(1) flight cancellations;

(2) compliance with Federal regulations concerning overbooking seats on flights;

(3) lost, damaged, or delayed baggage, and difficulties with related airline claims procedures;

(4) problems in obtaining refunds for unused or lost tickets or fare adjustments;

(5) incorrect or incomplete information about fares, discount fare conditions and availability, overcharges, and fare increases;

(6) the rights of passengers who hold frequent flyer miles or equivalent redeemable awards earned through customer-loyalty programs; and

(7) deceptive or misleading advertising.

SEC. 432. STUDY OF OPERATORS REGULATED UNDER PART 135.

(a) STUDY REQUIRED.—The Administrator of the Federal Aviation Administration, in consultation with interested parties, shall conduct a study of operators regulated under part 135 of title 14, Code of Federal Regulations.

(b) CONTENTS.—In conducting the study under subsection (a), the Administrator shall analyze the part 135 fleet in the United States, which shall include analysis of—

(1) the size and type of aircraft in the fleet;

(2) the equipment utilized by the fleet;

(3) the hours flown each year by the fleet;

(4) the utilization rates with respect to the fleet;

(5) the safety record of various categories of use and aircraft types with respect to the fleet, through a review of the database of the National Transportation Safety Board;

(6) the sales revenues of the fleet; and

(7) the number of passengers and airports served by the fleet.

(c) REPORT.—

(1) INITIAL REPORT.—Not later than 18 months after the date of enactment of this Act, the Administrator shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report on the results of the study conducted under subsection (a).

(2) UPDATES.—Not later than 3 years after the date of the submission of the report required under paragraph (1), and every 2 years thereafter, the Administrator shall update the report required under that paragraph and submit the updated report to the committees specified in that paragraph.

SEC. 433. USE OF CELL PHONES ON PASSENGER AIRCRAFT.

(a) CELL PHONE STUDY.—Not later than 120 days after the date of enactment of this Act, the Administrator of the Federal Aviation Administration shall conduct a study on the impact of the use of cell phones for voice communications in an aircraft during a flight in scheduled passenger air transportation where currently permitted by foreign governments in foreign air transportation.

(b) CONTENTS.—The study shall include—

(1) a review of foreign government and air carrier policies on the use of cell phones during flight;

(2) a review of the extent to which passengers use cell phones for voice communications during flight; and

(3) a summary of any impacts of cell phone use during flight on safety, the quality of the flight experience of passengers, and flight attendants.

(c) COMMENT PERIOD.—Not later than 180 days after the date of enactment of this Act, the Administrator shall publish in the Federal Register the results of the study and allow 60 days for public comment.

(d) CELL PHONE REPORT.—Not later than 270 days after the date of enactment of this Act, the Administrator shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report on the results of the study.

TITLE V—ENVIRONMENTAL STREAMLINING

SEC. 501. OVERFLIGHTS OF NATIONAL PARKS.

(a) GENERAL REQUIREMENTS.—Section 40128(a)(1)(C) is amended by inserting "or voluntary agreement under subsection (b)(7)" before "for the park".

(b) EXEMPTION FOR NATIONAL PARKS WITH 50 OR FEWER FLIGHTS EACH YEAR.—Section 40128(a) is amended by adding at the end the following:

"(5) EXEMPTION FOR NATIONAL PARKS WITH 50 OR FEWER FLIGHTS EACH YEAR.—

"(A) IN GENERAL.—Notwithstanding paragraph (1), a national park that has 50 or fewer commercial air tour operations over the park each year shall be exempt from the requirements of this section, except as provided in subparagraph (B).

"(B) WITHDRAWAL OF EXEMPTION.—If the Director determines that an air tour management plan or voluntary agreement is necessary to protect park resources and values or park visitor use and enjoyment, the Director shall withdraw the exemption of a park under subparagraph (A).

"(C) LIST OF PARKS.—

"(i) IN GENERAL.—The Director and Administrator shall jointly publish a list each year of national parks that are covered by the exemption provided under this paragraph.

"(ii) NOTIFICATION OF WITHDRAWAL OF EXEMPTION.—The Director shall inform the Administrator, in writing, of each determination to withdraw an exemption under subparagraph (B).

"(D) ANNUAL REPORT.—A commercial air tour operator conducting commercial air tour operations over a national park that is exempt from the requirements of this section shall submit to the Administrator and the Director a report each year that includes the number of commercial air tour operations the operator conducted during the preceding one-year period over such park.".

(c) AIR TOUR MANAGEMENT PLANS.—Section 40128(b) is amended by adding at the end the following:

"(7) VOLUNTARY AGREEMENTS.—

"(A) IN GENERAL.—As an alternative to an air tour management plan, the Director and the Administrator may enter into a voluntary agreement with a commercial air tour operator (including a new entrant commercial air tour operator and an operator that has interim operating authority) that has applied to conduct commercial air tour operations over a national park to manage commercial air tour operations over such national park.

"(B) PARK PROTECTION.—A voluntary agreement under this paragraph with respect to commercial air tour operations over a national park shall address the management issues necessary to protect the resources of such park and visitor use of such park without compromising aviation safety or the air traffic control system and may—

"(i) include provisions such as those described in subparagraphs (B) through (E) of paragraph (3);

"(ii) include provisions to ensure the stability of, and compliance with, the voluntary agreement; and

"(iii) provide for fees for such operations.

"(C) PUBLIC.—The Director and the Administrator shall provide an opportunity for public review of a proposed voluntary agreement under this paragraph and shall consult with any Indian tribe whose tribal lands are, or may be, flown over by a commercial air tour operator under a voluntary agreement under this paragraph. After such opportunity for public review and consultation, the voluntary agreement may be implemented without further administrative or environmental process beyond that described in this subsection.

"(D) TERMINATION.—

"(i) IN GENERAL.—A voluntary agreement under this paragraph may be terminated at any time at the discretion of—

"(I) the Director, if the Director determines that the agreement is not adequately protecting park resources or visitor experiences; or

"(II) the Administrator, if the Administrator determines that the agreement is adversely affecting aviation safety or the national aviation system.

"(ii) EFFECT OF TERMINATION.—If a voluntary agreement with respect to a national park is terminated under this subparagraph, the operators shall conform to the requirements for interim operating authority under subsection (c) until an air tour management plan for the park is in effect.".

(d) INTERIM OPERATING AUTHORITY.—Section 40128(c) is amended—

(1) by striking paragraph (2)(I) and inserting the following:

"(I) may allow for modifications of the interim operating authority without further environmental review beyond that described in this subsection, if—

"(i) adequate information regarding the existing and proposed operations of the operator under the interim operating authority is provided to the Administrator and the Director;

"(ii) the Administrator determines that there would be no adverse impact on aviation safety or the air traffic control system; and

"(iii) the Director agrees with the modification, based on the professional expertise of the Director regarding the protection of the resources, values, and visitor use and enjoyment of the park."; and

(2) in paragraph (3)(A) by striking "if the Administrator determines" and all that follows through the period at the end and inserting "without further environmental process beyond that described in this paragraph, if—

"(i) adequate information on the proposed operations of the operator is provided to the Administrator and the Director by the operator making the request;

"(ii) the Administrator agrees that there would be no adverse impact on aviation safety or the air traffic control system; and

"(iii) the Director agrees, based on the Director's professional expertise regarding the protection of park resources and values and visitor use and enjoyment.".

(e) OPERATOR REPORTS.—Section 40128 is amended—

(1) by redesignating subsections (d), (e), and (f) as subsections (e), (f), and (g), respectively; and

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

"(d) COMMERCIAL AIR TOUR OPERATOR REPORTS.—

"(1) REPORT.—Each commercial air tour operator conducting a commercial air tour operation over a national park under interim operating authority granted under subsection (c) or in accordance with an air tour management plan or voluntary agreement under subsection (b) shall submit to the Administrator and the Director a report regarding the number of commercial air tour operations over each national park that are conducted by the operator and such other information as the Administrator and Director may request in order to facilitate administering the provisions of this section.

"(2) REPORT SUBMISSION.—Not later than 90 days after the date of enactment of the FAA Reauthorization and Reform Act of 2011, the Administrator and the Director shall jointly issue an initial request for reports under this subsection. The reports shall be submitted to the Administrator and the Director with a frequency and in a format prescribed by the Administrator and the Director.".

SEC. 502. STATE BLOCK GRANT PROGRAM.

(a) GENERAL REQUIREMENTS.—Section 47128(a) is amended—

(1) in the first sentence by striking "prescribe regulations" and inserting "issue guidance"; and

(2) in the second sentence by striking "regulations" and inserting "guidance".

(b) APPLICATIONS AND SELECTION.—Section 47128(b)(4) is amended by inserting before the semicolon the following: ", including the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), State and local environmental policy acts, Executive orders, agency regulations and guidance, and other Federal environmental requirements".

(c) ENVIRONMENTAL ANALYSIS AND COORDINATION REQUIREMENTS.—Section 47128 is amended by adding at the end the following:

"(d) ENVIRONMENTAL ANALYSIS AND COORDINATION REQUIREMENTS.—A Federal agency, other than the Federal Aviation Administration, that is responsible for issuing an approval, license, or permit to ensure compliance with a Federal environmental requirement applicable to a project or activity to be carried out by a State using amounts from a block grant made under this section shall—

"(1) coordinate and consult with the State;

"(2) use the environmental analysis prepared by the State for the project or activity if such analysis is adequate; and

"(3) as necessary, consult with the State to describe the supplemental analysis the State must provide to meet applicable Federal requirements.".

SEC. 503. NEXTGEN ENVIRONMENTAL EFFICIENCY PROJECTS STREAMLINING.

(a) AVIATION PROJECT REVIEW PROCESS.—Section 47171(a) is amended in the matter preceding paragraph (1) by striking "and aviation security projects" and inserting "aviation security projects, and NextGen environmental efficiency projects".

(b) AVIATION PROJECTS SUBJECT TO A STREAMLINED ENVIRONMENTAL REVIEW PROCESS.—Section 47171(b) is amended—

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

"(1) AIRPORT CAPACITY ENHANCEMENT PROJECTS AT CONGESTED AIRPORTS AND CERTAIN NEXTGEN ENVIRONMENTAL EFFICIENCY PROJECTS.—The following projects shall be subject to the coordinated and expedited environmental review process requirements set forth in this section:

"(A) An airport capacity enhancement project at a congested airport.

"(B) A NextGen environmental efficiency project at an Operational Evolution Partnership airport or any congested airport."; and

(2) in paragraph (2)—

(A) in the heading by striking "AND AVIATION SECURITY PROJECTS" and inserting "PROJECTS, AVIATION SECURITY PROJECTS, AND ANY NEXTGEN ENVIRONMENTAL EFFICIENCY PROJECTS";

(B) in subparagraph (A) by striking "or aviation security project" and inserting ", an aviation security project, or any NextGen environmental efficiency project"; and

(C) in subparagraph (B) by striking "or aviation security project" and inserting ", aviation security project, or NextGen environmental efficiency project".

(c) HIGH PRIORITY FOR ENVIRONMENTAL REVIEWS.—Section 47171(c)(1) is amended by striking "an airport capacity enhancement project at a congested airport" and inserting "a project described in subsection (b)(1)".

(d) IDENTIFICATION OF JURISDICTIONAL AGENCIES.—Section 47171(d) is amended by striking "each airport capacity enhancement project at a congested airport" and inserting "a project described in subsection (b)(1)".

(e) LEAD AGENCY RESPONSIBILITY.—Section 47171(h) is amended by striking "airport capacity enhancement projects at congested airports" and inserting "projects described in subsection (b)(1)".

(f) ALTERNATIVES ANALYSIS.—Section 47171(k) is amended by striking "an airport capacity enhancement project at a congested airport" and inserting "a project described in subsection (b)(1)".

(g) DEFINITIONS.—Section 47171 is amended by adding at the end the following:

"(n) DEFINITIONS.—In this section, the following definitions apply:

"(1) CONGESTED AIRPORT.—The term 'congested airport' means an airport that accounted for at least one percent of all delayed aircraft operations in the United States in the most recent year for which data is available and an airport listed in table 1 of the Federal Aviation Administration's Airport Capacity Benchmark Report 2004.

"(2) NEXTGEN ENVIRONMENTAL EFFICIENCY PROJECT.—The term 'NextGen environmental efficiency project' means a Next Generation Air Transportation System aviation project that—

"(A) develops and certifies performance-based navigation procedures; or

"(B) develops other environmental mitigation projects the Secretary may designate as facilitating a reduction in noise, fuel consumption, or emissions from air traffic operations.

"(3) PERFORMANCE-BASED NAVIGATION.—The term 'performance-based navigation' means a framework for defining performance requirements in navigation specifications that—

"(A) can be applied to an air traffic route, instrument procedure, or defined airspace; or

"(B) provides a basis for the design and implementation of automated flight paths, airspace design, and obstacle clearance.".

SEC. 504. AIRPORT FUNDING OF SPECIAL STUDIES OR REVIEWS.

Section 47173(a) is amended by striking "services of consultants in order to" and all that follows through the period at the end and inserting "services of consultants—

"(1) to facilitate the timely processing, review, and completion of environmental activities associated with an airport development project;

"(2) to conduct special environmental studies related to an airport project funded with Federal funds;

"(3) to conduct special studies or reviews to support approved noise compatibility measures described in part 150 of title 14, Code of Federal Regulations;

"(4) to conduct special studies or reviews to support environmental mitigation in a record of decision or finding of no significant impact by the Federal Aviation Administration; and

"(5) to facilitate the timely processing, review, and completion of environmental activities associated with new or amended flight procedures, including performance-based navigation procedures, such as required navigation performance procedures and area navigation procedures.".

SEC. 505. NOISE COMPATIBILITY PROGRAMS.

Section 47504(a)(2) is amended—

(1) by striking "and" after the semicolon in subparagraph (D);

(2) by striking "operations." in subparagraph (E) and inserting "operations; and"; and

(3) by adding at the end the following:

"(F) conducting comprehensive land use planning (including master plans, traffic studies, environmental evaluation, and economic and feasibility studies), jointly with neighboring local jurisdictions undertaking community redevelopment in an area in which land or other property interests have been acquired by the operator pursuant to this section, to encourage and enhance redevelopment opportunities that reflect zoning and uses that will prevent the introduction of additional incompatible uses and enhance redevelopment potential.".

SEC. 506. GRANT ELIGIBILITY FOR ASSESSMENT OF FLIGHT PROCEDURES.

Section 47504 is amended by adding at the end the following:

"(e) GRANTS FOR ASSESSMENT OF FLIGHT PROCEDURES.—

"(1) IN GENERAL.—In accordance with subsection (c)(1), the Secretary may make a grant to an airport operator to assist in completing environmental review and assessment activities for proposals to implement flight procedures at such airport that have been approved as part of an airport noise compatibility program under subsection (b).

"(2) ADDITIONAL STAFF.—The Administrator may accept funds from an airport operator, including funds provided to the operator under paragraph (1), to hire additional staff or obtain the services of consultants in order to facilitate the timely processing, review, and completion of environmental activities associated with proposals to implement flight procedures at such airport that have been approved as part of an airport noise compatibility program under subsection (b).

"(3) RECEIPTS CREDITED AS OFFSETTING COLLECTIONS.—Notwithstanding section 3302 of title 31, any funds accepted under this section—

"(A) shall be credited as offsetting collections to the account that finances the activities and services for which the funds are accepted;

"(B) shall be available for expenditure only to pay the costs of activities and services for which the funds are accepted; and

"(C) shall remain available until expended.".

SEC. 507. DETERMINATION OF FAIR MARKET VALUE OF RESIDENTIAL PROPERTIES.

Section 47504 (as amended by this Act) is further amended by adding at the end the following:

"(f) DETERMINATION OF FAIR MARKET VALUE OF RESIDENTIAL PROPERTIES.—In approving a project to acquire residential real property using financial assistance made available under this section or chapter 471, the Secretary shall ensure that the appraisal of the property to be acquired disregards any decrease or increase in the fair market value of the real property caused by the project for which the property is to be acquired, or by the likelihood that the property would be acquired for the project, other than that due to physical deterioration within the reasonable control of the owner.".

SEC. 508. PROHIBITION ON OPERATING CERTAIN AIRCRAFT WEIGHING 75,000 POUNDS OR LESS NOT COMPLYING WITH STAGE 3 NOISE LEVELS.

(a) IN GENERAL.—Subchapter II of chapter 475 is amended by adding at the end the following:

"§ 47534. Prohibition on operating certain aircraft weighing 75,000 pounds or less not complying with stage 3 noise levels

"(a) PROHIBITION.—Except as otherwise provided by this section, after December 31, 2014, a person may not operate a civil subsonic jet airplane with a maximum weight of 75,000 pounds or less, and for which an airworthiness certificate (other than an experimental certificate) has been issued, to or from an airport in the United States unless the Secretary of Transportation finds that the aircraft complies with stage 3 noise levels.

"(b) AIRCRAFT OPERATIONS OUTSIDE 48 CONTIGUOUS STATES.—Subsection (a) shall not apply to aircraft operated only outside the 48 contiguous States.

"(c) TEMPORARY OPERATIONS.—The Secretary may allow temporary operation of an aircraft otherwise prohibited from operation under subsection (a) to or from an airport in the contiguous United States by granting a special flight authorization for one or more of the following circumstances:

"(1) To sell, lease, or use the aircraft outside the 48 contiguous States.

"(2) To scrap the aircraft.

"(3) To obtain modifications to the aircraft to meet stage 3 noise levels.

"(4) To perform scheduled heavy maintenance or significant modifications on the aircraft at a maintenance facility located in the contiguous 48 States.

"(5) To deliver the aircraft to an operator leasing the aircraft from the owner or return the aircraft to the lessor.

"(6) To prepare, park, or store the aircraft in anticipation of any of the activities described in paragraphs (1) through (5).

"(7) To provide transport of persons and goods in the relief of an emergency situation.

"(8) To divert the aircraft to an alternative airport in the 48 contiguous States on account of weather, mechanical, fuel, air traffic control, or other safety reasons while conducting a flight in order to perform any of the activities described in paragraphs (1) through (7).

"(d) REGULATIONS.—The Secretary may prescribe such regulations or other guidance as may be necessary for the implementation of this section.

"(e) STATUTORY CONSTRUCTION.—

"(1) AIP GRANT ASSURANCES.—Noncompliance with subsection (a) shall not be construed as a violation of section 47107 or any regulations prescribed thereunder.

"(2) PENDING APPLICATIONS.—Nothing in this section may be construed as interfering with, nullifying, or otherwise affecting determinations made by the Federal Aviation Administration, or to be made by the Administration, with respect to applications under part 161 of title 14, Code of Federal Regulations, that were pending on the date of enactment of this section.".

(b) CONFORMING AMENDMENTS.—

(1) Section 47531 is amended—

(A) in the section heading by striking "**for violating sections 47528–47530**"; and

(B) by striking "47529, or 47530" and inserting "47529, 47530, or 47534".

(2) Section 47532 is amended by inserting "or 47534" after "47528–47531".

(3) The analysis for subchapter II of chapter 475 is amended—

(A) by striking the item relating to section 47531 and inserting the following:

"47531. Penalties."; and

(B) by adding at the end the following:

"47534. Prohibition on operating certain aircraft weighing 75,000 pounds or less not complying with stage 3 noise levels.".

SEC. 509. AIRCRAFT DEPARTURE QUEUE MANAGEMENT PILOT PROGRAM.

(a) IN GENERAL.—The Secretary of Transportation shall carry out a pilot program at not more than 5 public-use airports under which the Federal Aviation Administration shall use funds made available under section 48101(a) to test air traffic flow management tools, methodologies, and procedures that will allow air traffic controllers of the Administration to better manage the flow of aircraft on the ground and reduce the length of ground holds and idling time for aircraft.

(b) SELECTION CRITERIA.—In selecting from among airports at which to conduct the pilot program, the Secretary shall give priority consideration to airports at which improvements in ground control efficiencies are likely to achieve the greatest fuel savings or air quality or other environmental benefits, as measured by the amount of reduced fuel, reduced emissions, or other environmental benefits per dollar of funds expended under the pilot program.

(c) MAXIMUM AMOUNT.—Not more than a total of $2,500,000 may be expended under the pilot program at any single public-use airport.

SEC. 510. HIGH PERFORMANCE, SUSTAINABLE, AND COST-EFFECTIVE AIR TRAFFIC CONTROL FACILITIES.

The Administrator of the Federal Aviation Administration may implement, to the extent practicable, sustainable practices for the incorporation of energy-efficient design, equipment, systems, and other measures in the construction and major renovation of air traffic control facilities of the Administration in order to reduce energy consumption at, improve the environmental performance of, and reduce the cost of maintenance for such facilities.

SEC. 511. SENSE OF CONGRESS.

It is the sense of Congress that—

(1) the European Union directive extending the European Union's emissions trading proposal to international civil aviation without working through the International Civil Aviation Organization (in this section referred to as the "ICAO") in a consensus-based fashion is inconsistent with the Convention on International Civil Aviation, completed in Chicago on December 7, 1944 (TIAS 1591; commonly known as the "Chicago Convention"), and other relevant air services agreements and antithetical to building international cooperation to address effectively the problem of greenhouse gas emissions by aircraft engaged in international civil aviation; and

(2) the European Union and its member states should instead work with other contracting states of ICAO to develop a consensual approach to addressing aircraft greenhouse gas emissions through ICAO.

SEC. 512. AVIATION NOISE COMPLAINTS.

(a) TELEPHONE NUMBER POSTING.—Not later than 90 days after the date of enactment of this Act, each owner or operator of a large hub airport (as defined in section 40102(a) of title 49, United States Code) shall publish on an Internet Web site of the airport a telephone number to receive aviation noise complaints related to the airport.

(b) SUMMARIES AND REPORTS.—Not later than 15 months after the date of enactment of this Act, and annually thereafter, an owner or operator that receives noise complaints from 25 individuals during the preceding year under subsection (a) shall submit to the Administrator of the Federal Aviation Administration a report regarding the number of complaints received and a summary regarding the nature of such complaints. The Administrator shall make such information available to the public by electronic means.

TITLE VI—FAA EMPLOYEES AND ORGANIZATION

SEC. 601. FEDERAL AVIATION ADMINISTRATION PERSONNEL MANAGEMENT SYSTEM.

(a) DISPUTE RESOLUTION.—Section 40122(a) is amended—

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

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

"(2) DISPUTE RESOLUTION.—

"(A) MEDIATION.—If the Administrator does not reach an agreement under paragraph (1) or the provisions referred to in subsection (g)(2)(C) with the exclusive bargaining representative of the employees, the Administrator and the bargaining representative—

"(i) shall use the services of the Federal Mediation and Conciliation Service to attempt to reach such agreement in accordance with part 1425 of title 29, Code of Federal Regulations (as in effect on the date of enactment of the FAA Reauthorization and Reform Act of 2011); or

"(ii) may by mutual agreement adopt alternative procedures for the resolution of disputes or impasses arising in the negotiation of the collective-bargaining agreement.

"(B) MID-TERM BARGAINING.—If the services of the Federal Mediation and Conciliation Service under subparagraph (A)(i) do not lead to the resolution of issues in controversy arising from the negotiation of a mid-term collective-bargaining agreement, the Federal Service Impasses Panel shall assist the parties in resolving the impasse in accordance with section 7119 of title 5.

"(C) BINDING ARBITRATION FOR TERM BARGAINING.—

"(i) ASSISTANCE FROM FEDERAL SERVICE IMPASSES PANEL.—If the services of the Federal Mediation and Conciliation Service under subparagraph (A)(i) do not lead to the resolution of issues in controversy arising from the negotiation of a term collective-bargaining agreement, the Administrator and the exclusive bargaining representative of the employees (in this subparagraph referred to as the 'parties') shall submit their issues in controversy to the Federal Service Impasses Panel. The Panel shall assist the parties in resolving the impasse by asserting jurisdiction and ordering binding arbitration by a private arbitration board consisting of 3 members.

"(ii) APPOINTMENT OF ARBITRATION BOARD.—The Executive Director of the Panel shall provide for the appointment of the 3 members of a private arbitration board under clause (i) by requesting the Director of the Federal Mediation and Conciliation Service to prepare a list of not less than 15 names of arbitrators with Federal sector experience and by providing the list to the parties. Not later than 10 days after receiving the list, the parties shall each select one person from the list. The 2 arbitrators selected by the parties shall then select a third person from the list not later than 7 days after being selected. If either of the parties fails to select a person or if the 2 arbitrators are unable to agree on the third person in 7 days, the parties shall make the selection by alternately striking names on the list until one arbitrator remains.

"(iii) FRAMING ISSUES IN CONTROVERSY.—If the parties do not agree on the framing of the issues to be submitted for arbitration, the arbitration board shall frame the issues.

"(iv) HEARINGS.—The arbitration board shall give the parties a full and fair hearing, including an opportunity to present evidence in support of their claims and an opportunity to present their case in person, by counsel, or by other representative as they may elect.

"(v) DECISIONS.—The arbitration board shall render its decision within 90 days after the date of its appointment. Decisions of the arbitration board shall be conclusive and binding upon the parties.

"(vi) MATTERS FOR CONSIDERATION.—The arbitration board shall take into consideration such factors as—

"(I) the effect of its arbitration decisions on the Federal Aviation Administration's ability to attract and retain a qualified workforce;

"(II) the effect of its arbitration decisions on the Federal Aviation Administration's budget;

"(III) the effect of its arbitration decisions on other Federal Aviation Administration employees; and

"(IV) any other factors whose consideration would assist the board in fashioning a fair and equitable award.

"(vii) COSTS.—The parties shall share costs of the arbitration equally.

"(3) RATIFICATION OF AGREEMENTS.—Upon reaching a voluntary agreement or at the conclusion of the binding arbitration under paragraph (2)(C), the final agreement, except for those matters decided by an arbitration board, shall be subject to ratification by the exclusive bargaining representative of the employees, if so requested by the bargaining representative, and the final agreement shall be subject to approval by the head of the agency in accordance with the provisions referred to in subsection (g)(2)(C).".

SEC. 602. PRESIDENTIAL RANK AWARD PROGRAM.

Section 40122(g)(2) is amended—

(1) in subparagraph (G) by striking "and" after the semicolon;

(2) in subparagraph (H) by striking "Board." and inserting "Board; and"; and

(3) by adding at the end the following:

"(I) subsections (b), (c), and (d) of section 4507 (relating to Meritorious Executive or Distinguished Executive rank awards) and subsections (b) and (c) of section 4507a (relating to Meritorious Senior Professional or Distinguished Senior Professional rank awards), except that—

"(i) for purposes of applying such provisions to the personnel management system—

"(I) the term 'agency' means the Department of Transportation;

"(II) the term 'senior executive' means a Federal Aviation Administration executive;

"(III) the term 'career appointee' means a Federal Aviation Administration career executive; and

"(IV) the term 'senior career employee' means a Federal Aviation Administration career senior professional;

"(ii) receipt by a career appointee or a senior career employee of the rank of Meritorious Executive or Meritorious Senior Professional entitles the individual to a lump-sum payment of an amount equal to 20 percent of annual basic pay, which shall be in addition to the basic pay paid under the Federal Aviation Administration Executive Compensation Plan; and

"(iii) receipt by a career appointee or a senior career employee of the rank of Distinguished Executive or Distinguished Senior Professional entitles the individual to a lump-sum payment of an amount equal to 35 percent of annual basic pay, which shall be in addition to the basic pay paid under the Federal Aviation Administration Executive Compensation Plan.".

SEC. 603. FAA TECHNICAL TRAINING AND STAFFING.

(a) STUDY.—

(1) IN GENERAL.—The Administrator of the Federal Aviation Administration shall conduct a study to assess the adequacy of the Administrator's technical training strategy and improvement plan for airway transportation systems specialists (in this section referred to as "FAA systems specialists").

(2) CONTENTS.—The study shall include—

(A) a review of the current technical training strategy and improvement plan for FAA systems specialists;

(B) recommendations to improve the technical training strategy and improvement plan needed by FAA systems specialists to be proficient in the maintenance of the latest technologies;

(C) a description of actions that the Administration has undertaken to ensure that FAA systems specialists receive up-to-date training on the latest technologies; and

(D) a recommendation regarding the most cost-effective approach to provide training to FAA systems specialists.

(3) REPORT.—Not later than one year after the date of enactment of this Act, the Administrator shall submit to the Committee on Transportation and Infra-

structure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report on the results of the study.

(b) WORKLOAD OF SYSTEMS SPECIALISTS.—

(1) STUDY BY NATIONAL ACADEMY OF SCIENCES.—Not later than 90 days after the date of enactment of this Act, the Administrator of the Federal Aviation Administration shall make appropriate arrangements for the National Academy of Sciences to conduct a study of the assumptions and methods used by the Federal Aviation Administration to estimate staffing needs for FAA systems specialists to ensure proper maintenance and certification of the national airspace system in the most cost effective manner.

(2) CONSULTATION.—In conducting the study, the National Academy of Sciences shall interview interested parties, including labor, government, and industry representatives.

(3) REPORT.—Not later than one year after the initiation of the arrangements under paragraph (1), the National Academy of Sciences shall submit to Congress a report on the results of the study.

SEC. 604. SAFETY CRITICAL STAFFING.

(a) IN GENERAL.—Not later than October 1, 2011, the Administrator of the Federal Aviation Administration shall implement, to the extent practicable and in a cost-effective manner, the staffing model for aviation safety inspectors developed pursuant to the National Academy of Sciences study entitled "Staffing Standards for Aviation Safety Inspectors". In doing so, the Administrator shall consult with interested persons, including aviation safety inspectors.

(b) REPORT.—Not later than October 1 of each fiscal year beginning after September 30, 2011, the Administrator shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate, the staffing model described in subsection (a).

(c) SAFETY CRITICAL POSITIONS DEFINED.—In this section, the term "safety critical positions" means—

(1) aviation safety inspectors, safety technical specialists, and operational support positions in the Flight Standards Service (as such terms are used in the Administration's fiscal year 2011 congressional budget justification); and

(2) manufacturing safety inspectors, pilots, engineers, chief scientific and technical advisors, safety technical specialists, and operational support positions in the Aircraft Certification Service (as such terms are used in the Administration's fiscal year 2011 congressional budget justification).

SEC. 605. FAA AIR TRAFFIC CONTROLLER STAFFING.

(a) STUDY BY NATIONAL ACADEMY OF SCIENCES.—Not later than 90 days after the date of enactment of this Act, the Administrator of the Federal Aviation Administration shall enter into appropriate arrangements with the National Academy of Sciences to conduct a study of the air traffic controller standards used by the Federal Aviation Administration (in this section referred to as the "FAA") to estimate staffing needs for FAA air traffic controllers to ensure the safe operation of the national airspace system in the most cost effective manner.

(b) CONSULTATION.—In conducting the study, the National Academy of Sciences shall interview interested parties, including employee, Government, and industry representatives.

(c) CONTENTS.—The study shall include—

(1) an examination of representative information on productivity, human factors, traffic activity, and improved technology and equipment used in air traffic control;

(2) an examination of recent National Academy of Sciences reviews of the complexity model performed by MITRE Corporation that support the staffing standards models for the en route air traffic control environment; and

(3) consideration of the Administration's current and estimated budgets and the most cost-effective staffing model to best leverage available funding.

(d) REPORT.—Not later than 2 years after the date of enactment of this Act, the National Academy of Sciences shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report on the results of the study.

SEC. 606. AIR TRAFFIC CONTROL SPECIALIST QUALIFICATION TRAINING.

Section 44506 is amended—

(1) by redesignating subsection (d) as subsection (e); and

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

"(d) AIR TRAFFIC CONTROL SPECIALIST QUALIFICATION TRAINING.—

"(1) APPOINTMENT OF AIR TRAFFIC CONTROL SPECIALISTS.—The Administrator is authorized to appoint a qualified air traffic control specialist candidate for placement in an airport traffic control facility if the candidate has—

"(A) received a control tower operator certification (referred to in this subsection as a 'CTO' certificate); and

"(B) satisfied all other applicable qualification requirements for an air traffic control specialist position.

"(2) COMPENSATION AND BENEFITS.—An individual appointed under paragraph (1) shall receive the same compensation and benefits, and be treated in the same manner as, any other individual appointed as a developmental air traffic controller.

"(3) REPORT.—Not later than 18 months after the date of enactment of the FAA Reauthorization and Reform Act of 2011, the Administrator shall submit to Congress a report that evaluates the effectiveness of the air traffic control specialist qualification training provided pursuant to this section, including the graduation rates of candidates who received a CTO certificate and are working in airport traffic control facilities.

"(4) ADDITIONAL APPOINTMENTS.—If the Administrator determines that air traffic control specialists appointed pursuant to this subsection are more successful in carrying out the duties of an air traffic controller than air traffic control specialists hired from the general public without any such certification, the Administrator shall increase the number of appointments of candidates who possess such certification.

"(5) REIMBURSEMENT FOR TRAVEL EXPENSES ASSOCIATED WITH CERTIFICATIONS.—

"(A) IN GENERAL.—Subject to subparagraph (B), the Administrator may accept reimbursement from an educational entity that provides training to an air traffic control specialist candidate to cover reasonable travel expenses of the Administrator associated with issuing certifications to such candidates.

"(B) TREATMENT OF REIMBURSEMENTS.—Notwithstanding section 3302 of title 31, any reimbursement authorized to be collected under subparagraph (A) shall—

"(i) be credited as offsetting collections to the account that finances the activities and services for which the reimbursement is accepted;

"(ii) be available for expenditure only to pay the costs of activities and services for which the reimbursement is accepted, including all costs associated with collecting such reimbursement; and

"(iii) remain available until expended.".

SEC. 607. ASSESSMENT OF TRAINING PROGRAMS FOR AIR TRAFFIC CONTROLLERS.

(a) STUDY.—The Administrator of the Federal Aviation Administration shall conduct a study to assess the adequacy of training programs for air traffic controllers, including the Administrator's technical training strategy and improvement plan for air traffic controllers.

(b) CONTENTS.—The study shall include—

(1) a review of the current training system for air traffic controllers, including the technical training strategy and improvement plan;

(2) an analysis of the competencies required of air traffic controllers for successful performance in the current and future projected air traffic control environment;

(3) an analysis of the competencies projected to be required of air traffic controllers as the Federal Aviation Administration transitions to the Next Generation Air Transportation System;

(4) an analysis of various training approaches available to satisfy the controller competencies identified under paragraphs (2) and (3);

(5) recommendations to improve the current training system for air traffic controllers, including the technical training strategy and improvement plan; and

(6) the most cost-effective approach to provide training to air traffic controllers.

(c) REPORT.—Not later than 180 days after the date of enactment of this Act, the Administrator shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report on the results of the study.

SEC. 608. COLLEGIATE TRAINING INITIATIVE STUDY.

(a) STUDY.—The Comptroller General shall conduct a study on training options for graduates of the Collegiate Training Initiative program (in this section referred to as "CTI" programs) conducted under section 44506(c) of title 49, United States Code.

(b) CONTENTS.—The study shall analyze the impact of providing as an alternative to the current training provided at the Mike Monroney Aeronautical Center of the Federal Aviation Administration a new controller orientation session at the Mike Monroney Aeronautical Center for graduates of CTI programs followed by on-the-job training for newly hired air traffic controllers who are graduates of CTI programs and shall include an analysis of—

(1) the cost effectiveness of such an alternative training approach; and

(2) the effect that such an alternative training approach would have on the overall quality of training received by graduates of CTI programs.

(c) REPORT.—Not later than 180 days after the date of enactment of this Act, the Comptroller General shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report on the results of the study.

SEC. 609. FAA FACILITY CONDITIONS.

(a) STUDY.—The Comptroller General shall conduct a study of—

(1) the conditions of a sampling of Federal Aviation Administration facilities across the United States, including offices, towers, centers, and terminal radar air control;

(2) reports from employees of the Administration relating to respiratory ailments and other health conditions resulting from exposure to mold, asbestos, poor air quality, radiation, and facility-related hazards in facilities of the Administration;

(3) conditions of such facilities that could interfere with such employees' ability to effectively and safely perform their duties;

(4) the ability of managers and supervisors of such employees to promptly document and seek remediation for unsafe facility conditions;

(5) whether employees of the Administration who report facility-related illnesses are treated appropriately;

(6) utilization of scientifically approved remediation techniques to mitigate hazardous conditions in accordance with applicable State and local regulations and Occupational Safety and Health Administration practices by the Administration; and

(7) resources allocated to facility maintenance and renovation by the Administration.

(b) FACILITY CONDITION INDICES.—The Comptroller General shall review the facility condition indices of the Administration for inclusion in the recommendations under subsection (c).

(c) RECOMMENDATIONS.—Based on the results of the study and review of facility condition indices under subsection (a), the Comptroller General shall make such recommendations as the Comptroller General considers necessary to—

(1) prioritize those facilities needing the most immediate attention based on risks to employee health and safety;

(2) ensure that the Administration is using scientifically approved remediation techniques in all facilities; and

(3) assist the Administration in making programmatic changes so that aging facilities do not deteriorate to unsafe levels.

(d) REPORT.—Not later than one year after the date of enactment of this Act, the Comptroller General shall submit to the Administrator, the Committee on Commerce, Science, and Transportation of the Senate, and the Committee on Transportation and Infrastructure of the House of Representatives a report on results of the study, including the recommendations under subsection (c).

SEC. 610. FRONTLINE MANAGER STAFFING.

(a) STUDY.—Not later than 45 days after the date of enactment of this Act, the Administrator of the Federal Aviation Administration shall commission an independent study on frontline manager staffing requirements in air traffic control facilities.

(b) CONSIDERATIONS.—In conducting the study, the Administrator may take into consideration—

(1) the managerial tasks expected to be performed by frontline managers, including employee development, management, and counseling;

(2) the number of supervisory positions of operation requiring watch coverage in each air traffic control facility;

(3) coverage requirements in relation to traffic demand;

(4) facility type;

(5) complexity of traffic and managerial responsibilities;

(6) proficiency and training requirements; and

(7) such other factors as the Administrator considers appropriate.

(c) PARTICIPATION.—The Administrator shall ensure the participation of frontline managers who currently work in safety-related operational areas of the Administration.

(d) DETERMINATIONS.—The Administrator shall transmit any determinations made as a result of the study to the heads of the appropriate lines of business within the Administration, including the Chief Operating Officer of the Air Traffic Organization.

(e) REPORT.—Not later than 9 months after the date of enactment of this Act, the Administrator shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report on the results of the study and a description of any determinations submitted to the Chief Operating Officer under subsection (c).

(f) DEFINITION.—In this section, the term "frontline manager" means first-level, operational supervisors and managers who work in safety-related operational areas of the Administration.

TITLE VII—AVIATION INSURANCE

SEC. 701. GENERAL AUTHORITY.

(a) EXTENSION OF POLICIES.—Section 44302(f)(1) is amended by striking "shall extend through" and all that follows through "the termination date" and inserting "shall extend through September 30, 2013, and may extend through December 31, 2013, the termination date".

(b) SUCCESSOR PROGRAM.—Section 44302(f) is amended by adding at the end the following:

"(3) SUCCESSOR PROGRAM.—

"(A) IN GENERAL.—After December 31, 2021, coverage for the risks specified in a policy that has been extended under paragraph (1) shall be provided in an airline industry sponsored risk retention or other risk-sharing arrangement approved by the Secretary.

"(B) TRANSFER OF PREMIUMS.—

"(i) IN GENERAL.—On December 31, 2021, and except as provided in clause (ii), premiums collected by the Secretary from the airline industry after September 22, 2001, for any policy under this subsection, and interest earned thereon, as determined by the Secretary, shall be transferred to an airline industry sponsored risk retention or other risk-sharing arrangement approved by the Secretary.

"(ii) DETERMINATION OF AMOUNT TRANSFERRED.—The amount transferred pursuant to clause (i) shall be less—

"(I) the amount of any claims paid out on such policies from September 22, 2001, through December 31, 2021;

"(II) the amount of any claims pending under such policies as of December 31, 2021; and

"(III) the cost, as determined by the Secretary, of administering the provision of insurance policies under this chapter from September 22, 2001, through December 31, 2021.".

SEC. 702. EXTENSION OF AUTHORITY TO LIMIT THIRD-PARTY LIABILITY OF AIR CARRIERS ARISING OUT OF ACTS OF TERRORISM.

The first sentence of section 44303(b) is amended by striking "ending on" and all that follows through "the Secretary may certify" and inserting "ending on December 31, 2013, the Secretary may certify".

SEC. 703. CLARIFICATION OF REINSURANCE AUTHORITY.

The second sentence of section 44304 is amended by striking "the carrier" and inserting "any insurance carrier".

SEC. 704. USE OF INDEPENDENT CLAIMS ADJUSTERS.

The second sentence of section 44308(c)(1) is amended by striking "agent" and inserting "agent, or a claims adjuster who is independent of the underwriting agent,".

TITLE VIII—MISCELLANEOUS

SEC. 801. DISCLOSURE OF DATA TO FEDERAL AGENCIES IN INTEREST OF NATIONAL SECURITY.

Section 40119(b) is amended by adding at the end the following:

"(4) Section 552a of title 5 shall not apply to disclosures that the Administrator may make from the systems of records of the Administration to any Federal law enforcement, intelligence, protective service, immigration, or national security official in order to assist the official receiving the information in the performance of official duties.".

SEC. 802. FAA ACCESS TO CRIMINAL HISTORY RECORDS AND DATABASE SYSTEMS.

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

"§ 40130. FAA access to criminal history records and database systems

"(a) ACCESS TO RECORDS AND DATABASE SYSTEMS.—

"(1) ACCESS TO INFORMATION.—Notwithstanding section 534 of title 28, and regulations issued to implement such section, the Administrator of the Federal Aviation Administration may have direct access to a system of documented criminal justice information maintained by the Department of Justice or by a State, but may do so only for the purpose of carrying out civil and administrative responsibilities of the Administration to protect the safety and security of the national airspace system or to support the missions of the Department of Justice, the Department of Homeland Security, and other law enforcement agencies.

"(2) RELEASE OF INFORMATION.—In accessing a system referred to in paragraph (1), the Administrator shall be subject to the same conditions and procedures established by the Department of Justice or the State for other governmental agencies with direct access to the system.

"(3) LIMITATION.—The Administrator may not use the direct access authorized under paragraph (1) to conduct criminal investigations.

"(b) DESIGNATED EMPLOYEES.—The Administrator shall designate, by order, employees of the Administration who shall carry out the authority described in subsection (a). The designated employees may—

"(1) have direct access to and receive criminal history, driver, vehicle, and other law enforcement information contained in the law enforcement databases of the Department of Justice, or any jurisdiction of a State, in the same manner as a police officer employed by a State or local authority of that State who is certified or commissioned under the laws of that State;

"(2) use any radio, data link, or warning system of the Federal Government, and of any jurisdiction in a State, that provides information about wanted persons, be-on-the-lookout notices, warrant status, or other officer safety information to which a police officer employed by a State or local authority in that State who is certified or commissioned under the laws of that State has direct access and in the same manner as such police officer; and

"(3) receive Federal, State, or local government communications with a police officer employed by a State or local authority in that State in the same manner as a police officer employed by a State or local authority in that State who is commissioned under the laws of that State.

"(c) SYSTEM OF DOCUMENTED CRIMINAL JUSTICE INFORMATION DEFINED.—In this section, the term 'system of documented criminal justice information' means any law enforcement database, system, or communication containing information concerning identification, criminal history, arrests, convictions, arrest warrants, wanted or missing persons, including the National Crime Information Center and its incorporated criminal history databases and the National Law Enforcement Telecommunications System.".

(b) CLERICAL AMENDMENT.—The analysis for chapter 401 is amended by adding at the end the following:

"40130. FAA access to criminal history records and database systems.".

SEC. 803. CIVIL PENALTIES TECHNICAL AMENDMENTS.

Section 46301 is amended—

(1) in subsection (a)(1)(A) by inserting "chapter 451," before "section 47107(b)";

(2) in subsection (a)(5)(A)(i)—

(A) by striking "or chapter 449" and inserting "chapter 449"; and

(B) by inserting after "44909)" the following: ", or chapter 451";

(3) in subsection (d)(2)—

(A) by inserting after "44723)" the following: ", chapter 451 (except section 45107)";

(B) by inserting after "44909)," the following: "section 45107,";

(C) by striking "46302" and inserting "section 46302"; and

(D) by striking "46303" and inserting "section 46303"; and

(4) in subsection (f)(1)(A)(i)—

(A) by striking "or chapter 449" and inserting "chapter 449"; and

(B) by inserting after "44909)" the following: ", or chapter 451".

SEC. 804. REALIGNMENT AND CONSOLIDATION OF FAA SERVICES AND FACILITIES.

(a) IN GENERAL.—Chapter 445 (as amended by this Act) is further amended by adding at the end the following new section:

"§ 44519. Realignment and consolidation of FAA services and facilities

"(a) PURPOSE.—The purpose of this section is to establish a fair process that will result in the realignment and consolidation of FAA services and facilities to help reduce capital, operating, maintenance, and administrative costs and facilitate Next Generation Air Transportation System air traffic control modernization efforts without adversely affecting safety.

"(b) GENERAL AUTHORITY.—Subject to the requirements of this section, the Administrator of the Federal Aviation Administration shall realign and consolidate FAA services and facilities pursuant to recommendations made by the Aviation Facilities and Services Board established under subsection (g).

"(c) ADMINISTRATOR'S RECOMMENDATIONS.—

"(1) PROPOSED CRITERIA.—

"(A) IN GENERAL.—The Administrator shall develop proposed criteria for use by the Administrator in making recommendations for the realignment and consolidation of FAA services and facilities under this section.

"(B) PUBLICATION; TRANSMITTAL TO CONGRESS.—Not later than 30 days after the date of enactment of this section, the Administrator shall publish the proposed criteria in the Federal Register and transmit the proposed criteria to the congressional committees of interest.

"(C) NOTICE AND COMMENT.—The Administrator shall provide an opportunity for public comment on the proposed criteria for a period of at least 30 days and shall include notice of that opportunity in the Federal Register.

"(2) FINAL CRITERIA.—

"(A) IN GENERAL.—The Administrator shall establish final criteria based on the proposed criteria developed under paragraph (1).

"(B) PUBLICATION; TRANSMITTAL TO CONGRESS.—Not later than 90 days after the date of enactment of this section, the Administrator shall publish the final criteria in the Federal Register and transmit the final criteria to the congressional committees of interest.

"(3) RECOMMENDATIONS.—

"(A) IN GENERAL.—The Administrator shall make recommendations for the realignment and consolidation of FAA services and facilities under this section based on the final criteria established under paragraph (2).

"(B) CONTENTS.—The recommendations shall consist of a list of FAA services and facilities for realignment and consolidation, together with a justification for each service and facility included on the list.

"(C) PUBLICATION; TRANSMITTAL TO BOARD AND CONGRESS.—Not later than 120 days after the date of enactment of this section, the Administrator shall publish the recommendations in the Federal Register and transmit the recommendations to the Board and the congressional committees of interest.

"(D) INFORMATION.—The Administrator shall make available to the Board and the Comptroller General all information used by the Administrator in establishing the recommendations.

"(E) ADDITIONAL RECOMMENDATIONS.—The Administrator is authorized to make additional recommendations under this paragraph every 2 years.

"(d) BOARD'S REVIEW AND RECOMMENDATIONS.—

"(1) PUBLIC HEARINGS.—Not later than 30 days after the date of receipt of the Administrator's recommendations under subsection (c), the Board shall conduct public hearings on the recommendations.

"(2) BOARD'S RECOMMENDATIONS.—

"(A) REPORT TO CONGRESS.—Based on the Board's review and analysis of the Administrator's recommendations and any public comments received under paragraph (1), the Board shall develop a report containing the Board's findings and conclusions concerning the Administrator's recommendations, together with the Board's recommendations for realignment and consolidation of FAA services and facilities. The Board shall explain and justify in the report any recommendation made by the Board that differs from a recommendation made by the Administrator.

"(B) PUBLICATION IN FEDERAL REGISTER; TRANSMITTAL TO CONGRESS.—Not later than 60 days after the date of receipt of the Administrator's recommendations under subsection (c), the Board shall publish the report in the Federal Register and transmit the report to the congressional committees of interest.

"(3) ASSISTANCE OF COMPTROLLER GENERAL.—The Comptroller General shall assist the Board, to the extent requested by the Board, in the Board's review and analysis of the Administrator's recommendations.

"(e) REALIGNMENT AND CONSOLIDATION OF FAA SERVICES AND FACILITIES.—Subject to subsection (f), the Administrator shall—

"(1) realign or consolidate the FAA services and facilities recommended for realignment or consolidation by the Board in a report transmitted under subsection (d);

"(2) initiate all such realignments and consolidations not later than one year after the date of the report; and

"(3) complete all such realignments and consolidations not later than 3 years after the date of the report.

"(f) CONGRESSIONAL DISAPPROVAL.—

"(1) IN GENERAL.—The Administrator may not carry out a recommendation of the Board for realignment or consolidation of FAA services and facilities that is included in a report transmitted under subsection (d) if a joint resolution of disapproval is enacted disapproving such recommendation before the earlier of—

"(A) the last day of the 30-day period beginning on the date of the report; or

"(B) the adjournment of Congress sine die for the session during which the report is transmitted.

"(2) COMPUTATION OF 30-DAY PERIOD.—For purposes of paragraph (1)(A), the days on which either house of Congress is not in session because of an adjournment of more than 3 days to a day certain shall be excluded in computation of the 30-day period.

"(g) AVIATION FACILITIES AND SERVICES BOARD.—

"(1) ESTABLISHMENT.—Not later than 180 days after the date of enactment of this section, the Secretary of Transportation shall establish an independent board to be known as the 'Aviation Facilities and Services Board'.

"(2) COMPOSITION.—The Board shall be composed of the following members:

"(A) The Secretary (or a designee of the Secretary), who shall be the Chair of the Board.

"(B) Two members appointed by the Secretary, who may not be officers or employees of the Federal Government.

"(C) The Comptroller General (or a designee of the Comptroller General), who shall be a nonvoting member of the Board.

"(3) DUTIES.—The Board shall carry out the duties specified for the Board in this section.

"(4) TERM.—The members of the Board to be appointed under paragraph (2)(B) shall each be appointed for a term of 3 years.

"(5) VACANCIES.—A vacancy in the Board shall be filled in the same manner as the original appointment was made, but the individual appointed to fill the vacancy shall serve only for the unexpired portion of the term for which the individual's predecessor was appointed.

"(6) COMPENSATION AND BENEFITS.—A member of the Board may not receive any compensation or benefits from the Federal Government for serving on the Board, except that—

"(A) a member shall receive compensation for work injuries under subchapter I of chapter 81 of title 5; and

"(B) a member shall be paid actual travel expenses and per diem in lieu of subsistence expenses when away from the member's usual place of residence in accordance with section 5703 of title 5.

"(7) STAFF.—The Administrator shall make available to the Board such staff, information, and administrative services and assistance as may be reasonably required to enable the Board to carry out its responsibilities under this section. The Board may employ experts and consultants on a temporary or intermittent basis with the approval of the Secretary.

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

"(h) AUTHORIZATION OF APPROPRIATIONS.—

"(1) IN GENERAL.—There is authorized to be appropriated to the Administrator for each of fiscal years 2011 through 2014 $200,000 for the Board to carry out its duties.

"(2) AVAILABILITY OF AMOUNTS.—Amounts appropriated pursuant to paragraph (1) shall remain available until expended.

"(i) EFFECT ON OTHER AUTHORITIES.—Nothing in this section shall be construed to affect the authorities provided in section 44503 or the existing authorities or responsibilities of the Administrator under this title to manage the operations of the

Federal Aviation Administration, including realignment or consolidation of facilities or services.

"(j) DEFINITIONS.—In this section, the following definitions apply:

"(1) BOARD.—The term 'Board' means the Aviation Facilities and Services Board established under subsection (g).

"(2) CONGRESSIONAL COMMITTEES OF INTEREST.—The term 'congressional committees of interest' means the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.

"(3) FAA.—The term 'FAA' means the Federal Aviation Administration.

"(4) REALIGNMENT.—The term 'realignment' includes any action that relocates functions and personnel positions but does not include an overall reduction in personnel resulting from workload adjustments.".

(b) CLERICAL AMENDMENT.—The analysis for chapter 445 (as amended by this Act) is further amended by adding at the end the following:

"44519. Realignment and consolidation of FAA services and facilities.".

SEC. 805. LIMITING ACCESS TO FLIGHT DECKS OF ALL-CARGO AIRCRAFT.

(a) STUDY.—Not later than 180 days after the date of enactment of this Act, the Administrator of the Federal Aviation Administration, in consultation with appropriate air carriers, aircraft manufacturers, and air carrier labor representatives, shall conduct a study to assess the feasibility of developing a physical means, or a combination of physical and procedural means, to prohibit individuals other than authorized flight crewmembers from accessing the flight deck of an all-cargo aircraft.

(b) REPORT.—Not later than one year after the date of enactment of this Act, the Administrator shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report on the results of the study.

SEC. 806. CONSOLIDATION OR ELIMINATION OF OBSOLETE, REDUNDANT, OR OTHERWISE UNNECESSARY REPORTS; USE OF ELECTRONIC MEDIA FORMAT.

(a) CONSOLIDATION OR ELIMINATION OF REPORTS.—Not later than 2 years after the date of enactment of this Act, and every 2 years thereafter, the Administrator of the Federal Aviation Administration shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report containing—

(1) a list of obsolete, redundant, or otherwise unnecessary reports the Administration is required by law to submit to the Congress or publish that the Administrator recommends eliminating or consolidating with other reports; and

(2) an estimate of the cost savings that would result from the elimination or consolidation of those reports.

