

110TH CONGRESS
1ST SESSION

H. R. 1356

To amend title 49, United States Code, to authorize appropriations for the Federal Aviation Administration for fiscal years 2008 through 2010, to improve aviation safety and capacity, to provide stable, cost-based funding for the national aviation system, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 6, 2007

Mr. OBERSTAR (for himself, Mr. MICA, Mr. COSTELLO, and Mr. PETRI) (all by request) introduced the following bill; which was referred to the Committee on Transportation and Infrastructure, and in addition to the Committees on Science and Technology, and Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To amend title 49, United States Code, to authorize appropriations for the Federal Aviation Administration for fiscal years 2008 through 2010, to improve aviation safety and capacity, to provide stable, cost-based funding for the national aviation system, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

2 (a) SHORT TITLE.—This Act may be cited as the
 3 “Next Generation Air Transportation System Financing
 4 Reform Act of 2007”.

5 (b) TABLE OF CONTENTS.—

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

TITLE I—AUTHORIZATIONS

- Sec. 101. Authorizations for General Fund, air traffic functions, safety and operations.
- Sec. 102. Airport planning and development and noise compatibility planning and programs.
- Sec. 103. Airline data and analysis.
- Sec. 104. Office of Commercial Space Transportation.
- Sec. 105. Transition.

TITLE II—USER FEE AUTHORITY

- Sec. 201. Fees.
- Sec. 202. Conforming Amendments.

TITLE III—AIRPORT IMPROVEMENT PROGRAM

- Sec. 301. Reform of passenger facility charge authority.
- Sec. 302. Amendments to AIP definitions.
- Sec. 303. Amendments to grant assurances.
- Sec. 304. Government share of project costs.
- Sec. 305. Amendments to allowable costs.
- Sec. 306. Simplification and reform of apportionment formulas.
- Sec. 307. Minimum amount for discretionary fund.
- Sec. 308. Funding of space transportation infrastructure grants program.
- Sec. 309. Repeal of small airport fund.
- Sec. 310. Creation of new small airport set-aside, and repeal of military and reliever airport set-asides.
- Sec. 311. Military Airport Program.
- Sec. 312. Sale of private airport to public sponsor.
- Sec. 313. Sunset of airport security program.
- Sec. 314. Sunset of pilot program for purchase of airport development rights.
- Sec. 315. Extension of grant authority for compatible land use planning and projects by State and local governments.
- Sec. 316. Midway Island Airport.
- Sec. 317. Pilot program for airport takeover of air navigation facilities.
- Sec. 318. ADS-B Support Pilot Program
- Sec. 319. AIP eligibility for Metropolitan Washington Airports Authority.
- Sec. 320. Miscellaneous Amendments.

TITLE IV—MANAGEMENT AND ORGANIZATION

- Sec. 401. Air Transportation System Advisory Board.
- Sec. 402. Facilitation of Next Generation air traffic services.
- Sec. 403. Clarification of authority to enter into reimbursable agreements.
- Sec. 404. Definition of air navigation facility.
- Sec. 405. Improved management of property inventory.
- Sec. 406. Clarification to acquisition reform authority.
- Sec. 407. Assistance to foreign aviation authorities.
- Sec. 408. Presidential Rank Award Program.
- Sec. 409. Realignment and consolidation of aviation facilities and services.
- Sec. 410. Operational and approach procedures by third parties through delegation.
- Sec. 411. Judicial review of denial of airman certificates.
- Sec. 412. Release of data relating to abandoned type certificates and supplemental type certificates.
- Sec. 413. Design Organization Certificates.
- Sec. 414. Contract tower program.
- Sec. 415. Enhanced Oversight of Next Generation Air Transportation System Joint Planning and Development office.

TITLE V—AVIATION SAFETY, SECURITY, CAPACITY AND CONNECTIVITY IMPROVEMENTS

- Sec. 501. Disclosure of data to Federal agencies in interest of national security.
- Sec. 502. FAA access to criminal history records or database systems.
- Sec. 503. Allocation of operating authorizations at LaGuardia airport.
- Sec. 504. Pilot program for market-based mechanisms at congested airports.

TITLE VI—ENVIRONMENTAL STEWARDSHIP AND STREAMLINING

- Sec. 601. Airport Cooperative Research Program.
- Sec. 602. State Block Grant Program.
- Sec. 603. Airport funding of special studies or reviews.
- Sec. 604. Environmental Mitigation Demonstration Pilot Program.
- Sec. 605. Grant eligibility for assessment of flight procedures.
- Sec. 606. Research consortium for lower energy, emissions and noise technology partnership.
- Sec. 607. Amendments to Air Tour Management Program.

TITLE VII—AVIATION INSURANCE

- Sec. 701. General Authority.
- Sec. 702. Extension of authority to limit third party liability of air carriers arising out of acts of terrorism.
- Sec. 703. Clarification on reinsurance authority.
- Sec. 704. Use of independent claims adjusters.
- Sec. 705. Extension of aviation program authority.

TITLE VIII—AVIATION SERVICE IMPROVEMENTS

- Sec. 801. Extension of competitive access reports.
- Sec. 802. Essential air service reform.
- Sec. 803. Termination of DOT authority to set international mail rates.
- Sec. 804. Air carriage of international mail.
- Sec. 805. Contents of competition plans.
- Sec. 806. Airport privatization.
- Sec. 807. Clarification of air carrier fee disputes.
- Sec. 808. Amendments to chapter 415.

TITLE IX—INTERNAL REVENUE CODE AMENDMENTS

- Sec. 901. Amendment of 1986 Code.
Sec. 902. Modifications to tax on aviation fuel.
Sec. 903. Modifications to tax on transportation of persons by air.
Sec. 904. Extension of Airport and Airway Trust Fund expenditure authority.

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

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

8 SEC. 3. EFFECTIVE DATE.

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

12 TITLE I—AUTHORIZATIONS**13 SEC. 101. AUTHORIZATIONS FOR SAFETY AND OPERATIONS,
14 AIR TRAFFIC FUNCTIONS, RESEARCH AND
15 DEVELOPMENT.**

16 (a) IN GENERAL.—Part C of subtitle VII is amended
17 by striking chapter 482 and inserting in lieu thereof the
18 following:

1 **“CHAPTER 482—AUTHORIZATIONS FOR**
2 **AIR TRAFFIC FUNCTIONS, SAFETY**
3 **AND OPERATIONS, AND RESEARCH**
4 **AND DEVELOPMENT**

“Sec.

“48201. Air Traffic Organization.

“48202. Safety and operations.

“48203. Civil aviation research and development.

“48204. General fund authorization.

5 **“§ 48201. Air Traffic Organization**

6 “(a) AIR TRAFFIC ORGANIZATION ACCOUNT.—On
7 October 1, 2007, the Secretary of the Treasury shall es-
8 tablish on the books of the Treasury a separate account
9 to be known as the ‘Air Traffic Organization’.

10 “(b) AUTHORIZATION OF APPROPRIATIONS.—In ad-
11 dition to amounts from the general fund of the Treasury
12 as authorized in section 48204, not more than a total of
13 the following amounts may be appropriated to the Sec-
14 retary of Transportation out of the Airport and Airway
15 Trust Fund established under section 9502 of the Internal
16 Revenue Code of 1986 (26 U.S.C. 9502) for capital, oper-
17 ating and overhead costs of providing air traffic control
18 and related services:

19 “(1) \$7,915,516,000 for fiscal year 2008;

20 “(2) \$1,130,000,000 for fiscal year 2009; and

21 “(3) \$1,126,000,000 for fiscal year 2010.

22 “(c) USER FEES.—(1) In addition to amounts au-
23 thorized under subsection (b), amounts credited to the ac-

1 count established under subsection (a) from fees collected
2 under section 45305 of this title are authorized to be used
3 for capital, operating and overhead costs of providing air
4 traffic control and related services, as well as for the costs
5 related to the assessment and collection of these fees.

6 “(2) Notwithstanding any other provision of law,
7 amounts credited to the account established under sub-
8 section (a) shall be used only to carry out the air traffic
9 functions of the Federal Aviation Administration.

10 “(d) AVAILABILITY OF AMOUNTS.—Amounts appro-
11 priated under this section shall remain available until ex-
12 pended.

13 **“§ 48202. Safety and operations**

14 “(a) SAFETY AND OPERATIONS ACCOUNT.—On Oc-
15 tober 1, 2007, the Secretary of the Treasury shall estab-
16 lish on the books of the Treasury a separate account to
17 be known as the ‘Safety and Operations’.

18 “(b) AUTHORIZATION OF APPROPRIATIONS.—In ad-
19 dition to amounts from the general fund of the Treasury
20 as authorized in section 48204, not more than a total of
21 the following amounts may be appropriated to the Sec-
22 retary of Transportation out of the Airport and Airway
23 Trust Fund established under section 9502 of the Internal
24 Revenue Code of 1986 (26 U.S.C. 9502) for programs,
25 activities and services relating to the Federal Aviation Ad-

1 ministration’s safety programs, services to the commercial
2 space industry and other staff support functions:

3 “(1) \$671,594,000 for fiscal year 2008;

4 “(2) \$69,000,000 for fiscal year 2009; and

5 “(3) \$69,000,000 for fiscal year 2010.