(b) USE OF ELECTRONIC MEDIA FOR REPORTS.—

(1) IN GENERAL.—Notwithstanding any other provision of law, the Administration—

(A) may not publish any report required or authorized by law in printed format; and

(B) shall publish any such report by posting it on the Administration's Internet Web site in an easily accessible and downloadable electronic format.

(2) EXCEPTION.—Paragraph (1) does not apply to any report with respect to which the Administrator determines that—

(A) its publication in printed format is essential to the mission of the Federal Aviation Administration; or

(B) its publication in accordance with the requirements of paragraph (1) would disclose matter—

(i) described in section 552(b) of title 5, United States Code; or

(ii) the disclosure of which would have an adverse impact on aviation safety or security, as determined by the Administrator.

SEC. 807. PROHIBITION ON USE OF CERTAIN FUNDS.

The Secretary of Transportation may not use any funds made available pursuant to this Act (including any amendment made by this Act) to name, rename, designate, or redesignate any project or program authorized by this Act (including any amendment made by this Act) for an individual then serving in Congress as a Member, Delegate, Resident Commissioner, or Senator.

SEC. 808. STUDY ON AVIATION FUEL PRICES.

(a) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Comptroller General shall conduct a study and report to Congress on the impact

of increases in aviation fuel prices on the Airport and Airway Trust Fund and the aviation industry in general.

(b) CONTENTS.—The study shall include an assessment of the impact of increases in aviation fuel prices on—

(1) general aviation;
(2) commercial passenger aviation;
(3) piston aircraft purchase and use;
(4) the aviation services industry, including repair and maintenance services;
(5) aviation manufacturing;
(6) aviation exports; and
(7) the use of small airport installations.

(c) ASSUMPTIONS ABOUT AVIATION FUEL PRICES.—In conducting the study required by subsection (a), the Comptroller General shall use the average aviation fuel price for fiscal year 2010 as a baseline and measure the impact of increases in aviation fuel prices that range from 5 percent to 200 percent over the 2010 baseline.

SEC. 809. WIND TURBINE LIGHTING.

(a) STUDY.—The Administrator of the Federal Aviation Administration shall conduct a study on wind turbine lighting systems.

(b) CONTENTS.—In conducting the study, the Administrator shall examine the following:

(1) The aviation safety issues associated with alternative lighting strategies, technologies, and regulations.
(2) The feasibility of implementing alternative lighting strategies or technologies to improve aviation safety.
(3) Any other issue relating to wind turbine lighting.

(c) REPORT.—Not later than one year after the date of enactment of this Act, the Administrator shall submit to Congress a report on the results of the study, including information and recommendations concerning the issues examined under subsection (b).

SEC. 810. AIR-RAIL CODE SHARING STUDY.

(a) CODE SHARE STUDY.—Not later than 180 days after the date of enactment of this Act, the Comptroller General shall initiate a study regarding—

(1) the existing airline and intercity passenger rail code sharing arrangements; and
(2) the feasibility, costs to taxpayers and other parties, and benefits of increasing intermodal connectivity of airline and intercity passenger rail facilities and systems to improve passenger travel.

(b) CONSIDERATIONS.—In conducting the study, the Comptroller General shall consider—

(1) the potential costs to taxpayers and other parties and benefits of the implementation of more integrated scheduling between airlines and Amtrak or other intercity passenger rail carriers achieved through code sharing arrangements;
(2) airport and intercity passenger rail operations that can improve connectivity between airports and intercity passenger rail facilities and stations;
(3) the experience of other countries with airport and intercity passenger rail connectivity; and
(4) such other issues the Comptroller General considers appropriate.

(c) REPORT.—Not later than one year after commencing the study required by subsection (a), the Comptroller General shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report on the results of the study, including any conclusions of the Comptroller General resulting from the study.

SEC. 811. D.C. METROPOLITAN AREA SPECIAL FLIGHT RULES AREA.

(a) SUBMISSION OF PLAN TO CONGRESS.—Not later than 180 days after the date of enactment of this Act, the Administrator of the Federal Aviation Administration, in consultation with the Secretary of Homeland Security and the Secretary of Defense, shall submit to the Committee on Transportation and Infrastructure and the Committee on Homeland Security of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a plan for the D.C. Metropolitan Area Special Flight Rules Area.

(b) CONTENTS OF PLAN.—The plan shall outline specific changes to the D.C. Metropolitan Area Special Flight Rules Area that will decrease operational impacts and improve general aviation access to airports in the National Capital Region that are currently impacted by the zone.

SEC. 812. FAA REVIEW AND REFORM.

(a) AGENCY REVIEW.—Not later than 60 days after the date of enactment of this Act, the Administrator of the Federal Aviation Administration shall undertake a thorough review of each program, office, and organization within the Administration, including the Air Traffic Organization, to identify—

(1) duplicative positions, programs, roles, or offices;
(2) wasteful practices;
(3) redundant, obsolete, or unnecessary functions;
(4) inefficient processes; and
(5) ineffectual or outdated policies.

(b) ACTIONS TO STREAMLINE AND REFORM FAA.—Not later than 120 days after the date of enactment of this Act, the Administrator shall undertake such actions as may be necessary to address the Administrator's findings under subsection (a), including—

(1) consolidating, phasing-out, or eliminating duplicative positions, programs, roles, or offices;
(2) eliminating or streamlining wasteful practices;
(3) eliminating or phasing-out redundant, obsolete, or unnecessary functions;
(4) reforming and streamlining inefficient processes so that the activities of the Administration are completed in an expedited and efficient manner; and
(5) reforming or eliminating ineffectual or outdated policies.

(c) AUTHORITY.—Notwithstanding any other provision of law, the Administrator shall have the authority to undertake the actions required under subsection (b).

(d) REPORT TO CONGRESS.—Not later than 150 days after the date of enactment of this Act, the Administrator shall submit to Congress a report on the actions taken by the Administrator under this section, including any recommendations for legislative or administrative actions.

SEC. 813. CYLINDERS OF COMPRESSED OXYGEN OR OTHER OXIDIZING GASES.

(a) IN GENERAL.—Subject to subsection (b), the transportation within the State of Alaska of cylinders of compressed oxygen or other oxidizing gases aboard aircraft shall be exempt from compliance with the regulations described in subsection (c) to the extent that the regulations require that oxidizing gases transported aboard aircraft be enclosed in outer packaging capable of passing the flame penetration and resistance test and the thermal resistance test, without regard to the end use of the cylinders.

(b) APPLICABILITY OF EXEMPTION.—The exemption provided by subsection (a) shall apply in circumstances in which transportation of the cylinders by ground or vessel is unavailable and transportation by aircraft is the only practical means for transporting the cylinders to their destination.

(c) DESCRIPTION OF REGULATORY REQUIREMENTS.—The regulations referred to in subsection (a) are the regulations of the Pipeline and Hazardous Materials Safety Administration contained in sections 173.302(f)(3), 173.302(f)(4), 173.302(f)(5), 173.304(f)(3), 173.304(f)(4), 173.304(f)(5), and 175.501(b) of title 49, Code of Federal Regulations.

TITLE IX—NATIONAL MEDIATION BOARD

SEC. 901. AUTHORITY OF INSPECTOR GENERAL.

Title I of the Railway Labor Act (45 U.S.C. 151 et seq.) is amended by adding at the end the following:

"AUTHORITY OF INSPECTOR GENERAL

"SEC. 15. (a) IN GENERAL.—The Inspector General of the Department of Transportation, in accordance with the mission of the Inspector General to prevent and detect fraud and abuse, is authorized to review the financial management, property management, and business operations of the Mediation Board, including internal accounting and administrative control systems, to determine compliance with applicable Federal laws, rules, and regulations.

"(b) DUTIES.—In carrying out this section, the Inspector General shall—

"(1) keep the chairman of the Mediation Board and Congress fully and currently informed about problems relating to administration of the internal accounting and administrative control systems of the Mediation Board;
"(2) issue findings and recommendations for actions to address such problems; and
"(3) report periodically to Congress on any progress made in implementing actions to address such problems.

"(c) ACCESS TO INFORMATION.—In carrying out this section, the Inspector General may exercise authorities granted to the Inspector General under subsections (a) and (b) of section 6 of the Inspector General Act of 1978 (5 U.S.C. App.).

"(d) AUTHORIZATIONS OF APPROPRIATIONS.—

"(1) FUNDING.—There is authorized to be appropriated to the Secretary of Transportation for use by the Inspector General of the Department of Transportation not more than $125,000 for each of fiscal years 2011 through 2014 to cover expenses associated with activities pursuant to the authority exercised under this section.

"(2) REIMBURSABLE AGREEMENT.—In the absence of an appropriation under this subsection for an expense referred to in paragraph (1), the Inspector General and the Mediation Board shall have a reimbursable agreement to cover such expense.".

SEC. 902. EVALUATION AND AUDIT OF NATIONAL MEDIATION BOARD.

Title I of the Railway Labor Act (as amended by section 901 of this Act) is further amended by adding at the end the following:

"EVALUATION AND AUDIT OF MEDIATION BOARD

"SEC. 16. (a) IN GENERAL.—In order to promote economy, efficiency, and effectiveness in the administration of the programs, operations, and activities of the Mediation Board, the Comptroller General shall evaluate and audit the programs and expenditures of the Mediation Board. Such an evaluation and audit shall be conducted at least annually, but may be conducted as determined necessary by the Comptroller General or the appropriate congressional committees.

"(b) RESPONSIBILITY OF COMPTROLLER GENERAL.—The Comptroller General shall evaluate and audit Mediation Board programs, operations, and activities, including at a minimum—

"(1) information management and security, including privacy protection of personally identifiable information;

"(2) resource management;

"(3) workforce development;

"(4) procurement and contracting planning, practices, and policies;

"(5) the extent to which the Mediation Board follows leading practices in selected management areas; and

"(6) the processes the Mediation Board follows to address challenges in—

"(A) initial investigations of representation applications;

"(B) determining and certifying representatives of employees; and

"(C) ensuring that the process occurs without interference, influence, or coercion.

"(c) APPROPRIATE CONGRESSIONAL COMMITTEES DEFINED.—In this section, the term 'appropriate congressional committees' means the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.".

SEC. 903. REPEAL OF RULE.

Effective January 1, 2011, the rule prescribed by the National Mediation Board relating to representation election procedures published on May 11, 2010 (95 Fed. Reg. 26062) and revising sections 1202 and 1206 of title 29, Code of Federal Regulations, shall have no force or effect.

TITLE X—COMMERCIAL SPACE TRANSPORTATION

SEC. 1001. SPACE FLIGHT PASSENGERS.

Chapter 509 of title 51, United States Code, is amended—

(1) by striking "space flight participant" each place it appears and inserting "space flight passenger"; and

(2) by striking "space flight participants" each place it appears and inserting "space flight passengers".

PURPOSE OF LEGISLATION AND SUMMARY

H.R. 658, as amended, authorizes appropriations for the Federal Aviation Administration for fiscal years 2011 through 2014, streamlines programs, creates efficiencies, reduces waste, and im-

proves aviation safety and capacity, to provide stable funding for the national aviation system.

BACKGROUND AND NEED FOR LEGISLATION

The last multi-year FAA reauthorization law, Vision 100—Century of Aviation Reauthorization Act (P.L. 108–176), was enacted in 2003. It was a four-year reauthorization, covering fiscal years 2004–2007. Since September 30, 2007, the FAA has been operating under a series of short-term extensions; seventeen to date. The lack of a long-term reauthorization bill has meant that airports and other aviation stakeholders have been unable to make long-term planning and investment decisions.

Commercial aviation is a huge economic driver. However, just like other sectors, the last decade was a difficult one for the U.S. commercial airline industry. The impacts of 9/11, SARS, spikes in fuel prices and the global recession have all taken their toll. It is estimated U.S. airlines suffered $60 billion in net losses and 160,000 jobs were lost over the first nine years of this decade.[1] Economic forecasts are looking up, and the industry still accounts for millions of jobs. According to the FAA, in 2007, the total economic activity attributed to civil-aviation-related goods and services was approximately $1.315 billion, which generated over 11 million jobs, $396 billion in earnings, and contributed 5.6 percent to the GDP.[2] U.S. commercial air carriers (including passenger and cargo) reported an operating profit of $755 million in 2009, compared to an operating loss of $2.0 billion in 2008.[3] General aviation manufacturing continues to be a positive influence in the balance of trade internationally.[4] Over the next decade, the FAA predicts that air traffic operations will increase 2 percent each year.

Given the importance of commercial aviation to the nation's economy, it is vitally important that an updated, multi-year reauthorization bill be enacted to provide airports, airlines, manufacturers, and national airspace users the stability that a long-term bill affords. The FAA Reauthorization bill will provide a steady source of funding and updated, streamlined and reformed aviation policies and programs. Airports rely on a long-term FAA reauthorization to make plans for large safety and capacity projects which provide steady employment opportunities. In addition, the stability provided by a multi-year FAA reauthorization bill will allow airlines, manufacturers and others to make business plans also generating new job opportunities.

The Airport Improvement Program (AIP) is a central part of the FAA reauthorization bill. AIP is funded by contract authority that is provided in FAA authorizing legislation, rather than in annual appropriations acts. Therefore, if the AIP is not reauthorized, airports will not be able to receive any grants from the Airport and Airways Trust Fund (Trust Fund) after April 1, 2011. This sets AIP apart from the other programs funded from the Trust Fund. While the other programs need to be reauthorized as well, they can re-

[1] "The Unrelenting Quest for Sustained Profitability", ATA Vice President and Chief Economist John Heimlich (December 2010).

[2] "The Economic Impact of Civil Aviation on the U.S. Economy", FAA Air Traffic Organization (December 2009) (latest available figures).

[3] "Fact Sheet—FAA Forecast Fact Sheet" (March 9, 2010).

[4] 2010 General Aviation Manufacturers Association Statistical Databook and Industry Outlook (2011).

ceive funding if an appropriations act is passed. Programs providing Federal aid to airports began in 1946 and have been modified several times. The current AIP began in 1982.

AIP is funded entirely by the Trust Fund. The Trust Fund, in turn, is supported entirely by the following taxes on aviation users:

- 7.5% passenger ticket tax;
- $3.70 passenger flight segment fee;
- 6.25% freight waybill tax;
- $16.30 international departure and arrival taxes;
- 7.5% frequent flyer award tax;
- $8.20 Alaska and Hawaii international air facilities tax; and
- Aviation fuel taxes as follows:
  - 4.3 cents on commercial aviation;
  - 19.3 cents on general aviation gasoline; and
  - 21.8 cents on general aviation jet fuel.

In addition to the AIP, the Trust Fund also fully funds the Federal Aviation Administration's air traffic control facilities and equipment (F&E) modernization program and its aviation research program. The Trust Fund partially pays for the salaries, expenses, and operations of the FAA.

AIRPORT AND AIRWAYS TRUST FUND

The Trust Fund was created in 1970 to provide a stable, long-term source of funding to develop the nation's airports and air traffic control (ATC) system. The concept was that taxes would be imposed on users of the system, including airlines and their passengers, and general aviation. The revenues from users would be placed in a Trust Fund where they would be used promptly and exclusively for improvements in aviation infrastructure.

Problems developed with this mechanism in the 1980s. Because the revenues and expenditures of the Trust Fund are part of the overall budget, if the Trust Fund does not spend all of its revenues, the 'surplus' helps offset deficits in the rest of the general budget. As a result, chronic underfunding of critical investment in aviation infrastructure occurred. The uncommitted balance in the Trust Fund continued to grow, reaching a peak of $7.7 billion in 1991. This meant that there were billions of dollars in the Trust Fund unused even though there were significant needs to expand and safely maintain airport capacity and modernize the air traffic control system. The Trust Fund surplus was reduced by spending more Trust Fund money on FAA Operations, despite formulas in the law that were intended to give priority to the capital programs.

For many years, the Committee on Transportation and Infrastructure (Committee) and the aviation community sought to ensure that the money aviation users paid into the Trust Fund would actually be used for aviation infrastructure improvements.

In 2000, Congress enacted the Wendell H. Ford Aviation Investment and Reform Act for the 21st Century (AIR 21) (P.L. 106–181) which ensured that every dollar aviation users pay into the Trust Fund is invested in aviation programs. AIR 21 required that the: (1) total amount available for spending from the Trust Fund each year is equal to the Trust Fund receipts plus interest as estimated by the President's budget for that year; and (2) total spending on the two major capital programs (AIP and F&E) must be at author-

ized levels. If an appropriations bill is brought to the House or Senate floor that does not meet these two requirements, any Member can make a point of order against it and the bill may not be considered in that form.

In 2003, the AIR 21 funding guarantees were extended in Vision 100—the Century of Aviation Reauthorization Act (Vision 100) (P.L. 108–176).

AIP FORMULA

As of 2009, there are approximately 19,750 airports in the United States.[5] Of those, 559 serve air-carrier operations with aircraft seating more than 9 passengers and 19,191 are general aviation airports.[6] There are 3,380 public-use airports (3,332 existing and 48 proposed) identified in the FY 2011 National Plan of Integrated Airport System (NPIAS). Listing in the NPIAS makes them eligible for AIP grants. The NPIAS also includes a five-year estimate of the amounts of AIP investment needed to bring these airports up to current design standards and add capacity to congested airports. AIP grants are distributed by formulas that are set forth in law.

ENTITLEMENT FUNDING

The law divides AIP money into two broad categories: entitlement funds and discretionary funds. Entitlement funds are further divided into four sub-categories. They are: primary airport entitlements; cargo airport entitlements; State and general aviation entitlements; and Alaskan airport entitlements.

Primary airport entitlement

Regardless of the number of passengers boarded, the minimum entitlement of a primary, commercial service airport is $650,000 per year (or $1,000,000 per year if AIP is at least $3.2 billion). In FY 2010, there were 382 primary airports.

To receive the entitlement, an airport must have a project, such as a runway, terminal, or noise abatement project that is eligible for AIP funding under the law. An airport can retain the right to receive its entitlement money for three years (or four years in the case of smaller airports that are classified as non-hub airports). Entitlement funds deferred to a later year are referred to as carryover entitlement.

Cargo airport entitlement

Cargo service airports include: (1) airports that are served by cargo-only (freighter) aircraft with a total annual landed weight of more than 100 million pounds; and (2) other airports that the Department of Transportation (DOT) finds will be served primarily by freighter aircraft. These airports are entitled to share money that equals 3.5 percent of total AIP funds. AIP funds are allocated according to the total landed weight of cargo-only aircraft landing at an airport to the total landed weight of such aircraft at all cargo service airports. Landed weight means the weight of aircraft trans-

[5] Bureau of Transportation Statistics.
[6] *Id.*

porting only cargo under regulations prescribed by the Secretary of Transportation (Secretary).

State apportionment/General aviation entitlement

General aviation airports receive 20 percent of total AIP funds. These airports are used by private planes or have only limited commercial airline service (less than 10,000 passengers per year).

Each general aviation airport is entitled to receive the amount of money needed for its planned development, as listed in the FAA's NPIAS. The amount of this entitlement is limited to $150,000 per year per airport.

The remaining money is allocated to the States by a formula that takes into account the population and area of each State. General aviation airports that are seeking AIP money from this allocation usually apply directly to the FAA. Some States require their airports to channel their AIP applications through the State aviation agency. The FAA then decides which airports will get the money. Ten States (Georgia, Illinois, Michigan, Missouri, New Hampshire, North Carolina, Pennsylvania, Tennessee, Texas, and Wisconsin) participate in the State Block Grant program. Under this program, the FAA gives the State aviation agency more responsibility to manage its AIP allocation and the State, not the FAA, decides which general aviation airports will receive grants. States that participate in the State Block Grant program do not receive more money but they do get more control over how it is distributed to airports in their State.

Alaska entitlement

By law, Alaskan airports are entitled to receive at least the same amount of money that they received in 1980, i.e., $10.5 million. If total AIP funding is at least $3.2 billion in a year, that amount is doubled.

DISCRETIONARY FUNDING

The FAA, at its own discretion, can invest any funds remaining after entitlements are funded. However, this discretionary fund is subject to three set-asides.

Noise/environment

The law sets aside 35 percent of AIP discretionary funds for noise/environmental projects.

Military airports

Under the military airport program (MAP), FAA selects 15 current or former military airports (including at least one general aviation airport) to share in a set-aside, which is equal to four percent of the discretionary fund. The MAP's purpose is to increase overall system capacity by promoting joint civilian-military use of military airports or by converting former military airports to civilian use. There are currently 11 airports in the MAP.

Discretionary

After the entitlements and set-asides are funded, the remaining money can be invested at FAA's discretion. These funds are often referred to as 'pure discretionary' AIP funds. Seventy-five percent

of these discretionary funds must be invested in airport projects that will enhance capacity, safety, or security, or will reduce noise.

PASSENGER FACILITY CHARGE

In 1990, the Committee became concerned that AIP alone would not be able to meet the future infrastructure needs of U.S. airports. Consequently, the Omnibus Budget Reconciliation Act of 1990 (P.L. 101–508) permitted an airport to assess a fee on passengers. This fee is known as the passenger facility charge (PFC). PFCs are collected by the airlines and paid directly to the airport. They are not deposited in the U.S. Treasury. They are intended to supplement AIP by providing more funding for runways, taxiways, terminals, gates, and other airport improvements.

The 1990 law limited the PFC to $3.00 per passenger. AIR 21 increased the PFC cap to $4.50. A passenger may not pay more than $18 in PFCs per round-trip regardless of the number of airports through which the passenger connects. An airport cannot charge a PFC until it is approved by the FAA.

FAA has approved PFCs at 380 airports, of which 353 are actually collecting fees. The total approved collections are over $78 billion. In FY 2010, $2.70 billion was collected and $2.67 billion is expected to be collected in FY 2011.

If a medium- or large-hub airport charges a $3 PFC, it must forego up to 50 percent of its AIP passenger entitlement. If it charges more than $3, it must forego 75 percent of its AIP passenger entitlement. Of the foregone entitlements, 87.5 percent go into a special small airport fund to be distributed as follows: 57.1 percent to non-hub airports; 28.6 percent to non-commercial service airports; and 14.3 percent to small hub airports.

The Committee continues to support the PFC program.

ESSENTIAL AIR SERVICE (EAS) PROGRAM

The Essential Air Service (EAS) program was created in 1978 as a temporary program to address concerns that communities with lower enplanement level would lose air service as a result of the Airline Deregulation Act of 1978 (ADA) (P.L. 95–504). It provides subsidies to commuter airlines to provide service to small communities where there are not enough passengers to operate profitably. Under the EAS program, DOT establishes a minimum level of air service for each of the eligible airports. The minimum level is usually two round-trips per day to a medium- or large-hub airport using 15-seat or larger aircraft. Eligible communities are those communities that were listed on an airline's certificate when the ADA was passed. Over the years, the cost of this program has increased from $22.9 million in 1996 to $200 million in 2010. The Committee believes that the EAS program needs to be reviewed and reformed to reflect the changes in air travel and shifts in the U.S. population since 1978.

H.R. 658, THE "FAA REAUTHORIZATION AND REFORM ACT OF 2011"

H.R. 658, the "FAA Reauthorization and Reform Act of 2011," sets a new course for the FAA, requiring greater efficiencies, cost-cutting actions, and accountability. The bill sets funding levels at the aggregate FY 2008 level. Between FY 2011 and FY 2014, the

bill provides $12.1 billion for AIP and $10.5 billion for F&E. These funding levels will require the FAA to put in place more efficient processes, reduce waste, and eliminate duplicative efforts, while still fully funding priority programs to modernize the ATC system and ensuring the legacy system is operated and maintained. The bill also maintains the Passenger Facility Charge program at its current amount and provides $12.1 billion in AIP funding allowing capacity-enhancing improvements at our nation's airports to continue despite the difficult budgetary environment. In addition, H.R. 658 provides $36.9 billion for FAA Operations over the next four years and directs that the Administrator shall not take cuts from safety-critical activities to meet the Operations funding levels set in the bill.

H.R. 658 reforms and phases out the Essential Air Service Program (EAS) for all States except Alaska and Hawaii. The total amount authorized out of the Airport and Airway Trust Fund for EAS for fiscal year 2011 is $97.5 million, for fiscal year 2012 it is $60 million, and for fiscal year 2013 it is $30 million (plus $50 million each fiscal year derived from overflight fees). In fiscal year 2014, EAS for Alaska and Hawaii will be paid out of amounts collected from the overflight fees. Collections in excess will be returned to the General Fund.

H.R. 658 contains numerous provisions that streamline, expedite, and implement cost-effective approaches to FAA's safety and air traffic control modernization programs. The bill also ensures greater accountability and oversight of NextGen.

LEGISLATIVE HISTORY

On February 11, 2011, Chairman John L. Mica and Chairman Thomas E. Petri introduced H.R. 658, the "FAA Reauthorization and Reform Act of 2011." This bill has not been introduced in a previous Congress. On February 16, 2011, the Committee on Transportation and Infrastructure met in open session, and ordered the bill reported favorably to the House by roll call vote with a quorum present. Amendments were offered in Committee by Mr. Costello, Ms. Hirono (who offered two amendments), Mr. Michaud, and Mr. Lipinski. Mr. Costello's amendment would strike section 903, which repeals a National Mediation Board rule issued in May 2010 that changed the way union elections are conducted under the Railway Labor Act. Ms. Hirono offered two amendments. Her first amendment would have required FAA to conduct a mandated rulemaking on flight attendant fatigue. Ms. Hirono's second amendment would have applied Occupational Safety and Health Administration (OSHA) regulations to the airline cabin. Mr. Michaud offered an amendment to mandate that the FAA inspect foreign repair stations twice annually regardless of the safety risk involved. Finally, Mr. Lipinski offered an amendment to require the FAA to test for drugs and alcohol of repair station employees in accordance with FAA regulations, regardless of the laws of the country where the repair station is located.

HEARINGS

The Subcommittee on Aviation held two legislative hearings on the Federal Aviation Administration Reauthorization. On February

8, 2011, the FAA Administrator testified regarding the pending reauthorization. On February 9, 2011, stakeholders in the aviation community testified on the pending reauthorization.

COMMITTEE VOTES

Clause 3(b) of Rule XIII of the House of Representatives requires each committee report to include the total number of votes cast for and against on each record vote on a motion to report and on any amendment offered to the measure or matter, and the names of those members voting for and against. During consideration of H.R. 658 a total of six votes were taken—votes were on amendments offered by Mr. Costello, Ms. Hirono (who offered two amendments), Mr. Michaud, and Mr. Lipinski, and a final vote ordering the bill reported as amended. Mr. Petri motioned to report the bill as amended to the House with a favorable recommendation. Mr. Rahall requested a recorded vote. The bill, as amended was reported to the House with a favorable recommendation after a record vote which was disposed of as follows:

COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE
FULL COMMITTEE – ROLL CALL
U.S. HOUSE OF REPRESENTATIVE – 112TH CONGRESS

Number of Members: (33/26) Quorum: 30 Working Quorum: 20
Date: February 16, 2011 Presiding: Chairman Mica
Amendment or matter voted on: Ordering H.R. 658 FAA Reauthorization and Reform Act of 2011 Reported
Vote: 34 – 25

	Yeas	Nays	Present		Yeas	Nays	Present
Mr. Mica	X			*Mr. Larsen*		X	
Mr. Rahall		X		*Mr. Lipinski*		X	
Mr. Altmire		X		Mr. LoBiondo	X		
Mr. Barletta	X			Mr. Long	X		
Mr. Bishop		X		Mr. Meehan	X		
Mr. Boswell		X		*Mr. Michaud*		X	
Ms. Brown		X		Mr. Miller (CA)	X		
Dr. Bucshon	X			Ms. Miller (MI)	X		
Ms. Capito	X			*Mr. Nadler*		X	
Mr. Capuano		X		*Mrs. Napolitano*		X	
Mr. Carnahan		X		*Ms. Norton*		X	
Mr. Coble	X			Mr. Petri	X		
Mr .Cohen	X			Mr. Reed	X		
Mr. Costello		X		*Ms. Richardson*		X	
Mr. Cravaack	X			Ms. Schmidt	X		
Mr. Crawford	X			*Mr. Shuler*		X	
Mr. Cummings		X		Mr. Shuster	X		
Mr. DeFazio		X		*Mr. Sires*		X	
Mr. Denham	X			Mr. Southerland	X		
Mr. Duncan	X			*Mr. Walz*		X	
Ms. Edwards		X		Mr. Young	X		
Mr. Farenthold	X						
Mr. Filner		X					
Mr. Fincher	X						
Mr. Gibbs	X						
Mr. Graves	X						
Mr. Guinta	X						
Mr. Hanna	X						
Dr. Harris	X						
Mrs. Herrera Beutler	X						
Ms. Hirono		X					
Mr. Holden		X					
Mr. Hultgren	X						
Mr. Hunter	X						
Mr. Johnson (IL)	X						
Ms. Johnson (TX)		X					
Mr. Landry	X						
Mr. Lankford	X						

The Committee disposed of the following amendments by record vote.

COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE
FULL COMMITTEE – ROLL CALL
U.S. HOUSE OF REPRESENTATIVE – 112TH CONGRESS

Number of Members: (33/26) Quorum: 30 Working Quorum: 20
Date: February 16, 2011 Presiding: Chairman Mica
Amendment or matter voted on: Costello Amendment to H.R. 658FAA Reauthorization and Reform Act of 2011
Vote: 29 – 30

	Yeas	Nays	Present		Yeas	Nays	Present
Mr. Mica		X		*Mr. Larsen*	X		
Mr. Rahall	X			*Mr. Lipinski*	X		
Mr. Altmire	X			Mr. LoBiondo	X		
Mr. Barletta		X		Mr. Long		X	
Mr. Bishop	X			Mr. Meehan		X	
Mr. Boswell	X			*Mr. Michaud*	X		
Ms. Brown	X			Mr. Miller (CA)		X	
Dr. Bucshon		X		Ms. Miller (MI)	X		
Ms. Capito		X		*Mr. Nadler*	X		
Mr. Capuano	X			*Mrs. Napolitano*	X		
Mr. Carnahan	X			*Ms. Norton*	X		
Mr. Coble		X		Mr. Petri		X	
Mr .Cohen	X			Mr. Reed		X	
Mr. Costello	X			*Ms. Richardson*	X		
Mr. Cravaack		X		Ms. Schmidt		X	
Mr. Crawford		X		*Mr. Shuler*	X		
Mr. Cummings	X			Mr. Shuster		X	
Mr. DeFazio	X			*Mr. Sires*	X		
Mr. Denham		X		Mr. Southerland		X	
Mr. Duncan		X		*Mr. Walz*	X		
Ms. Edwards	X			Mr. Young		X	
Mr. Farenthold		X					
Mr. Filner	X						
Mr. Fincher		X					
Mr. Gibbs		X					
Mr. Graves		X					
Mr. Guinta		X					
Mr. Hanna		X					
Dr. Harris		X					
Mrs. Herrera Beutler		X					
Ms. Hirono	X						
Mr. Holden	X						
Mr. Hultgren		X					
Mr. Hunter		X					
Mr. Johnson (IL)	X						
Ms. Johnson (TX)	X						
Mr. Landry		X					
Mr. Lankford		X					

COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE
FULL COMMITTEE – ROLL CALL
U.S. HOUSE OF REPRESENTATIVE – 112TH CONGRESS

Number of Members: (33/26) Quorum: 30 Working Quorum: 20
Date: February 16, 2011 Presiding: Chairman Mica
Amendment or matter voted on: Hirono OSHA Amendment to H.R. 658 FAA Reauthorization and Reform Act of 2011
Vote: 28 – 31

	Yeas	Nays	Present		Yeas	Nays	Present
Mr. Mica		X		*Mr. Larsen*	X		
Mr. Rahall	X			*Mr. Lipinski*	X		
Mr. Altmire	X			Mr. LoBiondo	X		
Mr. Barletta		X		Mr. Long		X	
Mr. Bishop	X			Mr. Meehan		X	
Mr. Boswell	X			*Mr. Michaud*	X		
Ms. Brown	X			Mr. Miller (CA)		X	
Dr. Bucshon		X		Ms. Miller (MI)	X		
Ms. Capito		X		*Mr. Nadler*	X		
Mr. Capuano	X			*Mrs. Napolitano*	X		
Mr. Carnahan	X			*Ms. Norton*	X		
Mr. Coble		X		Mr. Petri		X	
Mr .Cohen	X			Mr. Reed		X	
Mr. Costello	X			*Ms. Richardson*	X		
Mr. Cravaack		X		Ms. Schmidt		X	
Mr. Crawford		X		*Mr. Shuler*	X		
Mr. Cummings	X			Mr. Shuster		X	
Mr. DeFazio	X			*Mr. Sires*	X		
Mr. Denham		X		Mr. Southerland		X	
Mr. Duncan		X		*Mr. Walz*	X		
Ms. Edwards	X			Mr. Young		X	
Mr. Farenthold		X					
Mr. Filner	X						
Mr. Fincher		X					
Mr. Gibbs		X					
Mr. Graves		X					
Mr. Guinta		X					
Mr. Hanna		X					
Dr. Harris		X					
Mrs. Herrera Beutler		X					
Ms. Hirono	X						
Mr. Holden	X						
Mr. Hultgren		X					
Mr. Hunter		X					
Mr. Johnson (IL)		X					
Ms. Johnson (TX)	X						
Mr. Landry		X					
Mr. Lankford		X					

COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE
FULL COMMITTEE – ROLL CALL
U.S. HOUSE OF REPRESENTATIVE – 112TH CONGRESS

Number of Members: (33/26) Quorum: 30 Working Quorum: 20
Date: February 16, 2011 Presiding: Chairman Mica
Amendment or matter voted on: Hirono (Fatigue) Amendment to H.R. 658 FAA Reauthorization and Reform Act of 2011
Vote: 29 – 30

	Yeas	Nays	Present		Yeas	Nays	Present
Mr. Mica		X		*Mr. Larsen*	X		
Mr. Rahall	X			*Mr. Lipinski*	X		
Mr. Altmire	X			Mr. LoBiondo	X		
Mr. Barletta		X		Mr. Long		X	
Mr. Bishop	X			Mr. Meehan		X	
Mr. Boswell	X			*Mr. Michaud*	X		
Ms. Brown	X			Mr. Miller (CA)		X	
Dr. Bucshon		X		Ms. Miller (MI)	X		
Ms. Capito		X		*Mr. Nadler*	X		
Mr. Capuano	X			*Mrs. Napolitano*	X		
Mr. Carnahan	X			*Ms. Norton*	X		
Mr. Coble		X		Mr. Petri		X	
Mr .Cohen	X			Mr. Reed		X	
Mr. Costello	X			*Ms. Richardson*	X		
Mr. Cravaack		X		Ms. Schmidt		X	
Mr. Crawford		X		*Mr. Shuler*	X		
Mr. Cummings	X			Mr. Shuster		X	
Mr. DeFazio	X			*Mr. Sires*	X		
Mr. Denham		X		Mr. Southerland		X	
Mr. Duncan		X		*Mr. Walz*	X		
Ms. Edwards	X			Mr. Young		X	
Mr. Farenthold		X					
Mr. Filner	X						
Mr. Fincher		X					
Mr. Gibbs		X					
Mr. Graves		X					
Mr. Guinta		X					
Mr. Hanna		X					
Dr. Harris		X					
Mrs. Herrera Beutler		X					
Ms. Hirono	X						
Mr. Holden	X						
Mr. Hultgren		X					
Mr. Hunter		X					
Mr. Johnson (IL)	X						
Ms. Johnson (TX)	X						
Mr. Landry		X					
Mr. Lankford		X					

COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE
FULL COMMITTEE – ROLL CALL
U.S. HOUSE OF REPRESENTATIVE – 112TH CONGRESS

Number of Members: (33/26) Quorum: 30 Working Quorum: 20
Date: February 16, 2011 Presiding: Chairman Mica
Amendment or matter voted on: Michaud Amendment to H.R. 658 FAA Reauthorization and Reform Act of 2011
Vote: 27 – 32

	Yeas	Nays	Present		Yeas	Nays	Present
Mr. Mica		X		*Mr. Larsen*		X	
Mr. Rahall	X			*Mr. Lipinski*	X		
Mr. Altmire	X			Mr. LoBiondo	X		
Mr. Barletta		X		Mr. Long		X	
Mr. Bishop	X			Mr. Meehan		X	
Mr. Boswell		X		*Mr. Michaud*	X		
Ms. Brown	X			Mr. Miller (CA)		X	
Dr. Bucshon		X		Ms. Miller (MI)	X		
Ms. Capito		X		*Mr. Nadler*	X		
Mr. Capuano	X			*Mrs. Napolitano*	X		
Mr. Carnahan	X			*Ms. Norton*	X		
Mr. Coble		X		Mr. Petri		X	
Mr .Cohen	X			Mr. Reed		X	
Mr. Costello	X			*Ms. Richardson*	X		
Mr. Cravaack		X		Ms. Schmidt		X	
Mr. Crawford		X		*Mr. Shuler*	X		
Mr. Cummings	X			Mr. Shuster		X	
Mr. DeFazio	X			*Mr. Sires*	X		
Mr. Denham		X		Mr. Southerland		X	
Mr. Duncan		X		*Mr. Walz*	X		
Ms. Edwards	X			Mr. Young		X	
Mr. Farenthold		X					
Mr. Filner	X						
Mr. Fincher		X					
Mr. Gibbs		X					
Mr. Graves		X					
Mr. Guinta		X					
Mr. Hanna		X					
Dr. Harris		X					
Mrs. Herrera Beutler		X					
Ms. Hirono	X						
Mr. Holden	X						
Mr. Hultgren		X					
Mr. Hunter		X					
Mr. Johnson (IL)	X						
Ms. Johnson (TX)	X						
Mr. Landry		X					
Mr. Lankford		X					

COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE
FULL COMMITTEE – ROLL CALL
U.S. HOUSE OF REPRESENTATIVE – 112TH CONGRESS

Number of Members: (33/26) Quorum: 30 Working Quorum: 20
Date: February 16, 2011 Presiding: Chairman Mica
Amendment or matter voted on: Lipinski Amendment to H.R. 658 FAA Reauthorization and Reform Act of 2011
Vote: 25 – 34

	Yeas	Nays	Present		Yeas	Nays	Present
Mr. Mica		X		*Mr. Larsen*		X	
Mr. Rahall	X			*Mr. Lipinski*	X		
Mr. Altmire	X			Mr. LoBiondo	X		
Mr. Barletta		X		Mr. Long		X	
Mr. Bishop	X			Mr. Meehan		X	
Mr. Boswell		X		*Mr. Michaud*	X		
Ms. Brown	X			Mr. Miller (CA)		X	
Dr. Bucshon		X		Ms. Miller (MI)		X	
Ms. Capito		X		*Mr. Nadler*	X		
Mr. Capuano	X			*Mrs. Napolitano*	X		
Mr. Carnahan	X			*Ms. Norton*	X		
Mr. Coble		X		Mr. Petri		X	
Mr .Cohen		X		Mr. Reed		X	
Mr. Costello	X			*Ms. Richardson*	X		
Mr. Cravaack		X		Ms. Schmidt		X	
Mr. Crawford		X		*Mr. Shuler*	X		
Mr. Cummings	X			Mr. Shuster		X	
Mr. DeFazio	X			*Mr. Sires*	X		
Mr. Denham		X		Mr. Southerland		X	
Mr. Duncan		X		*Mr. Walz*	X		
Ms. Edwards	X			Mr. Young		X	
Mr. Farenthold		X					
Mr. Filner	X						
Mr. Fincher		X					
Mr. Gibbs		X					
Mr. Graves		X					
Mr. Guinta		X					
Mr. Hanna		X					
Dr. Harris		X					
Mrs. Herrera Beutler		X					
Ms. Hirono	X						
Mr. Holden	X						
Mr. Hultgren		X					
Mr. Hunter		X					
Mr. Johnson (IL)	X						
Ms. Johnson (TX)	X						
Mr. Landry		X					
Mr. Lankford		X					

COMMITTEE OVERSIGHT FINDINGS

With respect to the requirements of clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee's oversight findings and recommendations are reflected in this report.

NEW BUDGET AUTHORITY AND TAX EXPENDITURES

In compliance with clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, the Committee adopts as its own the estimate of new budget authority, entitlement authority, or tax expenditures or revenues contained in the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

With respect to the requirement of clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 402 of the Congressional Budget Act of 1974, the Committee has received the following cost estimate for H.R. 658 from the Director of the Congressional Budget Office:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, March 10, 2011.

Hon. JOHN L. MICA,
Chairman Committee on Transportation and Infrastructure,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 658, the FAA Reauthorization and Reform Act of 2011.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Megan Carroll.

Sincerely,

DOUGLAS W. ELMENDORF.

Enclosure.

H.R. 658—FAA Reauthorization and Reform Act of 2011

Summary: H.R. 658 would authorize appropriations, mainly over the 2011–2014 period, for activities of the Federal Aviation Administration (FAA) and other federal programs related to aviation. (A full-year appropriation for aviation programs in 2011 has not yet been enacted. For this estimate, CBO has assumed that the partial-year funding already provided will be increased proportionately—annualized—to provide full-year funding.) CBO and staff of the Joint Committee on Taxation (JCT) estimate that implementing H.R. 658 would:

- Increase discretionary spending by $34 billion over the 2011–2016 period; and
- Increase revenues by $34 million over the 2011–2016 period and $4 million over the 2011–2021 period.

Because the legislation would increase revenues, pay-as-you-go procedures apply.

H.R. 658 contains intergovernmental and private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) because it would impose new requirements on both public and pri-

vate entities that own aircraft or airports. CBO estimates that the aggregate cost of intergovernmental mandates in the bill would fall well below the annual threshold established in UMRA ($71 million in 2011, adjusted annually for inflation). The bill would impose additional private-sector mandates on operators of certain aircraft, entities registering or obtaining certification with the FAA, commercial air carriers, employees in air or rail industries, and unions. Based on information from the FAA, the National Mediation Board, and industry sources, CBO estimates that the aggregate cost of complying with the private-sector mandates would exceed the annual threshold established in UMRA ($142 million in 2011, adjusted annually for inflation).

Estimated cost to the Federal Government: The estimated budgetary impact of H.R. 658 is shown in Table 1. The costs of this legislation fall primarily within budget function 400 (transportation).

TABLE I. ESTIMATED BUDGETARY EFFECTS OF H.R. 658

	By fiscal year, in millions of dollars—						
	2011	2012	2013	2014	2015	2016	2011–2016
CHANGES IN SPENDING SUBJECT TO APPROPRIATION [a]							
Spending Under Current Law: [a]							
Budget Authority	12,436	77	77	77	77	77	12,821
Estimated Outlays	15,832	5,953	4,604	4,100	3,947	3,950	38,386
Proposed Changes:							
FAA Operations:							
Authorization Level	53	9,168	9,168	9,168	0	0	27,557
Estimated Outlays	47	8,164	8,894	9,077	1,008	275	27,465
Air Navigation Facilities and Equipment							
Authorization Level	−236	2,600	2,600	2,600	0	0	7,564
Estimated Outlays	−106	1,116	1,733	2,139	1,187	696	6,765
Airport Improvement Program: [b]							
Authorization Level	0	0	0	0	0	0	0
Estimated Outlays	−100	−353	−542	−633	−698	−700	−3,026
Essential Air Service:							
Authorization Level	−52	−17	−47	−77	−77	−77	−347
Estimated Outlays	−12	−24	−41	−71	−77	−77	−302
Offsetting Collections from Registration and Certification Fees and Other Provisions:							
Estimated Authorization Level	0	35	0	0	0	0	35
Estimated Outlays	0	20	10	5	0	0	35
Total Changes:							
Estimated Authorization Level	−235	11,786	11,721	11,691	−77	−77	34,809
Estimated Outlays	−71	9,276	10,596	11,150	2,118	894	33,963
Spending Under H.R. 658:							
Estimated Authorization Level	12,201	11,863	11,798	11,768	0	0	47,630
Estimated Outlays	15,761	15,229	15,200	15,250	6,065	4,844	72,349
CHANGES IN DIRECT SPENDING [c]							
Estimated Budget Authority	−524	−700	−700	−700	−700	−700	−4,024
Estimated Outlays	0	0	0	0	0	0	0
CHANGES IN REVENUES							
Estimated Revenues [d]	5	13	14	7	0	−4	34
NET IMPACT OF CHANGES IN DIRECT SPENDING AND REVENUES ON THE DEFICIT							
Net Increase or Decrease (−) in the Deficit	−5	−13	−14	−7	0	4	−34

[a] Under Public Law 112–4, Further Continuing Appropriations Amendments, 2011, funding is provided through March 18, 2011 for FAA operations, facilities and equipment; and payments to air carriers. On an annualized basis, funding for those programs in 2011 totals $12.4 billion.

[b] Budget authority for the Airport Improvement Program is provided as contract authority, a mandatory form of budget authority; however, outlays from that contract authority are subject to limitations on obligations specified in annual appropriation acts and are therefore considered discretionary. The Airport and Airway Extension Act of 2010, Part IV (Public Law 111–329) provides $1.85 billion in contract authority through March 31, 2011; on an annualized basis, contract authority for this program totals $3.7 billion in 2011.

[c] Enacting H.R. 658 would have no impact on direct spending over the 2011–2021 period because CBO assumes that outlays from contract authority will continue to be subject to limitations on obligations specified in annual appropriation acts and thus considered discretionary (see Table 2 for annual effects through 2021).

[d] Enacting H.R. 658 would increase revenues by $4 million over the 2011–2021 period (see Table 2 for annual effects through 2021).

Notes: FAA = Federal Aviation Administration. Components may not sum to totals because of rounding.

Basis of estimate: For this estimate, CBO assumes that H.R. 658 will be enacted in the spring of 2011. Outlay estimates are based on historical spending patterns for affected programs and on information provided by the Department of Transportation (DOT) and the FAA.

Spending subject to appropriation

H.R. 658 would authorize appropriations, mainly over the 2011–2014 period, for the FAA and other federal programs related to aviation. On an annualized basis, discretionary funding for major aviation programs administered by the FAA currently totals $12.4 billion under Public Law 112–4, Further Continuing Appropriation Amendments, 2011. CBO estimates that spending under current law will total $38.4 billion over the 2011–2016 period. That estimate includes outlays stemming from authority provided under P.L. 112–4 and from funding provided prior to 2011.

Amounts authorized to be appropriated under H.R. 658 would total $12.2 billion in 2011 and $47.6 billion over the 2011–2014 period. Assuming appropriation of the specified amounts (as well as the enactment of limitations on obligations of contract authority for the Airport Improvement Program that are consistent with funding levels provided under H.R. 658), C130 estimates that implementing H.R. 658 would increase spending by nearly $34 billion over the 2011–2016 period, with about $13 billion of additional spending after 2016.

FAA Operations. H.R. 658 would authorize appropriations totaling $9.4 billion in 2011 ($53 million more than the annualized amount that is currently available in 2011 under P.L. 112–4) and an additional $27.6 billion over the 2011–2014 period for FAA operations, particularly for salaries and expenses related to operating the air traffic control system. CBO estimates that fully funding FAA operations as authorized in H.R. 658 would result in additional spending totaling $27.5 billion over the 2011–2016 period.

Air Navigation Facilities and Equipment. H.R. 658 would authorize appropriations totaling $2.7 billion in 2011 ($236 million less than the annualized amount currently available for 2011 under P.L. 112–4) and an additional $7.6 billion over the 2012–2014 period for facilities and equipment—primarily infrastructure and systems for communication, navigation, and radar surveillance related to air travel.[1] Assuming appropriation of the specified amounts, CBO estimates that increased spending for this program would total $6.8 billion over the 2011–2016 period, with additional spending occurring in later years.

Airport Improvement Program. H.R. 658 would provide $12.2 billion in contract authority (a mandatory form of budget authority)

[1] By authorizing appropriations for air navigation facilities and equipment over the 2011–2014 period, H.R. 658 would authorize adjustments to contract authority for the airport improvement program in those years. Current law provides for increases to contract authority (a mandatory form of budget authority) for that program in any year that the amounts authorized to be appropriated for facilities and equipment exceed amounts actually provided in appropriation acts for such activities. Any such changes authorized under H.R. 658 and triggered by annual appropriation acts would be considered changes in direct spending and are discussed later in this estimate (see section entitled "Direct Spending").

over the 2011–2014 period for the Airport Improvement Program (AIP). Through that program, the FAA provides grants to airports for projects to enhance safety and increase airports' capacity for passengers and aircraft. Outlays from AIP contract authority are controlled by limitations on obligations set in annual appropriation acts and are therefore considered discretionary.

CBO estimates that enacting this provision would reduce contract authority below levels assumed in CBO's current baseline by $2.6 billion over the 2011–2014 period that is specifically covered under H.R. 658 and by $700 million annually thereafter. (See the section of this estimate entitled "Direct Spending" for a discussion of the budgetary treatment of AIP contract authority under CBO's baseline and for purposes of projecting costs under proposed legislation.)

In total, assuming that obligation limitations of MP spending as set forth in annual appropriation acts are equal to the levels of contract authority projected under H.R. 658, CBO estimates that discretionary spending for the program over the 2011–2016 period would total $3 billion less than amounts projected in CBO's baseline over that same period.

Essential Air Service. H.R. 658 would amend the Essential Air Service program through which DOT makes payments to air carriers that provide air service to certain rural communities. Under current law, $77 million is authorized to be appropriated for that program each year in perpetuity.

H.R. 658 would amend current law to gradually phase out discretionary funding for payments to air carriers. Under the bill, authorized funding would total $98 million in 2011 ($52 million less than the annualized amount currently available under P.L. 112–4), $60 million in 2012, and $30 million in 2013. No further appropriations would be authorized after 2013. Assuming appropriation action consistent with H.R. 658, CBO estimates that spending for payments to air carriers would fall by $12 million in 2011 and $302 million over the 2011–2016 period.

Offsetting Collections from Registration and Certification Fees and Other Provisions. The FAA administers a regulatory program designed to ensure the safety of air travel. The agency oversees and regulates the registration of aircraft, certification of pilots, and other related activities. Under current law, the FAA issues most registrations and certificates free of charge or at nominal prices. CBO estimates that collections from fees charged by the agency currently total about $1 million annually.

H.R. 658 would require the FAA to charge specific fees for services related to processing certain registrations and certificates. The agency's authority to collect and spend such fees would be contingent on annual appropriation acts. Based on information from the agency regarding the annual volume of regulatory actions, CBO estimates that the proposed fees would generate discretionary offsetting collections totaling about $45 million in 2012 and about $142 million through 2014, the last year of the reauthorization period specifically covered by H.R. 658. Because H.R. 658 would authorize the FAA to spend such collections, we estimate that implementing this provision would have no significant net effect on federal spending.

H.R. 658 would require the FAA, DOT, and the Government Accountability Office to carry out a variety of other activities, studies, and reports related to aviation. The costs of those activities would range from less than $1 million for routine reports and analyses to several million dollars or more for efforts related to establishing certain types of databases, hotlines, and other activities. In total, CBO estimates that fully funding those provisions would require appropriations totaling $35 million in 2012 and that resulting outlays would total $35 million over the 2012–2016 period.

Direct spending

CBO estimates that enacting H.R. 658 would have no impact on direct spending (see Table 2). The bill would, however, reduce contract authority for the AIP over the 2011–2021 period. As previously noted, spending from contract authority is controlled by obligation limitations specified in annual appropriation acts. Thus, outlays of the AIP are considered discretionary.

Under The Airport and Airway Extension Act of 2010, Part IV (Public Law 111–329), the FAA has been provided with nearly $1.9 billion in contract authority available through March 2011—or $3.7 billion on an annualized basis. Pursuant to rules that govern the calculation of CBO's baseline, funding for certain expiring programs such as contract authority for AIP—is assumed to continue beyond the scheduled expiration date for budget projection purposes. Consistent with that practice, CBO's baseline assumes that AIP contract authority over the 2012–2021 period will remain at the 2011 level of $3.7 billion per year.

Under H.R. 658, AIP contract authority would total just under $3.2 billion in 2011 and $3.0 billion in each of fiscal years 2012–2014. Consistent with CBO's methodology for projecting contract authority under proposed legislation, we assume that contract authority for AIP would continue to be provided after 2014 and would remain at $3.0 billion annually. In total, CBO estimates that contract authority under H.R. 658 would fall below the levels of contract authority already assumed in the CBO baseline by $7.5 billion over the 2011–2021 period.

TABLE 2. EFFECTS ON DIRECT SPENDING AND REVENUES UNDER H.R. 658

	By fiscal year, in millions of dollars—												
	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021	2011–2016	2011–2021
CHANGES IN DIRECT SPENDING													
AIP Contract Authority:[a]													
Estimated Budget Authority	−524	−700	−700	−700	−700	−700	−700	−700	−700	−700	−700	−4,024	−7,524
Estimated Outlays	0	0	0	0	0	0	0	0	0	0	0	0	0
CHANGES IN REVENUES													
Passenger Facility Fees	0	*	−1	−2	−3	−4	−4	−5	−6	−7	−8	−10	−40
Overflight Fees	5	13	15	9	3	0	0	0	0	0	0	44	44
Total Estimated Revenues	5	13	14	7	0	−4	−4	−5	−6	−7	−8	34	4
NET IMPACT ON THE DEFICIT FROM CHANGES IN DIRECT SPENDING AND REVENUES													
Net Increase or Decrease (−) in the Deficit	−5	−13	−14	−7	0	4	4	5	6	7	8	−34	−4

[a] Budget authority for the Airport Improvement Program is provided as contract authority, a mandatory form of budget authority; however, outlays from that contract authority are subject to limitations on obligations specified in appropriation acts and are therefore discretionary.

Note: AIP = Airport Improvement Program; * = between −$500,000 and $500,000,

Public Law 106–181, the Wendell H. Ford Aviation Investment Reform Act for the 21st Century Act, enacted in 2000, created a permanent mechanism that provides for an increase to AIP contract authority in any year that the amount authorized to be appropriated for the air navigation and facilities account exceeds the amount provided for such activities in an appropriation act. By authorizing appropriations for facilities and equipment over the 2012–2014 period, H.R. 658—in conjunction with that provision of current law—would authorize adjustments to AIP contract authority for those years. Any adjustment authorized under this legislation, once triggered by annual appropriation acts, would constitute new direct spending authority. All spending for AIP—including spending from such adjustments—would remain subject to obligation limitations established in appropriation acts. Although H.R. 658 could result in additional AIP contract authority of as much as $7.8 billion over the 2012–2014 period if no appropriations were provided for air navigation facilities and equipment, CBO assumes that appropriations will equal the amounts authorized by the bill; thus, we project no additional increases to AIP contract authority under H.R. 658.

Revenues

JCT estimates that enacting H.R. 658 would increase revenues by $34 million over the 2011–2016 period and a net amount of $4 million over the 2011–2021 period (Table 2). The estimated changes stem from provisions related to passenger facility fees and overflight fees.

Passenger Facility Fees. Under current law, airport agencies may collect, subject to DOT approval, fees of up to $4.50 per passenger to fund airport infrastructure programs. (Such fees are collected and spent by airport agencies and are not included in the federal budget.) H.R. 658 would allow the Secretary of Transportation to authorize up to five airport agencies to charge fees in excess of the statutory limit in order to finance certain capital projects. JCT expects that the proposed changes would increase revenues to airports from such passenger facility fees, subsequently lead to increased tax-exempt financing for airport construction and related projects, and consequently, reduce federal revenues. JCT estimates that federal revenue losses would total $40 million over the 2011–2021 period.

Overflight Fees. H.R. 658 would direct the FAA, through an expedited rulemaking process, to increase fees for certain navigational services provided for flights that neither take off nor land in the United States, known as overflight fees. Such fees are generally paid by foreign air carriers and are recorded as revenues. The expedited rulemaking would generate increased revenues in fiscal years 2011 through 2015. JCT estimates that those increases would total $44 million over the 2011–2015 period.

Pay-as-you-go considerations: The Statutory Pay-As-You-Go Act of 2010 establishes budget reporting and enforcement procedures for legislation affecting direct spending or revenues. The net changes in revenues that are subject to those pay-as-you-go procedures are shown in the following table.

CBO ESTIMATE OF PAY-AS-YOU-GO EFFECTS FOR H.R. 658, AS ORDERED REPORTED BY THE HOUSE COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE ON FEBRUARY 16, 2011, WITH A SUBSEQUENT AMENDMENT PROVIDED TO CBO ON MARCH 7, 2011

	By fiscal year, in millions of dollars—												
	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021	2011–2016	2011–2021
NET INCREASE OR DECREASE (−) IN THE DEFICIT													
Statutory Pay-As-You-Go Impact	−5	−13	−14	−7	0	4	4	5	6	7	8	−34	−4
Memorandum:													
Changes in Outlays	0	0	0	0	0	0	0	0	0	0	0	0	0
Changes in Revenues	5	13	14	7	0	−4	−4	−5	−6	−7	−8	34	4

Intergovernmental and Private-Sector Impact: H.R. 658 would impose mandates on public and private entities that own aircraft or airports, entities registering or obtaining certification with the FAA, commercial air carriers, employees in air or rail industries, and unions. CBO estimates that the aggregate cost of intergovernmental mandates in the bill would fall well below the annual threshold established in UMRA ($71 million in 2011, adjusted annually for inflation), and that the aggregate cost of complying with the private-sector mandates would exceed the annual threshold established in UMRA ($142 million in 2011, adjusted annually for inflation).

Mandates that apply to both public and private entities

Requirements for Next Generation Air Transportation System (NextGen) Equipment. The bill would require owners of aircraft operating in congested airspace or at congested airports to install new communications equipment by 2020. According to industry sources, the equipment currently costs at least $10,000 per aircraft; for jets and other large aircraft, the cost would amount to at least $100,000 per aircraft. Depending on FAA regulations, up to 240,000 aircraft could be affected, and most of the compliance costs would be incurred in the year that the equipment is required to be installed. Therefore, CBO estimates that the cost to private entities to comply with the mandate could exceed the annual threshold. Because of the relatively small number of public aircraft affected, CBO estimates the cost to state and local governments would be minimal.

Contingency plans. The bill would require air carriers, operators of large and medium airports, and airports that accept diversion flights from those airports, to submit contingency plans to the Department of Transportation for emergency circumstances that ground aircraft. The bill also would require air carriers and airports to update their plans every three or five years, respectively. All large and medium airports, and most of any other airports likely to be affected, are publicly owned and operated. All air carriers likely to be affected are privately owned and operated. CBO estimates that the costs to public entities would total between $5 million and $10 million in the first year of implementation, with smaller recurring costs for updates to the plans in later years. Based on information from industry sources, CBO estimates that the mandates would not impose significant additional costs on privately owned air carriers or airports.

Other Mandates. The bill would require large airports to publish a telephone number on the Internet where the public can make complaints about noise. Airports that receive 25 such complaints in the preceding year would be required to submit a report to the FAA regarding the nature of such complaints. The bill also would require operators of air ambulance services to submit annual reports to the FAA. CBO estimates the cost of those mandates to public and private entities would be small.

Mandates that apply to public entities only

Access to Criminal History Records. The bill would give the FAA the right to access criminal justice data maintained by the states. Although CBO cannot predict the extent to which the FAA would access state or local data systems, or make inquiries of state or local police officers, CBO estimates that the additional costs to state, local, and tribal governments of complying with the requests would be small.

Mandates that apply to private entities only

Limits on the Level of Aircraft Noise. H.R. 658 would prohibit, with certain exemptions, the operation of civil aircraft weighing 75,000 pounds or less in the 48 contiguous states if the aircraft does not comply with stage-3 noise levels. (The FAA classifies aircraft into four stages based on measurements of noise level: stage-3 is one of the quietest of those stages.) The prohibition would take effect after December 31, 2015. According to industry sources, compliance could require modifying or replacing engines on some existing aircraft or decommissioning aircraft that cannot be adequately modified. Those sources estimate that the total cost of bringing existing aircraft into compliance could range from $300 million to more than $1 billion, depending on the technology used. CBO expects that most of the costs to comply with the mandate would be incurred in 2015, the year before the prohibition would take effect.

FAA Registration, Certification, and Related Fees. The bill would require the FAA to establish a new schedule of fees for certain services and activities of the agency. This requirement would impose a new mandate on entities, such as aircraft owners and pilots, that are required to register with the FAA or required to obtain specific certifications. Based on the number of entities required to register with the FAA or obtain certification, CBO estimates that the incremental cost of the new fees for those private-sector entities would total about $45 million in 2012 and about $50 million or more per year thereafter.

Union Elections. By increasing the number of air or rail employees who must vote in favor of union representation, the bill would impose a mandate on employees responsible for organizing elections to establish union representation. Effective January 1, 2011, the bill would increase the number of votes necessary for union representation for air or rail employees from a majority of all employees casting votes in the election to a majority of all employees to be represented by the union. The bill could also impose a mandate on unions if they were to invalidate an election held before the date of enactment. Based on information from the National Mediation Board and industry sources, CBO estimates that the direct

cost of the mandate would be small relative to the annual threshold.

Airline Employee and Service Requirements for Air Carriers. The bill would impose several new requirements on air carriers related to airline employees and passenger service. Based on information from industry sources, CBO estimates that none of those mandates would impose significant additional costs on air carriers relative to UMRA's threshold. Those mandates would require air carriers to:

- Hire only maintenance workers for commercial aircraft who are certified and have submitted to a drug and alcohol test;
- Not hire or contract with former safety inspectors previously employed by the FAA to represent them before the FAA if the inspectors' duties in the previous two years involved oversight or inspection of the specific air carrier offering the positions;
- Disclose to customers information on consumer complaints and information on countries that require air carriers to treat airplanes with insecticides;
- Develop and submit reports related to certain emergency contingencies and diverted or cancelled flights;
- Allow passengers to safely transport musical instruments as carry-on or checked baggage without charging an additional fee, or allow the instrument to be carried in a seat next to the owner if the owner has purchased an additional seat;
- Prohibit smoking on certain passenger flights; and
- Include contact information for consumer complaints on their website and tickets at DOT.

Other impacts

The bill would benefit public and private airports by authorizing grants for planning, development, noise mitigation, and other initiatives. Any costs those entities incur to meet grant requirements would result from complying with conditions of federal assistance.

Estimate prepared by: Federal Costs: Spending—Megan Carroll; Revenues—Grant Driessen; Impact on State, Local, and Tribal Governments: Ryan Miller; Impact on the Private Sector: Samuel Wice.

Estimate approved by: Theresa Gullo, Deputy Assistant Director for Budget Analysis; Frank J. Sammartino, Acting Assistant Director for Tax Analysis.

PERFORMANCE GOALS AND OBJECTIVES

With respect to the requirement of clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the performance goals and objectives of this legislation are to authorize appropriations for the Federal Aviation Administration for fiscal years 2011 through 2014, streamline programs, create efficiencies, reduce waste, and improve aviation safety and capacity, to provide stable funding for the national aviation system.

ADVISORY OF EARMARKS

In compliance with clause 9 of rule XXI of the Rules of the House of Representatives, H.R. 658 does not contain any congressional

earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(e), 9(f), or 9(g) of Rule XXI.

FEDERAL MANDATE STATEMENT

The Committee adopts as its own the estimate of Federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the "Unfunded Mandates Reform Act" (P.L. 104–4).

PREEMPTION CLARIFICATION

Section 423 of the Congressional Budget Act of 1974 requires the report of any Committee on a bill or joint resolution to include a statement on the extent to which the bill or joint resolution is intended to preempt state, local, or tribal law. The Committee states that H.R. 658 does not preempt any state, local, or tribal law.

ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act are created by this legislation.

APPLICABILITY OF LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act (P.L. 104–1).

SECTION-BY-SECTION ANALYSIS

Sec. 1. Short title; table of contents

This section provides that the short title of the bill is the "FAA Reauthorization and Reform Act of 2011" and sets out the table of contents for the bill.

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

This section provides that, except where otherwise expressly provided, any references to sections are made to title 49, United States Code (U.S.C.).

Sec. 3. Effective date

This section provides that, unless otherwise stated, the amendments made by this Act shall take effect on the date of enactment of this Act.

TITLE I—AUTHORIZATION

Subtitle A—Funding of FAA Programs

Section 101. Airport planning and development and noise compatibility planning and programs.

This section authorizes the following for the FAA's AIP: $3.1 billion for FY 2011; $3 billion for each fiscal year 2012 through 2014. These amounts shall be available until expended. In addition the obligation authority is extended to September 30, 2014. Finally, this section prohibits funding the Airport Cooperative Research

Program or the Airports Technology Research Program out of the AIP account.

Section 102. Air navigation facilities and equipment

Subsection (a) authorizes the following for the FAA's F&E account: $2.7 billion for FY 2011; $2.6 billion for each fiscal year 2012 through 2014.

Subsection (b) amends and streamlines the F & E set asides by striking the following subsections (c) enhanced safety and security of aircraft operations in the Gulf of Mexico, (d) Operational benefits of wake vortex advisory system, (e) ground-based precision Navigational Aids, (h) standby power efficiency program, and (i) pilot program to provide incentives for development of new technologies, and redesignates subsections (f) automated surface observation system/automated weather observing system upgrade, and (g) life cycle cost estimates as (c) and (d) respectively.

Section 103. FAA operations

Subsection (a) authorizes the following for the FAA operations account: $9.403 billion for FY 2011; $9.168 billion for each fiscal year 2012 through 2014.

Subsection (b) amends and streamlines the Operations account set asides in section 106 (k)(2) by striking authorized expenditures for (A) infrastructure systems for general aviation and vertical flight industry, (B) establish helicopter approach procedures using current technologies, (C) revise existing terminal and en route procedures and instrument flight rules and improve national air space system, and (D) Center for Management Development of FAA. Sections (E) (F) and (G) authorize expenditures for the expansion of the Air Traffic Control Collegiate Training Initiative, completion of Alaska aviation safety project with respect to 3D mapping of Alaska's main aviation corridors, and for Aviation Safety Reporting System, and shall be redesignated (A), (B), (C) respectively and fiscal years shall be updated by inserting "2011 through 2014."

Subsection (c) directs that if the Secretary determines that the funds appropriated under paragraph (1) are insufficient to meet the salary, operations and maintenance expenses of the FAA, the Secretary shall reduce non-safety related activities of the FAA as necessary to reduce such expenses to a level that can be met by funding under paragraph (1).

Section 104. Funding for aviation programs

This section modifies the formula that determines the amount to be made available from the Trust Fund each year to fund the FAA. The modification proposed by this section is necessary to maintain a positive Trust Fund balance despite over-optimistic revenue forecasts.

The uncommitted cash balance in the Trust Fund has declined dramatically in recent years. At the end of FY 2001, the uncommitted cash balance was $7.3 billion. For FY 2010, the uncommitted balance is projected to be approximately $770 million.

This decline in the Trust Fund's uncommitted balance is due to over-optimistic revenue projections, combined with a statutory requirement to appropriate from the Trust Fund an amount that is equal to those revenue projections.

The current statutory formula requires that estimated Trust Fund receipts each year must equal Trust Fund expenditures. Under these conditions, the Trust Fund balance should remain stable. However, the Trust Fund revenue estimates included in the President's budget for most of the last decade years were overly optimistic; such that the amounts appropriated from the Trust Fund (based on those estimates) exceeded the amounts actually deposited into the Trust Fund, resulting in declines in the uncommitted cash balance.

To mitigate the effect of over-optimistic revenue projections in the future, this section modifies the statutory formula to make available from the Trust Fund an amount equal to 90 percent of the estimated revenues, rather than 100 percent, until the actual level of revenues received for that year are known. Once actual revenues are known, a 'look back' adjustment compares the actual revenues received by the Trust Fund to the amounts made available from the Trust Fund for that year, and the difference between the two is applied as an adjustment to the amount made available from the Trust Fund for the current budget year. This change would provide greater room for error in revenue estimates until the actual level of revenues received for that year is known, and an adjustment is made to reconcile actual amounts deposited to the Trust Fund with actual amounts appropriated from it. Given recent revenue estimates, a 10 percent margin of error is necessary. This change will ensure the Trust Fund balance remains more stable in the future.

Subsection (b) extends additional authorization of appropriations from the general treasury fund if necessary for FAA operational account from 2007 to 2014.

Subsection (c) amends section 48114 (b)(2) by 1.) striking "level" and adding "estimated level", 2.) replacing "level of receipts plus interest" with "estimated level of receipts plus interest". In addition it disallows the House from considering any bill, joint resolution, motion, etc that provides appropriation for any year through FY2014 for research and development or operations if sum of the obligation limitation for Grants-in-Aid for Airports and the appropriation for Facilities and Equipment for such fiscal year is below the sum of the authorized levels for Grants-in-Aid for Airports and for Facilities and Equipment for such fiscal year.

Section 105. Delineation of Next Generation Air Transportation System projects

This section requires the Administrator of the FAA to include in the Airway Capitol Investment Plan a list of capital projects that are part of the NextGen system and funded by amounts appropriated under section 48101(a).

Section 106. Funding for administrative expenses for airport programs

This section would authorize the administrative expenses for the FAA's airports program at a level of $85.987 million for FY 2011; $80.6 million for fiscal years 2012 through 2014. The previous amounts may be used for administrative expenses relating to AIP, PFC approval and oversight, NAS planning, airport standards and

development and enforcement, airport certification, airport-related environmental activities, and other airport related activities.

Subtitle B—Passenger Facility Charges

Section 111. Passenger Facility Charges

This section defines Passenger Facility Charges as those imposed in section 40117(a)(5) and changes the word 'fee' to 'charge' throughout title 49.

Section 112. Airport access flexibility program

Under current law, PFCs may be used to fund intermodal ground access projects and facilities only if they are on airport property and dedicated 100 percent to airport use. This section creates a pilot program allowing up to five airports to use local PFCs to fund ground access projects, applying more flexible standards than currently in place for airport revenue funding of these projects, i.e., that these projects are on airport property and are 'directly and substantially' related to airport use. In addition, the amount of PFC revenues that can be dedicated to these projects is constrained by limiting the percentage of total project costs that may be funded by PFCs to the percentage of individuals using the project to gain access to the airport.

Section 113. GAO study of alternative means of collecting PFCs

This section instructs Comptroller General to conduct a study of alternative means of PFC collection that would permit charges to be collected without inclusion in the ticket price. The GAO study will at a minimum address (1) collection options for arriving, connecting, and departing passengers, (2) cost sharing or allocation methods based on passenger travel to address connecting traffic, and (3) examples of airport charges collect by domestic and international airports not included in ticket prices.

Section 114. Qualifications-based selection

This section defines the term "qualification based selections" as a competitive procurement process under which firms compete for capital improvement projects on the basis of qualifications, past experience and specific expertise. It makes it the sense of Congress that airports should consider the use of qualifications based selection in carrying out capital improvement projects funded using PFCs.

Subtitle C—Fees for FAA Services

Section 121. Update on overflights

This section would direct the FAA to guarantee that existing overflight fees are reasonably related to agency costs for providing air traffic services, and would require the FAA to adjust the fees and begin collection of the appropriate amount by issuing a final rule with respect to the Notice of Proposed Rulemaking published in the Federal Register on September 28, 2010. The section would permit the FAA to periodically modify the fee based on the cost of providing such service.

Section 122. Registration fees

This section requires the Administrator to impose fees to pay for the costs of eleven listed activities in the areas of certification and registration, including: registering or replacing an aircraft registration; issuance of aircraft certificates; issuance of special registrations; recording security interests; replacing or issuing airman certificates; and legal opinions for aircraft registration or recordation.

Subject to appropriation made in advance, fees authorized under this section shall be collected and credited as offsetting collections to the account that finances the activities and services for which the fee is imposed.

The initial fee rates specified in this section reflect the FAA's current costs of providing each service. The FAA shall periodically adjust the fees established in this section when cost data reveal that the cost of providing the service is higher or lower than the cost data that were used to establish the fee then in effect.

A conforming change is made to section 45302 of title 49. Existing authority to collect certain similar fees pursuant to section 45302 is limited to any period in which a fee for the same service or activity is not imposed under section 45305.

Subtitle D—Airport Improvement Program Modifications

Section 131. Airport master plans

This section amends section 47101(g)(2) to add to goals for airport master and system plans a requirement to consider passenger convenience, airport ground access and access to airport facilities.

Section 132. Aerotropolis transportation systems

This section amends section 47101(g) by adding at the end a policy of the United State to encourage the development of aerotropolis transportation systems that, as determined by the Secretary, provide efficient, cost effective, sustainable, and intermodal connectivity to a defined region of economic significance centered around a major airport.

Section 133. AIP definitions

Subsection (a) makes several amendments to the definitions in section 47102 to update and add terms that are used in the AIP. The first amendment conforms the definition of airport development relating to firefighting and rescue equipment with a recent final rulemaking for airport certification requirements for airports serving scheduled air carrier operations in aircraft designed for more than 9 (not 20 as in current law) passenger seats, but less than 31 passenger seats; broadens the definition of airport development to include mobile fuel truck containment systems at a non-primary airport, if such systems are required by an Environmental Protection Agency (EPA) rule; and adds a reference to the definition of 'terminal development' as part of technical amendments to consolidate several statutory provisions relating to terminal development. In addition, this section adds as an eligible use of AIP funds the acquisition and installation of facilities and equipment to provide air conditioning, heating or electric power from terminal-based, non-exclusive use facilities to aircraft parked at an airport to reduce emissions and energy consumption.

Subsection (b) allows AIP funds to be used to develop an environmental management system.

Subsection (c) adds a definition of 'general aviation airport.'

Subsection (d) adds a definition of 'revenue producing aeronautical support facilities,' which is referenced in section 47110 (allowable project costs) so that nonprimary airports may use their entitlements to build or rehabilitate new facilities that can help generate revenue. The expansion of the definition allows more flexibility to build these facilities.

Subsection (e) adds a definition of 'terminal development' consistent with current statutory provisions.

Section 134. Recycling plans for airports

This section requires that airport master plans address the feasibility of solid waste recycling. The Secretary may approve a grant for an airport project only if he is satisfied that the airport has a master plan that addresses the feasibility of solid waste recycling at the airport and minimizes the generation of solid waste at the airport. This section also broadens the definition of airport planning to include solid waste recycling plans.

Airlines and airports generate vast amounts of waste and many lack sufficient recycling programs. Airport recycling programs have the potential to save money, promote the sustainable use of resources, and provide substantial environmental benefits, such as reduced generation of solid waste. Under this section, airports will be able to utilize AIP funding for the establishment of recycling programs and planning projects.

Section 135. Contents of competition plans

This section amends section 47106(f)(2) by removing from the requirements of a competition plan for PFC charges 'patterns of air services' and 'airfare levels (as compiled by the Department of Transportation) compared to other large airports.'

Section 136. Grant assurances

This section changes two provisions related to required grant assurances (section 47107) for AIP projects. First, a limited exception is allowed to permit an airport owner to use AIP entitlement funds to move or replace a facility when the need to relocate or replace it is beyond the owner's control (such as new design standards that render the facility a safety hazard), a change from current law that requires the airport owner to bear the full cost of such a relocation.

Second, the section changes the disposition of proceeds from the sale of land that an airport acquired for a noise compatibility purpose, but no longer needs for that purpose. Current law requires that the Federal Government's proportional share of the sale proceeds be reinvested in an approved noise compatibility project at that airport, if prescribed by the Secretary, or returned to the Trust Fund for reinvestment in other airport development or airport planning projects. This change further prescribes the use of the Government's share of the proceeds, giving priority, in descending order, to the following: reinvestment in another noise compatibility project at the airport; reinvestment in another environmentally-related project at the airport; reinvestment in another otherwise eligible AIP project at the airport; transfer to another

public airport for a noise compatibility project; and finally, payment to the Trust Fund.

Lastly this section removes the sunset provision in the competitive access report which would cause section 41707(s) to only be effective until April 1, 2010.

Section 137. Agreements granting through-the-fence access to general aviation airports

This Section amends section 47107 by adding a new subsection (t). The new subsection mandates, subject to the requirements contained in a through-the-fence agreement between a general aviation airport sponsor and a private property owner, the sponsor of a general aviation airport shall not be considered in violation of a grant assurance under this section or any other law as a condition for the receipt of Federal financial assistance solely because the sponsor entered into an agreement to allow a person who owns residential real property adjacent to the airport access to the airfield of the airport.

A residential through-the-fence agreement is an agreement between an airport operator and a private landowner who owns residential property adjacent to the airport—commonly referred to as a "hanger home". The agreement sets forth the terms and conditions for the private landowner to have direct access to the airport from his or her own property. Some agreements date back to the 1970's and others were drafted with the assistance and approval of local FAA officials.

Of the 3,300 airports in the National Plan of Integrated Airport Systems (NPIAS), the FAA has provided a list of only 75 public general aviation airports with residential through-the-fence agreements—which represents less than 3 percent of all public airports in the United States.

In 2009, the FAA proposed to eliminate all residential through-the-fence agreements. In 2010, after receiving hundreds of comments on the 2009 proposal, the FAA published new guidance proposing to prohibit any new residential through-the-fence-agreements while requiring a two-year review of existing agreements, and a review upon renewal of any existing agreements.

Residential through-the-fence agreements may not make sense at every airport, but they do make sense at many locations and in some communities provide much needed aviation and local property tax revenue. The Committee believes that airports should have the flexibility to enter into these agreements if they want to and can remain in compliance with their grant assurances.

Section 138. Government share of project costs

This section makes a change to current requirements for the Federal Government's matching share of AIP project costs. In general, current law (section 47109) provides that the Federal share of project costs is 75 percent at a medium- or large-hub airport; not more than 90 percent for a project funded under the State Block Grant program; and 90 percent at any other airport. A special rule is added to allow for small-hub airports that have increased operations and are reclassified as medium-hub airports to retain, for two years, their eligibility for up to a 90 percent Federal share of

project costs, instead of the 75 percent Federal share of project costs otherwise required for medium-hub airports.

In addition, subsection (f) would add a special rule to reduce the local share of project costs from 10 percent to five percent for certain economically depressed communities. To be eligible under this special rule, a community must be receiving subsidized air service under the EAS program and have one of the following economic conditions, as determined by the Secretary of Commerce: (1) a per capita income of 80 percent or less of the national average; (2) an unemployment rate that is at least one percent greater than the national average; or (3) a special need arising from actual or threatened severe unemployment or economic adjustment problems. These economic criteria are the same as the criteria used by the Economic Development Administration of the U.S. Department of Commerce to determine eligibility for assistance under economic development programs.

Section 139. Allowable project costs

Current law (section 47110) provides that most AIP-eligible projects lose their grant eligibility if development work is undertaken before an AIP grant is awarded. Because most FAA AIP discretionary grants are awarded between July and September (after FAA determines how much AIP entitlement funding can be converted temporarily to discretionary grants within that fiscal year), this process disadvantages AIP-eligible projects in states that have shorter construction seasons than other parts of the nation.

Subsection (a) amends section 47110(b)(2) by adding a new subparagraph (D) that extends project grant eligibility until the end of the fiscal year in which work begins on otherwise AIP-eligible projects if the Secretary determines that: the cost was incurred before the execution of the grant agreement due to a short construction season; the cost is in accordance with an airport layout plan approved by the Secretary; the sponsor notifies the Secretary before authorizing work to commence on the project; the sponsor has an alternative funding source available to fund the project; and the sponsor's decision to proceed with the project in advance of a grant agreement does not affect its priority for allocation of funds.

Subsection (b) amends 47110(b) by adding as an allowable project cost where the cost is incurred on a measure to improve the efficient of an airport building and the measure is for airport development; the measure is for an airport building that is otherwise eligible for construction assistance; and if the measure results in increase in initial project costs, the increase is justified by the expected savings over the life cycle of the project.

Subsection (c) adds a new subsection (d) to section 47110 relating to the relocation of airport-owned facilities, making such relocation an allowable cost if: the Government's portion will be paid with AIP funds apportioned to the airport sponsor; the Secretary determines the relocation or replacement is due to a change in design standards; and the Secretary determines the change is beyond the sponsor's control.

According to the FAA, this section is necessary to correct discrimination between sponsor-owned facilities that must be relocated and facilities owned by third parties. The current eligibility rules permit AIP funds to pay for the relocation or reconstruction

of facilities that must be moved to meet FAA design standards if they are owned by third parties. If the facilities are owned by the airport sponsor, only demolition costs may be paid for with AIP. FAA states that there is no reason to differentiate between AIP eligibility based on ownership of the facilities if the facilities meet FAA design standards that were in effect at the time the facilities were first constructed.

Subsection (d) clarifies that while nonprimary airports may use AIP funds for revenue-producing aeronautical facilities; such use is limited to the construction of those facilities.

Section 140. Veterans' preference

This section amends current section 47112(c) by changing the definition of "Vietnam-era veteran" from "separated from duty" to "discharged or released from active duty" and by adding veterans from the Afghanistan/Iraq conflict and Persian Gulf War to the definition of those veterans eligible for employment preference on AIP projects.

Section 141. Standardizing certification of disadvantaged business enterprises

This section requires the Secretary to establish, not later than one year after the date of enactment, a mandatory training program for airport owners and operators to provide streamlined training on certifying whether small businesses in airport concessions qualify as small business concerns owned and operated by socially and economically disadvantaged individuals. The section allows the training to be implemented by one or more private entities approved by the Secretary.

Section 142. Special apportionment rules

This provision would permit the DOT Secretary to apportion to an airport sponsor in a FY an amount equal to the amount equal to the minimum apportionment available to the airport sponsor in the previous FY, if the airport received schedule or unscheduled air service from a large certificated air carrier in the calendar year used to calculate the apportionment; and the airport had more than 10,000 passenger boardings in the calendar year used to calculate the apportionment. This section also would continue a special apportionment for airports that remain affected by the decrease in passengers following the terrorist attacks of September 11, 2001.

Section 143. Apportionments

The section amends Chapter 471 by resetting the apportionment trigger and removing $3.2 billion and inserting $3 billion each place it appears in the Chapter.

Section 144. Marshall Islands, Micronesia, and Palau

This section reauthorizes a section in Vision 100 that makes the sponsors of airports located in the Republic of the Marshall Islands (RMI), the Federated States of Micronesia (FSM) and Palau eligible for AIP discretionary grants and funding from the Small Airport Fund. These three independent nations were formerly part of the Trust Territory of the Pacific Islands, a United Nations trusteeship administered by the U.S. Navy from 1947 to 1951 and by the U.S.

Department of the Interior from 1951 to 1994. The United States subsequently entered into a Compact of Free Association with each of them, under which the United States recognizes them as sovereign nations, but maintains responsibility for their defense and provides certain financial assistance. All three of these nations have requested that their eligibility to receive AIP funds be extended.

Section 145. Designating current or former military airports

Current law (section 47118) allows the Secretary to designate current or former military airports eligible for grants, this section adds to the Secretary's consideration in the decision to approve a grant if it preserves or enhances minimum airfield infrastructure facilities at former military airports to support emergency diversionary operations for transoceanic flights in locations in US jurisdiction or control and where there is a lack of airports within the distance required by regulations.

Furthermore, this section would allow up to three General Aviation (GA) airports to participate in the FAA's Military Airport Program.

Section 146. Contract Tower Program

Subsection (a) authorizes the Secretary to extend the program to other low activity air traffic control towers for which a qualified entity, a State, or a subdivision of the State meeting the requirements set forth by the Secretary has requested to participate in the program.

This section also provides a special rule for ATC towers that are transitioning from the FAA's Contract Tower Program (under which the cost of operating the tower is fully funded by the FAA), and the FAA's Contract Tower Cost-Sharing Program (under which the local airport pays the portion of the costs that exceeds the benefits of operating the tower). Specifically, subsection (a) provides that, if the Secretary determines that an ATC tower that is already operating under the FAA's Contract Tower Program falls below a benefit-to-cost ratio of 1.0, then the sponsor of the airport at which the tower is located shall not be required to pay the portion of the costs that exceeds the benefit for a period of 18 months after such determination is made.

Subsection (a) also provides that, if the Secretary finds that all or part of an amount made available to carry out the fully-funded Contract Tower Program is not required during a FY, the Secretary may use such excess funds to carry out the Contract Tower Cost-Sharing Program.

Subsection (b) caps the maximum allowable local cost share for a part 139 airport with fewer than 50,000 annual passenger enplanements at 20 percent of the cost of operating the tower under the program.

Subsection (c) provides that, of the amount appropriated for FAA Operations, not more than $8.5 million for each of the fiscal years 2011 through 2012 may be used to carry out the Contract Tower Cost-Sharing Program.

Subsection (c) also provides that, if the Secretary finds that all or part of an amount made available to carry out the Contract Tower Cost-Sharing Program is not required during a fiscal year,

the Secretary may use such excess funds to carry out the fully-funded Contract Tower Program.

Subsection (d) raises the cap on the Federal share of the cost of construction of a nonapproach control tower from $1,500,000 to $2,000,000.

Subsection (e) requires the Secretary to establish uniform standards and requirements for regular safety assessments of contract towers under this section.

The Committee believes that in expanding the contract tower program, the FAA will achieve significant costs savings by offering the same quality of air traffic control services at a far reduced cost.

Section 147. Resolution of disputes concerning airport fees

This section updates current law (section 47129) that addresses the resolution of disputes concerning airport fees by the Secretary to include foreign air carriers in payment by airports under protest.

Section 148. Sale of private airports to public sponsors

This section amends section 47133 (restriction on use of revenue) to facilitate the sale of a private airport, which has in the past received AIP funds for improvement projects, to a public entity such as a state or local government. If a private owner wishes to dispose of the airport, a sale to a public sponsor usually benefits the airport through more stable and reliable ownership. Under current law, if an owner of a private airport sells to a public entity, the proceeds of the sale must be treated as airport revenue with all the restrictions that attach to such a characterization. While this protects airport revenue, it also prevents a private owner from recovering his or her own private capital that has been invested in the airport. In other words, current law treats the private owner's capital as if it were public and to be used only for airport purposes. By creating an exception to such treatment, this section facilitates these sales without undermining revenue diversion protections.

Specifically, this section establishes three criteria that must be met for the private owner to be able to recover his or her own private capital from the sale proceeds: (1) the sale must be approved by the Secretary; (2) funding for the public sponsor's acquisition of the airport land is provided by the AIP or PFC programs; and (3) the private owner has repaid the remaining unamortized portion of any AIP grant made to that airport for purposes other than land acquisition, plus an amount equal to the Federal share of the current fair market value of any land acquired with an AIP grant made to that airport. The amendments made by this section are applicable to grant assistance provided to private airports on or after October 1, 1996.

This section is intended to facilitate the sale of private airports to public entities under certain conditions. These conditions include a requirement that any unamortized portion of AIP grants received by the private airport be repaid to the Secretary. The AIP grants that must be repaid are those made after October 1, 1996.

Section 149. Repeal of certain limitations on Metropolitan Washington Airports Authority

This section repeals the limitations on the Metropolitan Washington Airports Authority, which oversees both Washington Na-

tional Airport and Washington Dulles International Airport, to apply for AIP grants and collect PFCs.

Section 150. Midway Island Airport

This section provides a four-year extension of the current Vision 100 authorization, for the Secretary to enter into a reimbursable agreement with the Secretary of the Interior to provide AIP discretionary funds (at a maximum level of $2.5 million per FY) for airport development projects at Midway Island Airport through FY 2014. Midway Island is critical to the safety of flights over the Pacific Ocean.

Section 151. Miscellaneous amendments

Subsection (a) makes technical changes to section 47103, the NPIAS, to remove obsolete language and update the section to conform to what the FAA is currently including in the NPIAS. For example, the NPIAS includes only categories of airports. The language in section 47103(a) that references "each airport" is deleted in favor of a reference to the "airport system". Similarly, further amendments to section 47103(a) reflect that the NPIAS does not try to forecast trends in other transportation sectors, but instead forecasts how airports connect to other modes of transportation (e.g., an airport and a public transit system). Section 47103(b) is amended to delete two references that are obsolete: the NPIAS does not consider how tall structures reduce safety and capacity (that is done under a separate FAA order), and the NPIAS no longer takes into account Short/Takeoff and Landing operations. Finally, section 47103(d) clarifies that the NPIAS must be published every two years, instead of just the 'status' of the plan.

Subsection (b) consolidates in one section (section 47119), without substantive change, language on terminal development costs by moving the current text of section 47110(d), regarding terminal development costs, to section 47119 as a new subsection (a), and redesignating the existing sections accordingly. This subsection also adds a new subsection (f) to section 47119, which caps at $20 million the amount of discretionary AIP funds that could support terminal development projects at non-hub or small-hub primary airports. Today, there is no limit on the amount of discretionary funds that may be used on a terminal at non-hub airports. The FAA found that some communities and airports overbuild their terminals, but that a $20 million cap (after normalizing for inflation) allows an airport to build a suitable terminal building. This subsection does not preclude airports from supplementing a terminal project with PFCs, entitlement or local funds.

Subsection (c) conforms the requirements for the annual report on AIP to current practice for the submission and its contents.

Subsection (d) corrects an inaccurate cross-reference in section 47139 (enacted by Vision 100), under which an airport is able to 'bank' emissions credits when the airport does air quality work that is not required, but is "surplus". However, section 47139 references section 47102(3)(F), which is required air quality work, not surplus work.

Subsection (e) makes a conforming amendment to section 46301 (FAA civil penalty assessment authority) to clarify that the FAA has civil penalty assessment authority regarding violations of sec-

tion 46319, which was added by Vision 100 and provides for a $10,000 per day civil penalty for permanently closing an airport listed in the NPIAS, without 30 days notice to the FAA.

Subsection (f) makes other conforming amendments.

Subsection (g) amends section 47151 to correct the surplus property authority.

Subsection (h) amends the definitions contained in 47175 by updating a reference in the definition for "congested airport" and adding a definition for "joint use airport".

Section 152. Extension of grant authority for compatible land use planning and projects by State and local governments

This section extends the sunset date of the current law (Section 47141) that gives grants to State and local governments for compatible land use planning and projects to September 30, 2014.

Section 153. Priority review of construction projects in cold weather states

This section instructs the FAA Administrator to schedule review of construction projects that are prevented by weather from being carried out before May 1 as early as possible.

Section 154. Study on National Plan of Integrated Systems

This section requires the Secretary, not later than 90 days after enactment, to begin a study of the national plan of integrated airport systems (NPIAS) and to report to Congress, not later than 36 months after the study begins the findings and recommended changes for formulating the NPIAS and methods for determining the amounts apportioned to airports.

Section 155. Transfers of terminal area Air Navigation equipment of airport sponsors

This section establishes a pilot program by adding the new section 44518 "Transfers of terminal area air navigation equipment to airport sponsors" to Chapter 445. The program will allow the Administrator to transfer terminal area air navigation equipment to air sponsors at no more than 3 nonhub airports, 3 small hub airports, 3 medium hub airports and 1 large airport picked to participate in the program. The airport sponsors must assure the Administrator that the sponsors will operate and maintain the equipment, permit inspections by the Administrator, and will replace equipment as needed. This transfer will include all rights, title and interests of the U.S. to the sponsor at no cost to the sponsor. Such costs incurred by the sponsor for ownership and maintenance of terminal navigation equipment transfer will be considered a cost of providing facilities and services under DOT standards and guidelines and may be compensated.

Sec. 156. Airport Privatization Program

Current law (section 47134) contains specific provisions for issuance of exemptions in connection with a transfer of airport operation to a private owner. This section authorizes the Secretary to expand the number of airports from 5 to 10 airports. In addition the section authorizes the Secretary to exempt the selling airport sponsor from the revenue diversion prohibition after the Secretary

has consulted the air carrier serving the primary airport and in the case of nonprimary airport with at least 65 percent of owners of aircraft based at that airport. The section removes requirement that the Secretary has to ensure that the airport fee imposed on air carrier will not increase more than inflation, percent increase on fees in general aviation will not exceed percentage of fees increased imposed on air carriers, and collective bargaining agreements abrogated by sale or lease. Finally the section does not allow an airport to impose a fee on a domestic or foreign air carrier for a return on investment or recovery of principal with respect to consideration paid to public agency for the lease unless the air carriers approve.

TITLE II—NEXTGEN AIR TRANSPORTATION SYSTEM AND AIR TRAFFIC CONTROL MODERNIZATION

Sec. 201. Definitions

This section provides definitions for terms used throughout the section, including, ADS–B, ADS–B Out, ADS–B In, RNAV, and RNP.

Sec. 202. NextGen demonstrations and concepts

This section provides direction to the Secretary of Transportation regarding priority for NextGen activities authorized by the legislation.

Sec. 203. Clarification of authority to enter into reimbursable agreements

This section amends 49 U.S.C. Sec. 106(m), to clarify the FAA's authority under that section (along with the FAA's broad contract authority under section 106(l)(6)) to enter into reimbursable interagency agreements. This change is necessary to correct any confusion resulting from language added to section 106(m) by Congress after the terrorist attacks of September 11, 2001. Congress added the last sentence in section 106(m) to expressly allow FAA to provide services and equipment to other agencies "without reimbursement." This provision was intended, for example, to allow FAA to provide services and personnel to the newly created Transportation Security Administration, without reimbursement. Such language was never intended to alter FAA's pre-existing authority to enter into interagency agreements that required reimbursement. This section makes it clear that the FAA may perform work for other agencies 'with or without' reimbursement.

Sec. 204. Chief NextGen Officer

This section requires the FAA Administrator to appoint a Chief NextGen Officer position to be the lead official accountable for implementing NextGen programs. This individual would be tasked with responsibility for implementation and coordination of all FAA programs associated with NextGen, including budget authority over NextGen activities, a move to provide accountability and to streamline the execution of NextGen by eliminating confusion over who is responsible for the delivery of NextGen. This section also vests in the Chief NextGen Officer the responsibility to develop the

NextGen budget for the Administrator to be included in the President's annual budget submission to Congress.

Sec. 205. Definition of air navigation facility

This section updates and broadens the definition of an air navigation facility to clarify that Facilities and Equipment funding may be used for many capital expenses directly related to the acquisition or improvement of buildings, equipment, and new systems related to the NAS and NextGen. In addition, certain NextGen-related acquisitions, such as a service contract to develop security protocols for the FAA's internet-like System Wide Information Management (SWIM) program, may not completely fit under the current definition of air navigation facilities.

Sec. 206. Clarification to acquisition reform authority

This section repeals a provision of law that conflicts with the FAA's procurement reform authority that Congress granted FAA in 1996. The FAA now has broad flexibility to use measures other than competitive procedures in various compelling circumstances (for example, in response to an emergency such as a hurricane or other natural or man-made disaster when there could be multiple sources of supply but there is insufficient time to run a competition). This section repeals more restrictive conflicting language that predated the 1996 reforms. Removing the conflicting language clarifies the FAA's ability to limit competition in response to an emergency, as noted above, or set-aside procurements for small businesses, disabled veteran-owned businesses or small businesses owned and controlled by socially and economically disadvantaged groups.

Sec. 207. Assistance to foreign aviation authorities

This section clarifies the FAA's current authority to provide air traffic services abroad, whether or not the foreign entity to which such services are provided is private or governmental, and that the FAA may participate in any competition to provide such services. It also clarifies that the Administrator may allow foreign authorities to pay in arrears rather than in advance, and that any payment for such assistance may be credited to the account from which the expenses were incurred in providing the services. This section ensures U.S. leadership in air traffic management will continue.

Sec. 208. Next Generation Air Transportation System Joint Planning and Development Office

This section redesignates the Director of the Joint Planning and Development Office (JPDO) to the status of Associate Administrator for the NextGen within the FAA. It also makes the Associate Administrator a voting member of the Joint Resources Council, the FAA's decision making body for major acquisitions. The FAA is also required to publish annually a NextGen Implementation Plan document that provides a description of how the FAA is implementing NextGen including a description of potentially significant operational or workforce changes.

This section also requires NextGen partner agencies to designate senior officials responsible for carrying out NextGen activities at their respective agencies and Departments.

In addition, the JPDO is required to develop an Integrated Work Plan that will outline the activities required by partner agencies to achieve NextGen. Under this section, the JPDO is required to include in its Integrated Work Plan milestones reached and activities under way to date and detailed timelines and budgets for planned activities under the Integrated Work Plan for all NextGen partner agencies. Further, this section requires the JPDO to coordinate NextGen activities with the Office of Management and Budget.

The Committee believes that inter-agency coordination is crucial to moving forward with NextGen implementation and the reforms made by this section will support these efforts.

Sec. 209. Next Generation air transportation Senior Policy Committee

This section requires the NextGen Senior Policy Committee to meet at least twice each year. It also requires the Secretary to submit a detailed annual report on the status of NextGen partner agencies' progress in implementing the NextGen Integrated Work Plan.

The Committee believes that inter-agency coordination is crucial to moving forward with NextGen implementation and the reforms made by this section will support these efforts.

Sec. 210. Improved management of property inventory

This section amends section 40110(a) to clarify that FAA's current authority to purchase and sell property needed for airports and air navigation facilities includes the authority to retain funds associated with disposal of property. Currently, because of costs associated with disposal (for example, demolition, environmental audits, and asbestos abatement), some extraneous properties and equipment (for example, non-directional beacons, radars, and outer markers) unnecessarily remain in the FAA's active inventory for long periods of time. Clarifying that the FAA has the authority to retain proceeds from the sale of property allows the FAA to cover the costs of disposal and facilitates shutting down extraneous equipment and streamlining the disposal process.

Sec. 211. Automatic Dependent Surveillance-Broadcast services

This section requires an annual audit by the Department of Transportation Office of Inspector General of the FAA's ADS–B program to assist Congress in creating FAA accountability for implementing the ADS–B program.

Current regulations require avionics equipage by users for the more basic of the two ADS–B technologies, ADS–B Out, by 2020. The more advanced technology, ADS–B In, has the potential to unlock operational efficiencies for users, but technical standards and regulations are not yet in place to allow users to equip. This section requires the FAA Administrator to initiate a rulemaking proceeding to issue guidelines and regulations relating to ADS–B In technology, and to issue a report detailing the agency's plans for utilizing ADS–B In technology.

The timelines and reforms contained in this section should allow for expedited implementation, improved oversight, and a basis for tracking FAA's progress.

Sec. 212. Expert review of enterprise architecture for NextGen

This section requires the National Research Council (NRC) to review NextGen's technical blueprint, the Enterprise Architecture, to highlight the activities that will be necessary to transition successfully to NextGen, assess technical, cost and schedule risk for software development associated with NextGen, and include judgments on how such risks can be mitigated. The NRC shall report to the Administrator. The Administrator shall submit a report to Congress within one year of the date of enactment. This outside review will assist the Committee in identifying risks early and determining the best course of action to mitigate them and reduce associated costs.

Sec. 213. Acceleration of NextGen technologies

This section would further direct the FAA Administrator to accelerate the certification of NextGen technologies. The section directs the Administrator to develop an implementation plan to put in place NextGen navigation procedures to maximize the efficiency and capacity of commercial operations at the top 35 busiest airports in the United States by 2015. The section directs the Administrator make use of third party developers of navigation procedures and expedited environmental reviews to accelerate implementation of these NextGen navigation procedures. The section also directs the Administrator to extend the charter of the Performance Based Navigation Aviation Rulemaking Committee to establish priorities for NextGen navigation procedures to other airports in the National Airspace System beyond the top 35 busiest airports, including small and medium hub airports.

The Committee believes that the true benefits of NextGen will only be achieved with a streamlined and expedited process to approve navigation procedures by leveraging third-party developers to assist the FAA. By leveraging private sector expertise, this section will support private sector job creation while accelerating the delivery of NextGen benefits.

Sec. 214. Performance metrics

This section would require the FAA to establish and track NAS performance metrics that include (1) actual arrival and departure rates per hour measured against the currently published aircraft arrival rate and aircraft departure rate for the 35 operational evolution partnership airports, (2) average gate-to-gate times, (3) fuel burned between key city pairs, (4) operations using the advanced navigation procedures, including performance based navigation procedures, (5) the average distance flown between key city pairs, (6) the time between pushing back from the gate and taking off, (7) continuous climb or descent, (8) average gate arrival delay for all arrivals, (9) flown versus filed flight times for key city pairs, (10) implementation of NextGen Implementation Plan (NGIP), or any successor document, capabilities designed to reduce emissions and fuel consumption, (11) the Administration's unit cost of providing air traffic control services, and (12) runway safety, including run-

way incursions, operational errors, and loss of standard separation events. The FAA is required to consult with industry stakeholders regarding optimal baselines, make the data available in a public format, and submit an annual report to Congress on the Administration's NextGen progress.

The Committee believes that performance metrics are essential to both determine the FAA's progress in delivering NextGen, and to hold the Administration accountable for measurable results from NextGen investments.

Sec. 215. Certification Standards and Resources

This section would require the FAA to develop a plan within 6 months to accelerate the certification of NextGen technologies, including (1) updating project deadlines, (2) identifying specific activities needed to certify core NextGen technologies, (3) setting staffing requirements for certification, (4) assessing the use of third parties in the certification process, and (5) establishing performance metrics to measure the Agency's progress.

Sec. 216. Surface Systems acceleration

This section would require the Chief Operating Officer of the Air Traffic Organization to evaluate the Airport Surface Detection Equipment-Model X (ASDE–X) program and associated technologies, and accelerate implementation of the ASDE–X program. The FAA would also be required to consider expediting the certification of Ground Based Augmentation System (GBAS) technology and develop a plan to utilize GBAS at the 35 OEP airports by September 30, 2012.

Sec. 217. Inclusion of stakeholders in Air Traffic Control modernization Projects

This section requires the FAA to establish a process for including qualified employees to serve in a collaborative and expert capacity in the planning, development and deployment of ATC modernization projects, including NextGen. Employees serving in such capacity shall provide input to allow the FAA to meet planned NextGen deadlines and milestones. The section mandates that employees participating in the process shall have no change in employee status and, except in extraordinary circumstances, the Administrator shall not incur overtime pay expenditures. This section also mandates that participation by an employee does not entitle the employee the authority to prevent or unduly delay the exercise of FAA management prerogatives. This section also prohibits, except in extraordinary circumstances, the Administrator from paying overtime related to NextGen working groups. In addition, the Administrator is required to report on the implementation of this section within six months.

Sec. 218. Siting of wind Farms Near FAA navigational aids and other assets

This section would require the FAA Administrator to survey and assess the leases for critical FAA facility sites and determine how close these facilities are to wind farms or areas suitable for the construction of wind farms. Following the assessment, the FAA would be required to report to Congress and the GAO on its findings and

recommendations. This section would also require GAO to assess the potential impact wind farms have on the FAA's navigational aids and methods and restrictions to mitigate the effects of wind farms on navigational aids. Upon receipt of the GAO report, the FAA would be directed to issue guidelines for the construction of wind farms near critical FAA facilities.

Sec. 219. Airspace Redesign

The FAA's airspace redesign efforts will play a critical near-term role in enhancing capacity, reducing delays, transitioning to more flexible routing and ultimately saving money for airlines and airspace users in fuel costs. However, in recent years, funding cuts have led to delays and deferrals of airspace redesign efforts. Without sufficient funding for airspace redesign efforts, several new runways planned for the 2009 to 2012 timeframe will not provide estimated capacity benefits. This section provides funding to accelerate airspace redesign initiatives. This section also directs the Administrator to monitor the noise effects of the New York/New Jersey/Philadelphia Metropolitan Airspace Redesign and report his findings to Congress.

TITLE III—SAFETY

Subtitle A—General Provisions

Sec. 301. Judicial Review of Denial of Airman Certificates

Since the early 1990s, the FAA has had authority to seek judicial review of National Transportation Safety Board (NTSB) decisions that are issued under section 44709 and section 46301(d)(5) of title 49, which involve orders of suspension and revocation, and civil penalties against airmen. Current law does not allow the FAA to take an appeal for an NTSB decision for a denial of an airman certificate. This section adds corresponding authority to seek judicial review of NTSB decisions involving airman certificate denials.

Sec. 302. Release of Data Relating to Abandoned Type Certificates and Supplemental Type Certificates

This section allows the FAA to make aircraft certification data relating to older aircraft available, upon request, to a person seeking to maintain the airworthiness of their aircraft, without the consent of the owner of record, if the FAA first determines that there has been no proprietary interest exercised over the data for three years, the type certificate owner has not been located, and that it enhances safety if the data were made available to aircraft operators to safely maintain and operate the aircraft. The section also requires FAA to maintain the engineering data in the possession of the Administration.

Sec. 303. Design and Production Organization Certificates

Certified Design and Production Organization Certificates will be issued to established aviation manufacturers to streamline the certification process and allow FAA to focus its safety resources on primary safety concerns. This section authorizes the Administrator to issue Certified Design and Production Organization Certificates by a date certain, January 1, 2013, to ensure safety and accelerate

NextGen. This section clarifies that nothing in the section would affect the FAA's authority to revoke the Certified Design and Production Organization Certificates once issued.

Sec. 304. Aircraft certification process review and reform

This section directs the Administrator to review the current practices for aircraft certification, and to implement reforms to the aircraft certification to streamline the process and reduce cost burdens based on the findings of the review.

The Committee believes that the current aircraft certification process is in need of reform and that the FAA should streamline and improve the consistency of the certification process. Since no products can go to market without certification, an improved and streamlined certification process is critical to job creation in the aviation manufacturing industry.

Sec. 305. Consistency of regulatory interpretation

The Committee has investigated concerns over the consistency of regulatory interpretations of the national FAA regulations to be valid. The Committee further found that the inconsistency of the interpretations of the FAA's regulations have added significantly to the cost and delay in operators' compliance with FAA regulations.

This section directs the Administrator to convene an advisory panel to determine the root causes of inconsistent interpretation of regulations by the Administration's Flight Standards Service and Aircraft Certification Service and develop recommendations to improve the consistency of interpreting regulations. The section directs the Administrator to report to the appropriate committees of jurisdiction of the Congress on the findings of the advisory panel and on the Administrator's plans to implement the recommendations of the advisory panel.

Sec. 306. Runway safety

This section requires the Administrator to submit a report to Congress containing a plan for the installation and deployment of systems to alert controllers and/or flight crews to potential runway incursions. The runway incursion reduction plan shall be integrated into the NextGen Implementation Plan document. In addition, the FAA is required to create a strategic runway safety plan within six months of enactment.

This section also directs the Administrator to develop a process for tracking and investigating operational errors, losses of standard separation, and runway incursions.

Sec. 307. Improved pilot licenses

This section requires the Administrator to issue improved pilot licenses that are tamper-resistant, include a photograph, and are capable of accommodating a digital photograph, a biometric identifier, or any other unique identifier. The FAA is also required, to the extent practicable, to develop methods to determine whether a license has been tampered with, altered, or counterfeited. In addition, the FAA may use designees to carry out this section, and must report every six months on the progress it has made issuing the improved licenses.

Sec. 308. Flight attendant fatigue

This section directs the Administrator, acting through the Civil Aerospace Medical Institute (CAMI), to study flight attendant fatigue and report to Congress on the results.

Sec. 309. Flight Standards Evaluation Program

This section directs the Administrator to modify the Flight Standards Evaluation Program to include random audits of air carriers in the agency's oversight. The section requires the Administrator to report within a year of the date of enactment, and annually thereafter, on the Flight Standards Evaluation Program.

Sec. 310. Cockpit smoke

This section directs the Comptroller General to study and report to Congress on the Federal Aviation Administration's oversight activities relating to the use of new technologies to prevent or mitigate the effects of dense continuous smoke in the cockpit of a commercial aircraft.