6 “(c) USER FEES.—(1) Amounts credited to the ac-
7 count established under subsection (a) from fees collected
8 under sections 45305 and 45306 of this title, are author-
9 ized to be used for programs, activities and services relat-
10 ing to the Federal Aviation Administration’s safety pro-
11 grams and other staff support functions, as well as for
12 the costs related to the assessment and collection of these
13 fees.

14 “(2) Notwithstanding any other provision of law,
15 amounts credited to the account established under sub-
16 section (a) shall be used only to carry out the safety pro-
17 grams, services to the commercial space industry, and
18 staff support functions of the Federal Aviation Adminis-
19 tration.

20 “(d) AVAILABILITY OF AMOUNTS.—Amounts appro-
21 priated under this section shall remain available until ex-
22 pended.

23 **“§ 48203. Civil aviation research and development**

24 “(a) AUTHORIZATION.—In addition to amounts from
25 the general fund of the Treasury as authorized in section

1 48204, not more than the following amounts may be ap-
2 propriated out of the Airport and Airway Trust Fund es-
3 tablished under section 9502 of the Internal Revenue Code
4 of 1986 (26 U.S.C. 9502), to the Secretary of Transpor-
5 tation for conducting civil aviation research and develop-
6 ment under sections 44504, 44505, 44507, 44509, and
7 44511–44513 of this title:

8 “(1) \$122,867,000 for fiscal year 2008;

9 “(2) \$174,000,000 for fiscal year 2009; and

10 “(3) \$174,000,000 for fiscal year 2010.

11 “(b) AVAILABILITY OF AMOUNTS.—Amounts appro-
12 priated under this section shall remain available until ex-
13 pended.

14 **“§ 48204. General Fund Authorization**

15 “(a) Not more than the following amounts may be
16 appropriated under this chapter from the general fund of
17 the Treasury to the Secretary of Transportation for activi-
18 ties or services, the cost of which is not otherwise funded
19 by fees established under chapter 453 of this title or by
20 funds made available from the Airport and Airway Trust
21 Fund, related to aviation safety regulation and oversight,
22 research and development, air traffic services provided to
23 military, public or air ambulance aircraft, operation of
24 Flight Service Stations and Automated Flight Service Sta-
25 tions, operation of air traffic control towers at airports

1 with fewer than 100,000 passenger boardings per year,
 2 services to the commercial space industry, or other Fed-
 3 eral Aviation Administration programs in the general pub-
 4 lic interest, including the capital, operating, and overhead
 5 costs for such activities or services:

6 “(1) \$2,618,322,000 for fiscal year 2008;

7 “(2) \$2,582,000,000 for fiscal year 2009; and

8 “(3) \$2,582,000,000 for fiscal year 2010.”.

9 “(b) CONFORMING AMENDMENT.—The analysis of
 10 Part C of Subtitle VII is amended by revising the entry
 11 for chapter 482 to read as follows:

“482. Authorizations for air traffic functions, safety and oper-
 ations, research and development and general fund 48201.”.

12 **SEC. 102. AIRPORT PLANNING AND DEVELOPMENT AND**
 13 **NOISE COMPATIBILITY PLANNING AND PRO-**
 14 **GRAMS.**

15 (a) AUTHORIZATION.—Section 48103 is amended—

16 (1) in the first sentence, by striking “The” and
 17 inserting “(a) AUTHORIZATION.—The”;

18 (2) by striking “September 30, 2003” and in-
 19 sserting “September 30, 2007”;

20 (3) by striking paragraphs (1) through (4) and
 21 inserting the following:

22 “(1) \$2,750,000,000 for fiscal year 2008;

23 “(2) \$2,900,000,000 for fiscal year 2009; and

24 “(3) \$3,050,000,000 for fiscal year 2010.”; and

1 (4) by inserting at the end the following:

2 “(b) AIRPORT COOPERATIVE RESEARCH PRO-
3 GRAM.—Not more than \$15,000,000 per year for fiscal
4 years 2008, 2009 and 2010 may be appropriated to the
5 Secretary of Transportation from the amounts made avail-
6 able each year under subsection (a) for the Airport Coop-
7 erative Research Program under section 44511 of this
8 title, of which not less than \$5,000,000 per year shall be
9 for research activities related to the airport environment,
10 including reduction of community exposure to civil aircraft
11 noise, reduction of civil aviation emissions, or addressing
12 water quality issues.”.

13 (b) OBLIGATIONAL AUTHORITY.—Section 47104(c)
14 is amended by striking “September 30, 2007” and insert-
15 ing “September 30, 2010”.