Sec. 311. Safety of air ambulance operations

This section directs the Administrator to conduct a rulemaking to improve the safety of helicopter air ambulance operations. Among the matters to be addressed in the rulemaking is a requirement that all helicopter emergency medical service operators comply with the regulation in part 135 of title 14, CFR whenever there is a medical crew on board, without regard to whether there are patients on board the emergency medical aircraft. The rulemaking will also address requirements for technological upgrades, including on-board terrain awareness and warning systems, radar altimeters, devices to record flight data and cockpit conversations, and other flight equipment to be worn by flight crew. The rulemaking required under this section would address requirements for these operators to use a standardized checklist of risk evaluation factors to determine whether a mission should be accepted. This section would require the Administrator to address in the rulemaking the creation of a standardized flight dispatch procedure and operational control center for these operators.

This section would require operators to submit to the FAA various data relating to flight requests, accident information, the number of flights conducted by the operator, and whether multiple aircraft responded to a call.

Sec. 312. Off-airport, low-altitude aircraft weather observation technology

This section directs the Administrator to conduct, within one year of the date of enactment, a review of off-airport, low-altitude aircraft weather reporting needs, an assessment of technical alternatives (including automated weather observation stations), an investment analysis, and recommendations for improving weather reporting for these aircraft.

Sec. 313. Feasibility of requiring helicopter pilots to use night vision goggles

This section directs the Administrator to conduct a study on the feasibility and potential risks of requiring all pilots of helicopters

providing air ambulance services to use night vision goggles during nighttime operations.

Sec. 314. Prohibition on personal use of electronic devices on flight deck

This section inserts a new section into Title 49 U.S.C. regarding the prohibition of the personal use of electronic devices on the flight deck by airline pilots. The prohibition excepts the use of these devices when used for work functions, such as for use directly related to the operation of the flight and employment-related communications. This section directs the Administrator to promulgate regulations within two years to carry out this prohibition.

The section also requires the Administrator to conduct a study and report to Congress on the sources of distraction for flight crewmembers, to determine the safety impacts of such sources of distraction, and to issue recommendations on how to reduce such distractions.

Sec. 315. Noncertificated maintenance providers

This provision requires the FAA to commence a rulemaking to ensure that maintenance work on air carrier aircraft is performed by part 145 repair stations or part 121 air carriers.

Sec. 316. Inspection of foreign repair stations

This section establishes requirements in Title 49 Unites States Code for the inspection of foreign repair stations. It requires the Administrator to inspect foreign repair stations where identified risks warrant inspection. The section requires the Administrator to notify the appropriate congressional committees when the agency initiates negotiations with foreign government agencies on a new maintenance safety agreement. This section also requires drug and alcohol testing for employees of repair stations in accordance with agreements with foreign governments developed by the Department of State.

The section requires the Administrator to report annually on the Administration's oversight of repair stations.

Sec. 317. Sunset of line check

This section sunsets, one year after the date of enactment, the requirement for an additional annual line check evaluation for airline pilots over the age of 60.

The Committee believes that air carriers can determine the ability of pilots over the age of 60 through the use of simulators where the pilot can actually be placed in emergency situations and poor weather events.

Subtitle B—Unmanned Aircraft Systems

Sec. 321. Definitions

This section defines terms used in the Subtitle relating to the use of Unmanned Aerial Systems including: certificate of authorization; detect, sense, and avoid capability; public unmanned aircraft system; Secretary; test range; unmanned aircraft; and unmanned aircraft system.

Sec. 322. Commercial unmanned aircraft systems integration plan

The successful integration of unmanned aircraft systems (UAS) into the National Airspace System (NAS) can support more than 23,000 high-paying jobs in the United States, and help law enforcement, fire officials, and border protection officials better carry out their missions. The absence of a plan to integrate UASs into the NAS is a barrier to such job creation and safety and security efforts.

This section requires the Secretary to create a plan for the safe integration of commercial UASs into the National Airspace System. This plan shall consider technologies and research, provide recommendations for rulemaking, recommend how best to enhance technologies and subsystems to ensure safety, and recommend a realistic time-frame for UAS integration into the NAS no later than September 30, 2015. The plan is due to Congress within one year of the date of enactment, and rulemaking shall begin no later than 18 months thereafter.

Sec. 323. Special rules for certain unmanned aircraft systems.

This section requires, within six months of the date of enactment, an assessment of whether certain UAS may operate safely in the NAS prior to completion of the proposed rulemaking in section 321 and the guidance in section 323. This assessment must define the types of UAS allowed and determine how they will be regulated and safely operate in the NAS.

Sec. 324. Public unmanned aircraft systems

This section requires the Secretary, not later than nine months after the date of enactment, to issue guidance on the operation of public unmanned aircraft systems to expedite the issuance of the certificate of authorization process, provide a collaborative process with public agencies, and facilitate the capability of public agencies to develop and use test ranges.

Section 325. Unmanned aircraft systems test ranges

This section requires the Administrator to establish a program to integrate unmanned aircraft systems into the national airspace system at 4 test sites. The program requires the Administrator to (1) safely designate nonexclusionary airspace for integrated manned and unmanned flight operations, (2) develop certification standards and air traffic requirements, (3) coordinating with and leverage resources of NASA and DOD, (4) address both commercial and public unmanned aircraft systems, (5) ensure program is coordinated with NextGen, and 6) provide for verification of safety before integration. In determining the test site locations the Administrator will take into consideration geographic location and climatic diversity and, after consulting with NASA and the Air Force, take into consideration the location of available research radars.

Subtitle C—Safety and Protections

Sec. 331. Postemployment restrictions for flight standards inspectors

This section establishes a two-year post-service "cooling-off" period for FAA inspectors or persons responsible for oversight of FAA inspectors before they can act as an agent or representative of a

certificate holder that they previously had responsibility for while employed at the FAA. This reform is consistent with post-employment restrictions that apply to other employees of the FAA.

Sec. 332. Review of Air Transportation Oversight System database

This section requires the FAA to implement monthly reviews of the Air Transportation Oversight System (ATOS) database to ensure that trends in regulatory compliance are identified and appropriate corrective actions are taken in accordance with FAA regulations. The section directs the Administrator to report to Congress on a biannual basis on the findings of the monthly ATOS reviews.

Sec. 333. Improved Voluntary Disclosure Reporting System

This section requires the FAA to modify the Voluntary Disclosure Reporting Program (VDRP) system to require inspectors to verify that air carriers have implemented comprehensive solutions to correct underlying causes of voluntarily disclosed violations, and confirm, before approving a final report of a violation, that the violation or another violation occurring under the same circumstances has not been previously discovered by an inspector or self disclosed by an air carrier. This section also directs the Inspector General of the United States Department of Transportation to review the Administrator's execution of the VDRP program.

Sec. 334. Aviation Whistleblower Investigation Office

This section creates an independent Aviation Safety Whistleblower Investigation Office within the FAA. The director of the new office is charged with receiving safety complaints and information submitted by both FAA employees and employees of certificated entities, investigating them, and then recommending appropriate corrective actions to the FAA.

Sec. 335. Duty periods and flight time limitations applicable to flight crewmembers

This section directs the Administrator to initiate rulemakings to require commercial pilots who accept additional flight assignments under Part 91 to count the flying time under the additional flight assignments towards the commercial flight time limitations under Part 121 or Part 135 of Title 14, Code of Federal Regulations. The section requires the Administrator to conduct two separate rulemakings for the Part 121 and Part 135 flight time limitations.

TITLE IV—AIR SERVICE IMPROVEMENTS

Subtitle A—Essential Air Service

Section 401. Essential air service marketing

This section adds, as an additional factor the Secretary shall consider in selecting an air carrier to provide essential air service to a community, whether the air carrier has included a plan in its proposal to market its services to the community.

Section 402. Notice to communities prior to termination of eligibility for subsidized essential air service

This section clarifies in law what occurs in practice. It requires the Secretary to notify a community receiving basic essential air service at least 45 days in advance of any final decision to end EAS payments to that community due to a determination by the Secretary that providing such service requires a subsidy in excess of the per passenger subsidy cap. In addition, the provision requires the Secretary to establish procedures by which each community that is notified of an impending loss of subsidy may work directly with an air carrier to ensure that the air carrier is able to submit a proposal to the Secretary that does not require a subsidy in excess of the per passenger subsidy cap.

Section 403. Essential air service contract guidelines

This section requires the Secretary to include in the guidelines governing the rate of compensation payable under the EAS program provisions under which the Secretary may: (1) encourage air carriers to improve air service to EAS communities by incorporating in EAS contracts financial incentives based on specified performance goals; and (2) execute long-term EAS contracts to encourage air carriers to provide service to EAS communities if it is in the public interest to do so.

The Secretary shall issue revised guidelines incorporating these changes not later than 18 months after enactment. The Secretary shall report on the implementation and impact of the revised guidelines within two years after they are issued.

Section 404. Essential air service reform

Subsection (a) authorizes the appropriation of $98 million in FY 2011, $60 million in FY 2012, and $30 million in FY 2013 for the EAS program. These amounts are in addition to the $50 million per year the EAS program is currently authorized to receive from the FAA's collection of overflight fees. Under this provision, beginning in FY 2014, the EAS program would receive from overflight fees only the amount needed to provide essential air service to eligible communities in Alaska and Hawaii.

Subsection (b) amends current law to require overflight fees in excess of the amount provided to the EAS program to be used as follows: up to $6 million per year for the Small Community Air Service Development (SCASD) program, with any amount remaining after that being used for NextGen.

Subsection (c) authorizes the Secretary to take such actions as may be necessary to administer the EAS program within the amount of funding made available for the program.

Section 405. Small community air service

This section adds an additional factor that the Secretary shall consider in selecting communities for participation in the SCASD program. Under this section, in addition to the existing criteria for participation in the program, the Secretary shall give priority to multiple communities that cooperate to submit a regional or multistate application to improve air service. This section eliminates the general fund authorization of appropriations for the SCASD pro-

gram, funding it instead through overflight fee collections, pursuant to section 404(b).

The Committee is sensitive to concerns that grants made under the SCASD program may be used by an airport operator to compete with existing private businesses providing aviation services at the airport. Before making a grant under section 41743 that would allow an airport operator to purchase fueling or other ground service equipment that would compete with, or replace, that of an existing aviation service provider already in service at the airport, the Secretary should consider the impact such a grant would have on the aviation service provider, and weigh that impact relative to the public interest that would be served by making the grant. In addition, if the Secretary determines, based on SCASD program reviews, that such grants do not improve the quality of air service available to the community, then the Secretary should not make such grants in the future.

Section 406. Adjustments to compensation for significantly increased costs

Subsection (a) clarifies that the Secretary may, subject to the availability of funds, make across-the-board increases in subsidy payments to air carriers to compensate such carriers for increased aviation fuel costs.

Subsection (b) requires adjustments to the rate of compensation no later than 90 days after an incumbent carrier files a notice to withdraw. Under current law, such adjustments may take up to 180 days.

Subsection (c) authorizes the Secretary to waive the subsidy-per-passenger cap for a limited time period on a case-by-case basis.

Section 407. Repeal of EAS local participation program

This section repeals the EAS local participation program.

Section 408. Sunset of Essential Air Service program

This section sunsets the EAS program everywhere except Alaska and Hawaii as of October 1, 2014.

Subtitle B—Passenger Air Services Improvements

Section 421. Smoking prohibition

This section prohibits smoking on aircrafts in all intrastate, interstate and foreign air transportation for scheduled passenger or non schedule passenger with a flight attendant required.

Section 422. Monthly air carrier reports

This section requires the Secretary to collect and publish data pertaining to cancelled and diverted flights of air carriers. These reports will be published monthly and posted on the DOT website.

Section 423. Flight operations at Reagan Washington National Airport

This section increases the beyond perimeter exempted slots at National Airport from 24 to 34, offset by a reduction of 10 slots within the perimeter that are currently available but unused. In addition, this section limits operations per hour to no more than 67

flights. Scheduling priorities are afforded to new entrant and limited incumbent air carriers for these beyond perimeter exemptions.

Section 424. Musical instruments

This section creates a new section 41724 in Title 49, United States Code requiring air carriers to allow a passenger to carry a musical instrument in the passenger compartment of an aircraft if it meets carry-on requirements and the aircraft has space. Musical instruments may be checked baggage should the sum of width, height, length not exceed 150 inches, weigh over 165 pounds, or exceed size and weight restrictions for that aircraft.

Section 425. Passenger air service improvements

This section creates a new chapter 423 in title 49, entitled Air Passenger Service Improvements. Except where otherwise specified, the requirements of chapter 423 shall begin to apply 60 days after the date of enactment.

New section 42301, Emergency Contingency Plans, requires that no later than 90 days after the date of enactment, air carriers using aircraft with more than 30 seats participating in commercial air transport at medium- or large-hub airports and each operator of a medium- or large-hub airport will file emergency contingency plans with the Secretary for review and approval. These plans must detail how the air carrier will provide food, water, restroom facilities, cabin ventilation, and medical treatment for passengers onboard an aircraft that is on the ground for an extended period of time without access to the terminal. Air carriers and airports must detail in their plan how they will allow passengers to deplane following excessive delays, including how facilities and gates will be shared. Further, air carriers and airports must provide a sterile area following excessive tarmac delays for passengers who have not yet cleared U.S. Customs and Border Protection. The Secretary is required to review, approve, or require modifications to the emergency contingency plans within 60 days after the date of enactment and if he so chooses, can establish minimum standards for the elements of the emergency contingency plans in advance of the first required update. Should the Secretary fail to approve or require modifications within the specified time the plan or update shall be deemed approved. Air carriers must update their plans every three years and airports must update their plans every five years. Air carriers and airports are required to adhere to their plans, and submit their approved plan on the Internet Web site of the carrier or operator or by means determined by the Secretary.

"Covered air transportation," "tarmac delay" are defined in this section.

New section 42302, Consumer Complaints, requires the Secretary to establish a consumer complaints toll-free hotline telephone number and to take actions to notify the public of that number and Internet Web site for the DOT Aviation Consumer Protection Division (ACPD). In addition, this section requires air carriers providing scheduled air transportation using any aircraft with 30 or more passenger capacity to include on their Internet website consumer complaints toll-free hotline telephone number of DOT, email address, telephone number and mailing address of the air carrier, and Internet Web site and mailing address of the DOTs

ACPD. Air carriers are required to include a toll-free hotline telephone number prominently on carrier signs displayed at airport ticket counters, and on any electronic confirmation of the purchase of a passenger ticket.

New section 42303, Use of Insecticides on Passenger Aircraft, subsection (a) requires the Secretary to establish and make available to the public an internet website that contains a list of countries that may require an air carrier or foreign air carrier to treat aircraft passenger cabins with insecticides prior to a flight or to apply an aerosol insecticide in an aircraft cabin when the cabin is occupied with passengers. Subsection (b) requires an air carrier, foreign air carrier, or ticket agent selling in the United States a ticket for a flight in foreign air transportation to a country listed on the website created under subsection (a) to refer the purchaser of the ticket to the website specified in subsection (a) for additional information.

Section 426. Airfares for members of the Armed Forces

This section states that it is the sense of Congress that each U.S. air carrier should establish for all members of the Armed Services on active duty, reduced air fares that are comparable to the lowest airfare for ticketed flights, and eliminate to the maximum extent possible advanced purchase requirements; offer flexible terms that allow for such members to purchase, modify, or cancel tickets without time restrictions, fees and penalties; and waive baggage and excess weight fees.

Section 427. Review of air carrier flight delays, cancellations and associated causes

This section directs the DOT IG to conduct a review of air carrier flight delays, cancellations, and associated causes to update its 2000 report. This report shall include statistics on flight delays and cancellations; an evaluation of air carriers' scheduling practices with regard to delays and cancellations; a re-examination of capacity benchmarks at the Nation's busiest airports, the impact of flight delays and cancellations on passengers and the airline industry, the effect of limited air carrier service options on route have on the frequency of delays and cancellations and the effect of DOT rules and regulations on air carrier decisions and delay or cancel flights. The report is due one year from the date of enactment.

Section 428. Denied boarding compensation

This section requires the Secretary, no later than 6 months after enactment, and every two years following, to evaluate the amount provided for denied boarding compensation and issue a regulation to adjust such compensation as necessary.

Section 429. Compensation for delayed baggage

This section directs the Comptroller General to study delays in the delivery of checked baggage to air carrier passengers, assess options and examine impact of establishing and make minimum standards to compensate a passenger in the case of unreasonable delays, taking into consideration that many carriers are charging additional fees for checked baggage and how fees should improve

air carrier's baggage performance. The report must be submitted within 180 days of the date of enactment.

Section 430. Schedule reduction

This provision requires the FAA to commence schedule reduction meetings if aircraft operations of air carriers exceed hourly benchmarks and are likely to have a significant adverse effect on the national or regional airspace system. If there is no agreement to reduce schedules, then the FAA shall take action necessary to ensure reduction is implemented.

Section 431. DOT airline consumer complaint investigations

Allows the DOT to investigate consumer complaints regarding (1) flight cancellations, (2) overbooking compliance, (3) baggage issues, (4) fares, (5) incorrect or incomplete fare information, (6) frequent flier mile rights, and (7) deceptive or misleading advertising.

Section 432. Study of operators regulated under part 135

This section requires the FAA Administrator, along with interested parties, to conduct a study of Part 135 operators. In the study the Administrator shall include analysis of (1) size and type of the fleet, (2) equipment of the fleet, (3) hours flown by the fleet each year, (4) utilization rates, (5) safety records of various aircrafts, (6) sales revenue of fleet, and (7) number of passengers and airports served. Report shall be issued no later than 18 months after enactment, and no later than 3 years after submission of report, and every 2 years thereafter Administrator shall update report.

Section 433. Use of cell phones on passenger aircraft

This section requires the Administrator to conduct a study on the impact of the use of cell phones for vocal communication during a flight in scheduled passenger transportation where currently permitted by foreign governments in foreign air transportation. The study shall include a review of (1) the foreign government and air carrier policies on this topic, (2) the extent to which passengers use cell phones for voice communications during a flight and (3) a summary of any impacts of cell phone use during flight on safety, quality of flight experience of passengers and flight attendants.

TITLE V—ENVIRONMENTAL STEWARDSHIP AND STREAMLINING

Section 501. Overflights of national parks

This section makes several changes to section 40128 that governs commercial air tour operations over national parks. This section exempts parks with 50 or fewer annual air tour flights, with a provision for the National Park Service (NPS) director to withdraw an exemption on a park-specific basis based on concerns regarding the protection of park resources or visitor experiences. This section also allows the NPS Director and the FAA Administrator to enter into a voluntary agreement with a commercial air tour operator as an alternative to an air tour management plan. This section provides more flexibility to the FAA and NPS to increase the number of operations or to allow new entrant air tour operators under interim operating authority conditions before an air tour management plan

has been established at a park. The additional interim operating flexibility includes considerations by the NPS of the environmental impacts on park resources and by the FAA of impacts on aviation safety and the ATC system. Commercial air tour operators must report the number of commercial air tours over parks.

Section 502. State block grant program

This section codifies current practice that state participants in the AIP State Block Grant Program (i.e., Georgia, Illinois, Michigan, Missouri, New Hampshire, North Carolina, Pennsylvania, Tennessee, Texas and Wisconsin) have the responsibility and authority to comply with environmental requirements for projects at non-commercial service airports within the State Block Grant Program, and that other Federal agencies must recognize state environmental review analyses for Federal approvals, licenses, or permits related to these projects. This section also amends section 47128(a) to replace the term 'regulations' with 'guidance' because the FAA has issued guidance in the form of the AIP Handbook, 5100.38. This is a ministerial change and does not impact the State Block Grant Program or the Secretary's ability to place requirements on the States under section 47128.

Section 503. NextGen environmental efficiency projects streamlining

This section incorporates NextGen environmental efficiency projects into projects that are subject to streamlined environmental review in section 47171.

Section 504. Airport funding of special studies or reviews

In order to help streamline environmental reviews for airport capacity projects, Vision 100 codified the FAA's authority to enter into reimbursable agreements with airport sponsors to fund additional FAA staff and/or contract support (using airport funds or AIP funds received by the airport). This section broadens this authority by allowing the FAA to accept such funds from airport sponsors to conduct special environmental studies for ongoing federally-funded airport projects, or studies to support approved airport noise compatibility measures or environmental mitigation commitments in an agency record of decision or a finding of no significant impact or timely processing, review and completion of environmental activities associated with new or amended flight procedures. This additional option for funding environmental reviews will accelerate the delivery of NextGen benefits.

Section 505. Noise compatibility programs

Current law requires operators applying for noise compatibility programs to state the measures they have taken or propose to take to reduce existing noncompatible uses and prevent introducing additional noncompatible uses in the area. This section adds as one of the measures, conducting land use planning jointly with neighboring local jurisdictions for community redevelopment of land or property interests of the airport operator to encourage and enhance redevelopment opportunities.

Section 506. Grant eligibility for assessment of flight procedures

In further support of NextGen Implementation, this section encourages the implementation of environmentally-beneficial aircraft flight procedures at airports by supporting, with AIP assistance, the environmental review of airport-proposed procedures that are approved by the FAA under 14 C.F.R. part 150, Airport Noise Compatibility Planning. This section also allows the FAA to accept funds, including AIP and PFC funds, from an airport sponsor to hire staff or obtain services to provide environmental reviews for new flight procedures that have been approved for airport noise compatibility planning purposes. This additional option for funding environmental reviews will accelerate the delivery of NextGen benefits.

Section 507. Determination of fair market value of residential properties

This section amends section 47504 of current law and instructs the Secretary to ensure that any property appraisal conducted disregards any decrease or increase in fair market value due to the project for which the property is to be acquired.

Section 508. Prohibition on operating certain aircraft weighing 75,000 pounds or less not complying with stage 3 noise levels

This section requires that, after December 31, 2014, all civil subsonic jet aircraft under 75,000 pounds must meet stage 3 noise levels within the 48 contiguous states, with some exceptions for temporary operations. The exception for emergency situations is designed to address area-wide emergencies such as floods, hurricanes or acts of terrorism, and not specific problems such as a person's illness or economic hardships.

Section 509. Aircraft departure queue management pilot program

This section authorizes a pilot program at five public-use airports to design, develop, and test new air traffic flow management technology to better manage the flow of aircraft on the ground and reduce ground holds and idling times for aircraft. Airports will be selected based on the greatest fuel savings or air quality improvements measured by the amount of reduced fuel burn and emissions per dollar of funds expended under the pilot program.

Section 510. High performance, sustainable and cost effective air traffic control facilities

This section authorizes the FAA Administrator to implement sustainable practices for incorporation of energy efficient measures in the construction and major renovation of air traffic control facilities in order to reduce energy consumption, improve environmental performance and reduce the cost of maintenance.

Section 511. Sense of Congress

It is the sense of Congress that the European Union should not extend its emissions trading proposal to international civil aviation without working through the ICAO.

Section 512. Aviation noise complaints

This section requires all large hub airports to list on their internet websites a number in which individuals may call to report airport noise any airport receiving 25 or more complaints in a year is required to annually submit to the FAA the number and summary of noise complaints received, which the FAA Administrator shall make available to the public electronically.

TITLE VI—FAA EMPLOYEES AND ORGANIZATION

Section 601. Federal Aviation Administration personnel management system

The section amends section 40122(a) to modify the dispute resolution process for proposed changes to the FAA personnel management system, and replaces it with a new dispute resolution process. Subsection (a) of this section requires that if the FAA and one of its bargaining units do not reach agreement, the services of the Federal Mediation and Conciliation Service (FMCS) shall be used or the parties may agree to an alternative dispute resolution procedure. If mediation between the parties with the assistance of the FMCS is unsuccessful, bargaining impasses shall be submitted to binding interest arbitration before a three-person board appointed under authority of the Federal Service Impasses Panel (FSIP). The arbitration board has 90 days from the date of appointment to render a decision. The arbitration board must take into consideration such factors as, the effect of its decisions on the ability of the FAA to attract and retain a qualified workforce, the effect of its decisions on the FAA's budget, and the effect of its decisions on other FAA employees. The parties are bound by the decision issued by the arbitration board. If an agreement is reached voluntarily or at the conclusion of arbitration, the final agreement (other than those matters decided by the arbitration board), is subject to employee ratification and agency head review under title 49 U.S.C. Sec. 40122(g)(2)(C).

Section 602. Presidential rank award program

In 1996, the FAA reformed its personnel system under special authority provided by Congress (now codified under 49 USC section 40122), which exempted the FAA from many requirements of the federal government's personnel system, including the Presidential Rank Award Program. This section would change that and, through an amendment to Section 40122 of Title 49, United States Code, allow the FAA's executives and senior professionals to participate in the program.

Section 603. FAA technical training and staffing

Subsection (a) requires the Administrator to study to assess the adequacy of FAA's technical training strategy and improvement plan for airway transportation systems specialists. The study is due within one year of the date of enactment to the congressional committees of jurisdiction. Subsection (b) requires the Academy to conduct a study to assess FAA assumptions and methods used to determine FAA systems specialist staffing needs to ensure proper maintenance and certification of the NAS in the most cost effective manner. While conducting this study, the Academy shall interview

interested parties, including labor, government and industry representatives. The Academy shall submit a report to Congress one year after contracted.

Section 604. Safety critical staffing

The section requires the FAA to implement, to the extent practicable and in the most cost effective manner, the staffing model for aviation safety inspectors by October 1, 2011, following the recommendations outlined in the 'Staffing Standards for Aviation Safety Inspectors' report issued by the Academy in 2007. The FAA shall consult with interested parties, including aviation safety inspectors.

Section 605. FAA air traffic controller staffing

This section directs the FAA to enter into an arrangement with the Academy to conduct a study of the air traffic controller staffing standard used by the FAA to estimate staffing needs for FAA air traffic controllers to ensure the safe operation of the national airspace system in the most cost effective manner. The Academy shall interview interested parties, including labor, government and industry representatives. The report shall include an examination of representative information on productivity, human factors, traffic acidity and improved technology and equipment. It should also include an examination of recent Academy reviews of the complexity model perform by MITRE Corporation. Finally, the study should include consideration of the FAA's current and estimated budgets and the most cost effective staffing model to best leverage available funding. The Academy shall transmit a report not later than 2 years after the date of enactment to the appropriate committees of jurisdiction.

Section 606. Air traffic control specialist qualification training

This section authorizes the Administrator to appoint qualified air traffic control specialist candidates with a control tower operator certification for placement directly in airport traffic control facilities. It also allows the Administrator to accept reimbursement from an educational entity to cover reasonable travel expenses associated with issuing certifications to candidates.

Section 607. Assessment of training programs for air traffic controllers

This section requires the Administrator to conduct a study to assess the adequacy of training programs for air traffic controllers, including the FAA's technical training strategy and improvement plan. The study shall include a review of the current training system for air traffic controllers, an analysis of the competencies required of controllers under the current ATC environment, an analysis of the competencies that will be required under the NextGen, an analysis of various training approaches available to satisfy these competencies, recommendations to improve the current strategy, and the most cost-effective approach to provide training to air traffic controllers. The Administrator shall submit to Congress, within 180 days of enactment, a report on the results of this study.

Section 608. Collegiate training initiative study

This section requires the Administrator to conduct a study on training options for graduates of the Collegiate Training Initiative (CTI) under section 44506(c). The study must review the impact of providing a new controller orientation session for graduates followed by on-the-job training for newly hired air traffic controllers. The study must analyze the cost effectiveness of this alternative training approach as well as the effect that such alternative training would have on the overall quality of training received by CTI graduates. The report is required to be submitted to the congressional committees of jurisdiction 180 days after the date of enactment.

Section 609. FAA facility conditions

This section requires the Comptroller General to conduct a study of the conditions of a sampling of FAA facilities. The Comptroller must also review the Facility Condition Indices. The Comptroller General must make recommendations and issue a report to the FAA and to the committees of jurisdiction no later than one year after date of enactment. The report shall contain recommendations that the Comptroller General considers necessary to prioritize facilities needing the most immediate attention, ensure that the FAA is using scientifically approved remediation techniques, and assist the FAA in making programmatic changes.

Section 610. Front line manager staffing

This section would require the FAA Administrator to commission an independent study on front line manager staffing requirements in air traffic control facilities.

TITLE VII—AVIATION INSURANCE

Section 701. General authority

Current law section 44302(f) of Title 49, United States Code, initially added by section 1202 of the Homeland Security Act of 2002 (P.L. 107–296), requires the FAA to provide U.S. airlines aviation insurance from the first dollar of loss at capped premium rates. This section extends this requirement until September 30, 2013. This requirement then becomes discretionary until December 31, 2013.

Section 702. Extension of authority to limit third-party liability of air carriers arising out of acts of terrorism

Current law (section 44303(b) of Title 49, United States Code) allows the Secretary to limit an airline's third-party liability to $100 million and also prohibits punitive damages against either an airline or the Federal Government for any cause resulting from a terrorist event. This section extends the expiration date of this authority, to December 31, 2013.

Section 703. Clarification of reinsurance authority

This section amends the reinsurance section in Title 49, United States Code to clarify that the DOT may, as a risk mitigation technique, purchase reinsurance from commercial reinsurers to supple-

ment payment of claims from the aviation insurance revolving fund.

Section 704. Use of independent claims adjusters

Section 44308 of Title 49, United States Code provides that the FAA may use commercial insurance carriers to underwrite insurance and adjust claims. Section 704 of this bill amends section 44308(c)(1) to provide the FAA with explicit authority to use claims adjusters independent of an insurance underwriting agent. Having the flexibility to use an independent claims adjuster should, depending on the circumstances of a claim, avoid potential conflict of interest between a commercial insurance company acting as a claims adjuster for the FAA and its role as a provider of other insurance to an airline. This section may also expedite claims in the United States and foreign jurisdictions.

TITLE VIII—MISCELLANEOUS

Section 801. Disclosure of data to federal agencies in interest of national security

This section clarifies that the FAA has limited authority to release data and reports that are pulled from the FAA's systems of records, which are subject to the Privacy Act (5 U.S.C. Sec. 552), to other Federal agencies in the interest of national security.

Section 802. FAA access to criminal history records and database systems

The Federal Bureau of Investigation notified the FAA that a statutory clarification is necessary for the FAA to continue to have access to the National Crime Information Center (NCIC), and consequently state databases as well, that contain criminal history information (e.g. arrests, convictions, warrants). This section provides statutory authority for the FAA to continue to access the NCIC and related state criminal history databases so that the FAA may continue to perform its critical safety and security functions. Specifically, certain designated FAA staff have permission to access Federal, state, and local law enforcement databases, use their radio, data link or warning systems, and receive Government communications, at least to the same extent and in the same manner as state and local police.

Section 803. Civil penalties technical amendments

This section applies civil penalties to violations of chapter 451 on Alcohol and Controlled Substance Testing.

Section 804. Realignment and consolidation of FAA services and facilities

This section addresses the need to consolidate and realign FAA tower control facilities to reduce costs and facilitate the NextGen efforts without adversely affecting safety. To serve this purpose the Aviation Facilities and Services Board shall be established by the Secretary as an independent board, with members who serve for a term of 3 years and is chaired by the Secretary who appoints two members to the board, and the Comptroller General who is a nonvoting member. The Administrator shall publish proposed criteria

in the Federal Register and shall publish final criteria after allowing for a 30 days comment period. Based upon the final criteria, the Administrator shall make recommendations for consolidation and realignment that will be published in the Federal Register no later than 90 days after date of publication of the final criteria. The Administrator shall transmit recommendations to the Board and the congressional committees of interest. The Board will hold public hearings on the Administrator's recommendations and will submit to Congress a report based on their findings and conclusions of the Administrator's recommendations, and will justify any difference in recommendations from the Administrator's recommendations. This report shall be published in the Federal Register and transmitted to congressional committees of interest no later than 60 days after receipt of the Administrator's recommendations. FAA may not carry out the recommendations of the Board if a joint resolution of disapproval is enacted by Congress before the earlier if the last day of the 30 day period or adjourning sine die. The Administrator shall realign and consolidate facilities and services recommend by the Board.

Section 805. Limiting access to flight decks of all-cargo aircraft

This section requires the FAA, within 180 days of the date of enactment, to assess the feasibility of developing a physical means, or a combination of physical and procedural means, to prohibit individuals, other than authorized flight crewmembers, from accessing the flight decks of all-cargo aircraft. The final report must be submitted to Congress within one year of the date of enactment. Many all-cargo aircraft do not have a fortified cockpit door or other barrier that limits access to the flight deck, and have limited ground security procedures.

Section 806. Consolidation or elimination of obsolete, redundant, or otherwise unnecessary reports; use of electronic media format

This section orders the FAA to submit to Congress no later than 2 years after date of enactment and every 2 years thereafter, a report listing all obsolete, redundant or unnecessary reports FAA is required by law to submit or publish that the Administrator recommends eliminating or consolidating, and a cost sayings that would result. The Administration may not publish any report required or authorized by in printed format, but shall publish such reports by posting on the Administrations Internet website. This does not apply any report that is determined by the Administrator to be essential to the mission of the FAA in its printed format, or the disclosure would have negative impact on aviation safety or security.

Section 807. Prohibition on use of certain funds

This section prohibits the Secretary from using funds available in this act to name, rename, designate or redesignate any project or programs authorized in this act after an individual who is currently serving in Congress.

Section 808. Study on aviation fuel prices

This section requires the Comptroller General to conduct a study and report to Congress on the impact of aviation fuel price in-

creases on the Airport Trust Fund and the aviation industry in general. The Comptroller General will use the average aviation fuel price for fiscal year 2010 as a baseline.

Section 809. Wind turbine lighting

This section directs the Administrator to study: the effect of lighting for wind turbine on residential areas; safety issues relating to alternative lighting strategies, technologies, or regulations; potential energy savings; feasibility of implementing alternative lighting strategies or technologies; and any other wind turbine lighting issues. The FAA is responsible for evaluating the effect structures over 200 feet have on the NAS. In the past, considerable research was done to determine the minimum marking and lighting options that ensured an acceptable level of safety in air navigation. In recent years, new technologies and environmental considerations have changed, supporting the need for a new study to evaluate marking and lighting systems. The report is due to Congress within 180 days of the date of enactment.

Section 810. Air-rail code sharing study

This section directs the Comptroller General to conduct a study regarding the existing airline and intercity passenger rail code sharing arrangements and the effects of the increasing of intermodal connectivity of airline and intercity passenger rail facilities and systems to improve passenger travel. In conducting the study the Comptroller General will consider costs, experience of other countries with airport and intercity rail connectivity and other issues deemed appropriate. The Comptroller General will submit a report to Congressional committees no later than one year after beginning the study.

Section 811. D.C. Metropolitan Area Special Flight Rules Area

This section requires the Administrator, in consultation with the Secretary of Homeland Security and the Secretary of Defense, to submit a report to the appropriate congressional committees within 180 days that outlines changes to the D.C. Metropolitan Area Special Flight Rules Area that will decrease operational impacts and improve general aviation access to airports in the region.

Section 812. FAA review and reform

Subsection (a) requires the Administrator to undertake, not later than 60 days after enactment, a thorough review of each program, office, and organization with the Administration, including the Air Traffic Organization, to identify: (1) duplicative positions, programs, roles, or offices; (2) wasteful practices; (3) redundant, obsolete, or unnecessary functions; (4) inefficient processes; and (5) ineffectual or outdated policies.

Subsection (b) and (c) authorize the Administrator to, not later than 120 days after enactment, undertake such actions as may be necessary to address the Administrator's findings under subsection (a).

Section 813. Cylinders of compressed oxygen or other oxidizing gases

This section exempts the transportation of cylinders of compressed oxygen or other oxidizing gases aboard aircraft in Alaska from compliance with regulations that require that oxidizing gases transported aboard aircraft be in thermal resistant outer packaging capable of passing the flame penetration and resistance test and the thermal resistance test, without regard to the end use of the cylinders. The exemption shall apply in circumstances in which transportation of the cylinders by ground or vessel is unavailable and transportation by aircraft is the only practical means for transporting the cylinders to the destination.

TITLE IX—NATIONAL MEDIATION BOARD

Sec. 901. Authority of the Inspector General

The National Mediation Board is the agency that governs employee organization and representation election procedures in the airline and railroad industries. In addition, the Board provides dispute resolution services for collective bargaining agreement contract negotiations in order to avoid disruptive work stoppages in the two critical transportation modes.

Currently, no Inspector General of the United States Government has specific authority to conduct audits and evaluate the Board's programs and expenditures. This section vests in the Inspector General of the United States Department of Transportation such authority in order to prevent waste, fraud, and abuse.

Sec. 902. Evaluation and audit of the National Mediation Board

The Comptroller General of the United States currently has no specific direction to conduct audits and evaluate the National Mediation Board's programs and expenditures. This section directs the Comptroller General of the United States to conduct such audits.

Sec. 903. Repeal of rule

In May 2010, the National Mediation Board (NMB) unilaterally changed union election procedures that had been in place for 75 years. The previous and long-standing election procedures required that a majority of all airline workers vote in favor of union representation to gain union certification. The rule changes allow union certification where only a majority of the employees who actually vote in the election vote for certification. Under the rules which had been in place for 75 years, if an airline had 4,000 non-union employees, 2,001 must vote yes to unionize. Under the rule changes, if only 1,000 of 4,000 employees vote and 501 vote yes, all 4,000 become subject to unionization.

The Board's statutory mandate is to maintain stable labor relations in the airline and railroad industries and for 75 years it maintained that that stability by ensuring a majority of the votes casted was for union representation. Now, under the NMB's ruling, it is possible that a minority of employees can vote for union representation. The new rule assumes that a failure to vote is a "yes" vote. Under the old system, a voter could effectively cast a vote against representation by simply not submitting a ballot.

The Committee believes the NMB's rule changes are a fundamental reversal of long-standing guidelines on transportation labor elections under the Railway Labor Act; rules which have guided union elections through 12 Presidential administrations. The rules that were changed are tied to critical national policies recognizing the importance of air transportation to commerce and the need for union representation that has a majority of support from employees.

Given the national policy implications, the Committee believes that any such fundamental change to longstanding precedent is properly and solely the authority of the United States Congress.

Effective January 1, 2011, this section repeals the rule prescribed by the National Mediation Board published on May 11, 2010 relating to representation election procedures.

TITLE X—COMMERCIAL SPACE TRANSPORTATION

Sec. 1001. Space flight passengers

Recognizing the transition of commercial space launch activities from the research and development to transportation and space tourism, this section changes the term used to identify an individual, who is not crew, carried within a launch vehicle or reentry vehicle from "space flight participant" to "space flight passenger". This section makes no substantive changes to the commercial space chapter.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

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

TITLE 49, UNITED STATES CODE

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SUBTITLE I—DEPARTMENT OF TRANSPORTATION

* * * * * * *

CHAPTER 1—ORGANIZATION

* * * * * * *

§ 106. Federal Aviation Administration

(a) * * *

* * * * * * *

(k) AUTHORIZATION OF APPROPRIATIONS FOR OPERATIONS.—

(1) SALARIES, OPERATIONS, AND MAINTENANCE.—There is authorized to be appropriated to the Secretary of Transportation for salaries, operations, and maintenance of the Administration—

[(A) $7,591,000,000 for fiscal year 2004;

[(B) $7,732,000,000 for fiscal year 2005;
[(C) $7,889,000,000 for fiscal year 2006;
[(D) $8,064,000,000 for fiscal year 2007;
[(E) $9,042,467,000 for fiscal year 2009; and
[(F) $9,350,028,000 for fiscal year 2010.]
(A) $9,403,000,000 for fiscal year 2011;
(B) $9,168,000,000 for fiscal year 2012;
(C) $9,168,000,000 for fiscal year 2013; and
(D) $9,168,000,000 for fiscal year 2014.

(2) AUTHORIZED EXPENDITURES.—Out of amounts appropriated under paragraph (1), the following expenditures are authorized:

[(A) Such sums as may be necessary for fiscal years 2004 through 2007 to support infrastructure systems development for both general aviation and the vertical flight industry.

[(B) Such sums as may be necessary for fiscal years 2004 through 2007 to establish helicopter approach procedures using current technologies (such as the Global Positioning System) to support all-weather, emergency medical service for trauma patients.

[(C) Such sums as may be necessary for fiscal years 2004 through 2007 to revise existing terminal and en route procedures and instrument flight rules to facilitate the takeoff, flight, and landing of tiltrotor aircraft and to improve the national airspace system by separating such aircraft from congested flight paths of fixed-wing aircraft.

[(D) Such sums as may be necessary for fiscal years 2004 through 2007 for the Center for Management Development of the Federal Aviation Administration to operate training courses and to support associated student travel for both residential and field courses.]

[(E)] *(A)* Such sums as may be necessary for fiscal years [2004 through 2007] *2011 through 2014* to carry out and expand the Air Traffic Control Collegiate Training Initiative.

[(F)] *(B)* Such sums as may be necessary for fiscal years [2004 through 2007] *2011 through 2014* for the completion of the Alaska aviation safety project with respect to the 3 dimensional mapping of Alaska's main aviation corridors.

[(G)] *(C)* Such sums as may be necessary for fiscal years [2004 through 2007] *2011 through 2014* to carry out the Aviation Safety Reporting System *and the development and maintenance of helicopter approach procedures*.

(3) ADMINISTERING PROGRAM WITHIN AVAILABLE FUNDING.—Notwithstanding any other provision of law, in each of fiscal years 2011 through 2014, if the Secretary determines that the funds appropriated under paragraph (1) are insufficient to meet the salary, operations, and maintenance expenses of the Federal Aviation Administration, as authorized by this section, the Secretary shall reduce nonsafety-related activities of the Administration as necessary to reduce such expenses to a level that can be met by the funding available under paragraph (1).

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(m) COOPERATION BY ADMINISTRATOR.—With the consent of appropriate officials, the Administrator may, with or without reimbursement, use or accept the services, equipment, personnel, and facilities of any other Federal agency (as such term is defined in section 551(1) of title 5) and any other public or private entity. The Administrator may also cooperate with appropriate officials of other public and private agencies and instrumentalities concerning the use of services, equipment, personnel, and facilities. The head of each Federal agency shall cooperate with the Administrator in making the services, equipment, personnel, and facilities of the Federal agency available to the Administrator. The head of a Federal agency is authorized, notwithstanding any other provision of law, to transfer to or to receive from the Administration, *with or* without reimbursement, supplies, personnel, services, and equipment other than administrative supplies or equipment.

* * * * * * *

(s) CHIEF NEXTGEN OFFICER.—

(1) IN GENERAL.—

(A) APPOINTMENT.—There shall be a Chief NextGen Officer appointed by the Administrator. The Chief NextGen Officer shall report directly to the Administrator and shall be subject to the authority of the Administrator.

(B) QUALIFICATIONS.—The Chief NextGen Officer shall have a demonstrated ability in management and knowledge of or experience in aviation and systems engineering.

(C) TERM.—The Chief NextGen Officer shall be appointed for a term of 5 years.

(D) REMOVAL.—The Chief NextGen Officer shall serve at the pleasure of the Administrator, except that the Administrator shall make every effort to ensure stability and continuity in the leadership of the implementation of NextGen.

(E) VACANCY.—Any individual appointed to fill a vacancy in the position of Chief NextGen Officer occurring before the expiration of the term for which the individual's predecessor was appointed shall be appointed for the remainder of that term.

(2) COMPENSATION.—

(A) IN GENERAL.—The Chief NextGen Officer shall be paid at an annual rate of basic pay to be determined by the Administrator. The annual rate may not exceed the annual compensation paid under section 102 of title 3. The Chief NextGen Officer shall be subject to the postemployment provisions of section 207 of title 18 as if the position of Chief NextGen Officer were described in section 207(c)(2)(A)(i) of that title.

(B) BONUS.—In addition to the annual rate of basic pay authorized by subparagraph (A), the Chief NextGen Officer may receive a bonus for any calendar year not to exceed 30 percent of the annual rate of basic pay, based upon the Administrator's evaluation of the Chief NextGen Officer's performance in relation to the performance goals set forth in the performance agreement described in paragraph (3).

(3) ANNUAL PERFORMANCE AGREEMENT.—The Administrator and the Chief NextGen Officer, in consultation with the Federal Aviation Management Advisory Council, shall enter into an an-

nual performance agreement that sets forth measurable organization and individual goals for the Chief NextGen Officer in key operational areas. The agreement shall be subject to review and renegotiation on an annual basis.

(4) ANNUAL PERFORMANCE REPORT.—The Chief NextGen Officer shall prepare and transmit to the Secretary of Transportation, the Committee on Transportation and Infrastructure of the House of Representatives, the Committee on Science and Technology of the House of Representatives, and the Committee on Commerce, Science, and Transportation of the Senate an annual management report containing such information as may be prescribed by the Secretary.

(5) RESPONSIBILITIES.—The responsibilities of the Chief NextGen Officer include the following:

(A) Implementing NextGen activities and budgets across all program offices of the Federal Aviation Administration.

(B) Coordinating the implementation of NextGen activities with the Office of Management and Budget.

(C) Reviewing and providing advice on the Administration's modernization programs, budget, and cost accounting system with respect to NextGen.

(D) With respect to the budget of the Administration—

(i) developing a budget request of the Administration related to the implementation of NextGen;

(ii) submitting such budget request to the Administrator; and

(iii) ensuring that the budget request supports the annual and long-range strategic plans of the Administration with respect to NextGen.

(E) Consulting with the Administrator on the Capital Investment Plan of the Administration prior to its submission to Congress.

(F) Developing an annual NextGen implementation plan.

(G) Ensuring that NextGen implementation activities are planned in such a manner as to require that system architecture is designed to allow for the incorporation of novel and currently unknown technologies into NextGen in the future and that current decisions do not bias future decisions unfairly in favor of existing technology at the expense of innovation.

(H) Coordinating with the NextGen Joint Planning and Development Office with respect to facilitating cooperation among all Federal agencies whose operations and interests are affected by the implementation of NextGen.

(6) EXCEPTION.—If the Administrator appoints as the Chief NextGen Officer, pursuant to paragraph (1)(A), an Executive Schedule employee covered by section 5315 of title 5, then paragraphs (1)(B), (1)(C), (2), and (3) of this subsection shall not apply to such employee.

(7) NEXTGEN DEFINED.—For purposes of this subsection, the term "NextGen" means the Next Generation Air Transportation System.

(t) AVIATION SAFETY WHISTLEBLOWER INVESTIGATION OFFICE.—

(1) ESTABLISHMENT.—There is established in the Federal Aviation Administration (in this section referred to as the

"Agency") an Aviation Safety Whistleblower Investigation Office (in this subsection referred to as the "Office").

(2) DIRECTOR.—

(A) APPOINTMENT.—The head of the Office shall be the Director, who shall be appointed by the Secretary of Transportation.

(B) QUALIFICATIONS.—The Director shall have a demonstrated ability in investigations and knowledge of or experience in aviation.

(C) TERM.—The Director shall be appointed for a term of 5 years.

(D) VACANCY.—Any individual appointed to fill a vacancy in the position of the Director occurring before the expiration of the term for which the individual's predecessor was appointed shall be appointed for the remainder of that term.

(3) COMPLAINTS AND INVESTIGATIONS.—

(A) AUTHORITY OF DIRECTOR.—The Director shall—

(i) receive complaints and information submitted by employees of persons holding certificates issued under title 14, Code of Federal Regulations, and employees of the Agency concerning the possible existence of an activity relating to a violation of an order, regulation, or standard of the Agency or any other provision of Federal law relating to aviation safety;

(ii) assess complaints and information submitted under clause (i) and determine whether a substantial likelihood exists that a violation of an order, regulation, or standard of the Agency or any other provision of Federal law relating to aviation safety has occurred; and

(iii) based on findings of the assessment conducted under clause (ii), make recommendations to the Administrator in writing for further investigation or corrective actions.

(B) DISCLOSURE OF IDENTITIES.—The Director shall not disclose the identity of an individual who submits a complaint or information under subparagraph (A)(i) unless—

(i) the individual consents to the disclosure in writing; or

(ii) the Director determines, in the course of an investigation, that the disclosure is required by regulation, statute, or court order, or is otherwise unavoidable, in which case the Director shall provide the individual reasonable advanced notice of the disclosure.

(C) INDEPENDENCE OF DIRECTOR.—The Secretary, the Administrator, or any officer or employee of the Agency may not prevent or prohibit the Director from initiating, carrying out, or completing any assessment of a complaint or information submitted under subparagraph (A)(i) or from reporting to Congress on any such assessment.

(D) ACCESS TO INFORMATION.—In conducting an assessment of a complaint or information submitted under subparagraph (A)(i), the Director shall have access to all records, reports, audits, reviews, documents, papers, rec-

ommendations, and other material necessary to determine whether a substantial likelihood exists that a violation of an order, regulation, or standard of the Agency or any other provision of Federal law relating to aviation safety may have occurred.

(4) RESPONSES TO RECOMMENDATIONS.—Not later than 60 days after the date on which the Administrator receives a report with respect to an investigation, the Administrator shall respond to a recommendation made by the Director under subparagraph (A)(iii) in writing and retain records related to any further investigations or corrective actions taken in response to the recommendation.

(5) INCIDENT REPORTS.—If the Director determines there is a substantial likelihood that a violation of an order, regulation, or standard of the Agency or any other provision of Federal law relating to aviation safety has occurred that requires immediate corrective action, the Director shall report the potential violation expeditiously to the Administrator and the Inspector General of the Department of Transportation.

(6) REPORTING OF CRIMINAL VIOLATIONS TO INSPECTOR GENERAL.—If the Director has reasonable grounds to believe that there has been a violation of Federal criminal law, the Director shall report the violation expeditiously to the Inspector General.

(7) ANNUAL REPORTS TO CONGRESS.—Not later than October 1 of each year, the Director shall submit to Congress a report containing—

(A) information on the number of submissions of complaints and information received by the Director under paragraph (3)(A)(i) in the preceding 12-month period;

(B) summaries of those submissions;

(C) summaries of further investigations and corrective actions recommended in response to the submissions; and

(D) summaries of the responses of the Administrator to such recommendations.

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SUBTITLE II—OTHER GOVERNMENT AGENCIES

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CHAPTER 11—NATIONAL TRANSPORTATION SAFETY BOARD

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SUBCHAPTER IV—ENFORCEMENT AND PENALTIES

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§ 1153. Judicial review

(a) * * *

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(c) ADMINISTRATOR SEEKING JUDICIAL REVIEW OF AVIATION MATTERS.—When the Administrator of the Federal Aviation Administration decides that an order of the Board under [section 44709 or]

section 44703(d), 44709, or 46301(d)(5) of this title will have a significant adverse impact on carrying out this chapter related to an aviation matter, the Administrator may obtain judicial review of the order under section 46110 of this title. The Administrator shall be made a party to the judicial review proceedings. Findings of fact of the Board are conclusive if supported by substantial evidence.

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SUBTITLE VII—AVIATION PROGRAMS

PART A—AIR COMMERCE AND SAFETY

SUBPART I—GENERAL

Chapter	Sec.
401. General Provisions	40101
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SUBPART II—ECONOMIC REGULATION	
* * * * * * *	
423. Passenger Air Service Improvements	*42301*
* * * * * * *	

PART A—AIR COMMERCE AND SAFETY

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SUBPART I—GENERAL

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CHAPTER 401—GENERAL PROVISIONS

Sec.
40101. Policy.

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[40117. Passenger facility fees.]
40117. Passenger facility charges.

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40130. FAA access to criminal history records and database systems.

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§ 40102. Definitions

(a) GENERAL DEFINITIONS.—In this part—

(1) * * *

* * * * * * *

(4) "air navigation facility" means a facility used, available for use, or designed for use, in aid of air navigation, including—

(A) * * *

[(B) a light;

[(C) apparatus or equipment for distributing weather information, signaling, radio-directional finding, or radio or other electromagnetic communication; and]

(B) runway lighting and airport surface visual and other navigation aids;

(C) apparatus, equipment, software, or service for distributing aeronautical and meteorological information to air traffic control facilities or aircraft;

(D) communication, navigation, or surveillance equipment for air-to-ground or air-to-air applications;

[(D) another structure**]** *(E) any structure, equipment,* or mechanism for guiding or controlling flight in the air or the landing and takeoff of aircraft**[**.**]***; and*

(F) buildings, equipment, and systems dedicated to the national airspace system.

* * * * * * *

§ 40110. General procurement authority

(a) GENERAL.—In carrying out this part, the Administrator of the Federal Aviation Administration—

(1) * * *

[(2) may dispose of an interest in property for adequate compensation; and

[(3) may construct and improve laboratories and other test facilities.**]**

(2) may construct and improve laboratories and other test facilities; and

(3) may dispose of any interest in property for adequate compensation, and the amount so received shall—

(A) be credited to the appropriation current when the amount is received;

(B) be merged with and available for the purposes of such appropriation; and

(C) remain available until expended.

* * * * * * *

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

(1) * * *

* * * * * * *

(3) construct, or acquire an interest in, a public building (as defined in section 3301(a) of title 40) only under a delegation of authority from the Administrator of General Services; *and*

[(4) use procedures other than competitive procedures only when the property or services needed by the Administrator of the Federal Aviation Administration are available from only one responsible source or only from a limited number of responsible sources and no other type of property or services will satisfy the needs of the Administrator; and**]**

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

* * * * * * *

§ 40113. Administrative

(a) * * *

* * * * * * *

(e) ASSISTANCE TO FOREIGN AVIATION AUTHORITIES.—

(1) SAFETY-RELATED TRAINING AND OPERATIONAL SERVICES.—The Administrator may provide safety-related training and operational services to foreign aviation authorities *(whether public or private)* with or without reimbursement, if the Administrator determines that providing such services promotes aviation [safety.] *safety or efficiency. The Administrator is authorized to participate in, and submit offers in response to, competitions to provide these services, and to contract with foreign aviation authorities to provide these services consistent with section 106(l)(6).* To the extent practicable, air travel reimbursed under this subsection shall be conducted on United States air carriers.

(2) REIMBURSEMENT SOUGHT.—The Administrator shall actively seek reimbursement for services provided under this subsection from foreign aviation authorities capable of providing such reimbursement. *The Administrator is authorized, notwithstanding any other provision of law or policy, to accept payments for services provided under this subsection in arrears.*

[(3) CREDITING APPROPRIATIONS.—Funds received by the Administrator pursuant to this section shall be credited to the appropriation from which the expenses were incurred in providing such services.]

(3) CREDITING APPROPRIATIONS.—Funds received by the Administrator pursuant to this section shall—

(A) be credited to the appropriation current when the amount is received;

(B) be merged with and available for the purposes of such appropriation; and

(C) remain available until expended.

* * * * * * *

§ 40117. Passenger facility [Fees] *Charges*

(a) DEFINITIONS.—In this section, the following definitions apply:

(1) * * *

* * * * * * *

(3) ELIGIBLE AIRPORT-RELATED PROJECT.—The term "eligible airport-related project" means any of the following projects:

(A) * * *

(B) A project for terminal development described in [section 47110(d)] *section 47119(a).*

* * * * * * *

[(5) PASSENGER FACILITY FEE.—The term "passenger facility fee" means a charge imposed under this section.]

(5) PASSENGER FACILITY CHARGE.—The term "passenger facility charge" means a charge or fee imposed under this section.

(6) PASSENGER FACILITY REVENUE.—The term "passenger facility revenue" means revenue derived from a passenger facility [fee] *charge.*

(b) GENERAL AUTHORITY.—(1) The Secretary of Transportation may authorize under this section an eligible agency to impose a passenger facility [fee] *charge* of $1, $2, or $3 on each paying passenger of an air carrier or foreign air carrier boarding an aircraft at an airport the agency controls to finance an eligible airport-related project, including making payments for debt service on indebtedness incurred to carry out the project, to be carried out in connection with the airport or any other airport the agency controls.

(2) A State, political subdivision of a State, or authority of a State or political subdivision that is not the eligible agency may not regulate or prohibit the imposition or collection of a passenger facility [fee] *charge* or the use of the passenger facility revenue.

(3) A passenger facility [fee] *charge* may be imposed on a passenger of an air carrier or foreign air carrier originating or connecting at the commercial service airport that the agency controls.

(4) In lieu of authorizing a [fee] *charge* under paragraph (1), the Secretary may authorize under this section an eligible agency to impose a passenger facility [fee] *charge* of $4.00 or $4.50 on each paying passenger of an air carrier or foreign air carrier boarding an aircraft at an airport the agency controls to finance an eligible airport-related project, including making payments for debt service on indebtedness incurred to carry out the project, if the Secretary finds—

(A) * * *

* * * * * * *

(5) MAXIMUM COST FOR CERTAIN LOW-EMISSION TECHNOLOGY PROJECTS.—The maximum cost that may be financed by imposition of a passenger facility [fee] *charge* under this section for a project described in subsection (a)(3)(G) with respect to a vehicle or ground support equipment may not exceed the incremental amount of the project cost that is greater than the cost of acquiring a vehicle or equipment that is not low-emission and would be used for the same purpose, or the cost of low-emission retrofitting, as determined by the Secretary.

(6) DEBT SERVICE FOR CERTAIN PROJECTS.—In addition to the uses specified in paragraphs (1) and (4), the Secretary may authorize a passenger facility [fee] *charge* imposed under paragraph (1) or (4) to be used for making payments for debt service on indebtedness incurred to carry out at the airport a project that is not an eligible airport-related project if the Secretary determines that such use is necessary due to the financial need of the airport.

(7) NOISE MITIGATION FOR CERTAIN SCHOOLS.—

(A) IN GENERAL.—In addition to the uses specified in paragraphs (1), (4), and (6), the Secretary may authorize a passenger facility [fee] *charge* imposed under paragraph (1) or (4) at a large hub airport that is the subject of an amended judgment and final order in condemnation filed on January 7, 1980, by the Superior Court of the State of California for the county of Los Angeles, to be used for a project to carry out noise mitigation for a building, or for the replacement of a relocatable building with a permanent building, in the noise impacted area surrounding the airport at which such building is used primarily for educational purposes, notwithstanding the air ease-

ment granted or any terms to the contrary in such judgment and final order, if—

(i) * * *

* * * * * * *

(v) the project otherwise meets the requirements of this section for authorization of a passenger facility [fee] *charge*.

* * * * * * *

(c) APPLICATIONS.—(1) An eligible agency must submit to the Secretary an application for authority to impose a passenger facility [fee] *charge*. The application shall contain information and be in the form that the Secretary may require by regulation.

(2) Before submitting an application, the eligible agency must provide reasonable notice to, and an opportunity for consultation with, air carriers and foreign air carriers operating at the airport. The Secretary shall prescribe regulations that define reasonable notice and contain at least the following requirements:

(A) The agency must provide written notice of individual projects being considered for financing by a passenger facility [fee] *charge* and the date and location of a meeting to present the projects to air carriers and foreign air carriers operating at the airport.

* * * * * * *

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

(A) A requirement that the eligible agency provide public notice of intent to collect a passenger facility [fee] *charge* so as to inform those interested persons and agencies that may be affected. The public notice may include—

(i) * * *

* * * * * * *

(d) LIMITATIONS ON APPROVING APPLICATIONS.—The Secretary may approve an application that an eligible agency has submitted under subsection (c) of this section to finance a specific project only if the Secretary finds, based on the application, that—

(1) the amount and duration of the proposed passenger facility [fee] *charge* will result in revenue (including interest and other returns on the revenue) that is not more than the amount necessary to finance the specific project;

* * * * * * *

(4) in the case of an application to impose a [fee] *charge* of more than $3.00 for an eligible surface transportation or terminal project, the agency has made adequate provision for financing the airside needs of the airport, including runways, taxiways, aprons, and aircraft gates.

(e) LIMITATIONS ON IMPOSING [FEES] *CHARGES*.—(1) An eligible agency may impose a passenger facility [fee] *charge* only—

(A) * * *

* * * * * * *

(2) A passenger facility [fee] *charge* may not be collected from a passenger—

(A) * * *

* * * * * * *

(f) LIMITATIONS ON CONTRACTS, LEASES, AND USE AGREEMENTS.—(1) A contract between an air carrier or foreign air carrier and an eligible agency made at any time may not impair the authority of the agency to impose a passenger facility [fee] *charge* or to use the passenger facility revenue as provided in this section.

(2) A project financed with a passenger facility [fee] *charge* may not be subject to an exclusive long-term lease or use agreement of an air carrier or foreign air carrier, as defined by regulations of the Secretary.

(3) A lease or use agreement of an air carrier or foreign air carrier related to a project whose construction or expansion was financed with a passenger facility [fee] *charge* may not restrict the eligible agency from financing, developing, or assigning new capacity at the airport with passenger facility revenue.

(g) TREATMENT OF REVENUE.—(1) * * *

* * * * * * *

(4) Passenger facility revenues that are held by an air carrier or an agent of the carrier after collection of a passenger facility [fee] *charge* constitute a trust fund that is held by the air carrier or agent for the beneficial interest of the eligible agency imposing the [fee] *charge*. Such carrier or agent holds neither legal nor equitable interest in the passenger facility revenues except for any handling fee or retention of interest collected on unremitted proceeds as may be allowed by the Secretary.

(h) COMPLIANCE.—(1) As necessary to ensure compliance with this section, the Secretary shall prescribe regulations requiring recordkeeping and auditing of accounts maintained by an air carrier or foreign air carrier and its agent collecting a passenger facility [fee] *charge* and by the eligible agency imposing the [fee] *charge*.

(2) The Secretary periodically shall audit and review the use by an eligible agency of passenger facility revenue. After review and a public hearing, the Secretary may end any part of the authority of the agency to impose a passenger facility [fee] *charge* to the extent the Secretary decides that the revenue is not being used as provided in this section.

(3) The Secretary may set off amounts necessary to ensure compliance with this section against amounts otherwise payable to an eligible agency under subchapter I of chapter 471 of this title if the Secretary decides a passenger facility [fee] *charge* is excessive or that passenger facility revenue is not being used as provided in this section.

(i) REGULATIONS.—The Secretary shall prescribe regulations necessary to carry out this section. The regulations—

(1) may prescribe the time and form by which a passenger facility [fee] *charge* takes effect;

(2) shall—

(A) require an air carrier or foreign air carrier and its agent to collect a passenger facility [fee] *charge* that an eligible agency imposes under this section;

* * * * * * *

(C) ensure that the money, less a uniform amount the Secretary determines reflects the average necessary and reasonable expenses (net of interest accruing to the carrier and agent after collection and before remittance) incurred in collecting and handling the [fee] *charge*, is paid promptly to the eligible agency for which they are collected; and

* * * * * * *

(3) may permit an eligible agency to request that collection of a passenger facility [fee] *charge* be waived for—

(A) passengers enplaned by any class of air carrier or foreign air carrier if the number of passengers enplaned by the carriers in the class constitutes not more than one percent of the total number of passengers enplaned annually at the airport at which the [fee] *charge* is imposed; or

* * * * * * *

(j) LIMITATION ON CERTAIN ACTIONS.—A State, political subdivision of a State, or authority of a State or political subdivision that is not the eligible agency may not tax, regulate, or prohibit or otherwise attempt to control in any manner, the imposition or collection of a passenger facility [fee] *charge* or the use of the revenue from the passenger facility [fee] *charge*.

(k) COMPETITION PLANS.—

(1) IN GENERAL.—Beginning in fiscal year 2001, no eligible agency may impose a passenger facility [fee] *charge* under this section with respect to a covered airport (as such term is defined in section 47106(f)) unless the agency has submitted to the Secretary a written competition plan in accordance with such section. This subsection does not apply to passenger facility [fees] *charges* in effect before the date of the enactment of this subsection.

* * * * * * *

(l) PILOT PROGRAM FOR PASSENGER FACILITY [FEE] *CHARGE* AUTHORIZATIONS AT NONHUB AIRPORTS.—

(1) IN GENERAL.—The Secretary shall establish a pilot program to test alternative procedures for authorizing eligible agencies for nonhub airports to impose passenger facility [fees] *charges*. An eligible agency may impose in accordance with the provisions of this subsection a passenger facility [fee] *charge* under this section. For purposes of the pilot program, the procedures in this subsection shall apply instead of the procedures otherwise provided in this section.

* * * * * * *

(3) NOTICE OF INTENTION.—The eligible agency must submit to the Secretary a notice of intention to impose a passenger facility [fee] *charge* under this subsection. The notice shall include—

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

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

(C) the level of the passenger facility [fee] *charge* that is proposed.

(4) ACKNOWLEDGEMENT OF RECEIPT AND INDICATION OF OBJECTION.—The Secretary shall acknowledge receipt of the notice and indicate any objection to the imposition of a passenger facility [fee] *charge* under this subsection for any project identified in the notice within 30 days after receipt of the eligible agency's notice.

(5) AUTHORITY TO IMPOSE [FEE] *CHARGE*.—Unless the Secretary objects within 30 days after receipt of the eligible agency's notice, the eligible agency is authorized to impose a passenger facility [fee] *charge* in accordance with the terms of its notice under this subsection.

* * * * * * *

[(7) SUNSET.—This subsection shall cease to be effective beginning on April 1, 2011.]

[(8)] *(7)* ACKNOWLEDGEMENT NOT AN ORDER.—An acknowledgement issued under paragraph (4) shall not be considered an order issued by the Secretary for purposes of section 46110.

(m) FINANCIAL MANAGEMENT OF [FEES] *CHARGES*.—

(1) HANDLING OF [FEES] *CHARGES*.—A covered air carrier shall segregate in a separate account passenger facility revenue equal to the average monthly liability for [fees] *charges* collected under this section by such carrier or any of its agents for the benefit of the eligible agencies entitled to such revenue.

* * * * * * *

(5) INTEREST ON AMOUNTS.—A covered air carrier that collects passenger facility [fees] *charges* is entitled to receive the interest on passenger facility [fee] *charge* accounts if the accounts are established and maintained in compliance with this subsection.

(6) EXISTING REGULATIONS.—The provisions of section 158.49 of title 14, Code of Federal Regulations, that permit the commingling of passenger facility [fees] *charges* with other air carrier revenue shall not apply to a covered air carrier.

* * * * * * *

(n) AIRPORT ACCESS FLEXIBILITY PROGRAM.—

(1) PFC ELIGIBILITY.—Subject to the requirements of this subsection, the Secretary shall establish a pilot program under which the Secretary may authorize, at no more than 5 airports, a passenger facility charge imposed under subsection (b)(1) or (b)(4) to be used to finance the eligible cost of an intermodal ground access project.

(2) INTERMODAL GROUND ACCESS PROJECT DEFINED.—In this subsection, the term "intermodal ground access project" means a project for constructing a local facility owned or operated by an eligible agency that is directly and substantially related to

the movement of passengers or property traveling in air transportation.

(3) ELIGIBLE COSTS.—

(A) IN GENERAL.—For purposes of paragraph (1), the eligible cost of an intermodal ground access project at an airport shall be the total cost of the project multiplied by the ratio that—

(i) the number of individuals projected to use the project to gain access to or depart from the airport; bears to

(ii) the total number of the individuals projected to use the facility.

(B) DETERMINATIONS REGARDING PROJECTED PROJECT USE.—

(i) IN GENERAL.—Except as provided by clause (ii), the Secretary shall determine the projected use of a project for purposes of subparagraph (A) at the time the project is approved under this subsection.

(ii) PUBLIC TRANSPORTATION PROJECTS.—In the case of a project approved under this section to be financed in part using funds administered by the Federal Transit Administration, the Secretary shall use the travel forecasting model for the project at the time the project is approved by the Federal Transit Administration to enter preliminary engineering to determine the projected use of the project for purposes of subparagraph (A).

* * * * * * *

§ 40119. Security and research and development activities

(a) * * *

(b) DISCLOSURE.—(1) * * *

* * * * * * *

(4) Section 552a of title 5 shall not apply to disclosures that the Administrator may make from the systems of records of the Administration to any Federal law enforcement, intelligence, protective service, immigration, or national security official in order to assist the official receiving the information in the performance of official duties.

* * * * * * *

§ 40122. Federal Aviation Administration personnel management system

(a) IN GENERAL.—

(1) * * *

[(2) MEDIATION.—If the Administrator does not reach an agreement under paragraph (1) with the exclusive bargaining representatives, the services of the Federal Mediation and Conciliation Service shall be used to attempt to reach such agreement. If the services of the Federal Mediation and Conciliation Service do not lead to an agreement, the Administrator's proposed change to the personnel management system shall not take effect until 60 days have elapsed after the Administrator

has transmitted the proposed change, along with the objections of the exclusive bargaining representatives to the change, and the reasons for such objections, to Congress. The 60-day period shall not include any period during which Congress has adjourned sine die.]

(2) DISPUTE RESOLUTION.—

(A) MEDIATION.—If the Administrator does not reach an agreement under paragraph (1) or the provisions referred to in subsection (g)(2)(C) with the exclusive bargaining representative of the employees, the Administrator and the bargaining representative—

(i) shall use the services of the Federal Mediation and Conciliation Service to attempt to reach such agreement in accordance with part 1425 of title 29, Code of Federal Regulations (as in effect on the date of enactment of the FAA Reauthorization and Reform Act of 2011); or

(ii) may by mutual agreement adopt alternative procedures for the resolution of disputes or impasses arising in the negotiation of the collective-bargaining agreement.

(B) MID-TERM BARGAINING.—If the services of the Federal Mediation and Conciliation Service under subparagraph (A)(i) do not lead to the resolution of issues in controversy arising from the negotiation of a mid-term collective-bargaining agreement, the Federal Service Impasses Panel shall assist the parties in resolving the impasse in accordance with section 7119 of title 5.

(C) BINDING ARBITRATION FOR TERM BARGAINING.—

(i) ASSISTANCE FROM FEDERAL SERVICE IMPASSES PANEL.—If the services of the Federal Mediation and Conciliation Service under subparagraph (A)(i) do not lead to the resolution of issues in controversy arising from the negotiation of a term collective-bargaining agreement, the Administrator and the exclusive bargaining representative of the employees (in this subparagraph referred to as the "parties") shall submit their issues in controversy to the Federal Service Impasses Panel. The Panel shall assist the parties in resolving the impasse by asserting jurisdiction and ordering binding arbitration by a private arbitration board consisting of 3 members.

(ii) APPOINTMENT OF ARBITRATION BOARD.—The Executive Director of the Panel shall provide for the appointment of the 3 members of a private arbitration board under clause (i) by requesting the Director of the Federal Mediation and Conciliation Service to prepare a list of not less than 15 names of arbitrators with Federal sector experience and by providing the list to the parties. Not later than 10 days after receiving the list, the parties shall each select one person from the list. The 2 arbitrators selected by the parties shall then select a third person from the list not later than 7 days after being selected. If either of the parties fails to select a person or if the 2 arbitrators are unable to agree

on the third person in 7 days, the parties shall make the selection by alternately striking names on the list until one arbitrator remains.

(iii) FRAMING ISSUES IN CONTROVERSY.—If the parties do not agree on the framing of the issues to be submitted for arbitration, the arbitration board shall frame the issues.

(iv) HEARINGS.—The arbitration board shall give the parties a full and fair hearing, including an opportunity to present evidence in support of their claims and an opportunity to present their case in person, by counsel, or by other representative as they may elect.

(v) DECISIONS.—The arbitration board shall render its decision within 90 days after the date of its appointment. Decisions of the arbitration board shall be conclusive and binding upon the parties.

(vi) MATTERS FOR CONSIDERATION.—The arbitration board shall take into consideration such factors as—

(I) the effect of its arbitration decisions on the Federal Aviation Administration's ability to attract and retain a qualified workforce;

(II) the effect of its arbitration decisions on the Federal Aviation Administration's budget;

(III) the effect of its arbitration decisions on other Federal Aviation Administration employees; and

(IV) any other factors whose consideration would assist the board in fashioning a fair and equitable award.

(vii) COSTS.—The parties shall share costs of the arbitration equally.

(3) RATIFICATION OF AGREEMENTS.—Upon reaching a voluntary agreement or at the conclusion of the binding arbitration under paragraph (2)(C), the final agreement, except for those matters decided by an arbitration board, shall be subject to ratification by the exclusive bargaining representative of the employees, if so requested by the bargaining representative, and the final agreement shall be subject to approval by the head of the agency in accordance with the provisions referred to in subsection (g)(2)(C).

[(3)**]** *(4)* COST SAVINGS AND PRODUCTIVITY GOALS.—The Administration and the exclusive bargaining representatives of the employees shall use every reasonable effort to find cost savings and to increase productivity within each of the affected bargaining units.

[(4)**]** *(5)* ANNUAL BUDGET DISCUSSIONS.—The Administration and the exclusive bargaining representatives of the employees shall meet annually for the purpose of finding additional cost savings within the Administration's annual budget as it applies to each of the affected bargaining units and throughout the agency.

* * * * * * *

(g) PERSONNEL MANAGEMENT SYSTEM.—

(1) * * *

(2) APPLICABILITY OF TITLE 5.—The provisions of title 5 shall not apply to the new personnel management system developed and implemented pursuant to paragraph (1), with the exception of—

(A) * * *

* * * * * * *

(G) chapters 83-85, 87, and 89, relating to retirement, unemployment compensation, and insurance coverage; [and]

(H) sections 1204, 1211-1218, 1221, and 7701-7703, relating to the Merit Systems Protection [Board.] *Board; and*

(I) subsections (b), (c), and (d) of section 4507 (relating to Meritorious Executive or Distinguished Executive rank awards) and subsections (b) and (c) of section 4507a (relating to Meritorious Senior Professional or Distinguished Senior Professional rank awards), except that—

(i) for purposes of applying such provisions to the personnel management system—

(I) the term "agency" means the Department of Transportation;

(II) the term "senior executive" means a Federal Aviation Administration executive;

(III) the term "career appointee" means a Federal Aviation Administration career executive; and

(IV) the term "senior career employee" means a Federal Aviation Administration career senior professional;

(ii) receipt by a career appointee or a senior career employee of the rank of Meritorious Executive or Meritorious Senior Professional entitles the individual to a lump-sum payment of an amount equal to 20 percent of annual basic pay, which shall be in addition to the basic pay paid under the Federal Aviation Administration Executive Compensation Plan; and

(iii) receipt by a career appointee or a senior career employee of the rank of Distinguished Executive or Distinguished Senior Professional entitles the individual to a lump-sum payment of an amount equal to 35 percent of annual basic pay, which shall be in addition to the basic pay paid under the Federal Aviation Administration Executive Compensation Plan.

* * * * * * *

§ 40128. Overflights of national parks

(a) IN GENERAL.—

(1) GENERAL REQUIREMENTS.—A commercial air tour operator may not conduct commercial air tour operations over a national park or tribal lands, as defined by this section, except—

(A) * * *

* * * * * * *

(C) in accordance with any applicable air tour management plan *or voluntary agreement under subsection (b)(7)* for the park or tribal lands.

* * * * * * *

(5) EXEMPTION FOR NATIONAL PARKS WITH 50 OR FEWER FLIGHTS EACH YEAR.—

(A) IN GENERAL.—Notwithstanding paragraph (1), a national park that has 50 or fewer commercial air tour operations over the park each year shall be exempt from the requirements of this section, except as provided in subparagraph (B).

(B) WITHDRAWAL OF EXEMPTION.—If the Director determines that an air tour management plan or voluntary agreement is necessary to protect park resources and values or park visitor use and enjoyment, the Director shall withdraw the exemption of a park under subparagraph (A).

(C) LIST OF PARKS.—

(i) IN GENERAL.—The Director and Administrator shall jointly publish a list each year of national parks that are covered by the exemption provided under this paragraph.

(ii) NOTIFICATION OF WITHDRAWAL OF EXEMPTION.—The Director shall inform the Administrator, in writing, of each determination to withdraw an exemption under subparagraph (B).

(D) ANNUAL REPORT.—A commercial air tour operator conducting commercial air tour operations over a national park that is exempt from the requirements of this section shall submit to the Administrator and the Director a report each year that includes the number of commercial air tour operations the operator conducted during the preceding one-year period over such park.

(b) AIR TOUR MANAGEMENT PLANS.—

(1) * * *

* * * * * * *

(7) VOLUNTARY AGREEMENTS.—

(A) IN GENERAL.—As an alternative to an air tour management plan, the Director and the Administrator may enter into a voluntary agreement with a commercial air tour operator (including a new entrant commercial air tour operator and an operator that has interim operating authority) that has applied to conduct commercial air tour operations over a national park to manage commercial air tour operations over such national park.

(B) PARK PROTECTION.—A voluntary agreement under this paragraph with respect to commercial air tour operations over a national park shall address the management issues necessary to protect the resources of such park and visitor use of such park without compromising aviation safety or the air traffic control system and may—

(i) include provisions such as those described in subparagraphs (B) through (E) of paragraph (3);

(ii) include provisions to ensure the stability of, and compliance with, the voluntary agreement; and

(iii) provide for fees for such operations.

(C) PUBLIC.—The Director and the Administrator shall provide an opportunity for public review of a proposed voluntary agreement under this paragraph and shall consult with any Indian tribe whose tribal lands are, or may be, flown over by a commercial air tour operator under a voluntary agreement under this paragraph. After such opportunity for public review and consultation, the voluntary agreement may be implemented without further administrative or environmental process beyond that described in this subsection.

(D) TERMINATION.—

(i) IN GENERAL.—A voluntary agreement under this paragraph may be terminated at any time at the discretion of—

(I) the Director, if the Director determines that the agreement is not adequately protecting park resources or visitor experiences; or

(II) the Administrator, if the Administrator determines that the agreement is adversely affecting aviation safety or the national aviation system.

(ii) EFFECT OF TERMINATION.—If a voluntary agreement with respect to a national park is terminated under this subparagraph, the operators shall conform to the requirements for interim operating authority under subsection (c) until an air tour management plan for the park is in effect.

(c) INTERIM OPERATING AUTHORITY.—

(1) * * *

(2) REQUIREMENTS AND LIMITATIONS.—Interim operating authority granted under this subsection—

(A) * * *

* * * * * * *

[(I) shall allow for modifications of the interim operating authority based on experience if the modification improves protection of national park resources and values and of tribal lands.]

(I) may allow for modifications of the interim operating authority without further environmental review beyond that described in this subsection, if—

(i) adequate information regarding the existing and proposed operations of the operator under the interim operating authority is provided to the Administrator and the Director;

(ii) the Administrator determines that there would be no adverse impact on aviation safety or the air traffic control system; and

(iii) the Director agrees with the modification, based on the professional expertise of the Director regarding the protection of the resources, values, and visitor use and enjoyment of the park.

(3) NEW ENTRANT AIR TOUR OPERATORS.—

(A) IN GENERAL.—The Administrator, in cooperation with the Director, may grant interim operating authority under this paragraph to an air tour operator for a national

park or tribal lands for which that operator is a new entrant air tour operator [if the Administrator determines the authority is necessary to ensure competition in the provision of commercial air tour operations over the park or tribal lands.] *without further environmental process beyond that described in this paragraph, if—*

(i) adequate information on the proposed operations of the operator is provided to the Administrator and the Director by the operator making the request;

(ii) the Administrator agrees that there would be no adverse impact on aviation safety or the air traffic control system; and

(iii) the Director agrees, based on the Director's professional expertise regarding the protection of park resources and values and visitor use and enjoyment.

* * * * * * *

(d) COMMERCIAL AIR TOUR OPERATOR REPORTS.—

(1) REPORT.—Each commercial air tour operator conducting a commercial air tour operation over a national park under interim operating authority granted under subsection (c) or in accordance with an air tour management plan or voluntary agreement under subsection (b) shall submit to the Administrator and the Director a report regarding the number of commercial air tour operations over each national park that are conducted by the operator and such other information as the Administrator and Director may request in order to facilitate administering the provisions of this section.

(2) REPORT SUBMISSION.—Not later than 90 days after the date of enactment of the FAA Reauthorization and Reform Act of 2011, the Administrator and the Director shall jointly issue an initial request for reports under this subsection. The reports shall be submitted to the Administrator and the Director with a frequency and in a format prescribed by the Administrator and the Director.

[(d)] *(e)* EXEMPTIONS.—This section shall not apply to—

(1) * * *

* * * * * * *

[(e)] *(f)* LAKE MEAD.—This section shall not apply to any air tour operator while flying over or near the Lake Mead National Recreation Area, solely as a transportation route, to conduct an air tour over the Grand Canyon National Park. For purposes of this subsection, an air tour operator flying over the Hoover Dam in the Lake Mead National Recreation Area en route to the Grand Canyon National Park shall be deemed to be flying solely as a transportation route.

[(f)] *(g)* DEFINITIONS.—In this section, the following definitions apply:

(1) * * *

* * * * * * *

§ 40130. FAA access to criminal history records and database systems

(a) ACCESS TO RECORDS AND DATABASE SYSTEMS.—

(1) ACCESS TO INFORMATION.—Notwithstanding section 534 of title 28, and regulations issued to implement such section, the Administrator of the Federal Aviation Administration may have direct access to a system of documented criminal justice information maintained by the Department of Justice or by a State, but may do so only for the purpose of carrying out civil and administrative responsibilities of the Administration to protect the safety and security of the national airspace system or to support the missions of the Department of Justice, the Department of Homeland Security, and other law enforcement agencies.

(2) RELEASE OF INFORMATION.—In accessing a system referred to in paragraph (1), the Administrator shall be subject to the same conditions and procedures established by the Department of Justice or the State for other governmental agencies with direct access to the system.

(3) LIMITATION.—The Administrator may not use the direct access authorized under paragraph (1) to conduct criminal investigations.

(b) DESIGNATED EMPLOYEES.—The Administrator shall designate, by order, employees of the Administration who shall carry out the authority described in subsection (a). The designated employees may—

(1) have direct access to and receive criminal history, driver, vehicle, and other law enforcement information contained in the law enforcement databases of the Department of Justice, or any jurisdiction of a State, in the same manner as a police officer employed by a State or local authority of that State who is certified or commissioned under the laws of that State;

(2) use any radio, data link, or warning system of the Federal Government, and of any jurisdiction in a State, that provides information about wanted persons, be-on-the-lookout notices, warrant status, or other officer safety information to which a police officer employed by a State or local authority in that State who is certified or commissioned under the laws of that State has direct access and in the same manner as such police officer; and

(3) receive Federal, State, or local government communications with a police officer employed by a State or local authority in that State in the same manner as a police officer employed by a State or local authority in that State who is commissioned under the laws of that State.

(c) SYSTEM OF DOCUMENTED CRIMINAL JUSTICE INFORMATION DEFINED.—In this section, the term "system of documented criminal justice information" means any law enforcement database, system, or communication containing information concerning identification, criminal history, arrests, convictions, arrest warrants, wanted or missing persons, including the National Crime Information Center and its incorporated criminal history databases and the National Law Enforcement Telecommunications System.

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SUBPART II—ECONOMIC REGULATION

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CHAPTER 417—OPERATIONS OF CARRIERS

SUBCHAPTER I—REQUIREMENTS

Sec.
41701. Classification of air carriers.

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[41706. Prohibitions against smoking on scheduled flights.]
41706. Prohibitions against smoking on passenger flights.

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41724. Musical instruments.

SUBCHAPTER II—SMALL COMMUNITY AIR SERVICE

* * * * * * *

[41747. EAS local participation program.]

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41749. Sunset.

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SUBCHAPTER I—REQUIREMENTS

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§ 41706. Prohibitions against smoking on [Scheduled] *Passenger* flights

[(a) SMOKING PROHIBITION IN INTRASTATE AND INTERSTATE AIR TRANSPORTATION.—An individual may not smoke in an aircraft in scheduled passenger interstate air transportation or scheduled passenger intrastate air transportation.

[(b) SMOKING PROHIBITION IN FOREIGN AIR TRANSPORTATION.—The Secretary of Transportation shall require all air carriers and foreign air carriers to prohibit smoking in any aircraft in scheduled passenger foreign air transportation.]

(a) SMOKING PROHIBITION IN INTERSTATE AND INTRASTATE AIR TRANSPORTATION.—An individual may not smoke—

(1) in an aircraft in scheduled passenger interstate or intrastate air transportation; or

(2) in an aircraft in nonscheduled passenger interstate or intrastate air transportation, if a flight attendant is a required crewmember on the aircraft (as determined by the Administrator of the Federal Aviation Administration).

(b) SMOKING PROHIBITION IN FOREIGN AIR TRANSPORTATION.—The Secretary of Transportation shall require all air carriers and foreign air carriers to prohibit smoking—

(1) in an aircraft in scheduled passenger foreign air transportation; and

(2) in an aircraft in nonscheduled passenger foreign air transportation, if a flight attendant is a required crewmember on the aircraft (as determined by the Administrator or a foreign government).

* * * * * * *

§ 41708. Reports

(a) * * *

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(c) DIVERTED AND CANCELLED FLIGHTS.—

(1) MONTHLY REPORTS.—The Secretary shall require an air carrier referred to in paragraph (2) to file with the Secretary a monthly report on each flight of the air carrier that is diverted from its scheduled destination to another airport and each flight of the air carrier that departs the gate at the airport at which the flight originates but is cancelled before wheels-off time.

(2) APPLICABILITY.—An air carrier that is required to file a monthly airline service quality performance report pursuant to part 234 of title 14, Code of Federal Regulations, shall be subject to the requirement of paragraph (1).

(3) CONTENTS.—A monthly report filed by an air carrier under paragraph (1) shall include, at a minimum, the following information:

(A) For a diverted flight—

(i) the flight number of the diverted flight;

(ii) the scheduled destination of the flight;

(iii) the date and time of the flight;

(iv) the airport to which the flight was diverted;

(v) wheels-on time at the diverted airport;

(vi) the time, if any, passengers deplaned the aircraft at the diverted airport; and

(vii) if the flight arrives at the scheduled destination airport—

(I) the gate-departure time at the diverted airport;

(II) the wheels-off time at the diverted airport;

(III) the wheels-on time at the scheduled arrival airport; and

(IV) the gate-arrival time at the scheduled arrival airport.

(B) For flights cancelled after gate departure—

(i) the flight number of the cancelled flight;

(ii) the scheduled origin and destination airports of the cancelled flight;

(iii) the date and time of the cancelled flight;

(iv) the gate-departure time of the cancelled flight; and

(v) the time the aircraft returned to the gate.

(4) PUBLICATION.—The Secretary shall compile the information provided in the monthly reports filed pursuant to paragraph (1) in a single monthly report and publish such report on the Internet Web site of the Department of Transportation.

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§ 41718. Special rules for Ronald Reagan Washington National Airport

(a) BEYOND-PERIMETER EXEMPTIONS.—The [Secretary] *Secretary of Transportation* shall grant, by order, [24] *34* exemptions from the application of sections 49104(a)(5), 49109, 49111(e), and 41714 of this title to air carriers to operate limited frequencies and aircraft on select routes between Ronald Reagan Washington National Airport and domestic hub airports and exemptions from the requirements of subparts K and S of part 93, Code of Federal Regulations, if the Secretary finds that the exemptions will—

(1) * * *

* * * * * * *

(c) LIMITATIONS.—

(1) * * *

(2) GENERAL EXEMPTIONS.—The exemptions granted under subsections (a) and (b) may not be for operations between the hours of 10:00 p.m. and 7:00 a.m. and may not increase the number of operations at Ronald Reagan Washington National Airport in any 1-hour period during the hours between 7:00 a.m. and 9:59 p.m. by more than [3 operations] *5 operations*.

(3) SLOTS.—The Secretary shall reduce the hourly air carrier slot quota for Ronald Reagan Washington National Airport under section 93.123(a) of title 14, Code of Federal Regulations, by a total of 10 slots that are available for allocation. Such reductions shall be taken in the 6:00 a.m., 10:00 p.m., or 11:00 p.m. hours, as determined by the Secretary, in order to grant exemptions under subsection (a).

[(3)] *(4)* ALLOCATION OF WITHIN-PERIMETER EXEMPTIONS.—Of the exemptions granted under subsection (b)—

(A) * * *

* * * * * * *

[(4)] *(5)* APPLICABILITY TO EXEMPTION NO. 5133.—Nothing in this section affects Exemption No. 5133, as from time-to-time amended and extended.

* * * * * * *

(e) SCHEDULING PRIORITY.—Operations conducted by new entrant air carriers and limited incumbent air carriers shall be provided a scheduling priority over operations conducted by other air carriers granted exemptions pursuant to this section, with the highest scheduling priority provided to beyond-perimeter operations conducted by the new entrant air carriers and limited incumbent air carriers.

[(e)] *(f)* APPLICABILITY OF CERTAIN LAWS.—Neither the request for, nor the granting of an exemption, under this section shall be considered for purposes of any Federal law a major Federal action significantly affecting the quality of the human environment.

[(f)] *(g)* COMMUTERS DEFINED.—For purposes of aircraft operations at Ronald Reagan Washington National Airport under subpart K of part 93 of title 14, Code of Federal Regulations, the term "commuters" means aircraft operations using aircraft having a certificated maximum seating capacity of 76 or less.

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§ 41724. Musical instruments

(a) INSTRUMENTS IN PASSENGER COMPARTMENT.—An air carrier providing air transportation shall permit a passenger to carry a musical instrument in a closet, baggage compartment, or cargo stowage compartment (approved by the Administrator of the Federal Aviation Administration) in the passenger compartment of the aircraft used to provide such transportation if—

(1) the instrument can be stowed in accordance with the requirements for carriage of carry-on baggage or cargo set forth by the Administrator; and

(2) there is space for such stowage on the aircraft.

(b) LARGE INSTRUMENTS IN PASSENGER COMPARTMENT.—An air carrier providing air transportation shall permit a passenger to carry a musical instrument that is too large to be secured in a closet, baggage compartment, or cargo stowage compartment pursuant to subsection (a) in the passenger compartment of the aircraft used to provide such transportation if—

(1) the instrument can be stowed in accordance with the requirements for carriage of carry-on baggage or cargo set forth by the Administrator; and

(2) the passenger has purchased a seat to accommodate the instrument.

(c) INSTRUMENTS AS CHECKED BAGGAGE.—An air carrier providing air transportation shall transport as baggage a musical instrument that may not be carried in the passenger compartment of the aircraft used to provide such transportation pursuant to subsection (a) or (b) and that is the property of a passenger on the aircraft if—

(1) the sum of the length, width, and height of the instrument (measured in inches of the outside linear dimensions of the instrument, including the case) does not exceed 150 inches or the size restrictions for that aircraft;

(2) the weight of the instrument does not exceed 165 pounds or the weight restrictions for that aircraft; and

(3) the instrument can be stowed in accordance with the requirements for carriage of baggage or cargo set forth by the Administrator.

(d) AIR CARRIER TERMS.—Nothing in this section shall be construed as prohibiting an air carrier from limiting the carrier's liability for carrying a musical instrument or requiring a passenger to purchase insurance to cover the value of a musical instrument transported by the carrier.

SUBCHAPTER II—SMALL COMMUNITY AIR SERVICE

* * * * * * *

§ 41733. Level of basic essential air service

(a) * * *

* * * * * * *

(c) AVAILABILITY OF COMPENSATION.—(1) If the Secretary decides that basic essential air service will not be provided to an eligible place without compensation, the Secretary shall provide notice that an air carrier may apply to provide basic essential air service to the place for compensation under this section. In selecting an applicant, the Secretary shall consider, among other factors—

(A) * * *

* * * * * * *

(D) the preferences of the actual and potential users of air transportation at the eligible place, giving substantial weight to the views of the elected officials representing the users; **[**and**]**

(E) whether the air carrier has included a plan in its proposal to market its services to the community; and

[(E)**]** *(F)* for an eligible place in Alaska, the experience of the applicant in providing, in Alaska, scheduled air service, or sig-

nificant patterns of non-scheduled air service under an exemption granted under section 40109(a) and (c)-(h) of this title.

* * * * * * *

(f) NOTICE TO COMMUNITIES PRIOR TO TERMINATION OF ELIGIBILITY.—

(1) IN GENERAL.—The Secretary shall notify each community receiving basic essential air service for which compensation is being paid under this subchapter on or before the 45th day before issuing any final decision to end the payment of such compensation due to a determination by the Secretary that providing such service requires a rate of subsidy per passenger in excess of the subsidy cap.

(2) PROCEDURES TO AVOID TERMINATION.—The Secretary shall establish, by order, procedures by which each community notified of an impending loss of subsidy under paragraph (1) may work directly with an air carrier to ensure that the air carrier is able to submit a proposal to the Secretary to provide essential air service to such community for an amount of compensation that would not exceed the subsidy cap.

(3) ASSISTANCE PROVIDED.—The Secretary shall provide, by order, to each community notified under paragraph (1) information regarding—

(A) the procedures established pursuant to paragraph (2); and

(B) the maximum amount of compensation that could be provided under this subchapter to an air carrier serving such community that would comply with the subsidy cap.

(4) SUBSIDY CAP DEFINED.—In this subsection, the term "subsidy cap" means the subsidy cap established by section 332 of Public Law 106–69 (113 Stat. 1022).

§ 41734. Ending, suspending, and reducing basic essential air service

(a) * * *

* * * * * * *

(d) CONTINUATION OF COMPENSATION AFTER NOTICE PERIOD.—If an air carrier receiving compensation under section 41733 of this title for providing basic essential air service to an eligible place is required to continue to provide service to the place under this section after the 90-day notice period under subsection (a) of this section, the Secretary shall **[**continue to pay that compensation after the last day of that period. The Secretary shall pay the compensation until the Secretary finds another carrier to provide the service to the place or the 90th day after the end of that notice period, whichever is earlier. If, after the 90th day after the end of the 90-day notice period, the Secretary has not found another carrier to provide the service, the carrier required to continue to provide that service shall receive compensation sufficient**]** *provide the carrier with compensation sufficient—*

(1) * * *

* * * * * * *

§ 41737. Compensation guidelines, limitations, and claims

(a) COMPENSATION GUIDELINES.—(1) The Secretary of Transportation shall prescribe guidelines governing the rate of compensation payable under this subchapter. The guidelines shall be used to determine the reasonable amount of compensation required to ensure the continuation of air service or air transportation under this subchapter. The guidelines shall—

(A) * * *

(B) consider amounts needed by an air carrier to promote public use of the service or transportation for which compensation is being paid; [and]

(C) include expense elements based on representative costs of air carriers providing scheduled air transportation of passengers, property, and mail on aircraft of the type the Secretary decides is appropriate for providing the service or transportation for which compensation is being provided[.]*;*

(D) include provisions under which the Secretary may encourage an air carrier to improve air service for which compensation is being paid under this subchapter by incorporating financial incentives in an essential air service contract based on specified performance goals, including goals related to improving on-time performance, reducing the number of flight cancellations, establishing convenient connections to flights providing service beyond hub airports, and increasing marketing efforts; and

(E) include provisions under which the Secretary may execute a long-term essential air service contract to encourage an air carrier to provide air service to an eligible place if it would be in the public interest to do so.

* * * * * * *

§ 41742. Essential air service authorization

(a) IN GENERAL.—

(1) AUTHORIZATION.—Out of the amounts received by the Federal Aviation Administration credited to the account established under section 45303 of this title or otherwise provided to the Administration, [the sum of $50,000,000 is] *the following sums are* authorized and shall be made available immediately for obligation and expenditure to carry out the essential air service program under this [subchapter for each fiscal year.] *subchapter:*

(A) $50,000,000 for each fiscal year through fiscal year 2013.

(B) The amount necessary, as determined by the Secretary, to carry out the essential air service program in Alaska and Hawaii for fiscal year 2014 and each fiscal year thereafter.

(2) ADDITIONAL FUNDS.—In addition to amounts authorized under paragraph (1), [there is authorized to be appropriated $77,000,000 for each fiscal year] *there is authorized to be appropriated out of the Airport and Airway Trust Fund established under section 9502 of the Internal Revenue Code of 1986 $97,500,000 for fiscal year 2011, $60,000,000 for fiscal year 2012, and $30,000,000 for fiscal year 2013* to carry out the es-

sential air service program under this subchapter of which not more than $12,000,000 per fiscal year may be used for the marketing incentive program for communities and for State marketing assistance.

* * * * * * *

(4) DISTRIBUTION OF EXCESS FUNDS.—

(A) SMALL COMMUNITY AIR SERVICE DEVELOPMENT.—For each of fiscal years 2011 through 2014, if the funds credited to the account established under section 45303 in a fiscal year exceed the amount made available under paragraph (1) for that fiscal year, the excess funds, but not more than $6,000,000, shall be made available immediately for obligation and expenditure to carry out section 41743.

(B) NEXTGEN.—For each of fiscal years 2011 through 2014, if the funds credited to the account established under section 45303 in a fiscal year exceed the amount made available under paragraph (1) and subparagraph (A) of this paragraph for that fiscal year, the excess funds shall be made available immediately for obligation and expenditure to carry out Next Generation Air Transportation System activities, including any activity specified in section 202 of the FAA Reauthorization and Reform Act of 2011.

(5) AVAILABILITY OF FUNDS.—The funds made available under this subsection shall remain available until expended.

[(b) FUNDING FOR SMALL COMMUNITY AIR SERVICE.—Notwithstanding any other provision of law, moneys credited to the account established under section 45303(a) of this title, including the funds derived from fees imposed under the authority contained in section 45301(a) of this title, shall be used to carry out the essential air service program under this subchapter. Notwithstanding section 47114(g) of this title, any amounts from those fees that are not obligated or expended at the end of the fiscal year for the purpose of funding the essential air service program under this subchapter shall be made available to the Administration for use in improving rural air safety under subchapter I of chapter 471 of this title and shall be used exclusively for projects at rural airports under this subchapter.**]**

(b) ADMINISTERING PROGRAM WITHIN AVAILABLE FUNDING.—Notwithstanding any other provision of law, the Secretary is authorized to take such actions as may be necessary to administer the essential air service program under this subchapter within the amount of funding made available for the program.

§ 41743. Airports not receiving sufficient service

(a) * * *

* * * * * * *

(c) CRITERIA FOR PARTICIPATION.—In selecting communities, or consortia of communities, for participation in the program established under subsection (a), the Secretary shall apply the following criteria:

(1) * * *

* * * * * * *

(5) PRIORITIES.—The Secretary shall give priority to communities or consortia of communities where—

(A) * * *

* * * * * * *

(D) the assistance will provide material benefits to a broad segment of the travelling public, including business, educational institutions, and other enterprises, whose access to the national air transportation system is limited; [and]

(E) the assistance will be used in a timely [fashion.] *fashion; and*

(F) multiple communities cooperate to submit a regional or multistate application to consolidate air service into one regional airport.

* * * * * * *

[(e) AUTHORITY TO MAKE AGREEMENTS.—

[(1) IN GENERAL.—The Secretary may make agreements to provide assistance under this section.

[(2) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary $20,000,000 for fiscal year 2001, $27,500,000 for each of fiscal years 2002 and 2003, and $35,000,000 for each of fiscal years 2004 through 2011 to carry out this section. Such sums shall remain available until expended.]

(e) AUTHORITY TO MAKE AGREEMENTS.—Subject to the availability of amounts made available under section 41742(a)(4)(A), the Secretary may make agreements to provide assistance under this section.

* * * * * * *

[§ 41747. EAS local participation program

[(a) IN GENERAL.—The Secretary of Transportation shall establish a pilot program under which not more than 10 designated essential air service communities located in proximity to hub airports are required to assume 10 percent of their essential air service subsidy costs for a 4-year period.

[(b) DESIGNATION OF COMMUNITIES.—

[(1) IN GENERAL.—The Secretary may not designate any community under this section unless it is located within 100 miles by road of a hub airport and is not located in a noncontiguous State. In making the designation, the Secretary may take into consideration the total traveltime between a community and the nearest hub airport, taking into account terrain, traffic, weather, road conditions, and other relevant factors.

[(2) ONE COMMUNITY PER STATE.—The Secretary may not designate—

[(A) more than 1 community per State under this section; or

[(B) a community in a State in which another community that is eligible to participate in the essential air service program has elected not to participate in the essential

air service program as part of a pilot program under section 41745.

[(c) APPEAL OF DESIGNATION.—A community may appeal its designation under this section. The Secretary may withdraw the designation of a community under this section based on—

[(1) the airport sponsor's ability to pay; or

[(2) the relative lack of financial resources in a community, based on a comparison of the median income of the community with other communities in the State.

[(d) NON-FEDERAL SHARE.—

[(1) NON-FEDERAL AMOUNTS.—For purposes of this section, the non-Federal portion of the essential air service subsidy may be derived from contributions in kind, or through reduction in the amount of the essential air service subsidy through reduction of air carrier costs, increased ridership, prepurchase of tickets, or other means. The Secretary shall provide assistance to designated communities in identifying potential means of reducing the amount of the subsidy without adversely affecting air transportation service to the community.

[(2) APPLICATION WITH OTHER MATCHING REQUIREMENTS.—This section shall apply to the Federal share of essential air service provided this subchapter, after the application of any other non- Federal share matching requirements imposed by law.

[(e) ELIGIBILITY FOR OTHER PROGRAMS NOT AFFECTED.—Nothing in this section affects the eligibility of a community or consortium of communities, an airport sponsor, or any other person to participate in any program authorized by this subchapter. A community designated under this section may participate in any program (including pilot programs) authorized by this subchapter for which it is otherwise eligible—

[(1) without regard to any limitation on the number of communities that may participate in that program; and

[(2) without reducing the number of other communities that may participate in that program.

[(f) SECRETARY TO REPORT TO CONGRESS ON IMPACT.—The Secretary shall transmit a report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives on—

[(1) the economic condition of communities designated under this section before their designation;

[(2) the impact of designation under this section on such communities at the end of each of the 3 years following their designation; and

[(3) the impact of designation on air traffic patterns affecting air transportation to and from communities designated under this section.]

* * * * * * *

§ 41749. Sunset

(a) IN GENERAL.—Except as provided in subsection (b), the authority of the Secretary of Transportation to carry out the essential air service program under this subchapter shall sunset on October 1, 2013.

(b) ALASKA AND HAWAII.—The Secretary may continue to carry out the essential air service program under this subchapter in Alaska and Hawaii following the sunset date specified in subsection (a).

* * * * * * *

CHAPTER 423—PASSENGER AIR SERVICE IMPROVEMENTS

Sec.
42301. Emergency contingency plans.
42302. Consumer complaints.
42303. Use of insecticides in passenger aircraft.

§ 42301. Emergency contingency plans

(a) SUBMISSION OF AIR CARRIER AND AIRPORT PLANS.—Not later than 90 days after the date of enactment of this section, each of the following air carriers and airport operators shall submit to the Secretary of Transportation for review and approval an emergency contingency plan in accordance with the requirements of this section:

(1) An air carrier providing covered air transportation at a large hub or medium hub airport.

(2) An operator of a large hub or medium hub airport.

(3) An operator of an airport used by an air carrier described in paragraph (1) for diversions.

(b) AIR CARRIER PLANS.—

(1) PLANS FOR INDIVIDUAL AIRPORTS.—An air carrier shall submit an emergency contingency plan under subsection (a) for—

(A) each large hub and medium hub airport at which the carrier provides covered air transportation; and

(B) each large hub and medium hub airport at which the carrier has flights for which the carrier has primary responsibility for inventory control.

(2) CONTENTS.—An emergency contingency plan submitted by an air carrier for an airport under subsection (a) shall contain a description of how the carrier will—

(A) provide food, potable water, restroom facilities, and access to medical treatment for passengers onboard an aircraft at the airport that is on the ground for an extended period of time without access to the terminal;

(B) allow passengers to deplane following excessive tarmac delays; and

(C) share facilities and make gates available at the airport in an emergency.

(c) AIRPORT PLANS.—An emergency contingency plan submitted by an airport operator under subsection (a) shall contain a description of how the operator, to the maximum extent practicable, will—

(1) provide for the deplanement of passengers following excessive tarmac delays;

(2) provide for the sharing of facilities and make gates available at the airport in an emergency; and

(3) provide a sterile area following excessive tarmac delays for passengers who have not yet cleared U.S. Customs and Border Protection.

(d) UPDATES.—

(1) AIR CARRIERS.—An air carrier shall update the emergency contingency plan submitted by the carrier under subsection (a) every 3 years and submit the update to the Secretary for review and approval.

(2) AIRPORTS.—An airport operator shall update the emergency contingency plan submitted by the operator under subsection (a) every 5 years and submit the update to the Secretary for review and approval.

(e) APPROVAL.—

(1) IN GENERAL.—Not later than 60 days after the date of the receipt of an emergency contingency plan submitted under subsection (a) or an update submitted under subsection (d), the Secretary shall review and approve or, if necessary, require modifications to the plan or update to ensure that the plan or update will effectively address emergencies and provide for the health and safety of passengers.

(2) FAILURE TO APPROVE OR REQUIRE MODIFICATIONS.—If the Secretary fails to approve or require modifications to a plan or update under paragraph (1) within the timeframe specified in that paragraph, the plan or update shall be deemed to be approved.

(3) ADHERENCE REQUIRED.—An air carrier or airport operator shall adhere to an emergency contingency plan of the carrier or operator approved under this section.

(f) MINIMUM STANDARDS.—The Secretary may establish, as necessary or desirable, minimum standards for elements in an emergency contingency plan required to be submitted under this section.

(g) PUBLIC ACCESS.—An air carrier or airport operator required to submit an emergency contingency plan under this section shall ensure public access to the plan after its approval under this section on the Internet Web site of the carrier or operator or by such other means as determined by the Secretary.

(h) DEFINITIONS.—In this section, the following definitions apply:

(1) COVERED AIR TRANSPORTATION.—The term "covered air transportation" means scheduled or public charter passenger air transportation provided by an air carrier that operates an aircraft that as originally designed has a passenger capacity of 30 or more seats.

(2) TARMAC DELAY.—The term "tarmac delay" means the period during which passengers are on board an aircraft on the tarmac—

(A) awaiting takeoff after the aircraft doors have been closed or after passengers have been boarded if the passengers have not been advised they are free to deplane; or

(B) awaiting deplaning after the aircraft has landed.

§ 42302. Consumer complaints

(a) IN GENERAL.—The Secretary of Transportation shall establish a consumer complaints toll-free hotline telephone number for the use of passengers in air transportation and shall take actions to notify the public of—

(1) that telephone number; and

(2) the Internet Web site of the Aviation Consumer Protection Division of the Department of Transportation.

(b) NOTICE TO PASSENGERS ON THE INTERNET.—An air carrier or foreign air carrier providing scheduled air transportation using any aircraft that as originally designed has a passenger capacity of 30 or more passenger seats shall include on the Internet Web site of the carrier—

(1) the hotline telephone number established under subsection (a);

(2) the email address, telephone number, and mailing address of the air carrier for the submission of complaints by passengers about air travel service problems; and

(3) the Internet Web site and mailing address of the Aviation Consumer Protection Division of the Department of Transportation for the submission of complaints by passengers about air travel service problems.

(c) NOTICE TO PASSENGERS ON BOARDING DOCUMENTATION.—An air carrier or foreign air carrier providing scheduled air transportation using any aircraft that as originally designed has a passenger capacity of 30 or more passenger seats shall include the hotline telephone number established under subsection (a) on—

(1) prominently displayed signs of the carrier at the airport ticket counters in the United States where the air carrier operates; and

(2) any electronic confirmation of the purchase of a passenger ticket for air transportation issued by the air carrier.

§ 42303. Use of insecticides in passenger aircraft

(a) INFORMATION TO BE PROVIDED ON THE INTERNET.—The Secretary of Transportation shall establish, and make available to the general public, an Internet Web site that contains a listing of countries that may require an air carrier or foreign air carrier to treat an aircraft passenger cabin with insecticides prior to a flight in foreign air transportation to that country or to apply an aerosol insecticide in an aircraft cabin used for such a flight when the cabin is occupied with passengers.