16 **SEC. 103. AIRLINE DATA AND ANALYSIS.**

17 (a) AUTHORIZATION.—There is authorized to be ap-
18 propriated to the Secretary of Transportation out of the
19 Airport and Airway Trust Fund established by section
20 9502 of the Internal Revenue Code of 1986 (26 U.S.C.
21 9502), \$4,000,000 per year for fiscal year 2008, and
22 \$6,000,000 for fiscal years 2009 and 2010 to fund airline
23 data collection and analysis by the Bureau of Transpor-
24 tation Statistics in the Research and Innovative Tech-

1 nology Administration of the Department of Transpor-
2 tation.

3 (b) In fiscal year 2009, the Secretary shall reform,
4 by the most efficient means available, the aviation eco-
5 nomic data program for the collection and dissemination
6 of airline traffic and financial data.

7 **SEC. 104. OFFICE OF COMMERCIAL SPACE TRANSPOR-**
8 **TATION.**

9 Section 70119 is amended—

- 10 (1) in paragraph (4), by striking “and”;
- 11 (2) in paragraph (5), by striking “2009.” and
12 inserting “2009; and”; and
- 13 (3) by inserting at the end:
14 “(6) \$15,224,000 for fiscal year 2010.”.

15 **SEC. 105. TRANSITION.**

16 (a) **AUTHORIZATION FOR TRANSITION PERIOD.**—For
17 the purpose of supporting the transition to a user fee sys-
18 tem of financing under chapter 453, not more than
19 \$1,360,000,000 is authorized to be appropriated to the
20 Secretary of Transportation from the general fund of the
21 Treasury to provide services for an initial period of sixty
22 days for which user fees under sections 45305 (air traffic
23 control and related fees) and 45306 (registration, certifi-
24 cation and related fees) are assessed.

1 (b) FEE SURCHARGE.—The Administrator of the
2 Federal Aviation Administration shall, subject to appro-
3 priation in advance, impose and collect a surcharge on the
4 user fees established under sections 45305 and 45306 for
5 fiscal year 2009 in an amount and manner so as to fully
6 recover and return to the general fund in fiscal year 2009
7 the amount used for transition costs under this section.

8 **TITLE II—USER FEE AUTHORITY**

9 **SEC. 201. FEES.**

10 (a) IN GENERAL.—Chapter 453 is amended by add-
11 ing at the end the following:

12 **“§ 45305. Air traffic control and related fees**

13 “(a) SCHEDULE OF FEES.—(1) Not later than the
14 date of transition, the Administrator of the Federal Avia-
15 tion Administration shall establish fees for air traffic con-
16 trol and related activities, services, facilities and equip-
17 ment provided by, or on behalf of, the Administration in
18 accordance with this section. Except as provided in sub-
19 section (c), owners or operators of aircraft in the national
20 airspace system shall pay the fees assessed under this sec-
21 tion. The Administrator may establish separate fees for
22 aircraft operating in terminal, enroute, or oceanic air-
23 space.

24 “(2) For purposes of this section and section 45306,
25 ‘date of transition’ means October 1, 2008.

1 “(3) In establishing fees under paragraph (1), the
2 Administrator may establish interim fees for a period not
3 to exceed one year after the date of transition, and may
4 impose a surcharge on such fees in order to recover the
5 full costs of services during the initial period of transition
6 to user fees. The establishment of such interim fees would
7 not be subject to the requirements of subsection (e)(2).

8 “(4) In accordance with this section, the Adminis-
9 trator may periodically modify the fees established under
10 this section either on the Administrator’s own initiative,
11 based on the requirements of the agency or the users of
12 the National Airspace System, or on a recommendation
13 from the Board under subsection (e)(2) of this section.

14 “(b) BASIS FOR FEES; COMPUTATION METHODS.—

15 (1) EN ROUTE AND OCEANIC.—In establishing fees for
16 aircraft operating in en route or oceanic airspace, includ-
17 ing fees for aircraft that operate in United States con-
18 trolled airspace but neither take off from, nor land in, the
19 United States, the Administrator may base the fee on dis-
20 tance traveled, or on any other method that is consistent
21 with the treaties and international agreements to which
22 the United States is a party.