(b) REQUIRED DISCLOSURES.—An air carrier, foreign air carrier, or ticket agent selling, in the United States, a ticket for a flight in foreign air transportation to a country listed on the Internet Web site established under subsection (a) shall refer the purchaser of the ticket to the Internet Web site established under subsection (a) for additional information.

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SUBPART III—SAFETY

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CHAPTER 443—INSURANCE

* * * * * * *

§ 44302. General authority

(a) * * *

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(f) EXTENSION OF POLICIES.—

(1) IN GENERAL.—The Secretary [shall extend through March 31, 2011, and may extend through June 30, 2011, the termination date] *shall extend through September 30, 2013, and may extend through December 31, 2013, the termination date* of any insurance policy that the Department of Transportation issued to an air carrier under subsection (a) and that is in effect on the date of enactment of this subsection on no less favorable terms to the air carrier than existed on June 19, 2002; except that the Secretary shall amend the insurance policy, subject to such terms and conditions as the Secretary may prescribe, to add coverage for losses or injuries to aircraft hulls, passengers, and crew at the limits carried by air carriers for such losses and injuries as of such date of enactment and at an additional premium comparable to the premium charged for third-party casualty coverage under such policy.

* * * * * * *

(3) SUCCESSOR PROGRAM.—

(A) IN GENERAL.—After December 31, 2021, coverage for the risks specified in a policy that has been extended under paragraph (1) shall be provided in an airline industry sponsored risk retention or other risk-sharing arrangement approved by the Secretary.

(B) TRANSFER OF PREMIUMS.—

(i) IN GENERAL.—On December 31, 2021, and except as provided in clause (ii), premiums collected by the Secretary from the airline industry after September 22, 2001, for any policy under this subsection, and interest earned thereon, as determined by the Secretary, shall be transferred to an airline industry sponsored risk retention or other risk-sharing arrangement approved by the Secretary.

(ii) DETERMINATION OF AMOUNT TRANSFERRED.—The amount transferred pursuant to clause (i) shall be less—

(I) the amount of any claims paid out on such policies from September 22, 2001, through December 31, 2021;

(II) the amount of any claims pending under such policies as of December 31, 2021; and

(III) the cost, as determined by the Secretary, of administering the provision of insurance policies under this chapter from September 22, 2001, through December 31, 2021.

* * * * * * *

§ 44303. Coverage

(a) * * *

(b) AIR CARRIER LIABILITY FOR THIRD PARTY CLAIMS ARISING OUT OF ACTS OF TERRORISM.—For acts of terrorism committed on or to an air carrier during the period beginning on September 22, 2001, and [ending on June 30, 2011, the Secretary may certify] *ending on December 31, 2013, the Secretary may certify* that the air carrier was a victim of an act of terrorism and in the Secretary's judgment, based on the Secretary's analysis and conclusions re-

garding the facts and circumstances of each case, shall not be responsible for losses suffered by third parties (as referred to in section 205.5(b)(1) of title 14, Code of Federal Regulations) that exceed $100,000,000, in the aggregate, for all claims by such parties arising out of such act. If the Secretary so certifies, the air carrier shall not be liable for an amount that exceeds $100,000,000, in the aggregate, for all claims by such parties arising out of such act, and the Government shall be responsible for any liability above such amount. No punitive damages may be awarded against an air carrier (or the Government taking responsibility for an air carrier under this subsection) under a cause of action arising out of such act. The Secretary may extend the provisions of this subsection to an aircraft manufacturer (as defined in section 44301) of the aircraft of the air carrier involved.

§ 44304. Reinsurance

To the extent the Secretary of Transportation is authorized to provide insurance under this chapter, the Secretary may reinsure any part of the insurance provided by an insurance carrier. The Secretary may reinsure with, transfer to, or transfer back to, [the carrier] *any insurance carrier* any insurance or reinsurance provided by the Secretary under this chapter.

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§ 44308. Administrative

(a) * * *

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(c) UNDERWRITING AGENT.—(1) The Secretary may, and when practical shall, employ an insurance carrier or group of insurance carriers to act as an underwriting agent. The Secretary may use the [agent] *agent, or a claims adjuster who is independent of the underwriting agent,* to adjust claims under this chapter, but claims may be paid only when approved by the Secretary.

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CHAPTER 445—FACILITIES, PERSONNEL, AND RESEARCH

Sec.
44501. Plans and policy.

* * * * * * *

44518. Transfers of terminal area air navigation equipment to airport sponsors.
44519. Realignment and consolidation of FAA services and facilities.

§ 44501. Plans and policy

(a) * * *

(b) AIRWAY CAPITAL INVESTMENT PLAN.—The Administrator of the Federal Aviation Administration shall review, revise, and publish a national airways system plan, known as the Airway Capital Investment Plan, before the beginning of each fiscal year. The plan shall set forth—

(1) * * *

* * * * * * *

(3) for the 3d, 4th, and 5th years of the plan, estimates of the total cost of each major program for the 3-year period, and additional major research programs, acquisition of systems and facilities, and changes in personnel levels that may be required to meet long range objectives and that may have significant impact on future funding requirements; [and]

(4) a 10-year investment plan that considers long range objectives that the Administrator considers necessary to—

(A) * * *

(B) meet the current and projected growth of aviation and the requirements of interstate commerce, the United States Postal Service, and the national [defense.] *defense; and*

(5) a list of capital projects that are part of the Next Generation Air Transportation System and funded by amounts appropriated under section 48101(a).

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§ 44506. Air traffic controllers

(a) * * *

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(d) AIR TRAFFIC CONTROL SPECIALIST QUALIFICATION TRAINING.—

(1) APPOINTMENT OF AIR TRAFFIC CONTROL SPECIALISTS.—The Administrator is authorized to appoint a qualified air traffic control specialist candidate for placement in an airport traffic control facility if the candidate has—

(A) received a control tower operator certification (referred to in this subsection as a "CTO" certificate); and

(B) satisfied all other applicable qualification requirements for an air traffic control specialist position.

(2) COMPENSATION AND BENEFITS.—An individual appointed under paragraph (1) shall receive the same compensation and benefits, and be treated in the same manner as, any other individual appointed as a developmental air traffic controller.

(3) REPORT.—Not later than 18 months after the date of enactment of the FAA Reauthorization and Reform Act of 2011, the Administrator shall submit to Congress a report that evaluates the effectiveness of the air traffic control specialist qualification training provided pursuant to this section, including the graduation rates of candidates who received a CTO certificate and are working in airport traffic control facilities.

(4) ADDITIONAL APPOINTMENTS.—If the Administrator determines that air traffic control specialists appointed pursuant to this subsection are more successful in carrying out the duties of an air traffic controller than air traffic control specialists hired from the general public without any such certification, the Administrator shall increase the number of appointments of candidates who possess such certification.

(5) REIMBURSEMENT FOR TRAVEL EXPENSES ASSOCIATED WITH CERTIFICATIONS.—

(A) IN GENERAL.—Subject to subparagraph (B), the Administrator may accept reimbursement from an educational entity that provides training to an air traffic control spe-

cialist candidate to cover reasonable travel expenses of the Administrator associated with issuing certifications to such candidates.

(B) TREATMENT OF REIMBURSEMENTS.—Notwithstanding section 3302 of title 31, any reimbursement authorized to be collected under subparagraph (A) shall—

(i) be credited as offsetting collections to the account that finances the activities and services for which the reimbursement is accepted;

(ii) be available for expenditure only to pay the costs of activities and services for which the reimbursement is accepted, including all costs associated with collecting such reimbursement; and

(iii) remain available until expended.

[(d)**]** *(e)* STAFFING REPORT.—The Administrator of the Federal Aviation Administration shall submit annually to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report containing—

(1) * * *

* * * * * * *

§ 44518. Transfers of terminal area air navigation equipment to airport sponsors

(a) IN GENERAL.—Subject to the requirements of this section, the Administrator of the Federal Aviation Administrator may carry out a pilot program under which the Administrator may transfer ownership, operating, and maintenance responsibilities for terminal area air navigation equipment at an airport to the airport sponsor.

(b) PARTICIPATION.—The Administrator may select the sponsors of not more than 3 nonhub airports, 3 small hub airports, 3 medium hub airports, and 1 large hub airport to participate in the pilot program.

(c) TERMS AND CONDITIONS OF TRANSFER FOR AIRPORT SPONSORS.—As a condition of participating in the pilot program, the airport sponsor shall provide assurances satisfactory to the Administrator that the sponsor will—

(1) operate and maintain the terminal area air navigation equipment transferred to the sponsor under this section in accordance with standards to be established by the Administrator;

(2) permit the Administrator (or a person designated by the Administrator) to conduct inspections of such terminal area air navigation equipment under a schedule established by the Administrator; and

(3) acquire and maintain new terminal area air navigation equipment at the airport as needed to replace equipment at the end of its useful life or to meet new standards established by the Administrator.

(d) TERMS AND CONDITIONS OF TRANSFER FOR ADMINISTRATOR.—When the Administrator approves an airport sponsor's participation in the pilot program, the Administrator shall transfer, at no cost to the sponsor, all rights, title, and interests of the United States in and to the terminal area air navigation equipment to be transferred to the sponsor under the program, including the real property on which the equipment is located.

(e) TREATMENT OF AIRPORT COSTS.—Any costs incurred by an airport sponsor for ownership and maintenance of terminal area air navigation equipment transferred under this section shall be considered a cost of providing airfield facilities and services under standards and guidelines issued by the Secretary of Transportation under section 47129(b)(2) and may be recovered in rates and charges assessed for use of the airport's airfield.

(f) DEFINITIONS.—In this section, the following definitions apply:

(1) SPONSOR.—The term "sponsor" has the meaning given that term in section 47102.

(2) TERMINAL AREA AIR NAVIGATION EQUIPMENT.—The term "terminal area air navigation equipment" means an air navigation facility as defined in section 40102 that exists to provide approach and landing guidance to aircraft, but does not include buildings used for air traffic control functions.

(g) GUIDELINES.—The Administrator shall issue guidelines on the implementation of the program.

§ 44519. Realignment and consolidation of FAA services and facilities

(a) PURPOSE.—The purpose of this section is to establish a fair process that will result in the realignment and consolidation of FAA services and facilities to help reduce capital, operating, maintenance, and administrative costs and facilitate Next Generation Air Transportation System air traffic control modernization efforts without adversely affecting safety.

(b) GENERAL AUTHORITY.—Subject to the requirements of this section, the Administrator of the Federal Aviation Administration shall realign and consolidate FAA services and facilities pursuant to recommendations made by the Aviation Facilities and Services Board established under subsection (g).

(c) ADMINISTRATOR'S RECOMMENDATIONS.—

(1) PROPOSED CRITERIA.—

(A) IN GENERAL.—The Administrator shall develop proposed criteria for use by the Administrator in making recommendations for the realignment and consolidation of FAA services and facilities under this section.

(B) PUBLICATION; TRANSMITTAL TO CONGRESS.—Not later than 30 days after the date of enactment of this section, the Administrator shall publish the proposed criteria in the Federal Register and transmit the proposed criteria to the congressional committees of interest.

(C) NOTICE AND COMMENT.—The Administrator shall provide an opportunity for public comment on the proposed criteria for a period of at least 30 days and shall include notice of that opportunity in the Federal Register.

(2) FINAL CRITERIA.—

(A) IN GENERAL.—The Administrator shall establish final criteria based on the proposed criteria developed under paragraph (1).

(B) PUBLICATION; TRANSMITTAL TO CONGRESS.—Not later than 90 days after the date of enactment of this section, the Administrator shall publish the final criteria in the Federal Register and transmit the final criteria to the congressional committees of interest.

(3) RECOMMENDATIONS.—

(A) IN GENERAL.—The Administrator shall make recommendations for the realignment and consolidation of FAA services and facilities under this section based on the final criteria established under paragraph (2).

(B) CONTENTS.—The recommendations shall consist of a list of FAA services and facilities for realignment and consolidation, together with a justification for each service and facility included on the list.

(C) PUBLICATION; TRANSMITTAL TO BOARD AND CONGRESS.—Not later than 120 days after the date of enactment of this section, the Administrator shall publish the recommendations in the Federal Register and transmit the recommendations to the Board and the congressional committees of interest.

(D) INFORMATION.—The Administrator shall make available to the Board and the Comptroller General all information used by the Administrator in establishing the recommendations.

(E) ADDITIONAL RECOMMENDATIONS.—The Administrator is authorized to make additional recommendations under this paragraph every 2 years.

(d) BOARD'S REVIEW AND RECOMMENDATIONS.—

(1) PUBLIC HEARINGS.—Not later than 30 days after the date of receipt of the Administrator's recommendations under subsection (c), the Board shall conduct public hearings on the recommendations.

(2) BOARD'S RECOMMENDATIONS.—

(A) REPORT TO CONGRESS.—Based on the Board's review and analysis of the Administrator's recommendations and any public comments received under paragraph (1), the Board shall develop a report containing the Board's findings and conclusions concerning the Administrator's recommendations, together with the Board's recommendations for realignment and consolidation of FAA services and facilities. The Board shall explain and justify in the report any recommendation made by the Board that differs from a recommendation made by the Administrator.

(B) PUBLICATION IN FEDERAL REGISTER; TRANSMITTAL TO CONGRESS.—Not later than 60 days after the date of receipt of the Administrator's recommendations under subsection (c), the Board shall publish the report in the Federal Register and transmit the report to the congressional committees of interest.

(3) ASSISTANCE OF COMPTROLLER GENERAL.—The Comptroller General shall assist the Board, to the extent requested by the Board, in the Board's review and analysis of the Administrator's recommendations.

(e) REALIGNMENT AND CONSOLIDATION OF FAA SERVICES AND FACILITIES.—Subject to subsection (f), the Administrator shall—

(1) realign or consolidate the FAA services and facilities recommended for realignment or consolidation by the Board in a report transmitted under subsection (d);

(2) initiate all such realignments and consolidations not later than one year after the date of the report; and

(3) complete all such realignments and consolidations not later than 3 years after the date of the report.

(f) CONGRESSIONAL DISAPPROVAL.—

(1) IN GENERAL.—The Administrator may not carry out a recommendation of the Board for realignment or consolidation of FAA services and facilities that is included in a report transmitted under subsection (d) if a joint resolution of disapproval is enacted disapproving such recommendation before the earlier of—

(A) the last day of the 30-day period beginning on the date of the report; or

(B) the adjournment of Congress sine die for the session during which the report is transmitted.

(2) COMPUTATION OF 30-DAY PERIOD.—For purposes of paragraph (1)(A), the days on which either house of Congress is not in session because of an adjournment of more than 3 days to a day certain shall be excluded in computation of the 30-day period.

(g) AVIATION FACILITIES AND SERVICES BOARD.—

(1) ESTABLISHMENT.—Not later than 180 days after the date of enactment of this section, the Secretary of Transportation shall establish an independent board to be known as the "Aviation Facilities and Services Board".

(2) COMPOSITION.—The Board shall be composed of the following members:

(A) The Secretary (or a designee of the Secretary), who shall be the Chair of the Board.

(B) Two members appointed by the Secretary, who may not be officers or employees of the Federal Government.

(C) The Comptroller General (or a designee of the Comptroller General), who shall be a nonvoting member of the Board.

(3) DUTIES.—The Board shall carry out the duties specified for the Board in this section.

(4) TERM.—The members of the Board to be appointed under paragraph (2)(B) shall each be appointed for a term of 3 years.

(5) VACANCIES.—A vacancy in the Board shall be filled in the same manner as the original appointment was made, but the individual appointed to fill the vacancy shall serve only for the unexpired portion of the term for which the individual's predecessor was appointed.

(6) COMPENSATION AND BENEFITS.—A member of the Board may not receive any compensation or benefits from the Federal Government for serving on the Board, except that—

(A) a member shall receive compensation for work injuries under subchapter I of chapter 81 of title 5; and

(B) a member shall be paid actual travel expenses and per diem in lieu of subsistence expenses when away from the member's usual place of residence in accordance with section 5703 of title 5.

(7) STAFF.—The Administrator shall make available to the Board such staff, information, and administrative services and assistance as may be reasonably required to enable the Board to carry out its responsibilities under this section. The Board

may employ experts and consultants on a temporary or intermittent basis with the approval of the Secretary.

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

(h) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There is authorized to be appropriated to the Administrator for each of fiscal years 2011 through 2014 $200,000 for the Board to carry out its duties.

(2) AVAILABILITY OF AMOUNTS.—Amounts appropriated pursuant to paragraph (1) shall remain available until expended.

(i) EFFECT ON OTHER AUTHORITIES.—Nothing in this section shall be construed to affect the authorities provided in section 44503 or the existing authorities or responsibilities of the Administrator under this title to manage the operations of the Federal Aviation Administration, including realignment or consolidation of facilities or services.

(j) DEFINITIONS.—In this section, the following definitions apply:

(1) BOARD.—The term "Board" means the Aviation Facilities and Services Board established under subsection (g).

(2) CONGRESSIONAL COMMITTEES OF INTEREST.—The term "congressional committees of interest" means the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.

(3) FAA.—The term "FAA" means the Federal Aviation Administration.

(4) REALIGNMENT.—The term "realignment" includes any action that relocates functions and personnel positions but does not include an overall reduction in personnel resulting from workload adjustments.

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CHAPTER 447—SAFETY REGULATION

Sec.
44701. General requirements.

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[44704. Type certificates, production certificates, airworthiness certificates, and design organization certificates.]

44704. Type certificates, production certificates, airworthiness certificates, and design and production organization certificates.

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44730. Helicopter air ambulance operations.
44731. Collection of data on helicopter air ambulance operations.
44732. Prohibition on personal use of electronic devices on flight deck.
44733. Inspection of foreign repair stations.

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§ 44703. Airman certificates

(a) * * *

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(d) APPEALS.—(1) * * *

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(3) A person who is substantially affected by an order of the Board under this subsection, or the Administrator if the Administrator decides that an order of the Board will have a significant adverse impact on carrying out this subtitle, may seek judicial review of the order under section 46110. The Administrator shall be made a party to the judicial review proceedings. The findings of fact of the Board in any such case are conclusive if supported by substantial evidence.

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§ 44704. Type certificates, production certificates, airworthiness certificates [and design organization certificates], *and design and production organization certificates*

(a) TYPE CERTIFICATES.—

(1) * * *

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(5) RELEASE OF DATA.—

(A) IN GENERAL.—Notwithstanding any other provision of law, the Administrator may make available upon request, to a person seeking to maintain the airworthiness or develop product improvements of an aircraft, engine, propeller, or appliance, engineering data in the possession of the Administration relating to a type certificate or a supplemental type certificate for such aircraft, engine, propeller, or appliance, without the consent of the owner of record, if the Administrator determines that—

(i) the certificate containing the requested data has been inactive for 3 or more years, except that the Administrator may reduce this time if required to address an unsafe condition associated with the product;

(ii) after using due diligence, the Administrator is unable to find the owner of record, or the owner of record's heir, of the type certificate or supplemental type certificate; and

(iii) making such data available will enhance aviation safety.

(B) ENGINEERING DATA DEFINED.—In this section, the term "engineering data" as used with respect to an aircraft, engine, propeller, or appliance means type design drawing and specifications for the entire aircraft, engine, propeller, or appliance or change to the aircraft, engine, propeller, or appliance, including the original design data, and any associated supplier data for individual parts or components approved as part of the particular certificate for the aircraft, engine, propeller, or appliance.

(C) REQUIREMENT TO MAINTAIN DATA.—The Administrator shall maintain engineering data in the possession of the Administration relating to a type certificate or a supplemental type certificate that has been inactive for 3 or more years.

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[(e) DESIGN ORGANIZATION CERTIFICATES.—

[(1) ISSUANCE.—Beginning 7 years after the date of enactment of this subsection, the Administrator may issue a design organization certificate to a design organization to authorize the organization to certify compliance with the requirements and minimum standards prescribed under section 44701(a) for the type certification of aircraft, aircraft engines, propellers, or appliances.

[(2) APPLICATIONS.—On receiving an application for a design organization certificate, the Administrator shall examine and rate the design organization submitting the application, in accordance with regulations to be prescribed by the Administrator, to determine whether the design organization has adequate engineering, design, and testing capabilities, standards, and safeguards to ensure that the product being certificated is properly designed and manufactured, performs properly, and meets the regulations and minimum standards prescribed under section 44701(a).

[(3) ISSUANCE OF TYPE CERTIFICATES BASED ON DESIGN ORGANIZATION CERTIFICATION.—The Administrator may rely on certifications of compliance by a design organization when making a finding under subsection (a).

[(4) PUBLIC SAFETY.—The Administrator shall include in a design organization certificate issued under this subsection terms required in the interest of safety.

[(5) NO EFFECT ON POWER OF REVOCATION.—Nothing in this subsection affects the authority of the Secretary of Transportation to revoke a certificate.]

(e) DESIGN AND PRODUCTION ORGANIZATION CERTIFICATES.—

(1) ISSUANCE.—Beginning January 1, 2013, the Administrator may issue a certificate to a design organization, production organization, or design and production organization to authorize the organization to certify compliance of aircraft, aircraft engines, propellers, and appliances with the requirements and minimum standards prescribed under section 44701(a). An organization holding a certificate issued under this subsection shall be known as a certified design and production organization (in this subsection referred to as a "CDPO").

(2) APPLICATIONS.—On receiving an application for a CDPO certificate, the Administrator shall examine and rate the organization submitting the application, in accordance with regulations to be prescribed by the Administrator, to determine whether the organization has adequate engineering, design, and production capabilities, standards, and safeguards to make certifications of compliance as described in paragraph (1).

(3) ISSUANCE OF CERTIFICATES BASED ON CDPO FINDINGS.—The Administrator may rely on certifications of compliance by a CDPO when making determinations under this section.

(4) PUBLIC SAFETY.—The Administrator shall include in a CDPO certificate terms required in the interest of safety.

(5) NO EFFECT ON POWER OF REVOCATION.—Nothing in this subsection affects the authority of the Secretary of Transportation to revoke a certificate.

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§ 44711. Prohibitions and exemption

(a) PROHIBITIONS.—A person may not—

(1) * * *

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(8) operate an airport without an airport operating certificate required under section 44706 of this title or in violation of a term of the certificate; [or]

(9) manufacture, deliver, sell, or offer for sale any aviation fuel or additive in violation of a regulation prescribed under section 44714 of this [title.] *title; or*

(10) violate section 44732 or any regulation issued thereunder.

* * * * * * *

(d) POSTEMPLOYMENT RESTRICTIONS FOR FLIGHT STANDARDS INSPECTORS.—

(1) PROHIBITION.—A person holding an operating certificate issued under title 14, Code of Federal Regulations, may not knowingly employ, or make a contractual arrangement that permits, an individual to act as an agent or representative of the certificate holder in any matter before the Federal Aviation Administration if the individual, in the preceding 2-year period—

(A) served as, or was responsible for oversight of, a flight standards inspector of the Administration; and

(B) had responsibility to inspect, or oversee inspection of, the operations of the certificate holder.

(2) WRITTEN AND ORAL COMMUNICATIONS.—For purposes of paragraph (1), an individual shall be considered to be acting as an agent or representative of a certificate holder in a matter before the Administration if the individual makes any written or oral communication on behalf of the certificate holder to the Administration (or any of its officers or employees) in connection with a particular matter, whether or not involving a specific party and without regard to whether the individual has participated in, or had responsibility for, the particular matter while serving as a flight standards inspector of the Administration.

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§ 44729. Age standards for pilots

(a) * * *

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(h) SAFETY.—

(1) * * *

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(4) SUNSET OF LINE CHECK.—Paragraph (2) shall cease to be effective following the one-year period beginning on the date of enactment of the FAA Reauthorization and Reform Act of 2011 unless the Secretary certifies that the requirements of paragraph (2) are necessary to ensure safety.

§ 44730. Helicopter air ambulance operations

(a) COMPLIANCE REGULATIONS.—

(1) IN GENERAL.—Except as provided in paragraph (2), not later than 6 months after the date of enactment of this section, part 135 certificate holders providing air ambulance services shall comply, whenever medical personnel are onboard the aircraft, with regulations pertaining to weather minimums and flight and duty time under part 135.

(2) EXCEPTION.—If a certificate holder described in paragraph (1) is operating, or carrying out training, under instrument flight rules, the weather reporting requirement at the destination shall not apply until such time as the Administrator of the Federal Aviation Administration determines that portable, reliable, and accurate ground-based weather measuring and reporting systems are available.

(b) RULEMAKING.—The Administrator shall conduct a rulemaking proceeding to improve the safety of flight crewmembers, medical personnel, and passengers onboard helicopters providing air ambulance services under part 135.

(c) MATTERS TO BE ADDRESSED.—In conducting the rulemaking proceeding under subsection (b), the Administrator shall address the following:

(1) Flight request and dispatch procedures, including performance-based flight dispatch procedures.

(2) Pilot training standards, including—

(A) mandatory training requirements, including a minimum time for completing the training requirements;

(B) training subject areas, such as communications procedures and appropriate technology use; and

(C) establishment of training standards in—

(i) crew resource management;

(ii) flight risk evaluation;

(iii) preventing controlled flight into terrain;

(iv) recovery from inadvertent flight into instrument meteorological conditions;

(v) operational control of the pilot in command; and

(vi) use of flight simulation training devices and line-oriented flight training.

(3) Safety-enhancing technology and equipment, including—

(A) helicopter terrain awareness and warning systems;

(B) radar altimeters;

(C) devices that perform the function of flight data recorders and cockpit voice recorders, to the extent feasible; and

(D) safety equipment that should be worn or used by flight crewmembers and medical personnel on a flight, including the possible use of shoulder harnesses, helmets, seatbelts, and fire resistant clothing to enhance crash survivability.

(4) Such other matters as the Administrator considers appropriate.

(d) MINIMUM REQUIREMENTS.—In issuing a final rule under subsection (b), the Administrator, at a minimum, shall provide for the following:

(1) FLIGHT RISK EVALUATION PROGRAM.—The Administrator shall ensure that a part 135 certificate holder providing helicopter air ambulance services—

(A) establishes a flight risk evaluation program, based on FAA Notice 8000.301 issued by the Administration on August 1, 2005, including any updates thereto;

(B) as part of the flight risk evaluation program, develops a checklist for use by pilots in determining whether a flight request should be accepted; and

(C) requires the pilots of the certificate holder to use the checklist.

(2) OPERATIONAL CONTROL CENTER.—The Administrator shall ensure that a part 135 certificate holder providing helicopter air ambulance services using 10 or more helicopters has an operational control center that meets such requirements as the Administrator may prescribe.

(e) RULEMAKING.—The Administrator shall—

(1) not later than 180 days after the date of enactment of this section, issue a notice of proposed rulemaking under subsection (b); and

(2) not later than 16 months after the last day of the comment period on the proposed rule, issue a final rule.

(f) DEFINITIONS.—In this section, the following definitions apply:

(1) PART 135.—The term "part 135" means part 135 of title 14, Code of Federal Regulations.

(2) PART 135 CERTIFICATE HOLDER.—The term "part 135 certificate holder" means a person holding a certificate issued under part 135.

§ 44731. Collection of data on helicopter air ambulance operations

(a) IN GENERAL.—The Administrator of the Federal Aviation Administration shall require a part 135 certificate holder providing helicopter air ambulance services to submit to the Administrator, not later than one year after the date of enactment of this section, and annually thereafter, a report containing, at a minimum, the following data:

(1) The number of helicopters that the certificate holder uses to provide helicopter air ambulance services and the base locations of the helicopters.

(2) The number of flights and hours flown, by registration number, during which helicopters operated by the certificate holder were providing helicopter air ambulance services.

(3) The number of flight requests for a helicopter providing air ambulance services that were accepted or declined by the certificate holder and the type of each such flight request (such as scene response, interfacility transport, organ transport, or ferry or repositioning flight).

(4) The number of accidents, if any, involving helicopters operated by the certificate holder while providing air ambulance services and a description of the accidents.

(5) The number of flights and hours flown under instrument flight rules by helicopters operated by the certificate holder while providing air ambulance services.

(6) The time of day of each flight flown by helicopters operated by the certificate holder while providing air ambulance services.

(7) The number of incidents, if any, in which a helicopter was not directly dispatched and arrived to transport patients but was not utilized for patient transport.

(b) REPORTING PERIOD.—Data contained in a report submitted by a part 135 certificate holder under subsection (a) shall relate to such reporting period as the Administrator determines appropriate.

(c) DATABASE.—Not later than 6 months after the date of enactment of this section, the Administrator shall develop a method to collect and store the data collected under subsection (a), including a method to protect the confidentiality of any trade secret or proprietary information provided in response to this section.

(d) REPORT TO CONGRESS.—Not later than 24 months after the date of enactment of this section, and annually thereafter, the Administrator shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report containing a summary of the data collected under subsection (a).

(e) PART 135 CERTIFICATE HOLDER DEFINED.—In this section, the term "part 135 certificate holder" means a person holding a certificate issued under part 135 of title 14, Code of Federal Regulations.

§ 44732. Prohibition on personal use of electronic devices on flight deck

(a) IN GENERAL.—It is unlawful for a flight crewmember of an aircraft used to provide air transportation under part 121 of title 14, Code of Federal Regulations, to use a personal wireless communications device or laptop computer while at the flight crewmember's duty station on the flight deck of such an aircraft while the aircraft is being operated.

(b) EXCEPTIONS.—Subsection (a) shall not apply to the use of a personal wireless communications device or laptop computer for a purpose directly related to operation of the aircraft, or for emergency, safety-related, or employment-related communications, in accordance with procedures established by the air carrier and the Administrator of the Federal Aviation Administration.

(c) ENFORCEMENT.—In addition to the penalties provided under section 46301 applicable to any violation of this section, the Administrator of the Federal Aviation Administration may enforce compliance with this section under section 44709 by amending, modifying, suspending, or revoking a certificate under this chapter.

(d) PERSONAL WIRELESS COMMUNICATIONS DEVICE DEFINED.—In this section, the term "personal wireless communications device" means a device through which personal wireless services (as defined in section 332(c)(7)(C)(i) of the Communications Act of 1934 (47 U.S.C. 332(c)(7)(C)(i))) are transmitted.

§ 44733. Inspection of foreign repair stations

(a) IN GENERAL.—Not later than one year after the date of enactment of this section, the Administrator of the Federal Aviation Administration shall establish and implement a safety assessment system for each part 145 repair station based on the type, scope, and complexity of work being performed by the repair station, which shall—

(1) ensure that repair stations outside the United States are subject to appropriate inspections that are based on identified risks and consistent with United States requirements;

(2) accept consideration of inspection results and findings submitted by foreign civil aviation authorities operating under a maintenance safety or maintenance implementation agreement with the United States in meeting the requirements of the safety assessment system; and

(3) require all maintenance safety or maintenance implementation agreements with the United States to provide an opportunity for the Federal Aviation Administration to conduct independent inspections of covered part 145 repair stations when safety concerns warrant such inspections.

(b) NOTICE TO CONGRESS OF NEGOTIATIONS.—The Administrator shall notify the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives on or before the 30th day after initiating formal negotiations with a foreign aviation authority or other appropriate foreign government agency on a new maintenance safety or maintenance implementation agreement.

(c) ANNUAL REPORT.—Not later than one year after the date of enactment of this section, and annually thereafter, the Administrator shall publish a report on the Administration's oversight of part 145 repair stations and implementation of the safety assessment system required by subsection (a), which shall—

(1) describe in detail any improvements in the Federal Aviation Administration's ability to identify and track where part 121 air carrier repair work is performed;

(2) include a staffing model to determine the best placement of inspectors and the number of inspectors needed for the oversight and implementation;

(3) describe the training provided to inspectors with respect to the oversight and implementation;

(4) include an assessment of the quality of monitoring and surveillance by the Federal Aviation Administration of work provided by its inspectors and the inspectors of foreign authorities operating under a maintenance safety or maintenance implementation agreement with the United States; and

(5) specify the number of sample inspections performed by Federal Aviation Administration inspectors at each repair station that is covered by a maintenance safety or maintenance implementation agreement with the United States.

(d) ALCOHOL AND CONTROLLED SUBSTANCE TESTING PROGRAM REQUIREMENTS.—

(1) IN GENERAL.—The Secretary of State and the Secretary of Transportation shall request, jointly, the governments of foreign countries that are members of the International Civil Aviation Organization to establish international standards for alcohol and controlled substances testing of persons that perform safety-sensitive maintenance functions on commercial air carrier aircraft.

(2) APPLICATION TO PART 121 AIRCRAFT WORK.—Not later than one year after the date of enactment of this section, the Administrator shall promulgate a proposed rule requiring that all part 145 repair station employees responsible for safety-sensitive

maintenance functions on part 121 air carrier aircraft are subject to an alcohol and controlled substances testing program that is determined acceptable by the Administrator and is consistent with the applicable laws of the country in which the repair station is located.

(e) INSPECTIONS.—The Administrator shall require part 145 repair stations to be inspected as frequently as determined warranted by the safety assessment system required by subsection (a), regardless of where the station is located, and in a manner consistent with United States obligations under international agreements.

(f) DEFINITIONS.—In this section, the following definitions apply:

(1) PART 121 AIR CARRIER.—The term "part 121 air carrier" means an air carrier that holds a certificate issued under part 121 of title 14, Code of Federal Regulations.

(2) PART 145 REPAIR STATION.—The term "part 145 repair station" means a repair station that holds a certificate issued under part 145 of title 14, Code of Federal Regulations.

* * * * * * *

CHAPTER 453—FEES

Sec.
45301. General provisions.

* * * * * * *

45305. Registration, certification, and related fees.

§ 45301. General provisions

(a) * * *

[(b) LIMITATIONS.—

[(1) AUTHORIZATION AND IMPACT CONSIDERATIONS.—In establishing fees under subsection (a), the Administrator—

[(A) is authorized to recover in fiscal year 1997 $100,000,000; and

[(B) shall ensure that each of the fees required by subsection (a) is reasonably related to the Administration's costs, as determined by the Administrator, of providing the service rendered. Services for which costs may be recovered include the costs of air traffic control, navigation, weather services, training and emergency services which are available to facilitate safe transportation over the United States, and other services provided by the Administrator or by programs financed by the Administrator to flights that neither take off nor land in the United States. The Determination of such costs by the Administrator is not subject to judicial review.

[(2) PUBLICATION; COMMENT.—The Administrator shall publish in the Federal Register an initial fee schedule and associated collection process as an interim final rule, pursuant to which public comment will be sought and a final rule issued.]

(b) ESTABLISHMENT AND ADJUSTMENT OF FEES.—

(1) IN GENERAL.—In establishing and adjusting fees under this section, the Administrator shall ensure that the fees are reasonably related to the Administration's costs, as determined by the Administrator, of providing the services rendered.

(2) SERVICES FOR WHICH COSTS MAY BE RECOVERED.—Services for which costs may be recovered under this section include the costs of air traffic control, navigation, weather services, training, and emergency services that are available to facilitate safe transportation over the United States and the costs of other services provided by the Administrator, or by programs financed by the Administrator, to flights that neither take off nor land in the United States.

(3) LIMITATIONS ON JUDICIAL REVIEW.—Notwithstanding section 702 of title 5 or any other provision of law, the following actions and other matters shall not be subject to judicial review:

(A) The establishment or adjustment of a fee by the Administrator under this section.

(B) The validity of a determination of costs by the Administrator under paragraph (1), and the processes and procedures applied by the Administrator when reaching such determination.

(C) An allocation of costs by the Administrator under paragraph (1) to services provided, and the processes and procedures applied by the Administrator when establishing such allocation.

(4) ADJUSTMENT OF OVERFLIGHT FEES.—In accordance with section 106(f)(3)(A), the Administrator shall adjust the overflight fees established by subsection (a)(1) by issuing a final rule with respect to the notice of proposed rulemaking published in the Federal Register on September 28, 2010 (75 Fed. Reg. 59661).

(5) AIRCRAFT ALTITUDE.—Nothing in this section shall require the Administrator to take into account aircraft altitude in establishing any fee for aircraft operations in en route or oceanic airspace.

(6) COSTS DEFINED.—In this subsection, the term "costs" includes operation and maintenance costs, leasing costs, and overhead expenses associated with the services provided and the facilities and equipment used in providing such services.

* * * * * * *

(e) ADJUSTMENT OF FEES.—In addition to adjustments under subsection (b), the Administrator may periodically adjust the fees established under this section.

§ 45302. Fees involving aircraft not providing air transportation

(a) * * *

* * * * * * *

(e) EFFECTIVE DATE.—**[**A fee**]**

(1) IN GENERAL.—A fee may not be imposed under this section before the date on which the regulations prescribed under sections 44111(d), 44703(f)(2), and 44713(d)(2) of this title take effect.

(2) EFFECT OF IMPOSITION OF OTHER FEES.—A fee may not be imposed for a service or activity under this section during any

period in which a fee for the same service or activity is imposed under section 45305.

* * * * * * *

§ 45305. Registration, certification, and related fees

(a) GENERAL AUTHORITY AND FEES.—Subject to subsection (b), the Administrator of the Federal Aviation Administration shall establish and collect a fee for each of the following services and activities of the Administration that does not exceed the estimated costs of the service or activity:

(1) Registering an aircraft.

(2) Reregistering, replacing, or renewing an aircraft registration certificate.

(3) Issuing an original dealer's aircraft registration certificate.

(4) Issuing an additional dealer's aircraft registration certificate (other than the original).

(5) Issuing a special registration number.

(6) Issuing a renewal of a special registration number reservation.

(7) Recording a security interest in an aircraft or aircraft part.

(8) Issuing an airman certificate.

(9) Issuing a replacement airman certificate.

(10) Issuing an airman medical certificate.

(11) Providing a legal opinion pertaining to aircraft registration or recordation.

(b) LIMITATION ON COLLECTION.—No fee may be collected under this section unless the expenditure of the fee to pay the costs of activities and services for which the fee is imposed is provided for in advance in an appropriations Act.

(c) FEES CREDITED AS OFFSETTING COLLECTIONS.—

(1) IN GENERAL.—Notwithstanding section 3302 of title 31, any fee authorized to be collected under this section shall—

(A) be credited as offsetting collections to the account that finances the activities and services for which the fee is imposed;

(B) be available for expenditure only to pay the costs of activities and services for which the fee is imposed, including all costs associated with collecting the fee; and

(C) remain available until expended.

(2) CONTINUING APPROPRIATIONS.—The Administrator may continue to assess, collect, and spend fees established under this section during any period in which the funding for the Federal Aviation Administration is provided under an Act providing continuing appropriations in lieu of the Administration's regular appropriations.

(3) ADJUSTMENTS.—The Administrator shall adjust a fee established under subsection (a) for a service or activity if the Administrator determines that the actual cost of the service or activity is higher or lower than was indicated by the cost data used to establish such fee.

* * * * * * *

SUBPART IV—ENFORCEMENT AND PENALTIES

* * * * * * *

CHAPTER 463—PENALTIES

§ 46301. Civil penalties

(a) GENERAL PENALTY.—(1) A person is liable to the United States Government for a civil penalty of not more than $25,000 (or $1,100 if the person is an individual or small business concern) for violating—

(A) chapter 401 (except sections 40103(a) and (d), 40105, 40116, and 40117), chapter 411, chapter 413 (except sections 41307 and 41310(b)-(f)), chapter 415 (except sections 41502, 41505, and 41507 - 41509), chapter 417 (except sections 41703, 41704, 41710, 41713, and 41714), chapter 419, subchapter II or III of chapter 421, *chapter 423,* chapter 441 (except section 44109), section 44502(b) or (c), chapter 447 (except sections 44717 and 44719 - 44723), chapter 449 (except sections 44902, 44903(d), 44904, 44907(a)-(d)(1)(A) and (d)(1)(C)-(f), and 44908), *chapter 451,* section 47107(b) (including any assurance made under such section), or section 47133 of this title;

* * * * * * *

(5) PENALTIES APPLICABLE TO INDIVIDUALS AND SMALL BUSINESS CONCERNS.—

(A) An individual (except an airman serving as an airman) or small business concern is liable to the Government for a civil penalty of not more than $10,000 for violating—

(i) chapter 401 (except sections 40103(a) and (d), 40105, 40106(b), 40116, and 40117), section 44502 (b) or (c), chapter 447 (except sections 44717-44723), ⟦or chapter 449⟧ *chapter 449* (except sections 44902, 44903(d), 44904, and 44907- 44909)*, or chapter 451* of this title; or

* * * * * * *

(c) PROCEDURAL REQUIREMENTS.—(1) The Secretary of Transportation may impose a civil penalty for the following violations only after notice and an opportunity for a hearing:

(A) a violation of subsection (b) of this section or chapter 411, chapter 413 (except sections 41307 and 41310(b)-(f)), chapter 415 (except sections 41502, 41505, and 41507-41509), chapter 417 (except sections 41703, 41704, 41710, 41713, and 41714), chapter 419, subchapter II of chapter 421, *chapter 423,* or section 44909 of this title.

* * * * * * *

(d) ADMINISTRATIVE IMPOSITION OF PENALTIES.—(1) * * *

(2) The Administrator of the Federal Aviation Administration may impose a civil penalty for a violation of chapter 401 (except sections 40103(a) and (d), 40105, 40106(b), 40116, and 40117), chapter 441 (except section 44109), section 44502(b) or (c), chapter 447 (except sections 44717 and 44719-44723)*, chapter 451 (except section 45107)* or section 46301(b), ⟦46302⟧ *section 46302* (for a violation relating to section 46504), 46318, *46319,* or 47107(b) (as further defined by the Secretary under section 47107(l) and including

any assurance made under section 47107(b)) of this title or a regulation prescribed or order issued under any of those provisions. The Secretary of Homeland Security may impose a civil penalty for a violation of chapter 449 (except sections 44902, 44903(d), 44907(a)-(d)(1)(A), 44907(d)(1)(C)-(f), 44908, and 44909), *section 45107,* 46302 (except for a violation relating to section 46504), [46303] *section 46303*, or a regulation prescribed or order issued under such chapter 449. The Secretary of Homeland Security or Administrator shall give written notice of the finding of a violation and the penalty.

* * * * * * *

(f) COMPROMISE AND SETOFF.—(1)(A) The Secretary may compromise the amount of a civil penalty imposed for violating—

(i) chapter 401 (except sections 40103(a) and (d), 40105, 40116, and 40117), chapter 441 (except section 44109), section 44502(b) or (c), chapter 447 (except sections 44717 and 44719-44723), [or chapter 449] *chapter 449* (except sections 44902, 44903(d), 44904, 44907(a)-(d)(1)(A) and (d)(1)(C)-(f), 44908, and 44909)*, or chapter 451* of this title; or

* * * * * * *

PART B—AIRPORT DEVELOPMENT AND NOISE

* * * * * * *

CHAPTER 471—AIRPORT DEVELOPMENT

SUBCHAPTER I—AIRPORT IMPROVEMENT

Sec.
47101. Policies.

* * * * * * *

[47129. Resolution of airport-air carrier disputes concerning airport fees.]
47129. Resolution of disputes concerning airport fees.

* * * * * * *

SUBCHAPTER III—AVIATION DEVELOPMENT STREAMLINING

* * * * * * *

SUBCHAPTER I—AIRPORT IMPROVEMENT

§ 47101. Policies

(a) * * *

* * * * * * *

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

(1) * * *

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

(A) * * *

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

(C) consider passenger convenience, airport ground access, and access to airport facilities; and

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

* * * * * * *

(4) AEROTROPOLIS TRANSPORTATION SYSTEMS.—Encourage the development of aerotropolis transportation systems, which are planned and coordinated multimodal freight and passenger transportation networks that, as determined by the Secretary, provide efficient, cost-effective, sustainable, and intermodal connectivity to a defined region of economic significance centered around a major airport.

* * * * * * *

§ 47102. Definitions

In this subchapter—

(1) * * *

* * * * * * *

(3) "airport development" means the following activities, if undertaken by the sponsor, owner, or operator of a public-use airport:

(A) * * *

(B) acquiring for, or installing at, a public-use airport—

(i) * * *

* * * * * * *

(iv) firefighting and rescue equipment at an airport that serves scheduled passenger operations of air carrier aircraft designed for more than [20] *9* passenger seats;

* * * * * * *

(G) acquiring land for, or work necessary to construct, a pad suitable for deicing aircraft before takeoff at a commercial service airport, including constructing or reconstructing paved areas, drainage collection structures, treatment and discharge systems, appropriate lighting, paved access for deicing vehicles and aircraft, *and including acquiring glycol recovery vehicles,* but not including acquiring aircraft deicing fluids or constructing or reconstructing storage facilities for aircraft deicing equipment or fluids.

* * * * * * *

(M) construction of mobile refueler parking within a fuel farm at a nonprimary airport meeting the requirements of section 112.8 of title 40, Code of Federal Regulations.

(N) terminal development under section 47119(a).

(O) acquiring and installing facilities and equipment to provide air conditioning, heating, or electric power from terminal-based, nonexclusive use facilities to aircraft parked at a public use airport for the purpose of reducing energy use or harmful emissions as compared to the provi-

sion of such air conditioning, heating, or electric power from aircraft-based systems.

* * * * * * *

[(5) "airport planning" means planning as defined by regulations the Secretary prescribes and includes integrated airport system planning.**]**

(5) "airport planning" means planning as defined by regulations the Secretary prescribes and includes—

(A) integrated airport system planning;

(B) developing an environmental management system; and

(C) developing a plan for recycling and minimizing the generation of airport solid waste, consistent with applicable State and local recycling laws, including the cost of a waste audit.

* * * * * * *

(8) "general aviation airport" means a public airport that is located in a State and that, as determined by the Secretary—

(A) does not have scheduled service; or

(B) has scheduled service with less than 2,500 passenger boardings each year.

[(8)**]** *(9)* "integrated airport system planning" means developing for planning purposes information and guidance to decide the extent, kind, location, and timing of airport development needed in a specific area to establish a viable, balanced, and integrated system of public-use airports, including—

(A) * * *

* * * * * * *

[(9)**]** *(10)* "landed weight" means the weight of aircraft transporting only cargo in intrastate, interstate, and foreign air transportation, as the Secretary determines under regulations the Secretary prescribes.

[(10)**]** *(11)* "large hub airport" means a commercial service airport that has at least 1.0 percent of the passenger boardings.

[(11)**]** *(12)* "low-emission technology" means technology for vehicles and equipment whose emission performance is the best achievable under emission standards established by the Environmental Protection Agency and that relies exclusively on alternative fuels that are substantially nonpetroleum based, as defined by the Department of Energy, but not excluding hybrid systems or natural gas powered vehicles.

[(12)**]** *(13)* "medium hub airport" means a commercial service airport that has at least 0.25 percent but less than 1.0 percent of the passenger boardings.

[(13)**]** *(14)* "nonhub airport" means a commercial service airport that has less than 0.05 percent of the passenger boardings.

[(14)**]** *(15)* "passenger boardings"—

(A) * * *

* * * * * * *

[(15)] *(16)* "primary airport" means a commercial service airport the Secretary determines to have more than 10,000 passenger boardings each year.

[(16)] *(17)* "project" means a project, separate projects included in one project grant application, or all projects to be undertaken at an airport in a fiscal year, to achieve airport development or airport planning.

[(17)] *(18)* "project cost" means a cost involved in carrying out a project.

[(18)] *(19)* "project grant" means a grant of money the Secretary makes to a sponsor to carry out at least one project.

[(19)] *(20)* "public agency" means—

(A) * * *

* * * * * * *

[(20)] *(21)* "public airport" means an airport used or intended to be used for public purposes—

(A) * * *

* * * * * * *

[(21)] *(22)* "public-use airport" means—

(A) * * *

* * * * * * *

[(22)] *(23)* "reliever airport" means an airport the Secretary designates to relieve congestion at a commercial service airport and to provide more general aviation access to the overall community.

(24) "revenue producing aeronautical support facilities" means fuel farms, hangar buildings, self-service credit card aeronautical fueling systems, airplane wash racks, major rehabilitation of a hangar owned by a sponsor, or other aeronautical support facilities that the Secretary determines will increase the revenue producing ability of the airport.

[(23)] *(25)* "small hub airport" means a commercial service airport that has at least 0.05 percent but less than 0.25 percent of the passenger boardings.

[(24)] *(26)* "sponsor" means—

(A) * * *

* * * * * * *

[(25)] *(27)* "State" means a State of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, American Samoa, the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and Guam.

(28) "terminal development" means—

(A) development of—

(i) an airport passenger terminal building, including terminal gates;

(ii) access roads servicing exclusively airport traffic that leads directly to or from an airport passenger terminal building; and

(iii) walkways that lead directly to or from an airport passenger terminal building; and

(B) the cost of a vehicle described in section 47119(a)(1)(B).

§ 47103. National plan of integrated airport systems

(a) GENERAL REQUIREMENTS AND CONSIDERATIONS.—The Secretary of Transportation shall maintain the plan for developing public-use airports in the United States, named "the national plan of integrated airport systems". The plan shall include the kind and estimated cost of eligible airport development the Secretary of Transportation considers necessary to provide a safe, efficient, and integrated system of public-use airports adequate to anticipate and meet the needs of civil aeronautics, to meet the national defense requirements of the Secretary of Defense, and to meet identified needs of the United States Postal Service. Airport development included in the plan may not be limited to meeting the needs of any particular classes or categories of public-use airports. In maintaining the plan, the Secretary of Transportation shall consider the needs of each segment of civil aviation and the relationship of [each airport to—] *the airport system to—*

(1) the rest of the transportation [system in the particular area;] *system, including connection to the surface transportation network; and*

(2) forecasted technological developments in aeronautics[; and].

[(3) forecasted developments in other modes of intercity transportation.]

(b) SPECIFIC REQUIREMENTS.—In maintaining the plan, the Secretary of Transportation shall—

(1) to the extent possible and as appropriate, consult with departments, agencies, and instrumentalities of the United States Government, with public agencies, and with the aviation community[;]*; and*

[(2) consider tall structures that reduce safety or airport capacity; and]

[(3)] *(2)* make every reasonable effort to address the needs of air cargo operations[, Short Takeoff and Landing/Very Short Takeoff and Landing aircraft operations,] and rotary wing aircraft operations.

* * * * * * *

(d) PUBLICATION.—The Secretary of Transportation shall publish the [status of the] plan every 2 years.

§ 47104. Project grant authority

(a) * * *

* * * * * * *

(c) EXPIRATION OF AUTHORITY.—After [March 31, 2011] *September 30, 2014*, the Secretary may not incur obligations under subsection (b) of this section, except for obligations of amounts—

(1) * * *

* * * * * * *

§ 47106. Project grant application approval conditioned on satisfaction of project requirements

(a) PROJECT GRANT APPLICATION APPROVAL.—The Secretary of Transportation may approve an application under this subchapter for a project grant only if the Secretary is satisfied that—

(1) * * *

* * * * * * *

(4) the project will be completed without unreasonable delay; [and]

(5) the sponsor has authority to carry out the project as [proposed.] *proposed; and*

(6) if the project is for an airport that has an airport master plan, the master plan addresses issues relating to solid waste recycling at the airport, including—

(A) the feasibility of solid waste recycling at the airport;

(B) minimizing the generation of solid waste at the airport;

(C) operation and maintenance requirements;

(D) the review of waste management contracts; and

(E) the potential for cost savings or the generation of revenue.

* * * * * * *

(f) COMPETITION PLANS.—

(1) PROHIBITION.—Beginning in fiscal year 2001, no passenger facility [fee] *charge* may be approved for a covered airport under section 40117 and no grant may be made under this subchapter for a covered airport unless the airport has submitted to the Secretary a written competition plan in accordance with this subsection.

(2) CONTENTS.—A competition plan under this subsection shall include information on the availability of airport gates and related facilities, leasing and sub-leasing arrangements, gate-use requirements, [patterns of air service,] gate-assignment policy, financial constraints, airport controls over air- and ground-side capacity, *and* whether the airport intends to build or acquire gates that would be used as common facilities[, and airfare levels (as compiled by the Department of Transportation) compared to other large airports].

* * * * * * *

§ 47107. Project grant application approval conditioned on assurances about airport operations

(a) GENERAL WRITTEN ASSURANCES.—The Secretary of Transportation may approve a project grant application under this subchapter for an airport development project only if the Secretary receives written assurances, satisfactory to the Secretary, that—

(1) * * *

* * * * * * *

(16) the airport owner or operator will maintain a current layout plan of the airport that meets the following requirements:

(A) * * *

* * * * * * *

(D) when an alteration in the airport or its facility is made that does not conform to the approved plan and that the Secretary decides adversely affects the safety, utility, or efficiency of any property on or off the airport that is

owned, leased, or financed by the Government, the owner or operator, if requested by the Secretary, will—

(i) * * *

(ii) bear all cost of relocating the property or its replacement to a site acceptable to the Secretary and of restoring the property or its replacement to the level of safety, utility, efficiency, and cost of operation that existed before the alteration was made*, except in the case of a relocation or replacement of an existing airport facility that meets the conditions of section 47110(d)*;

* * * * * * *

(c) WRITTEN ASSURANCES ON ACQUIRING LAND.—(1) * * *

(2) The Secretary of Transportation may approve an application under this subchapter for an airport development project grant only if the Secretary receives written assurances, satisfactory to the Secretary, that if an airport owner or operator has received or will receive a grant for acquiring land and—

(A) if the land was or will be acquired for a noise compatibility purpose—

(i) * * *

* * * * * * *

(iii) the part of the proceeds from disposing of the land that is proportional to the Government's share of the cost of acquiring the land will be ❚paid to the Secretary for deposit in the Airport and Airway Trust Fund established under section 9502 of the Internal Revenue Code of 1986 (26 U.S.C. 9502) or, as the Secretary prescribes, reinvested in an approved noise compatibility project, including the purchase of nonresidential buildings or property in the vicinity of residential buildings or property previously purchased by the airport as part of a noise compatibility program❚ *reinvested in another project at the airport or transferred to another airport as the Secretary prescribes under paragraph (4)*; or

(B) if the land was or will be acquired for an airport purpose (except a noise compatibility purpose)—

(i) * * *

* * * * * * *

(iii) the part of the proceeds from disposing of the land that is proportional to the Government's share of the cost of acquiring the land will be reinvested, on application to the Secretary, in another eligible airport development project the Secretary approves under this subchapter or paid to the Secretary for deposit in ❚the Fund❚ *the Airport and Airway Trust Fund established under section 9502 of the Internal Revenue Code of 1986* if another eligible project does not exist.

* * * * * * *

(4) In approving the reinvestment or transfer of proceeds under paragraph (2)(A)(iii), the Secretary shall give preference, in descending order, to the following actions:

(A) Reinvestment in an approved noise compatibility project.

(B) Reinvestment in an approved project that is eligible for funding under section 47117(e).

(C) Reinvestment in an approved airport development project that is eligible for funding under section 47114, 47115, or 47117.

(D) Transfer to a sponsor of another public airport to be reinvested in an approved noise compatibility project at such airport.

(E) Payment to the Secretary for deposit in the Airport and Airway Trust Fund.

* * * * * * *

(s) COMPETITION DISCLOSURE REQUIREMENT.—

(1) * * *

* * * * * * *

[(3) SUNSET PROVISION.—This subsection shall cease to be effective beginning April 1, 2011.]

(t) AGREEMENTS GRANTING THROUGH-THE-FENCE ACCESS TO GENERAL AVIATION AIRPORTS.—

(1) IN GENERAL.—Subject to paragraph (2), a sponsor of a general aviation airport shall not be considered to be in violation of this subtitle, or to be in violation of a grant assurance made under this section or under any other provision of law as a condition for the receipt of Federal financial assistance for airport development, solely because the sponsor enters into an agreement that grants to a person that owns residential real property adjacent to the airport access to the airfield of the airport for the following:

(A) Aircraft of the person.

(B) Aircraft authorized by the person.

(2) THROUGH-THE-FENCE AGREEMENTS.—

(A) IN GENERAL.—An agreement described in paragraph (1) between an airport sponsor and a property owner shall be a written agreement that prescribes the rights, responsibilities, charges, duration, and other terms the airport sponsor determines are necessary to establish and manage the airport sponsor's relationship with the property owner.

(B) TERMS AND CONDITIONS.—An agreement described in paragraph (1) between an airport sponsor and a property owner shall require the property owner, at minimum—

(i) to pay airport access charges that, as determined by the airport sponsor, are comparable to those charged to tenants and operators on-airport making similar use of the airport;

(ii) to bear the cost of building and maintaining the infrastructure that, as determined by the airport sponsor, is necessary to provide aircraft located on the property adjacent to the airport access to the airfield of the airport;

(iii) to maintain the property for residential, noncommercial use for the duration of the agreement; and

(iv) to prohibit access to the airport from other properties through the property of the property owner.

§ 47108. Project grant agreements

(a) * * *

* * * * * * *

(e) CHANGE IN AIRPORT STATUS.—

(1) * * *

* * * * * * *

(3) CHANGES TO NONHUB PRIMARY STATUS.—If the status of a nonhub primary airport changes to a small hub primary airport at a time when the airport has received discretionary funds under this chapter for a terminal development project in accordance with [section 47110(d)(2)] *section 47119(a)*, and the project is not yet completed, the project shall remain eligible for funding from the discretionary fund and the small airport fund to pay costs allowable under [section 47110(d)] *section 47119(a)*. Such project shall remain eligible for such funds for three fiscal years after the start of construction of the project, or if the Secretary determines that a further extension of eligibility is justified, until the project is completed.

§ 47109. United States Government's share of project costs

(a) GENERAL.—Except as [provided in subsection (b) or subsection (c) of this section] *otherwise provided in this section*, the United States Government's share of allowable project costs is—

(1) * * *

* * * * * * *

(e) SPECIAL RULE FOR TRANSITION FROM SMALL HUB TO MEDIUM HUB STATUS.—If the status of a small hub airport changes to a medium hub airport, the Government's share of allowable project costs for the airport may not exceed 90 percent for the first 2 fiscal years following such change in hub status.

(f) SPECIAL RULE FOR ECONOMICALLY DEPRESSED COMMUNITIES.—The Government's share of allowable project costs shall be 95 percent for a project at an airport that—

(1) is receiving subsidized air service under subchapter II of chapter 417; and

(2) is located in an area that meets one or more of the criteria established in section 301(a) of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3161(a)), as determined by the Secretary of Commerce.

§ 47110. Allowable project costs

(a) * * *

(b) ALLOWABLE COST STANDARDS.—A project cost is allowable—

(1) * * *

(2)(A) * * *

* * * * * * *

[(D) if the cost is incurred after September 11, 2001, for a project described in section 47102(3)(J), 47102(3)(K), or 47102(3)(L) and shall not depend upon the date of execution of a grant agreement made under this subchapter;]

(D) if the cost is for airport development and is incurred before execution of the grant agreement, but in the same fiscal year as execution of the grant agreement, and if—

(i) the cost was incurred before execution of the grant agreement due to climactic conditions affecting the construction season in the vicinity of the airport;

(ii) the cost is in accordance with an airport layout plan approved by the Secretary and with all statutory and administrative requirements that would have been applicable to the project if the project had been carried out after execution of the grant agreement, including submission of a complete grant application to the appropriate regional or district office of the Federal Aviation Administration;

(iii) the sponsor notifies the Secretary before authorizing work to commence on the project;

(iv) the sponsor has an alternative funding source available to fund the project; and

(v) the sponsor's decision to proceed with the project in advance of execution of the grant agreement does not affect the priority assigned to the project by the Secretary for the allocation of discretionary funds;

* * * * * * *

(5) if the total costs allowed for the project are not more than the amount stated in the grant agreement as the maximum the Government will pay (except as provided in section 47108(b) of this title); **[**and**]**

(6) if the cost is for a project not described in section 47102(3) for acquiring for use at a commercial service airport vehicles and ground support equipment owned by an airport that include low-emission technology, but only to the extent of the incremental cost of equipping such vehicles or equipment with low-emission technology, as determined by the Secretary**[**.**]***; and*

(7) if the cost is incurred on a measure to improve the efficiency of an airport building (such as a measure designed to meet one or more of the criteria for being considered a high-performance green building as set forth under section 401(13) of the Energy Independence and Security Act of 2007 (42 U.S.C. 17061(13))) and—

(A) the measure is for a project for airport development;

(B) the measure is for an airport building that is otherwise eligible for construction assistance under this subchapter; and

(C) if the measure results in an increase in initial project costs, the increase is justified by expected savings over the life cycle of the project.

* * * * * * *

[(d) TERMINAL DEVELOPMENT COSTS.—(1) The Secretary may decide that the cost of terminal development (including multi-modal terminal development) in a nonrevenue-producing public-use area of a commercial service airport is allowable for an airport development project at the airport—

[(A) if the sponsor certifies that the airport, on the date the grant application is submitted to the Secretary, has—

[(i) all the safety equipment required for certification of the airport under section 44706 of this title;

[(ii) all the security equipment required by regulation; and

[(iii) provided for access, to the area of the airport for passengers for boarding or exiting aircraft, to those passengers boarding or exiting aircraft, except air carrier aircraft;

[(B) if the cost is directly related to moving passengers and baggage in air commerce within the airport, including vehicles for moving passengers between terminal facilities and between terminal facilities and aircraft; and

[(C) under terms necessary to protect the interests of the Government.

[(2) In making a decision under paragraph (1) of this subsection, the Secretary may approve as allowable costs the expenses of terminal development in a revenue-producing area and construction, reconstruction, repair, and improvement in a nonrevenue-producing parking lot if—

[(A) except as provided in section 47108(e)(3), the airport does not have more than .05 percent of the total annual passenger boardings in the United States; and

[(B) the sponsor certifies that any needed airport development project affecting safety, security, or capacity will not be deferred because of the Secretary's approval.]

(d) RELOCATION OF AIRPORT-OWNED FACILITIES.—The Secretary may determine that the costs of relocating or replacing an airport-owned facility are allowable for an airport development project at an airport only if—

(1) the Government's share of such costs will be paid with funds apportioned to the airport sponsor under section 47114(c)(1) or 47114(d);

(2) the Secretary determines that the relocation or replacement is required due to a change in the Secretary's design standards; and

(3) the Secretary determines that the change is beyond the control of the airport sponsor.

(e) LETTERS OF INTENT.—(1) * * *

* * * * * * *

(5) LETTERS OF INTENT.—The Secretary may not require an eligible agency to impose a passenger facility [fee] *charge* under section 40117 in order to obtain a letter of intent under this section.

* * * * * * *

(h) NONPRIMARY AIRPORTS.—The Secretary may decide that the *construction* costs of revenue producing aeronautical support facilities[, including fuel farms and hangars,] are allowable for an airport development project at a nonprimary airport if the Government's share of such costs is paid only with funds apportioned to the airport sponsor under section 47114(d)(3)(A) and if the Secretary determines that the sponsor has made adequate provision for financing airside needs of the airport.

§ 47112. Carrying out airport development projects

(a) * * *

* * * * * * *

(c) VETERANS' PREFERENCE.—(1) In this subsection—

(A) * * *

(B) "Vietnam-era veteran" means an individual who served on active duty (as defined in section 101 of title 38) in the armed forces for more than 180 consecutive days, any part of which occurred after August 4, 1964, and before May 8, 1975, and who was [separated from] *discharged or released from active duty in* the armed forces under honorable conditions.

(C) "Afghanistan-Iraq war veteran" means an individual who served on active duty (as defined in section 101 of title 38) in the Armed Forces in support of Operation Enduring Freedom, Operation Iraqi Freedom, or Operation New Dawn for more than 180 consecutive days, any part of which occurred after September 11, 2001, and before the date prescribed by presidential proclamation or by law as the last day of Operation Enduring Freedom, Operation Iraqi Freedom, or Operation New Dawn (whichever is later), and who was discharged or released from active duty in the armed forces under honorable conditions.

(D) "Persian Gulf veteran" means an individual who served on active duty in the Armed Forces in the Southwest Asia theater of operations during the Persian Gulf War for more than 180 consecutive days, any part of which occurred after August 2, 1990, and before the date prescribed by presidential proclamation or by law, and who was discharged or released from active duty in the armed forces under honorable conditions.

(2) A contract involving labor for carrying out an airport development project under a grant agreement under this subchapter must require that preference in the employment of labor (except in executive, administrative, and supervisory positions) be given to [Vietnam-era veterans and disabled veterans] *Vietnam-era veterans, Persian Gulf veterans, Afghanistan-Iraq war veterans, disabled veterans, and small business concerns (as defined in section 3 of the Small Business Act (15 U.S.C. 632)) owned and controlled by disabled veterans* when they are available and qualified for the employment.

§ 47113. Minority and disadvantaged business participation

(a) * * *

* * * * * * *

(e) MANDATORY TRAINING PROGRAM.—

(1) IN GENERAL.—Not later than one year after the date of enactment of this subsection, the Secretary shall establish a mandatory training program for persons described in paragraph (3) to provide streamlined training on certifying whether a small business concern qualifies as a small business concern owned and controlled by socially and economically disadvantaged individuals under this section and section 47107(e).

(2) IMPLEMENTATION.—The training program may be implemented by one or more private entities approved by the Secretary.

(3) PARTICIPANTS.—A person referred to in paragraph (1) is an official or agent of an airport sponsor—

(A) who is required to provide a written assurance under this section or section 47107(e) that the airport owner or operator will meet the percentage goal of subsection (b) of this section or section 47107(e)(1), as the case may be; or

(B) who is responsible for determining whether or not a small business concern qualifies as a small business concern owned and controlled by socially and economically disadvantaged individuals under this section or section 47107(e).

§ 47114. Apportionments

(a) * * *

* * * * * * *

(c) AMOUNTS APPORTIONED TO SPONSORS.—

(1) PRIMARY AIRPORTS.—

(A) * * *

* * * * * * *

(C) SPECIAL RULE.—In any fiscal year in which the total amount made available under section 48103 is [$3,200,000,000] *$3,000,000,000* or more—

(i) * * *

* * * * * * *

[(F) SPECIAL RULE FOR FISCAL YEARS 2004 AND 2005.—Notwithstanding subparagraph (A) and the absence of scheduled passenger aircraft service at an airport, the Secretary may apportion in fiscal years 2004 and 2005 to the sponsor of the airport an amount equal to the amount apportioned to that sponsor in fiscal year 2002 or 2003, whichever amount is greater, if the Secretary finds that—

[(i) the passenger boardings at the airport were below 10,000 in calendar year 2002 or 2003;

[(ii) the airport had at least 10,000 passenger boardings and scheduled passenger aircraft service in either calendar year 2000 or 2001; and

[(iii) the reason that passenger boardings described in clause (i) were below 10,000 was the decrease in passengers following the terrorist attacks of September 11, 2001.

[(G) SPECIAL RULE FOR FISCAL YEAR 2006.—Notwithstanding subparagraph (A) and the absence of scheduled passenger aircraft service at an airport, the Secretary may apportion in fiscal year 2006 to the sponsor of the airport an amount equal to $500,000, if the Secretary finds that—

[(i) the passenger boardings at the airport were below 10,000 in calendar year 2004;

[(ii) the airport had at least 10,000 passenger boardings and scheduled passenger aircraft service in either calendar year 2000 or 2001; and

[(iii) the reason that passenger boardings described in clause (i) were below 10,000 was the decrease in

passengers following the terrorist attacks of September 11, 2001.]

(F) SPECIAL RULE FOR FISCAL YEARS 2011 AND 2012.—Notwithstanding subparagraph (A), for an airport that had more than 10,000 passenger boardings and scheduled passenger aircraft service in calendar year 2007, but in either calendar year 2009 or 2010, or in both years, the number of passenger boardings decreased to a level below 10,000 boardings per year at such airport, the Secretary may apportion in each of fiscal years 2011 and 2012 to the sponsor of such airport an amount equal to the amount apportioned to that sponsor in fiscal year 2009.

(2) CARGO AIRPORTS.—

(A) * * *

* * * * * * *

(C) LIMITATION.—In any fiscal year in which the total amount made available under section 48103 is less than [$3,200,000,000] *$3,000,000,000*, not more than 8 percent of the amount apportioned under subparagraph (A) may be apportioned for any one airport.

* * * * * * *

(d) AMOUNTS APPORTIONED FOR GENERAL AVIATION AIRPORTS.—

(1) * * *

* * * * * * *

(3) SPECIAL RULE.—In any fiscal year in which the total amount made available under section 48103 is [$3,200,000,000] *$3,000,000,000* or more, rather than making an apportionment under paragraph (2), the Secretary shall apportion 20 percent of the amount subject to apportionment for each fiscal year as follows:

(A) * * *

* * * * * * *

(7) ELIGIBILITY TO RECEIVE PRIMARY AIRPORT MINIMUM APPORTIONMENT AMOUNT.—Notwithstanding any other provision of this subsection, the Secretary may apportion to an airport sponsor in a fiscal year an amount equal to the minimum apportionment available under subsection (c)(1)(B) if the Secretary finds that the airport—

(A) received scheduled or unscheduled air service from a large certificated air carrier (as defined in part 241 of title 14, Code of Federal Regulations, or such other regulations as may be issued by the Secretary under the authority of section 41709) in the calendar year used to calculate the apportionment; and

(B) had more than 10,000 passenger boardings in the calendar year used to calculate the apportionment.

(e) SUPPLEMENTAL APPORTIONMENT FOR ALASKA.—

(1) * * *

* * * * * * *

(4) SPECIAL RULE.—In any fiscal year in which the total amount made available under section 48103 is [$3,200,000,000] *$3,000,000,000* or more, the amount that

may be apportioned for airports in Alaska under paragraph (1) shall be increased by doubling the amount that would otherwise be apportioned.

(f) REDUCING APPORTIONMENTS.—

(1) IN GENERAL.—Subject to paragraph (3), an amount that would be apportioned under this section (except subsection (c)(2) in a fiscal year to the sponsor of an airport having at least .25 percent of the total number of boardings each year in the United States and for which a [fee] *charge* is imposed in the fiscal year under section 40117 of this title shall be reduced by an amount equal to—

(A) in the case of a [fee] *charge* of $3.00 or less, 50 percent of the projected revenues from the [fee] *charge* in the fiscal year but not by more than 50 percent of the amount that otherwise would be apportioned under this section; and

(B) in the case of a [fee] *charge* of more than $3.00, 75 percent of the projected revenues from the [fee] *charge* in the fiscal year but not by more than 75 percent of the amount that otherwise would be apportioned under this section.

(2) EFFECTIVE DATE OF REDUCTION.—A reduction in an apportionment required by paragraph (1) shall not take effect until the first fiscal year following the year in which the collection of the [fee] *charge* imposed under section 40117 is begun.

(3) SPECIAL RULE FOR TRANSITIONING AIRPORTS.—

(A) IN GENERAL.—Beginning with the fiscal year following the first calendar year in which the sponsor of an airport has more than .25 percent of the total number of boardings in the United States, the sum of the amount that would be apportioned under this section after application of paragraph (1) in a fiscal year to such sponsor and the projected revenues to be derived from the [fee] *charge* in such fiscal year shall not be less than the sum of the apportionment to such airport for the preceding fiscal year and the revenues derived from such [fee] *charge* in the preceding fiscal year.

* * * * * * *

§ 47115. Discretionary fund

(a) * * *

* * * * * * *

(j) MARSHALL ISLANDS, MICRONESIA, AND PALAU.—For [fiscal years 2004 through 2010, and for the portion of fiscal year 2011 ending before April 1, 2011,] *fiscal years 2010 through 2014,* the sponsors of airports located in the Republic of the Marshall Islands, Federated States of Micronesia, and Republic of Palau shall be eligible for grants under this section and section 47116.

* * * * * * *

§ 47117. Use of apportioned amounts

(a) * * *

* * * * * * *

(e) SPECIAL APPORTIONMENT CATEGORIES.—(1) The Secretary shall use amounts available to the discretionary fund under section 47115 of this title for each fiscal year as follows:

(A) * * *

* * * * * * *

(C) In any fiscal year in which the total amount made available under section 48103 is [$3,200,000,000] *$3,000,000,000* or more, at least two-thirds of 1 percent for grants to sponsors of reliever airports which have—

(i) * * *

* * * * * * *

§ 47118. Designating current and former military airports

(a) * * *

* * * * * * *

(c) CONSIDERATIONS.—In carrying out this section, the Secretary shall consider only current or former military airports for designation under this section if a grant under section 47117(e)(1)(B) would—

(1) reduce delays at an airport with more than 20,000 hours of annual delays in commercial passenger aircraft takeoffs and landings; [or]

(2) enhance airport and air traffic control system capacity in a metropolitan area or reduce current and projected flight [delays.] *delays; or*

(3) preserve or enhance minimum airfield infrastructure facilities at former military airports to support emergency diversionary operations for transoceanic flights in locations—

(A) within United States jurisdiction or control; and

(B) where there is a demonstrable lack of diversionary airports within the distance or flight-time required by regulations governing transoceanic flights.

* * * * * * *

(g) DESIGNATION OF GENERAL AVIATION [AIRPORT] *AIRPORTS*.—Notwithstanding any other provision of this section, [one of the airports bearing a designation under subsection (a) may be a general aviation airport that was a former military installation] *3 of the airports bearing designations under subsection (a) may be general aviation airports that were former military installations* closed or realigned under a section referred to in subsection (a)(1).

(h) SAFETY-CRITICAL AIRPORTS.—Notwithstanding any other provision of this chapter, a grant under section 47117(e)(1)(B) may be made for a federally owned airport designated under subsection (a) if the grant is for a project that is—

(1) to preserve or enhance minimum airfield infrastructure facilities described in subsection (c)(3); and

(2) necessary to meet the minimum safety and emergency operational requirements established under part 139 of title 14, Code of Federal Regulations.

§ 47119. Terminal development costs

(a) TERMINAL DEVELOPMENT PROJECTS.—

(1) IN GENERAL.—The Secretary of Transportation may approve a project for terminal development (including multimodal terminal development) in a nonrevenue-producing public-use area of a commercial service airport—

(A) if the sponsor certifies that the airport, on the date the grant application is submitted to the Secretary, has—

(i) all the safety equipment required for certification of the airport under section 44706;

(ii) all the security equipment required by regulation; and

(iii) provided for access by passengers to the area of the airport for boarding or exiting aircraft that are not air carrier aircraft;

(B) if the cost is directly related to moving passengers and baggage in air commerce within the airport, including vehicles for moving passengers between terminal facilities and between terminal facilities and aircraft; and

(C) under terms necessary to protect the interests of the Government.

(2) PROJECT IN REVENUE-PRODUCING AREAS AND NONREVENUE-PRODUCING PARKING LOTS.—In making a decision under paragraph (1), the Secretary may approve as allowable costs the expenses of terminal development in a revenue-producing area and construction, reconstruction, repair, and improvement in a nonrevenue-producing parking lot if—

(A) except as provided in section 47108(e)(3), the airport does not have more than .05 percent of the total annual passenger boardings in the United States; and

(B) the sponsor certifies that any needed airport development project affecting safety, security, or capacity will not be deferred because of the Secretary's approval.

[(a)] *(b)* REPAYING BORROWED MONEY.—

(1) * * *

* * * * * * *

(3) TERMINAL DEVELOPMENT COSTS AT PRIMARY AIRPORTS.—An amount apportioned under section 47114 or available under subsection (b)(3) to a primary airport—

(A) * * *

* * * * * * *

is available to repay immediately money borrowed and used to pay the costs for such terminal development if those costs would be allowable project costs under [section 47110(d)] *subsection (a)*.

(4) CONDITIONS FOR GRANT.—An amount is available for a grant under this subsection only if—

(A) the sponsor submits the certification required under [section 47110(d)] *subsection (a)*;

(B) the [Secretary of Transportation] *Secretary* decides that using the amount to repay the borrowed money will not defer an airport development project outside the terminal area at that airport; and

* * * * * * *

(5) APPLICABILITY OF CERTAIN LIMITATIONS.—A grant under this subsection shall be subject to the limitations in [subsection (b)(1) and (2)] *subsections (c)(1) and (c)(2)*.

[(b)] *(c)* AVAILABILITY OF AMOUNTS.—In a fiscal year, the Secretary may make available—

(1) * * *

(2) on approval of the Secretary, not more than $200,000 of the amount that may be distributed for the fiscal year from the discretionary fund established under section 47115 of this title—

(A) to a sponsor of a nonprimary commercial service airport to pay project costs allowable under [section 47110(d) of this title] *subsection (a)*; and

(B) to a sponsor of a reliever airport for the types of project costs allowable under [section 47110(d)] *subsection (a)*, including project costs allowable for a commercial service airport that each year does not have more than .05 percent of the total boardings in the United States;

(3) for use by a primary airport that each year does not have more than .05 percent of the total boardings in the United States, any part of amounts that may be distributed for the fiscal year from the discretionary fund and small airport fund to pay project costs allowable under [section 47110(d) of this title] *subsection (a)*;

(4) not more than $25,000,000 to pay project costs allowable for the fiscal year under [section 47110(d) of this title] *subsection (a)* for projects at commercial service airports that 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; or

(5) to a sponsor of a nonprimary airport, any part of amounts apportioned to the sponsor for the fiscal year under section 47114(d)(3)(A) for project costs allowable under [section 47110(d)] *subsection (a)*.

[(c)] *(d)* NONHUB AIRPORTS.—With respect to a project at a commercial service airport which annually has less than 0.05 percent of the total enplanements in the United States, the Secretary may approve the use of the amounts described in subsection (a) notwithstanding the requirements of sections 47107(a)(17), 47112, and 47113.

[(d)] *(e)* DETERMINATION OF PASSENGER BOARDING AT COMMERCIAL SERVICE AIRPORTS.—For the purpose of determining whether an amount may be distributed for a fiscal year from the discretionary fund in accordance with subsection (b)(2)(A) to a commercial service airport, the Secretary shall make the determination of whether or not a public airport is a commercial service airport on the basis of the number of passenger boardings and type of air service at the public airport in the calendar year that includes the first day of such fiscal year or the preceding calendar year, whichever is more beneficial to the airport.

(f) LIMITATION ON DISCRETIONARY FUNDS.—The Secretary may distribute not more than $20,000,000 from the discretionary fund established under section 47115 for terminal development projects

at a nonhub airport or a small hub airport that is eligible to receive discretionary funds under section 47108(e)(3).

* * * * * * *

§ 47124. Agreements for State and local operation of airport facilities

(a) * * *

(b) AIR TRAFFIC CONTROL CONTRACT PROGRAM.—[(1) The Secretary shall continue the low activity (Visual Flight Rules) level I air traffic control tower contract program established under subsection (a) of this section for towers existing on December 30, 1987, and extend the program to other towers as practicable.]

(1) CONTRACT TOWER PROGRAM.—

(A) CONTINUATION AND EXTENSION.—The Secretary shall continue the low activity (Visual Flight Rules) Level I air traffic control tower contract program established under subsection (a) for towers existing on December 30, 1987, and shall extend the program to other low activity air traffic control towers for which a qualified entity (as determined by the Secretary), a State, or a subdivision of the State meeting the requirements set forth by the Secretary has requested to participate in the program.

(B) SPECIAL RULE.—If the Secretary determines that a tower already operating under the program continued under this paragraph has a benefit-to-cost ratio of less than 1.0, the airport sponsor or State or local government having jurisdiction over the airport shall not be required to pay the portion of the costs that exceeds the benefit for a period of 18 months after such determination is made.

(C) USE OF EXCESS FUNDS.—If the Secretary finds that all or part of an amount made available to carry out the program continued under this paragraph is not required during a fiscal year, the Secretary may use, during such fiscal year, the amount not so required to carry out the program established under paragraph (3).

[(2) The Secretary]

(2) GENERAL AUTHORITY.—The Secretary may make a contract with a qualified entity (as determined by the Secretary) or, on a sole source basis, with a State or a political subdivision of a State to allow the entity, State, or subdivision to operate an airport traffic control tower classified as a level I (Visual Flight Rules) tower if the Secretary decides that the entity, State, or subdivision has the capability to comply with the requirements of this paragraph. The contract shall require that the entity, State, or subdivision comply with applicable safety regulations in operating the facility and with applicable competition requirements in making a subcontract to perform work to carry out the contract.

(3) CONTRACT AIR TRAFFIC CONTROL TOWER PROGRAM.—

(A) * * *

* * * * * * *

(D) COSTS EXCEEDING BENEFITS.—[If the costs]

(i) COST SHARING.—If the costs of operating an air traffic tower under the program exceed the benefits,

the airport sponsor or State or local government having jurisdiction over the airport shall pay the portion of the costs that exceed such benefit.

(ii) MAXIMUM LOCAL COST SHARE.—The maximum allowable local cost share allocated under clause (i) for an airport certified under part 139 of title 14, Code of Federal Regulations, with fewer than 50,000 annual passenger enplanements shall be capped at 20 percent of the cost of operating an air traffic tower under the program.

(iii) SUNSET.—Clause (ii) shall not be in effect after September 30, 2014.

[(E) FUNDING.—Of the amounts appropriated pursuant to section 106(k), not more than $6,500,000 for fiscal 2004, $7,000,000 for fiscal year 2005, $7,500,000 for fiscal year 2006, and $8,000,000 for fiscal year 2007 may be used to carry out this paragraph.]

(E) FUNDING.—Of the amounts appropriated pursuant to section 106(k)(1), not more than $8,500,000 for each of fiscal years 2011 through 2014 may be used to carry out this paragraph.

(F) USE OF EXCESS FUNDS.—If the Secretary finds that all or part of an amount made available under this paragraph is not required during a fiscal year, the Secretary may use, during such fiscal year, the amount not so required to carry out the program continued under paragraph (1).

* * * * * * *

(4) CONSTRUCTION OF AIR TRAFFIC CONTROL TOWERS.—

(A) * * *

* * * * * * *

(C) LIMITATION ON FEDERAL SHARE.—The Federal share of the cost of construction of a nonapproach control tower under this paragraph may not exceed [$1,500,000] *$2,000,000*.

* * * * * * *

(c) SAFETY AUDITS.—The Secretary shall establish uniform standards and requirements for regular safety assessments of air traffic control towers that receive funding under this section.

* * * * * * *

§ 47128. State block grant program

(a) GENERAL REQUIREMENTS.—The Secretary of Transportation shall [prescribe regulations] *issue guidance* to carry out a State block grant program. The [regulations] *guidance* shall provide that the Secretary may designate not more than 9 qualified States for fiscal years 2000 and 2001 and 10 qualified States for each fiscal year thereafter to assume administrative responsibility for all airport grant amounts available under this subchapter, except for amounts designated for use at primary airports.

(b) APPLICATIONS AND SELECTION.—A State wishing to participate in the program must submit an application to the Secretary. The Secretary shall select a State on the basis of its application only after—

(1) * * *

* * * * * * *

(4) finding that the State has agreed to comply with United States Government standard requirements for administering the block grant*, including the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), State and local environmental policy acts, Executive orders, agency regulations and guidance, and other Federal environmental requirements*; and

* * * * * * *

(d) ENVIRONMENTAL ANALYSIS AND COORDINATION REQUIREMENTS.—A Federal agency, other than the Federal Aviation Administration, that is responsible for issuing an approval, license, or permit to ensure compliance with a Federal environmental requirement applicable to a project or activity to be carried out by a State using amounts from a block grant made under this section shall—

(1) coordinate and consult with the State;

(2) use the environmental analysis prepared by the State for the project or activity if such analysis is adequate; and

(3) as necessary, consult with the State to describe the supplemental analysis the State must provide to meet applicable Federal requirements.

[§ 47129. Resolution of airport-air carrier disputes concerning airport fees]

§ 47129. Resolution of disputes concerning airport fees

(a) AUTHORITY TO REQUEST SECRETARY'S DETERMINATION.—

(1) IN GENERAL.—The Secretary of Transportation shall issue a determination as to whether a fee imposed upon one or more [air carriers (as defined in section 40102 of this title)] *air carriers or foreign air carriers (as those terms are defined in section 40102)* by the owner or operator of an airport is reasonable if—

(A) * * *

(B) a written complaint requesting such determination is filed with the Secretary by an affected [air carrier] *air carrier or foreign air carrier* within 60 days after such carrier receives written notice of the establishment or increase of such fee.

* * * * * * *

(c) DECISIONS BY SECRETARY.—The final regulations, policy statements, or guidelines required in subsection (b) shall provide the following:

(1) Not more than 120 days after an [air carrier] *air carrier or foreign air carrier* files with the Secretary a written complaint relating to an airport fee, the Secretary shall issue a final order determining whether such fee is reasonable.

* * * * * * *

(d) PAYMENT UNDER PROTEST; GUARANTEE OF AIR CARRIER *AND FOREIGN AIR CARRIER* ACCESS.—

(1) PAYMENT UNDER PROTEST.—

(A) IN GENERAL.—Any fee increase or newly established fee which is the subject of a complaint that is not dis-

missed by the Secretary shall be paid by the complainant [air carrier] *air carrier or foreign air carrier* to the airport under protest.

(B) REFERRAL OR CREDIT.—Any amounts paid under this subsection by a complainant [air carrier] *air carrier or foreign air carrier* to the airport under protest shall be subject to refund or credit to the [air carrier] *air carrier or foreign air carrier* in accordance with directions in the final order of the Secretary within 30 days of such order.

(C) ASSURANCE OF TIMELY REPAYMENT.—In order to assure the timely repayment, with interest, of amounts in dispute determined not to be reasonable by the Secretary, the airport shall obtain a letter of credit, or surety bond, or other suitable credit facility, equal to the amount in dispute that is due during the 120-day period established by this section, plus interest, unless the airport and the complainant [air carrier] *air carrier or foreign air carrier* agree otherwise.

* * * * * * *

(2) GUARANTEE OF AIR CARRIER *AND FOREIGN AIR CARRIER* ACCESS.—Contingent upon an [air carrier's] *air carrier's or foreign air carrier's* compliance with the requirements of paragraph (1) and pending the issuance of a final order by the Secretary determining the reasonableness of a fee that is the subject of a complaint filed under subsection (a)(1)(B), an owner or operator of an airport may not deny an [air carrier] *air carrier or foreign air carrier* currently providing air service at the airport reasonable access to airport facilities or service, or otherwise interfere with an [air carrier's] *air carrier's or foreign air carrier's* prices, routes, or services, as a means of enforcing the fee.

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

(1) a fee imposed pursuant to a written agreement with [air carriers] *air carriers or foreign air carriers* using the facilities of an airport;

* * * * * * *

(f) EFFECT ON EXISTING AGREEMENTS.—Nothing in this section shall adversely affect—

(1) the rights of any party under any existing written agreement between an [air carrier] *air carrier or foreign air carrier* and the owner or operator of an airport; or

* * * * * * *

§ 47131. Annual report

(a) GENERAL RULE.—Not later than [April 1] *June 1* of each year, the Secretary of Transportation shall submit to Congress a report on activities carried out under this subchapter during the prior fiscal year. The report shall include—

[(1) a detailed statement of airport development completed;

[(2) the status of each project undertaken;

[(3) the allocation of appropriations;

[(4) an itemized statement of expenditures and receipts; and]

(1) a summary of airport development and planning completed;

(2) a summary of individual grants issued;

(3) an accounting of discretionary and apportioned funds allocated;

(4) the allocation of appropriations; and

* * * * * * *

§ 47133. Restriction on use of revenues

(a) * * *

(b) EXCEPTIONS.—[Subsection (a) shall not apply if]

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

(2) SALE OF PRIVATE AIRPORT TO PUBLIC SPONSOR.—In the case of a privately owned airport, subsection (a) shall not apply to the proceeds from the sale of the airport to a public sponsor if—

(A) the sale is approved by the Secretary;

(B) funding is provided under this subchapter for any portion of the public sponsor's acquisition of airport land; and

(C) an amount equal to the remaining unamortized portion of any airport improvement grant made to that airport for purposes other than land acquisition, amortized over a 20-year period, plus an amount equal to the Federal share of the current fair market value of any land acquired with an airport improvement grant made to that airport on or after October 1, 1996, is repaid to the Secretary by the private owner.

(3) TREATMENT OF REPAYMENTS.—Repayments referred to in paragraph (2)(C) shall be treated as a recovery of prior year obligations.

* * * * * * *

§ 47134. Pilot program on private ownership of airports

(a) * * *

(b) APPROVAL OF APPLICATIONS.—The Secretary may approve, with respect to not more than [5 airports] *10 airports*, applications submitted under subsection (a) granting exemptions from the following provisions:

(1) USE OF REVENUES.—

[(A) IN GENERAL.—The Secretary may grant an exemption to a sponsor from the provisions of sections 47107(b) and 47133 of this title (and any other law, regulation, or grant assurance) to the extent necessary to permit the

sponsor to recover from the sale or lease of the airport such amount as may be approved—

[(i) in the case of a primary airport, by at least 65 percent of the scheduled air carriers serving the airport and by scheduled and nonscheduled air carriers whose aircraft landing at the airport during the preceding calendar year, had a total landed weight during the preceding calendar year of at least 65 percent of the total landed weight of all aircraft landing at the airport during such year; or

[(ii) in the case of a nonprimary airport, by the Secretary after the airport has consulted with at least 65 percent of the owners of aircraft based at that airport, as determined by the Secretary;]

(A) IN GENERAL.—The Secretary may grant an exemption to an airport sponsor from the requirements of sections 47107(b) and 47133 (and any other law, regulation, or grant assurance) to the extent necessary to permit the sponsor to recover from the sale or lease of the airport such amount as may be approved by the Secretary after the sponsor has consulted—

(i) in the case of a primary airport, with each air carrier and foreign air carrier serving the airport, as determined by the Secretary; and

(ii) in the case of a nonprimary airport, with at least 65 percent of the owners of aircraft based at that airport, as determined by the Secretary.

* * * * * * *

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

* * * * * * *

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

(1) * * *

* * * * * * *

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

[(A) by at least 65 percent of the air carriers serving the airport; and

[(B) by air carriers whose aircraft landing at the airport during the preceding calendar year had a total landed weight during the preceding calendar year of at least 65 percent of the total landed weight of all aircraft landing at the airport during such year.

[(5) The percentage increase in fees imposed on general aviation aircraft at the airport will not exceed the percentage increase in fees imposed on air carriers at the airport.]

[(6)] *(4)* Safety and security at the airport will be maintained at the highest possible levels.

[(7)] *(5)* The adverse effects of noise from operations at the airport will be mitigated to the same extent as at a public airport.

[(8)] *(6)* Any adverse effects on the environment from airport operations will be mitigated to the same extent as at a public airport.

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

(7) A fee imposed by the airport on an air carrier or foreign air carrier may not include any portion for a return on investment or recovery of principal with respect to consideration paid to a public agency for the lease or sale of the airport unless that portion of the fee is approved by the air carrier or foreign air carrier.

[(d) PARTICIPATION OF CERTAIN AIRPORTS.—

[(1) GENERAL AVIATION AIRPORTS.—If the Secretary approves under subsection (b) applications with respect to 5 airports, one of the airports must be a general aviation airport.

[(2) LARGE HUB AIRPORTS.—The Secretary may not approve under subsection (b) more than 1 application submitted by an airport that had 1 percent or more of the total passenger boardings (as defined in section 47102) in the United States in the preceding calendar year.]

[(e)] *(d)* REQUIRED FINDING THAT APPROVAL WILL NOT RESULT IN UNFAIR METHODS OF COMPETITION.—The Secretary may approve an application under subsection (b) only if the Secretary finds that the approval will not result in unfair and deceptive practices or unfair methods of competition.

[(f)] *(e)* INTERESTS OF GENERAL AVIATION USERS.—In approving an application of an airport under this section, the Secretary shall ensure that the interests of general aviation users of the airport are not adversely affected.

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

(1) imposing a passenger facility [fee] *charge* under section 40117 of this title;

* * * * * * *

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

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

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

[(k)] *(j)* AUDITS.—The Secretary may conduct periodic audits of the financial records and operations of an airport receiving an exemption under this section.

[(l)] *(k)* REPORT.—Not later than 2 years after the date of the initial approval of an application under this section, the Secretary shall transmit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report on implementation of the program under this section.

[(m)] *(l)* GENERAL AVIATION AIRPORT DEFINED.—In this section, the term "general aviation airport" means an airport that is not a commercial service airport.

§ 47139. Emission credits for air quality projects

(a) IN GENERAL.—The Administrator of the Environmental Protection Agency, in consultation with the Secretary of Transportation, shall issue guidance on how to ensure that airport sponsors receive appropriate emission reduction credits for carrying out projects described in sections 40117(a)(3)(G), [47102(3)(F),] 47102(3)(K), and 47102(3)(L). Such guidance shall include, at a minimum, the following conditions:

(1) * * *

* * * * * * *

(b) ASSURANCE OF RECEIPT OF CREDITS.—As a condition for making a grant for a project described in section [47102(3)(F),] 47102(3)(K), 47102(3)(L), or 47140 or as a condition for granting approval to collect or use a passenger facility [fee] *charge* for a project described in section 40117(a)(3)(G), [47103(3)(F),] 47102(3)(K), 47102(3)(L), or 47140, the Secretary must receive assurance from the State in which the project is located, or from the Administrator of the Environmental Protection Agency where there is a Federal implementation plan, that the airport sponsor will receive appropriate emission credits in accordance with the conditions of this section.

* * * * * * *

§ 47141. Compatible land use planning and projects by State and local governments

(a) * * *

* * * * * * *

(f) SUNSET.—This section shall not be in effect after [March 31, 2011] *September 30, 2014*.

SUBCHAPTER II—SURPLUS PROPERTY FOR PUBLIC AIRPORTS

§ 47151. Authority to transfer an interest in surplus property

(a) * * *

* * * * * * *

(e) REQUESTS BY PUBLIC AGENCIES.—Except with respect to a request made by another department, agency, or instrumentality of the executive branch of the United States Government, such a department, agency, or instrumentality shall give priority consideration to a request made by a public agency (as defined in section 47102) for surplus property described in subsection (a) [(other than real property that is subject to section 2687 of title 10, section 201 of the Defense Authorization Amendments and Base Closure and Realignment Act (10 U.S.C. 2687 note), or section 2905 of the Defense Base Closure and Realignment Act of 1990 (10 U.S.C. 2687 note))] for use at a public airport.

* * * * * * *

SUBCHAPTER III—AVIATION DEVELOPMENT STREAMLINING

§ 47171. Expedited, coordinated environmental review process

(a) AVIATION PROJECT REVIEW PROCESS.—The Secretary of Transportation shall develop and implement an expedited and coordinated environmental review process for airport capacity enhancement projects at congested airports, aviation safety projects, [and aviation security projects] *aviation security projects, and NextGen environmental efficiency projects* that—

(1) * * *

* * * * * * *

(b) AVIATION PROJECTS SUBJECT TO A STREAMLINED ENVIRONMENTAL REVIEW PROCESS.—

[(1) AIRPORT CAPACITY ENHANCEMENT PROJECTS AT CONGESTED AIRPORTS.—An airport capacity enhancement project at a congested airport shall be subject to the coordinated and expedited environmental review process requirements set forth in this section.]

(1) AIRPORT CAPACITY ENHANCEMENT PROJECTS AT CONGESTED AIRPORTS AND CERTAIN NEXTGEN ENVIRONMENTAL EFFICIENCY PROJECTS.—The following projects shall be subject to the coordinated and expedited environmental review process requirements set forth in this section:

(A) An airport capacity enhancement project at a congested airport.

(B) A NextGen environmental efficiency project at an Operational Evolution Partnership airport or any congested airport.

(2) AVIATION SAFETY [AND AVIATION SECURITY PROJECTS] *PROJECTS, AVIATION SECURITY PROJECTS, AND ANY NEXTGEN ENVIRONMENTAL EFFICIENCY PROJECTS.*—

(A) IN GENERAL.—The Administrator of the Federal Aviation Administration may designate an aviation safety

project [or aviation security project], *an aviation security project, or any NextGen environmental efficiency project* for priority environmental review. The Administrator may not delegate this designation authority. A designated project shall be subject to the coordinated and expedited environmental review process requirements set forth in this section.

(B) PROJECT DESIGNATION CRITERIA.—The Administrator shall establish guidelines for the designation of an aviation safety project [or aviation security project], *aviation security project, or NextGen environmental efficiency project* for priority environmental review. Such guidelines shall provide for consideration of—

(i) * * *

* * * * * * *

(c) HIGH PRIORITY OF AND AGENCY PARTICIPATION IN COORDINATED REVIEWS.—

(1) HIGH PRIORITY FOR ENVIRONMENTAL REVIEWS.—Each Federal agency with jurisdiction over an environmental review, analysis, opinion, permit, license, or approval shall accord any such review, analysis, opinion, permit, license, or approval involving [an airport capacity enhancement project at a congested airport] *a project described in subsection (b)(1)* or a project designated under subsection (b)(2) the highest possible priority and conduct the review, analysis, opinion, permit, license, or approval expeditiously.

* * * * * * *

(d) IDENTIFICATION OF JURISDICTIONAL AGENCIES.—With respect to [each airport capacity enhancement project at a congested airport] *a project described in subsection (b)(1)* or a project designated under subsection (b)(2), the Secretary shall identify, as soon as practicable, all Federal and State agencies that may have jurisdiction over environmental-related matters that may be affected by the project or may be required by law to conduct an environmental-related review or analysis of the project or determine whether to issue an environmental-related permit, license, or approval for the project.

* * * * * * *

(h) LEAD AGENCY RESPONSIBILITY.—The Federal Aviation Administration shall be the lead agency for projects designated under subsection (b)(2) and [airport capacity enhancement projects at congested airports] *projects described in subsection (b)(1)* and shall be responsible for defining the scope and content of the environmental impact statement, consistent with regulations issued by the Council on Environmental Quality. Any other Federal agency or State agency that is participating in a coordinated environmental review process under this section shall give substantial deference, to the extent consistent with applicable law and policy, to the aviation expertise of the Federal Aviation Administration.

* * * * * * *

(k) ALTERNATIVES ANALYSIS.—The Secretary shall determine the reasonable alternatives to [an airport capacity enhancement project at a congested airport] *a project described in subsection*

(b)(1) or a project designated under subsection (b)(2). Any other Federal agency, or State agency that is participating in a coordinated review process under this section with respect to the project shall consider only those alternatives to the project that the Secretary has determined are reasonable.

* * * * * * *

(n) DEFINITIONS.—In this section, the following definitions apply:

(1) CONGESTED AIRPORT.—The term "congested airport" means an airport that accounted for at least one percent of all delayed aircraft operations in the United States in the most recent year for which data is available and an airport listed in table 1 of the Federal Aviation Administration's Airport Capacity Benchmark Report 2004.

(2) NEXTGEN ENVIRONMENTAL EFFICIENCY PROJECT.—The term "NextGen environmental efficiency project" means a Next Generation Air Transportation System aviation project that—

(A) develops and certifies performance-based navigation procedures; or

(B) develops other environmental mitigation projects the Secretary may designate as facilitating a reduction in noise, fuel consumption, or emissions from air traffic operations.

(3) PERFORMANCE-BASED NAVIGATION.—The term "performance-based navigation" means a framework for defining performance requirements in navigation specifications that—

(A) can be applied to an air traffic route, instrument procedure, or defined airspace; or

(B) provides a basis for the design and implementation of automated flight paths, airspace design, and obstacle clearance.

§ 47173. Airport funding of FAA staff

(a) ACCEPTANCE OF SPONSOR-PROVIDED FUNDS.—Notwithstanding any other provision of law, the Administrator of the Federal Aviation Administration may accept funds from an airport sponsor, including funds provided to the sponsor under section 47114(c), to hire additional staff or obtain the ⟦services of consultants in order to facilitate the timely processing, review, and completion of environmental activities associated with an airport development project.⟧ *services of consultants—*

(1) to facilitate the timely processing, review, and completion of environmental activities associated with an airport development project;

(2) to conduct special environmental studies related to an airport project funded with Federal funds;

(3) to conduct special studies or reviews to support approved noise compatibility measures described in part 150 of title 14, Code of Federal Regulations;

(4) to conduct special studies or reviews to support environmental mitigation in a record of decision or finding of no significant impact by the Federal Aviation Administration; and

(5) to facilitate the timely processing, review, and completion of environmental activities associated with new or amended flight procedures, including performance-based navigation pro-

cedures, such as required navigation performance procedures and area navigation procedures.

* * * * * * *

§ 47175. Definitions

In this subchapter, the following definitions apply:

(1) * * *

(2) CONGESTED AIRPORT.—The term "congested airport" means an airport that accounted for at least 1 percent of all delayed aircraft operations in the United States in the most recent year for which such data is available and an airport listed in table 1 of the Federal Aviation Administration's Airport Capacity Benchmark Report [2001] *2004 or any successor report*.

* * * * * * *

(7) JOINT USE AIRPORT.—The term "joint use airport" means an airport owned by the Department of Defense, at which both military and civilian aircraft make shared use of the airfield.

* * * * * * *

CHAPTER 475—NOISE

SUBCHAPTER I—NOISE ABATEMENT

Sec.
47501. Definitions.

* * * * * * *

SUBCHAPTER II—NATIONAL AVIATION NOISE POLICY

* * * * * * *

[47531. Penalties for violating sections 47528–47530.]
47531. Penalties.

* * * * * * *

47534. Prohibition on operating certain aircraft weighing 75,000 pounds or less not complying with stage 3 noise levels.

* * * * * * *

SUBCHAPTER I—NOISE ABATEMENT

* * * * * * *

§ 47504. Noise compatibility programs

(a) SUBMISSIONS.—(1) * * *

(2) A program submitted under paragraph (1) of this subsection shall state the measures the operator has taken or proposes to take to reduce existing noncompatible uses and prevent introducing additional noncompatible uses in the area covered by the map. The measures may include—

(A) * * *

* * * * * * *

(D) using flight procedures to control the operation of aircraft to reduce exposure of individuals to noise in the area surrounding the airport; [and]

(E) acquiring land, air rights, easements, development rights, and other interests to ensure that the property will be

used in ways compatible with airport [operations.] *operations; and*

(F) conducting comprehensive land use planning (including master plans, traffic studies, environmental evaluation, and economic and feasibility studies), jointly with neighboring local jurisdictions undertaking community redevelopment in an area in which land or other property interests have been acquired by the operator pursuant to this section, to encourage and enhance redevelopment opportunities that reflect zoning and uses that will prevent the introduction of additional incompatible uses and enhance redevelopment potential.

* * * * * * *

(e) GRANTS FOR ASSESSMENT OF FLIGHT PROCEDURES.—

(1) IN GENERAL.—In accordance with subsection (c)(1), the Secretary may make a grant to an airport operator to assist in completing environmental review and assessment activities for proposals to implement flight procedures at such airport that have been approved as part of an airport noise compatibility program under subsection (b).

(2) ADDITIONAL STAFF.—The Administrator may accept funds from an airport operator, including funds provided to the operator under paragraph (1), to hire additional staff or obtain the services of consultants in order to facilitate the timely processing, review, and completion of environmental activities associated with proposals to implement flight procedures at such airport that have been approved as part of an airport noise compatibility program under subsection (b).

(3) RECEIPTS CREDITED AS OFFSETTING COLLECTIONS.—Notwithstanding section 3302 of title 31, any funds accepted under this section—

(A) shall be credited as offsetting collections to the account that finances the activities and services for which the funds are accepted;

(B) shall be available for expenditure only to pay the costs of activities and services for which the funds are accepted; and

(C) shall remain available until expended.

(f) DETERMINATION OF FAIR MARKET VALUE OF RESIDENTIAL PROPERTIES.—In approving a project to acquire residential real property using financial assistance made available under this section or chapter 471, the Secretary shall ensure that the appraisal of the property to be acquired disregards any decrease or increase in the fair market value of the real property caused by the project for which the property is to be acquired, or by the likelihood that the property would be acquired for the project, other than that due to physical deterioration within the reasonable control of the owner.

* * * * * * *

SUBCHAPTER II—NATIONAL AVIATION NOISE POLICY

* * * * * * *

§ 47524. Airport noise and access restriction review program

(a) * * *

* * * * * * *

(e) GRANT LIMITATIONS.—Beginning on the 91st day after the Secretary prescribes a regulation under subsection (a) of this section, a sponsor of a facility operating under an airport noise or access restriction on the operation of stage 3 aircraft that first became effective after October 1, 1990, is eligible for a grant under section 47104 of this title and is eligible to impose a passenger facility [fee] *charge* under section 40117 of this title only if the restriction has been—

(1) * * *

* * * * * * *

§ 47526. Limitations for noncomplying airport noise and access restrictions

Unless the Secretary of Transportation is satisfied that an airport is not imposing an airport noise or access restriction not in compliance with this subchapter, the airport may not—

(1) * * *

(2) impose a passenger facility [fee] *charge* under section 40117 of this title.

* * * * * * *

§ 47531. Penalties [for violating sections 47528–47530]

A person violating section 47528, [47529, or 47530] *47529, 47530, or 47534* of this title or a regulation prescribed under any of those sections is subject to the same civil penalties and procedures under chapter 463 of this title as a person violating section 44701(a) or (b) or any of sections 44702–44716 of this title.

§ 47532. Judicial review

An action taken by the Secretary of Transportation under any of sections 47528–47531 *or 47534* of this title is subject to judicial review as provided under section 46110 of this title.

* * * * * * *

§ 47534. Prohibition on operating certain aircraft weighing 75,000 pounds or less not complying with stage 3 noise levels

(a) PROHIBITION.—Except as otherwise provided by this section, after December 31, 2014, a person may not operate a civil subsonic jet airplane with a maximum weight of 75,000 pounds or less, and for which an airworthiness certificate (other than an experimental certificate) has been issued, to or from an airport in the United States unless the Secretary of Transportation finds that the aircraft complies with stage 3 noise levels.

(b) AIRCRAFT OPERATIONS OUTSIDE 48 CONTIGUOUS STATES.—Subsection (a) shall not apply to aircraft operated only outside the 48 contiguous States.

(c) TEMPORARY OPERATIONS.—The Secretary may allow temporary operation of an aircraft otherwise prohibited from operation

under subsection (a) to or from an airport in the contiguous United States by granting a special flight authorization for one or more of the following circumstances:

(1) To sell, lease, or use the aircraft outside the 48 contiguous States.

(2) To scrap the aircraft.

(3) To obtain modifications to the aircraft to meet stage 3 noise levels.

(4) To perform scheduled heavy maintenance or significant modifications on the aircraft at a maintenance facility located in the contiguous 48 States.

(5) To deliver the aircraft to an operator leasing the aircraft from the owner or return the aircraft to the lessor.

(6) To prepare, park, or store the aircraft in anticipation of any of the activities described in paragraphs (1) through (5).

(7) To provide transport of persons and goods in the relief of an emergency situation.

(8) To divert the aircraft to an alternative airport in the 48 contiguous States on account of weather, mechanical, fuel, air traffic control, or other safety reasons while conducting a flight in order to perform any of the activities described in paragraphs (1) through (7).

(d) REGULATIONS.—The Secretary may prescribe such regulations or other guidance as may be necessary for the implementation of this section.

(e) STATUTORY CONSTRUCTION.—

(1) AIP GRANT ASSURANCES.—Noncompliance with subsection (a) shall not be construed as a violation of section 47107 or any regulations prescribed thereunder.

(2) PENDING APPLICATIONS.—Nothing in this section may be construed as interfering with, nullifying, or otherwise affecting determinations made by the Federal Aviation Administration, or to be made by the Administration, with respect to applications under part 161 of title 14, Code of Federal Regulations, that were pending on the date of enactment of this section.

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PART C—FINANCING

* * * * * * *

CHAPTER 481—AIRPORT AND AIRWAY TRUST FUND AUTHORIZATIONS

Sec.
48101. Air navigation facilities and equipment.

* * * * * * *

[48105. Weather reporting services.]
48105. Airport programs administrative expenses.

* * * * * * *

§ 48101. Air navigation facilities and equipment

(a) GENERAL AUTHORIZATION OF APPROPRIATIONS.—Not more than a total of the following amounts may be appropriated to the Secretary of Transportation out of the Airport and Airway Trust

Fund established under section 9502 of the Internal Revenue Code of 1986 (26 U.S.C. 9502) to acquire, establish, and improve air navigation facilities under section 44502(a)(1)(A) of this title:

[(1) $3,138,000,000 for fiscal year 2004;
[(2) $2,993,000,000 for fiscal year 2005;
[(3) $3,053,000,000 for fiscal year 2006;
[(4) $3,110,000,000 for fiscal year 2007;
[(5) $2,742,095,000 for fiscal year 2009; and
[(6) $2,936,203,000 for fiscal year 2010.]
(1) $2,700,000,000 for fiscal year 2011.
(2) $2,600,000,000 for fiscal year 2012.
(3) $2,600,000,000 for fiscal year 2013.
(4) $2,600,000,000 for fiscal year 2014.

* * * * * * *

[(c) ENHANCED SAFETY AND SECURITY FOR AIRCRAFT OPERATIONS IN THE GULF OF MEXICO.—Of amounts appropriated under subsection (a), such sums as may be necessary for fiscal years 2004 through 2007 may be used to expand and improve the safety, efficiency, and security of air traffic control, navigation, low altitude communications and surveillance, and weather services in the Gulf of Mexico.

[(d) OPERATIONAL BENEFITS OF WAKE VORTEX ADVISORY SYSTEM.—Of amounts appropriated under subsection (a), such sums as may be necessary for each of fiscal years 2004 through 2007 may be used for the development and analysis of wake vortex advisory systems.

[(e) GROUND-BASED PRECISION NAVIGATIONAL AIDS.—Of amounts appropriated under subsection (a), such sums as may be necessary for each of fiscal years 2004 to 2007 may be used to establish a program for the installation of a precision approach aid designed to improve aircraft accessibility at mountainous airports with limited land if the approach aid is able to provide curved and segmented approach guidance for noise abatement purposes and other such approach aids and is certified or approved by the Administrator.]

[(f)] *(c)* AUTOMATED SURFACE OBSERVATION SYSTEM/AUTOMATED WEATHER OBSERVING SYSTEM UPGRADE.—Of the amounts appropriated under subsection (a), such sums as may be necessary may be used for the implementation and use of upgrades to the current automated surface observation system/automated weather observing system, if the upgrade is successfully demonstrated.

[(g)] *(d)* LIFE-CYCLE COST ESTIMATES.—The Administrator of the Federal Aviation Administration shall establish life-cycle cost estimates for any air traffic control modernization project the total life-cycle costs of which equal or exceed $50,000,000.

[(h) STANDBY POWER EFFICIENCY PROGRAM.—Of amounts appropriated under subsection (a), such sums as may be necessary for each of fiscal years 2004 through 2007 may be used by the Secretary of Transportation, in cooperation with the Secretary of Energy and, where applicable, the Secretary of Defense, to establish a program to improve the efficiency, cost effectiveness, and environmental performance of standby power systems at Federal Aviation Administration sites, including the implementation of fuel cell technology.

[(i) PILOT PROGRAM TO PROVIDE INCENTIVES FOR DEVELOPMENT OF NEW TECHNOLOGIES.—Of amounts appropriated under sub-

section (a), $500,000 for fiscal year 2004 may be used for the conduct of a pilot program to provide operating incentives to users of the airspace for the deployment of new technologies, including technologies to facilitate expedited flight routing and sequencing of takeoffs and landings.]

* * * * * * *

[§ 48103. Airport planning and development and noise compatibility planning and programs

The total amounts which shall be available after September 30, 2003, to the Secretary of Transportation out of the Airport and Airway Trust Fund established under section 9502 of the Internal Revenue Code of 1986 (26 U.S.C. 9502) to make grants for airport planning and airport development under section 47104 of this title, airport noise compatibility planning under section 47505(a)(2) of this title, and carrying out noise compatibility programs under section 47504(c) of this title shall be—

[(1) $3,400,000,000 for fiscal year 2004;
[(2) $3,500,000,000 for fiscal year 2005;
[(3) $3,600,000,000 for fiscal year 2006;
[(4) $3,700,000,000 for fiscal year 2007;
[(5) $3,675,000,000 for fiscal year 2008;
[(6) $3,900,000,000 for fiscal year 2009;
[(7) $3,515,000,000 for fiscal year 2010; and
[(8) $1,850,000,000 for the 6-month period beginning on October 1, 2010.
[(8) $925,000,000 for the 3-month period beginning on October 1, 2010.

Such sums shall remain available until expended.]

§ 48103. Airport planning and development and noise compatibility planning and programs

(a) IN GENERAL.—There shall be available to the Secretary of Transportation out of the Airport and Airway Trust Fund established under section 9502 of the Internal Revenue Code of 1986 to make grants for airport planning and airport development under section 47104, airport noise compatibility planning under section 47505(a)(2), and carrying out noise compatibility programs under section 47504(c)—

(1) $3,176,000,000 for fiscal year 2011;
(2) $3,000,000,000 for fiscal year 2012;
(3) $3,000,000,000 for fiscal year 2013; and
(4) $3,000,000,000 for fiscal year 2014.

(b) AVAILABILITY OF AMOUNTS.—Amounts made available under subsection (a) shall remain available until expended.

(c) LIMITATION.—Amounts made available under subsection (a) may not be used for carrying out the Airport Cooperative Research Program or the Airports Technology Research Program.

* * * * * * *

[§ 48105. Weather reporting services

[To reimburse the Secretary of Commerce for the cost incurred by the National Oceanic and Atmospheric Administration of providing weather reporting services to the Federal Aviation Adminis-

tration, the Secretary of Transportation may expend from amounts available under section 48104 of this title not more than the following amounts:

[(1) for the fiscal year ending September 30, 1993, $35,596,000.

[(2) for the fiscal year ending September 30, 1994, $37,800,000.

[(3) for the fiscal year ending September 30, 1995, $39,000,000.]

§ 48105. Airport programs administrative expenses

(a) IN GENERAL.—Of the funds made available under section 48103, the following amounts may be available for administrative expenses of the Federal Aviation Administration described in subsection (b):

(1) $85,987,000 for fiscal year 2011.

(2) $80,676,000 for fiscal year 2012.

(3) $80,676,000 for fiscal year 2013.

(4) $80,676,000 for fiscal year 2014.

(b) ELIGIBLE ADMINISTRATIVE EXPENSES.—Amounts made available under subsection (a) may be used for administrative expenses relating to the airport improvement program, passenger facility charge approval and oversight, national airport system planning, airport standards development and enforcement, airport certification, airport-related environmental activities (including legal services), and other airport-related activities.

(c) AVAILABILITY OF AMOUNTS.—Amounts made available under subsection (a) shall remain available until expended.

* * * * * * *

§ 48114. Funding for aviation programs

(a) AUTHORIZATION OF APPROPRIATIONS.—

(1) AIRPORT AND AIRWAY TRUST FUND GUARANTEE.—

[(A) IN GENERAL.—The total budget resources made available from the Airport and Airway Trust Fund each fiscal year through fiscal year 2007 pursuant to sections 48101, 48102, 48103, and 106(k) of title 49, United States Code, shall be equal to the level of receipts plus interest credited to the Airport and Airway Trust Fund for that fiscal year. Such amounts may be used only for aviation investment programs listed in subsection (b).]

(A) IN GENERAL.—The total budget resources made available from the Airport and Airway Trust Fund each fiscal year pursuant to sections 48101, 48102, 48103, and 106(k) shall—

(i) in fiscal year 2011, be equal to 90 percent of the estimated level of receipts plus interest credited to the Airport and Airway Trust Fund for that fiscal year; and

(ii) in fiscal year 2012 and each fiscal year thereafter, be equal to the sum of—

(I) 90 percent of the estimated level of receipts plus interest credited to the Airport and Airway Trust Fund for that fiscal year; and

(II) the actual level of receipts plus interest credited to the Airport and Airway Trust Fund for the second preceding fiscal year minus the total amount made available for obligation from the Airport and Airway Trust Fund for the second preceding fiscal year.

Such amounts may be used only for aviation investment programs listed in subsection (b).

* * * * * * *

(2) ADDITIONAL AUTHORIZATIONS OF APPROPRIATIONS FROM THE GENERAL FUND.—In any fiscal year through fiscal year [2007] *2014*, if the amount described in paragraph (1) is appropriated, there is further authorized to be appropriated from the general fund of the Treasury such sums as may be necessary for the Federal Aviation Administration Operations account.

(b) DEFINITIONS.—In this section, the following definitions apply:

(1) * * *

(2) [LEVEL] *ESTIMATED LEVEL* OF RECEIPTS PLUS INTEREST.—The term "[level of receipts plus interest] *estimated level of receipts plus interest*" means the level of excise taxes and interest credited to the Airport and Airway Trust Fund under section 9502 of the Internal Revenue Code of 1986 for a fiscal year as set forth in the President's budget baseline projection as defined in section 257 of the Balanced Budget and Emergency Deficit Control Act of 1985 (Public Law 99-177) (Treasury identification code 20-8103-0-7-402) for that fiscal year submitted pursuant to section 1105 of title 31, United States Code.

(c) ENFORCEMENT OF GUARANTEES.—

(1) * * *

(2) CAPITAL PRIORITY.—It shall not be in order in the House of Representatives or the Senate to consider any bill, joint resolution, amendment, motion, or conference report that provides an appropriation (or any amendment thereto) for any fiscal year through fiscal year [2007] *2014* for Research and Development or Operations if the sum of the obligation limitation for Grants-in-Aid for Airports and the appropriation for Facilities and Equipment for such fiscal year is below the sum of the authorized levels for Grants-in-Aid for Airports and for Facilities and Equipment for such fiscal year.

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CHAPTER 491—METROPOLITAN WASHINGTON AIRPORTS

Sec.
49101. Findings.

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[49108. Limitations.]

* * * * * * *

[§ 49108. Limitations

After March 31, 2011, the Secretary of Transportation may not approve an application of the Metropolitan Washington Airports Authority—

[(1) for an airport development project grant under subchapter I of chapter 471 of this title; or

[(2) to impose a passenger facility fee under section 40117 of this title.]

* * * * * * *

VISION 100—CENTURY OF AVIATION REAUTHORIZATION ACT

* * * * * * *

TITLE I—AIRPORT AND AIRWAY IMPROVEMENTS

* * * * * * *

Subtitle D—Miscellaneous

* * * * * * *

SEC. 186. MIDWAY ISLAND AIRPORT.

(a) * * *

* * * * * * *

(d) FUNDING TO SECRETARY OF THE INTERIOR FOR MIDWAY ISLAND AIRPORT.—The Secretary of Transportation may enter into a reimbursable agreement with the Secretary of the Interior for the purpose of funding airport development, as defined in section 47102(3) of title 49, United States Code, at Midway Island Airport for fiscal years ending before [October 1, 2010, and for the portion of fiscal year 2011 ending before April 1, 2011,] *October 1, 2014,* from amounts available in the discretionary fund established by section 47115 of such title. The maximum obligation under the agreement for any such fiscal year shall be $2,500,000.

* * * * * * *

TITLE VII—AVIATION RESEARCH

* * * * * * *

SEC. 709. AIR TRANSPORTATION SYSTEM JOINT PLANNING AND DEVELOPMENT OFFICE.

(a) ESTABLISHMENT.—(1) * * *

(2) The head of the Office shall be the Associate Administrator for Next Generation Air Transportation System Planning, Development, and Interagency Coordination, who shall be appointed by the Administrator of the Federal Aviation Administration. The Administrator shall appoint the Associate Administrator after consulting with the Chairman of the Next Generation Senior Policy Committee and providing advanced notice to the other members of that Committee.

[(2)] *(3)* The responsibilities of the Office shall include—

(A) * * *

* * * * * * *

(G) facilitating the transfer of technology from research programs such as the National Aeronautics and Space Administration program and the Department of Defense Advanced Research Projects Agency program to Federal agencies with operational responsibilities and to the private sector[; and]*;*

(H) reviewing activities relating to noise, emissions, fuel consumption, and safety conducted by Federal agencies, including the Federal Aviation Administration, the National Aeronautics and Space Administration, the Department of Commerce, and the Department of Defense[.]*;*

(I) establishing specific quantitative goals for the safety, capacity, efficiency, performance, and environmental impacts of each phase of Next Generation Air Transportation System planning and development activities and measuring actual operational experience against those goals, taking into account noise pollution reduction concerns of affected communities to the extent practicable in establishing the environmental goals;

(J) working to ensure global interoperability of the Next Generation Air Transportation System;

(K) working to ensure the use of weather information and space weather information in the Next Generation Air Transportation System as soon as possible;

(L) overseeing, with the Administrator and in consultation with the Chief NextGen Officer, the selection of products or outcomes of research and development activities that should be moved to a demonstration phase; and

(M) maintaining a baseline modeling and simulation environment for testing and evaluating alternative concepts to satisfy Next Generation Air Transportation System enterprise architecture requirements.

[(3)] *(4)(A)* The Office shall operate in conjunction with relevant programs in the Department of Defense, the National Aeronautics and Space Administration, the Department of Commerce and the Department of Homeland Security. The Secretary of Transportation may request assistance from staff from those Departments and other Federal agencies.

(B) The Secretary of Defense, the Administrator of the National Aeronautics and Space Administration, the Secretary of Commerce, the Secretary of Homeland Security, and the head of any other Federal agency from which the Secretary of Transportation requests assistance under subparagraph (A) shall designate a senior official in the agency to be responsible for—

(i) carrying out the activities of the agency relating to the Next Generation Air Transportation System in coordination with the Office, including the execution of all aspects of the work of the agency in developing and implementing the integrated work plan described in subsection (b)(5);

(ii) serving as a liaison for the agency in activities of the agency relating to the Next Generation Air Transportation System and coordinating with other Federal agencies involved in activities relating to the System; and

(iii) ensuring that the agency meets its obligations as set forth in any memorandum of understanding executed by or on

behalf of the agency relating to the Next Generation Air Transportation System.

(C) The head of a Federal agency referred to in subparagraph (B) shall—

(i) ensure that the responsibilities of the agency relating to the Next Generation Air Transportation System are clearly communicated to the senior official of the agency designated under subparagraph (B);

(ii) ensure that the performance of the senior official in carrying out the responsibilities of the agency relating to the Next Generation Air Transportation System is reflected in the official's annual performance evaluations and compensation;

(iii) establish or designate an office within the agency to carry out its responsibilities under the memorandum of understanding under the supervision of the designated official; and

(iv) ensure that the designated official has sufficient budgetary authority and staff resources to carry out the agency's Next Generation Air Transportation System responsibilities as set forth in the integrated plan under subsection (b).

(D) Not later than 6 months after the date of enactment of this subparagraph, the head of each Federal agency that has responsibility for carrying out any activity under the integrated plan under subsection (b) shall execute a memorandum of understanding with the Office obligating that agency to carry out the activity.

[(4)**]** *(5)* In developing and carrying out its plans, the Office shall consult with the public and ensure the participation of experts from the private sector including representatives of commercial aviation, general aviation, aviation labor groups, aviation research and development entities, aircraft and air traffic control suppliers, and the space industry.

(6)(A) The Office shall work with the Director of the Office of Management and Budget to develop a process whereby the Director will identify projects related to the Next Generation Air Transportation System across the agencies referred to in paragraph (4)(A) and consider the Next Generation Air Transportation System as a unified, cross-agency program.

(B) The Director of the Office of Management and Budget, to the extent practicable, shall—

(i) ensure that—

(I) each Federal agency covered by the plan has sufficient funds requested in the President's budget, as submitted under section 1105(a) of title 31, United States Code, for each fiscal year covered by the plan to carry out its responsibilities under the plan; and

(II) the development and implementation of the Next Generation Air Transportation System remains on schedule;

(ii) include, in the President's budget, a statement of the portion of the estimated budget of each Federal agency covered by the plan that relates to the activities of the agency under the Next Generation Air Transportation System; and

(iii) identify and justify as part of the President's budget submission any inconsistencies between the plan and amounts requested in the budget.

(7) The Associate Administrator of the Next Generation Air Transportation System Planning, Development, and Interagency Coordi-

nation shall be a voting member of the Joint Resources Council of the Federal Aviation Administration.

(b) INTEGRATED PLAN.—The integrated plan shall be designed to ensure that the Next Generation Air Transportation System [meets air] *meets anticipated future air* transportation safety, security, mobility, efficiency, and capacity needs [beyond those currently included in the Federal Aviation Administration's operational evolution plan] and accomplishes the goals under subsection (c). The integrated plan shall include—

(1) * * *

* * * * * * *

(3) a multiagency research and development roadmap for creating the Next Generation Air Transportation System with the characteristics outlined under clause (ii), including—

(A) * * *

* * * * * * *

(C) the technical milestones that will be used to evaluate the activities; [and]

(4) a description of the operational concepts to meet the system performance requirements for all system users and a timeline and anticipated expenditures needed to develop and deploy the system to meet the vision for 2025[.]*; and*

(5) a multiagency integrated work plan for the Next Generation Air Transportation System that includes—

(A) an outline of the activities required to achieve the end-state architecture, as expressed in the concept of operations and enterprise architecture documents, that identifies each Federal agency or other entity responsible for each activity in the outline;

(B) details on a year-by-year basis of specific accomplishments, activities, research requirements, rulemakings, policy decisions, and other milestones of progress for each Federal agency or entity conducting activities relating to the Next Generation Air Transportation System;

(C) for each element of the Next Generation Air Transportation System, an outline, on a year-by-year basis, of what is to be accomplished in that year toward meeting the Next Generation Air Transportation System's end-state architecture, as expressed in the concept of operations and enterprise architecture documents, as well as identifying each Federal agency or other entity that will be responsible for each component of any research, development, or implementation program;

(D) an estimate of all necessary expenditures on a year-by-year basis, including a statement of each Federal agency or entity's responsibility for costs and available resources, for each stage of development from the basic research stage through the demonstration and implementation phase;

(E) a clear explanation of how each step in the development of the Next Generation Air Transportation System will lead to the following step and of the implications of not successfully completing a step in the time period described in the integrated work plan;

(F) a transition plan for the implementation of the Next Generation Air Transportation System that includes date-specific milestones for the implementation of new capabilities into the national airspace system;

(G) date-specific timetables for meeting the environmental goals identified in subsection (a)(3)(I); and

(H) a description of potentially significant operational or workforce changes resulting from deployment of the Next Generation Air Transportation System.

* * * * * * *

[(d) REPORTS.—The Administrator of the Federal Aviation Administration shall transmit to the Committee on Commerce, Science, and Transportation in the Senate and the Committee on Transportation and Infrastructure and the Committee on Science in the House of Representatives—

[(1) not later than 1 year after the date of enactment of this Act, the integrated plan required in subsection (b); and

[(2) annually at the time of the President's budget request, a report describing the progress in carrying out the plan required under subsection (b) and any changes to that plan.]

(d) NEXTGEN IMPLEMENTATION PLAN.—The Administrator shall develop and publish annually the document known as the NextGen Implementation Plan, or any successor document, that provides a detailed description of how the agency is implementing the Next Generation Air Transportation System.

* * * * * * *

SEC. 710. NEXT GENERATION AIR TRANSPORTATION SENIOR POLICY COMMITTEE.

(a) IN GENERAL.—The Secretary of Transportation shall establish a senior policy committee to work with the Next Generation Air Transportation System Joint Planning and Development Office. The senior policy committee shall be chaired by the Secretary *and shall meet at least twice each year*.

* * * * * * *

(e) ANNUAL REPORT.—

(1) SUBMISSION TO CONGRESS.—Not later than one year after the date of enactment of this subsection, and annually thereafter on the date of submission of the President's budget request to Congress under section 1105(a) of title 31, United States Code, the Secretary shall submit to Congress a report summarizing the progress made in carrying out the integrated work plan required by section 709(b)(5) and any changes in that plan.

(2) CONTENTS.—The report shall include—

(A) a copy of the updated integrated work plan;

(B) a description of the progress made in carrying out the integrated work plan and any changes in that plan, including any changes based on funding shortfalls and limitations set by the Office of Management and Budget;

(C) a detailed description of—

(i) the success or failure of each item of the integrated work plan for the previous year and relevant information as to why any milestone was not met; and

(ii) the impact of not meeting the milestone and what actions will be taken in the future to account for the failure to complete the milestone;

(D) an explanation of any change to future years in the integrated work plan and the reasons for such change; and

(E) an identification of the levels of funding for each agency participating in the integrated work plan devoted to programs and activities under the plan for the previous fiscal year and in the President's budget request.

* * * * * * *

RAILWAY LABOR ACT

TITLE I—DEFINITIONS

* * * * * * *

AUTHORITY OF INSPECTOR GENERAL

SEC. 15. (a) IN GENERAL.—The Inspector General of the Department of Transportation, in accordance with the mission of the Inspector General to prevent and detect fraud and abuse, is authorized to review the financial management, property management, and business operations of the Mediation Board, including internal accounting and administrative control systems, to determine compliance with applicable Federal laws, rules, and regulations.

(b) DUTIES.—In carrying out this section, the Inspector General shall—

(1) keep the chairman of the Mediation Board and Congress fully and currently informed about problems relating to administration of the internal accounting and administrative control systems of the Mediation Board;

(2) issue findings and recommendations for actions to address such problems; and

(3) report periodically to Congress on any progress made in implementing actions to address such problems.

(c) ACCESS TO INFORMATION.—In carrying out this section, the Inspector General may exercise authorities granted to the Inspector General under subsections (a) and (b) of section 6 of the Inspector General Act of 1978 (5 U.S.C. App.).

(d) AUTHORIZATIONS OF APPROPRIATIONS.—

(1) FUNDING.—There is authorized to be appropriated to the Secretary of Transportation for use by the Inspector General of the Department of Transportation not more than $125,000 for each of fiscal years 2011 through 2014 to cover expenses associated with activities pursuant to the authority exercised under this section.

(2) REIMBURSABLE AGREEMENT.—In the absence of an appropriation under this subsection for an expense referred to in paragraph (1), the Inspector General and the Mediation Board shall have a reimbursable agreement to cover such expense.

EVALUATION AND AUDIT OF MEDIATION BOARD

SEC. 16. (a) IN GENERAL.—In order to promote economy, efficiency, and effectiveness in the administration of the programs, op-

erations, and activities of the Mediation Board, the Comptroller General shall evaluate and audit the programs and expenditures of the Mediation Board. Such an evaluation and audit shall be conducted at least annually, but may be conducted as determined necessary by the Comptroller General or the appropriate congressional committees.

(b) RESPONSIBILITY OF COMPTROLLER GENERAL.—The Comptroller General shall evaluate and audit Mediation Board programs, operations, and activities, including at a minimum—

(1) information management and security, including privacy protection of personally identifiable information;

(2) resource management;

(3) workforce development;

(4) procurement and contracting planning, practices, and policies;

(5) the extent to which the Mediation Board follows leading practices in selected management areas; and

(6) the processes the Mediation Board follows to address challenges in—

(A) initial investigations of representation applications;

(B) determining and certifying representatives of employees; and

(C) ensuring that the process occurs without interference, influence, or coercion.

(c) APPROPRIATE CONGRESSIONAL COMMITTEES DEFINED.—In this section, the term "appropriate congressional committees" means the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.

* * * * * * *

TITLE 51, UNITED STATES CODE

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SUBTITLE V—PROGRAMS TARGETING COMMERCIAL OPPORTUNITIES

* * * * * * *

CHAPTER 509—COMMERCIAL SPACE LAUNCH ACTIVITIES

* * * * * * *

§ 50901. Findings and purposes

(a) FINDINGS.—Congress finds that—

(1) * * *

* * * * * * *

(15) the regulatory standards governing human space flight must evolve as the industry matures so that regulations neither stifle technology development nor expose crew or [space flight participants] *space flight passengers* to avoidable risks as the public comes to expect greater safety for crew and

[space flight participants] *space flight passengers* from the industry.

* * * * * * *

§ 50902. Definitions

In this chapter—

(1) * * *

* * * * * * *

(4) "launch" means to place or try to place a launch vehicle or reentry vehicle and any payload, crew, or [space flight participant] *space flight passenger* from Earth—

(A) * * *

* * * * * * *

including activities involved in the preparation of a launch vehicle or payload for launch, when those activities take place at a launch site in the United States.

* * * * * * *

(6) "launch services" means—

(A) activities involved in the preparation of a launch vehicle, payload, crew (including crew training), or [space flight participant] *space flight passenger* for launch; and

* * * * * * *

(13) "reenter" and "reentry" mean to return or attempt to return, purposefully, a reentry vehicle and its payload, crew, or [space flight participants] *space flight passengers*, if any, from Earth orbit or from outer space to Earth.

(14) "reentry services" means—

(A) activities involved in the preparation of a reentry vehicle and payload, crew (including crew training), or [space flight participant] *space flight passenger*, if any, for reentry; and

* * * * * * *

(17) "[space flight participant] *space flight passenger*" means an individual, who is not crew, carried within a launch vehicle or reentry vehicle.

* * * * * * *

(21) "third party" means a person except—

(A) * * *

* * * * * * *

(E) crew or [space flight participants] *space flight passengers*.

* * * * * * *

§ 50903. General authority

(a) * * *

(b) FACILITATING COMMERCIAL LAUNCHES AND REENTRIES.—In carrying out this chapter, the Secretary shall—

(1) encourage, facilitate, and promote commercial space launches and reentries by the private sector, including those

involving [space flight participants] *space flight passengers*; and

* * * * * * *

§ 50904. Restrictions on launches, operations, and reentries

(a) * * *

* * * * * * *

(d) SINGLE LICENSE OR PERMIT.—The Secretary of Transportation shall ensure that only 1 license or permit is required from the Department of Transportation to conduct activities involving crew or [space flight participants] *space flight passengers*, including launch and reentry, for which a license or permit is required under this chapter. The Secretary shall ensure that all Department of Transportation regulations relevant to the licensed or permitted activity are satisfied.

§ 50905. License applications and requirements

(a) APPLICATIONS.—(1) * * *

(2) In carrying out paragraph (1), the Secretary may establish procedures for safety approvals of launch vehicles, reentry vehicles, safety systems, processes, services, or personnel (including approval procedures for the purpose of protecting the health and safety of crews and [space flight participants] *space flight passengers*, to the extent permitted by subsections (b) and (c)) that may be used in conducting licensed commercial space launch or reentry activities.

(b) REQUIREMENTS.—(1) * * *

(2) The Secretary may prescribe—

(A) * * *

* * * * * * *

(D) additional license requirements, for a launch vehicle carrying a human being for compensation or hire, necessary to protect the health and safety of crew or [space flight participants] *space flight passengers*, only if such requirements are imposed pursuant to final regulations issued in accordance with subsection (c); and

* * * * * * *

(4) The holder of a license or a permit under this chapter may launch or reenter crew only if—

(A) * * *

(B) the holder of the license or permit has informed any individual serving as crew in writing, prior to executing any contract or other arrangement to employ that individual (or, in the case of an individual already employed as of the date of enactment of the Commercial Space Launch Amendments Act of 2004, as early as possible, but in any event prior to any launch in which the individual will participate as crew), that the United States Government has not certified the launch vehicle as safe for carrying crew or [space flight participants] *space flight passengers*; and

* * * * * * *

(5) The holder of a license or a permit under this chapter may launch or reenter a [space flight participant] *space flight passenger* only if—

(A) in accordance with regulations promulgated by the Secretary, the holder of the license or permit has informed the [space flight participant] *space flight passenger* in writing about the risks of the launch and reentry, including the safety record of the launch or reentry vehicle type, and the Secretary has informed the [space flight participant] *space flight passenger* in writing of any relevant information related to risk or probable loss during each phase of flight gathered by the Secretary in making the determination required by section 50914(a)(2) and (c);

(B) the holder of the license or permit has informed any [space flight participant] *space flight passenger* in writing, prior to receiving any compensation from that [space flight participant] *space flight passenger* or (in the case of a [space flight participant] *space flight passenger* not providing compensation) otherwise concluding any agreement to fly that [space flight participant] *space flight passenger*, that the United States Government has not certified the launch vehicle as safe for carrying crew or [space flight participants] *space flight passengers*;

(C) in accordance with regulations promulgated by the Secretary, the [space flight participant] *space flight passenger* has provided written informed consent to participate in the launch and reentry and written certification of compliance with any regulations promulgated under paragraph (6)(A); and

* * * * * * *

(6)(A) The Secretary may issue regulations requiring [space flight participants] *space flight passengers* to undergo an appropriate physical examination prior to a launch or reentry under this chapter. This subparagraph shall cease to be in effect three years after the date of enactment of the Commercial Space Launch Amendments Act of 2004.

(B) The Secretary may issue additional regulations setting reasonable requirements for [space flight participants] *space flight passengers*, including medical and training requirements. Such regulations shall not be effective before the expiration of 3 years after the date of enactment of the Commercial Space Launch Amendments Act of 2004.

(c) SAFETY REGULATIONS.—(1) The Secretary may issue regulations governing the design or operation of a launch vehicle to protect the health and safety of crew and [space flight participants] *space flight passengers*.

(2) Regulations issued under this subsection shall—

(A) * * *

* * * * * * *

(C) be limited to restricting or prohibiting design features or operating practices that—

(i) have resulted in a serious or fatal injury (as defined in 49 CFR 830, as in effect on November 10, 2004) to crew or [space flight participants] *space*

flight passengers during a licensed or permitted commercial human space flight; or

(ii) contributed to an unplanned event or series of events during a licensed or permitted commercial human space flight that posed a high risk of causing a serious or fatal injury (as defined in 49 CFR 830, as in effect on November 10, 2004) to crew or [space flight participants] *space flight passengers*; and

* * * * * * *

§ 50907. Monitoring activities

(a) GENERAL REQUIREMENTS.—A licensee under this chapter must allow the Secretary of Transportation to place an officer or employee of the United States Government or another individual as an observer at a launch site or reentry site the licensee uses, at a production facility or assembly site a contractor of the licensee uses to produce or assemble a launch vehicle or reentry vehicle, at a site used for crew or [space flight participant] *space flight passenger* training, or at a site at which a payload is integrated with a launch vehicle or reentry vehicle. The observer will monitor the activity of the licensee or contractor at the time and to the extent the Secretary considers reasonable to ensure compliance with the license or to carry out the duties of the Secretary under sections 50904(c), 50905, and 50906 of this title. A licensee must cooperate with an observer carrying out this subsection.

* * * * * * *

§ 50908. Effective periods, and modifications, suspensions, and revocations, of licenses

(a) * * *

* * * * * * *

(d) ADDITIONAL SUSPENSIONS.—(1) The Secretary may suspend a license when a previous launch or reentry under the license has resulted in a serious or fatal injury (as defined in 49 CFR 830, as in effect on November 10, 2004) to crew or [space flight participants] *space flight passengers* and the Secretary has determined that continued operations under the license are likely to cause additional serious or fatal injury (as defined in 49 CFR 830, as in effect on November 10, 2004) to crew or [space flight participants] *space flight passengers*.

* * * * * * *

§ 50914. Liability insurance and financial responsibility requirements

(a) * * *

(b) RECIPROCAL WAIVER OF CLAIMS.—(1) * * *

(2) The Secretary of Transportation shall make, for the Government, executive agencies of the Government involved in launch services or reentry services, and contractors and subcontractors involved in launch services or reentry services, a reciprocal waiver of claims with the licensee or transferee, contractors, subcontractors, crew, [space flight participants] *space flight passengers*, and customers of the licensee or transferee,

and contractors and subcontractors of the customers, involved in launch services or reentry services under which each party to the waiver agrees to be responsible for property damage or loss it sustains, or for personal injury to, death of, or property damage or loss sustained by its own employees or by [space flight participants] *space flight passengers*, resulting from an activity carried out under the applicable license. The waiver applies only to the extent that claims are more than the amount of insurance or demonstration of financial responsibility required under subsection (a)(1)(B) of this section. After consulting with the Administrator and the Secretary of the Air Force, the Secretary of Transportation may waive, for the Government and a department, agency, and instrumentality of the Government, the right to recover damages for damage or loss to Government property to the extent insurance is not available because of a policy exclusion the Secretary of Transportation decides is usual for the type of insurance involved.

* * * * * * *

§ 50915. Paying claims exceeding liability insurance and financial responsibility requirements

(a) GENERAL REQUIREMENTS.—(1) To the extent provided in advance in an appropriation law or to the extent additional legislative authority is enacted providing for paying claims in a compensation plan submitted under subsection (d) of this section, the Secretary of Transportation shall provide for the payment by the United States Government of a successful claim (including reasonable litigation or settlement expenses) of a third party against a licensee or transferee under this chapter, a contractor, subcontractor, or customer of the licensee or transferee, or a contractor or subcontractor of a customer, but not against a [space flight participant] *space flight passenger*, resulting from an activity carried out under the license issued or transferred under this chapter for death, bodily injury, or property damage or loss resulting from an activity carried out under the license. However, claims may be paid under this section only to the extent the total amount of successful claims related to one launch or reentry—

(A) * * *

* * * * * * *

§ 50917. Enforcement and penalty

(a) * * *

(b) GENERAL AUTHORITY.—(1) In carrying out this chapter, the Secretary of Transportation may—

(A) * * *

* * * * * * *

(D) under lawful process—

(i) enter at a reasonable time a launch site, reentry site, production facility, assembly site of a launch vehicle or reentry vehicle, crew or [space flight participant] *space flight passenger* training site, or site at which a payload is integrated with a launch vehicle or reentry vehicle to inspect an object to which this chapter applies or a record

or report the Secretary requires be made or kept under this chapter; and

* * * * * * *

§ 50922. Regulations

(a) * * *

* * * * * * *

(c) AMENDMENTS.—(1) Not later than 12 months after the date of enactment of the Commercial Space Launch Amendments Act of 2004, the Secretary shall publish proposed regulations to carry out that Act, including regulations relating to crew, [space flight participants] *space flight passengers*, and permits for launch or reentry of reusable suborbital rockets. Not later than 18 months after such date of enactment, the Secretary shall issue final regulations.

* * * * * * *

DISSENTING VIEWS

We agree with our Republican colleagues on the need for a long-term Federal Aviation Administration (FAA) reauthorization act. In the 110th and 111th Congresses, the House, under Democratic leadership, passed FAA reauthorization bills that would have created jobs, improved aviation safety, and provided the FAA with the tools necessary to modernize airport and air traffic control infrastructure. We had hoped that H.R. 658, the "FAA Reauthorization and Reform Act of 2011", would reflect a sustained commitment to these national priorities, and we had looked forward to working with our Republican colleagues this Congress in a bipartisan manner to swiftly enact forward-looking legislation.

Instead, we are deeply concerned that H.R. 658 includes funding cuts that will devastate the FAA's Next Generation Air Transportation System (NextGen) air traffic control modernization effort and will harm safety-sensitive programs, while ignoring the Nation's growing airport capital development needs. In addition, H.R. 658 includes a controversial and unrelated provision on union representation elections, sunsets the essential air service (EAS) program, and omits safety-enhancing provisions from prior reauthorization bills. Moreover, we believe the controversial aspects of this legislation will seriously jeopardize the enactment of an FAA reauthorization bill during this Congress and that H.R. 658 will require significant changes before it can be signed into law.

I. Funding Levels

According to the FAA, in 2007, civil aviation generated more than $1.3 trillion in economic activity, accounted for over 11 million jobs and $396 billion in earnings, and contributed 5.6 percent to the gross domestic product.

At its heart, the FAA reauthorization bill is a multi-year authorization of funding levels for FAA programs. Successive FAA reauthorization acts have increased funding for FAA programs because investing in aviation infrastructure strengthens the economy, creates jobs, and provides for the safe and efficient flow of commerce. Every $1 billion of Federal investment in infrastructure creates or sustains approximately 35,000 jobs.

H.R. 658, however, actually proposes to cut funding authorizations for FAA capital programs over a period of years. H.R. 658 is a four-year bill, covering fiscal years (FYs) 2011 to 2014. Overall, cumulative funding levels are set at the FY 2008 appropriations levels for the remainder of FY 2011 and annually beginning in FY 2012, with an overall funding level of $59.7 billion.

H.R. 658: FY 2011—FY 2014 PROPOSED FUNDING LEVELS

[Dollars in billions]

Program	FY 2008 Enacted	FY 2009 [1]	FY 2010 Enacted	FY 2011	FY 2012	FY 2013	FY 2014
Operations & Maintenance	$8.70	$9.00	$9.40	$9.40	$9.17	$9.17	$9.17
Facilities & Equipment	2.50	2.90	2.90	2.70	2.60	2.60	2.60
Airport Improvement	3.50	4.60	3.50	3.18	3.00	3.00	3.00
Total	$14.70	$16.50	$15.80	$15.28	$14.77	$14.77	$14.77

[1] Figures pertaining to FY 2009 include funding from the American Reinvestment and Recovery Act of 2009 (P.L. 111–5), with $200 million in facilities and equipment and additional $1.1 billion in grants-in-aid for airports.

These proposed funding cuts have serious consequences for our Nation's infrastructure, jobs, and economy. For example, the FAA estimates that is NextGen air traffic control system upgrade will reduce total flight delays by 21 percent and deliver $22 billion in cumulative benefits by 2018 for airlines and other aircraft operators, the Federal Government, and ultimately the flying public. NextGen will permit aircraft operators to save 1.4 billion gallons of fuel and cut carbon emissions by 14 million tons. The Nation's 567,000 airline industry workers have a vested interest in the cost savings that NextGen promises.

Yet, at the Subcommittee on Aviation's February 9, 2011 hearing, entitled "Federal Aviation Reauthorization: Stakeholders", witnesses representing the aerospace industry, general aviation manufacturers, general aviation pilot, airports, air traffic controllers and FAA managers all testified that Congress could not roll back FAA funding to FY 2008 levels without harming safety-sensitive programs or hampering the industry.

At that same hearing, Ms. Marion Blakey, an FAA administrator under President George W. Bush and now the president and chief executive officer of the Aerospace Industries Association, stated that "the prospect is really devastating to jobs and to our future, if we really have to roll back [to 2008 levels] and stop NextGen in its tracks." FAA officials also indicated that cutting the agency's budget to FY 2008 levels would likely trigger drastic cutbacks and cancellations of core NextGen programs, and would require the agency to furlough hundreds of safety-related employees.

Further, the FAA's 2011–2015 National Plan of Integrated Airport Systems (NPIAS) estimates that over the next five years, there will be $52.2 billion of Airport Improvement Program (AIP)-eligible infrastructure development for all segments of civil aviation, an annual average of $10.4 billion. Additionally, the 2009–2013 Airports Council International-North America (ACI–NA) Capital Needs Survey estimates total airport capital needs—including the cost of non-AIP-eligible projects—to be about $94.3 billion, an annual average of $18.8 billion. Moreover, construction costs have increased more than 50 percent since 2000, eroding the purchasing power of both AIP grants and Passenger Facility Charges (PFCs). Yet, despite airport capital development needs, H.R. 658 actually cuts AIP funding well below FY 2008 levels to $3 billion without increasing the current $4.50 per-passenger-per-flight cap on PFCs. H.R. 658 clearly falls short of meeting the Nation's airport infrastructure needs.

H.R. 658: Annual State-by-State AIP Entitlement Cuts

AK		AL		AR		AS		AZ		CA	
Current Funding	$118,362,067	Current Funding	$37,115,439	Current Funding	$36,202,224	Current Funding	$1,871,843	Current Funding	$47,466,677	Current Funding	$168,999,692
House Proposal	$107,379,742	House Proposal	$35,577,880	House Proposal	$35,019,484	House Proposal	$1,871,843	House Proposal	$44,762,351	House Proposal	$159,217,071
Difference	$10,982,325	Difference	$1,537,559	Difference	$1,182,740	Difference	$--	Difference	$2,704,326	Difference	$9,782,621

CO		CT		DC		DE		FL		GA	
Current Funding	$40,731,820	Current Funding	$7,599,214	Current Funding	$490,946	Current Funding	$1,381,930	Current Funding	$114,810,633	Current Funding	$38,935,317
House Proposal	$38,393,191	House Proposal	$6,851,154	House Proposal	$394,176	House Proposal	$1,206,236	House Proposal	$109,738,448	House Proposal	$36,228,008
Difference	$2,338,629	Difference	$748,060	Difference	$96,770	Difference	$175,694	Difference	$5,072,185	Difference	$2,707,309

GU		HI		IA		ID		IL		IN	
Current Funding	$4,280,479	Current Funding	$27,167,407	Current Funding	$50,102,442	Current Funding	$24,638,439	Current Funding	$49,331,284	Current Funding	$30,414,592
House Proposal	$4,280,479	House Proposal	$26,443,825	House Proposal	$48,778,778	House Proposal	$23,248,755	House Proposal	$45,853,834	House Proposal	$28,246,049
Difference	$--	Difference	$723,582	Difference	$1,323,664	Difference	$1,389,684	Difference	$3,477,450	Difference	$2,168,543

KS		KY		LA		MA		MD		ME	
Current Funding	$43,268,375	Current Funding	$56,616,159	Current Funding	$34,310,676	Current Funding	$26,382,614	Current Funding	$18,958,653	Current Funding	$24,361,609
House Proposal	$41,706,959	House Proposal	$58,812,691	House Proposal	$32,825,645	House Proposal	$25,085,010	House Proposal	$17,810,976	House Proposal	$23,665,061
Difference	$1,561,416	Difference	$2,803,468	Difference	$1,485,031	Difference	$1,297,604	Difference	$1,147,677	Difference	$696,548

MI		MN		MO		MP		MS		MT	
Current Funding	$52,447,718	Current Funding	$53,155,970	Current Funding	$28,728,935	Current Funding	$4,781,386	Current Funding	$37,199,258	Current Funding	$36,103,210
House Proposal	$49,462,130	House Proposal	$51,040,011	House Proposal	$26,704,711	House Proposal	$4,781,386	House Proposal	$36,091,798	House Proposal	$33,997,432
Difference	$2,985,588	Difference	$2,115,959	Difference	$2,024,224	Difference	$--	Difference	$1,107,460	Difference	$2,105,778

NC		ND		NE		NH		NJ		NM	
Current Funding	$46,332,217	Current Funding	$27,920,715	Current Funding	$44,000,735	Current Funding	$10,470,383	Current Funding	$27,295,442	Current Funding	$30,807,088
House Proposal	$43,915,286	House Proposal	$26,886,268	House Proposal	$42,639,410	House Proposal	$10,091,955	House Proposal	$25,373,919	House Proposal	$28,805,174
Difference	$2,416,931	Difference	$1,054,447	Difference	$1,361,325	Difference	$378,428	Difference	$1,921,623	Difference	$2,001,914

NV		NY		OH		OK		OR		PA	
Current Funding	$27,657,945	Current Funding	$82,023,631	Current Funding	$55,807,474	Current Funding	$58,696,692	Current Funding	$34,097,367	Current Funding	$43,437,179
House Proposal	$25,676,781	House Proposal	$77,640,932	House Proposal	$53,109,054	House Proposal	$57,103,149	House Proposal	$32,046,553	House Proposal	$40,400,199
Difference	$1,981,164	Difference	$4,382,699	Difference	$2,698,420	Difference	$1,593,543	Difference	$2,050,814	Difference	$3,036,980

PR		RI		SC		SD		TN		TX	
Current Funding	$12,007,118	Current Funding	$7,213,070	Current Funding	$41,661,931	Current Funding	$30,978,797	Current Funding	$51,960,664	Current Funding	$121,513,687
House Proposal	$11,122,138	House Proposal	$7,025,107	House Proposal	$40,352,714	House Proposal	$29,793,674	House Proposal	$47,678,872	House Proposal	$112,978,989
Difference	$884,980	Difference	$187,963	Difference	$1,309,217	Difference	$1,185,123	Difference	$4,281,792	Difference	$8,534,698

UT		VA		VI		VT		WA		WI	
Current Funding	$18,019,538	Current Funding	$62,104,269	Current Funding	$5,177,452	Current Funding	$9,232,208	Current Funding	$52,265,160	Current Funding	$36,625,581
House Proposal	$16,341,915	House Proposal	$60,112,278	House Proposal	$5,177,452	House Proposal	$9,006,516	House Proposal	$49,851,576	House Proposal	$34,809,187
Difference	$1,677,623	Difference	$1,991,991	Difference	$--	Difference	$225,692	Difference	$2,413,584	Difference	$1,816,394

WV		WY	
Current Funding	$12,008,607	Current Funding	$22,168,948
House Proposal	$11,395,829	House Proposal	$20,797,338
Difference	$612,778	Difference	$1,371,610

II. Repeal of national Mediation Board Rule

H.R. 658 includes a "poison pill" provision that bears no relationship whatsoever to job creation or safety enhancement. The provision reinstates an inequitable approach to union representation elections at airlines and railroads whereby a majority of all employees in a bargaining unit were required to vote in favor of representation by a union in order for the union to be certified as their representative. The bill undoes a rule finalized last year by the national Mediation Board (NMB), which oversees labor relations at airlines and railroads, providing for fair, democratic representation elections where outcomes turn on the will of the majority of those who cast ballots, not a super-majority of everyone eligible to vote.

Under the obsolete elections rule that the Republicans' bill reinstates, non-votes were counted as "no" votes. That approach is contrary to the fundamental democratic principle that elections should tun on the will of the majority, with non-voters acquiescing in the will of the majority of those who vote.

In American political elections, including congressional and presidential elections, States do not require the winner of an election to receive a majority of votes from all those eligible to vote. In fact, in 2010, 41 States had a voter turnout rate below 50 percent. Moreover, non-votes are counted as what they are—non-votes. People do not vote in elections for innumerable reasons: they are sick, they are away from home, they are disengaged, they are intimidated not to vote by those on one side or another, or they simply do not care about the outcome. It is neither fair nor democratic to input a particular opinion to non-voters who did not personally express that opinion.

The NMB's new rule has not opened the floodgates to unionization. Among the 17 representation elections conducted to date under the new rule, unions have been certified in only nine of them. At one air carrier, in fact, four representation elections were held among four different employee groups in 2010, and in each election the union failed to win the support of a majority of voters. Under the old rule, from 1990 to 2010, unions were certified in 63 percent of elections. Under the new rule, unions have been certified in only 53 percent of elections, and the median participation rate has been quite high: 84 percent (with 94 percent of eligible workers voting in one election). The NMB's new rule has not made the certification of unions more or less likely then before.

We are troubled that the Republicans chose FAA reauthorization legislation, which is critical for the enhancement of aviation safety, to wage an assault on collective bargaining among airline and railroad workers. During the Committee markup of H.R. 658, this provision was subject to strong opposition by both Democratic and Republican Members. In fact, the provision barely survived the markup when an amendment to strip it from the bill failed by just a single vote. This controversial provision's presence in this bill seriously jeopardizes the enactment of long-term FAA reauthorization legislation.

III. Sunset of EAS Program

More than three decades ago, Congress enacted the Airline Deregulation Act of 1978 (P.L. 95–504), which phased out the Federal

Government's control over domestic fares and routes. At the time, Congress also recognized that the free market alone could not be relied on to maintain air service to all small communities. The Act established the EAS program, which guaranteed that communities served by air carriers before deregulation would continue to receive a certain level of scheduled air service. In subsequent legislation, the program has been modified to ensure that it only provides air service where the service can be provided at a reasonable cost. EAS is necessary to link small communities to the larger system of commerce and, in the process, to create and sustain local jobs.

H.R. 658 cuts EAS program funding progressively through FY 2013, and then, for airports in the lower 48 States, it sunsets the program altogether (although EAS for Alaska and Hawaii would be continued). Sunsetting the EAS program could severely hurt the 110 communities in the contiguous United States that depend on EAS. By proposing to renege on the Federal commitment to support small and rural community air service, H.R. 658 effectively contemplates a policy of two Americas—one wealthy enough to support scheduled air service, and the other increasingly isolated and unable to afford full access to our national aviation system.

H.R. 658: Communities where EAS subsidy would be eliminated after FY 2013

AL	AR	AZ	CA	CO	GA	IA	IL
Muscle Shoals	Harrison El/Dorado/Camden Hot Springs Jonesboro	Page Show Low Kingman Prescott	Crescent City Visalia El Centro Merced	Cortez Alamosa Pueblo	Athens	Burlington Fort Dodge Mason City	Decatur Marion/Herrin Quincy

KS	KY	MD	ME	MI	MN	MO	MS	MT
Dodge City Garden City Hays Liberal/Guymon Salina Great Bend	Paducah Owensboro	Hagerstown	Presque Isle/Houlton Bar Harbor Rockland Augusta/Waterville	Sault St. Marie Hancock/Houghton Iron Mountain/Kingsford Alpena Manistee Escanaba Ironwood/Ashland Muskegon	Thief River Falls International Falls Chrisholm/Hibbing	Joplin Kirksville Fort Leonard Wood Cape Girardeau	Meridian Greenville Hattiesburg/Laurel Tupelo	Glasgow Wolf Point Havre Sidney Glendive Lewistown Miles City West Yellowstone

ND	NE	NH	NM	NV	NY	OR	PA	PR
Dickinson Devils Lake Jameston	Chadron North Plate McCook Alliance Scottsbluff Kearney Grand Island	Lebanon/White River	Carlsbad Clovis Silver City/Hurley Alamogordo/Holloman	Ely	Massena Plattsburgh Ogdensburg Saranac Lake Watertown Jamestown	Pendleton	Altoona DuBois Lancaster Franklin/Oil City Johnstown Bradford	Mayaguez Ponce

SD	TN	TX	UT	VA	VT	WI	WV	WY
Huron Watertown	Jackson	Victoria	Moab Cedar City Vernal	Staunton	Rutland	Eau Claire	Beckley Parkersburg Clarksburg Morgantown	Worland Laramie

IV. Omission of safety-enhancing provisions

Finally, we are concerned about other aspects of the bill, including some notable omissions. The FAA reauthorization bills that passed the House and Senate last Congress each contained a provision establishing occupational safety and health protections for flight attendants in aircraft cabins. This bill omits that provision.

Air transportation workers spend their working hours in some of the Nation's most dangerous workplaces, where the rate of work-related injury or illness was more than twice the national average

in 2009, according to Bureau of Labor Statistics data. Construction workers and workers on factory floors are exposed to fewer workplace injuries and illnesses than air transportation workers. Flight attendants, in particular, are exposed to unique risks every day: repeated changes in air pressure, constant noise, significant temperature variations, sick or belligerent passengers, and all manner of communicable air- and blood-borne pathogens. Flight attendants, however, are not protected by the occupational safety and health standards that cover tens of millions of other workers, even though they are passengers' first resource during emergencies and must be fit and healthy to perform their safety duties.

In 1975, the FAA recognized that cabin crewmembers' occupational safety and health were matters of aviation safety; in 2000, the administrators of the FAA and the Occupational Safety and Health Administration (OSHA) signed a memorandum of understanding (MOU) under which they agreed to work together to develop occupational safety and health protections for flight attendants. A team comprised of FAA and OSHA officials produced a joint report in 2000 documenting their collaborative work to that point and listing issues needing further analysis (including the effects of state occupational safety and health plans, and the need to ensure that application of occupational standards would not affect aviation safety). Shortly afterward, however, the collaborative process reached a standstill, and flight attendants still are not protected by occupational safety and health standards. We agree with the FAA that cabin crewmembers' occupational safety and health are matters of aviation safety, and we believe H.R. 658 should include a provision directing the relevant parties to move forward to develop effective occupational safety and health standards whose application will be cost-effective and will improve aviation safety.

Similarly, H.R. 658 will not meaningfully reduce the occurrence of flight attendant fatigue, another significant safety issue. The bill merely requires a study on flight attendant fatigue. The FAA has already completed this study and released it to the public.

At a Subcommittee on Aviation June 6, 2007 hearing, entitled "The National Transportation Safety Board's Most Wanted Aviation Safety Improvements", Ms. Patricia Friend, then-president of the Association of Flight Attendants, testified that fatigue among flight attendants "is a very real and serious concern for the flight attendant workforce . . . and poses a potentially dangerous risk for the safety of the aviation system."

Since then, the FAA's Civil Aerospace Medical Institute conducted the very study required under H.R. 658. The study's findings support but one conclusion: further action is now required. The five-part study, which included a national survey of flight attendants working at a cross-section of air carriers, found that fatigue is pervasive among flight attendants and affects their performance of required safety responsibilities. Accordingly, the bill should require a rulemaking, based on the results of the study, to reduce the occurrence of flight attendant fatigue.

Conclusion

The bill's inadequate funding levels, its "poison pill" provision on collective-bargaining that has no relationship to job creation or

safety, its sunset of the EAS program, and its omissions of important safety protections all raise concerns that the bill will not sufficiently create jobs and improve safety. Although we share our Republican colleagues' desire to enact long-term reauthorization legislation, we are concerned that H.R. 658 will not advance our mutual goal of moving the aviation system into the 21st Century. Moreover, we believe that these controversial aspects of this bill seriously jeopardize enactment of multi-year FAA reauthorization legislation. We therefore oppose these aspects of the bill as reported by the Committee on Transportation and Infrastructure.

NICK J. RAHALL, III,
Ranking Member.
JERRY F. COSTELLO.
PETER A. DEFAZIO.
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