23 “(2) TERMINAL AIRSPACE.—For aircraft operations
24 in terminal airspace, the Administrator may establish a
25 fee with the following elements:

1 “(A) for takeoffs and landings at airports with
2 greater than 100,000 passenger boardings per year;

3 “(B) that may be based on the weight of the
4 aircraft;

5 “(C) specifically for aircraft operating in ter-
6 minal airspace for a large hub airport, as defined by
7 section 40102(a)(29);

8 “(D) specifically for terminal airspace for a
9 large hub airport that varies with the time of day,
10 day of the week, or for a particular large hub airport
11 if the Administrator determines—

12 “(i) that such airspace is congested;

13 “(ii) that such congestion results in whole
14 or in part from the limitation on the capacity
15 of the large hub airport or airports; and

16 “(iii) that establishing such a fee will help
17 reduce delays in the national airspace system;
18 and

19 “(E) a fee that is different for nighttime oper-
20 ations than for daytime operations.

21 “(3) QUANTITATIVE STANDARDS.—For the purpose
22 of the determinations required by paragraphs (b)(2)(D),
23 the Administrator shall issue quantitative standards for
24 the levels of airspace and airport congestion, operating
25 delays, effect of airport delay on national system delay,

1 and feasibility of increasing the capacity of a congested
2 airport, and make such determinations in accordance with
3 those standards.

4 “(4) AIRCRAFT ALTITUDE.—Nothing in this section
5 shall require the Administrator to take into account air-
6 craft altitude in establishing any fee for aircraft oper-
7 ations in terminal, en route or oceanic airspace.

8 “(5) INCENTIVE FOR EQUIPAGE.—The Adminis-
9 trator may establish reduced fees for aircraft that are
10 equipped with avionics whose use the Administrator deter-
11 mines would enhance the safety or efficiency of the Na-
12 tional Airspace System if the Administrator finds that
13 such a fee structure would create an incentive for the pur-
14 chase and installation of such equipment.

15 “(6) RELATION TO COSTS.—The fees established
16 under this section shall be based on the costs to the Ad-
17 ministration of providing the air traffic control and related
18 activities, services, facilities, and equipment using the
19 available data derived from the agency’s cost accounting
20 system and cost allocation system to users. For purposes
21 of this section, the term ‘costs’ means those costs associ-
22 ated with the operation, maintenance, debt service, and
23 overhead expenses of the services provided and the facili-
24 ties and equipment used in such services, including the
25 projected costs for the period during which the services

1 will be provided, but shall not include the cost of providing
2 services to aircraft described in subsection (c).

3 “(7) RESERVE.—The fees that the Administrator es-
4 tablishes under this section may also include amounts suf-
5 ficient to cover the costs of providing air traffic control
6 and related activities, services, facilities and equipment in
7 the event that receipts are less than projected, whether
8 such a shortfall is caused by a decrease in aircraft oper-
9 ations, delinquent payment of fees by any person, or for
10 another comparable reason.

11 “(8) ANNUAL REVIEW.—The Administrator shall
12 provide for an annual independent review to validate that
13 the agency used actual costs for the year, which were pre-
14 pared in accordance with generally accepted accounting
15 principles, and compiled those costs in accordance with the
16 agency’s documented cost allocation methodology.

17 “(9) FEES CREDITED AS OFFSETTING COLLEC-
18 TIONS.—Any fee authorized to be collected under this sec-
19 tion shall, subject to appropriation made in advance—

20 “(A) be credited as offsetting collections to the
21 account established under section 48201(a) of this
22 title; and

23 “(B) be available to the Administrator for ex-
24 penditure only to pay the costs of activities and serv-

1 ices for which the fee is imposed, including the costs
2 to determine, assess, review and collect the fee.

3 “(10) EFFECT OF LAW ON FEE COLLECTION.—The
4 Administrator may continue to assess and collect and
5 spend fees established under this section during any pe-
6 riod in which the agency’s funding is provided under an
7 Act providing continuing appropriations in lieu of the
8 agency’s regular appropriations.

9 “(c) EXCEPTIONS.—(1) MILITARY AND OTHER PUB-
10 LIC AIRCRAFT.—Fees may not be assessed under this sec-
11 tion for air traffic control and related services provided
12 to military aircraft, public aircraft (as defined in section
13 40102 of this subtitle), air ambulance aircraft, or to mili-
14 tary or non-commercial civil aircraft of a foreign govern-
15 ment.

16 “(2) GENERAL AVIATION OPERATIONS.—Except for
17 fees established for operations in terminal airspace for a
18 large hub airport under subsection (b)(2), no fees may be
19 established under this section for air traffic control and
20 related services provided to aircraft operations using fuel
21 for which a tax was paid under section 4081(a)(2) (except
22 taxes paid at the rate specified in section
23 4081(a)(2)(C)(i)) of title 26, United States Code. The ex-
24 ception provided by this subparagraph shall cease to be
25 effective if the rate of tax for fuel under section

1 4081(a)(2) is lower than 70.0 cents per gallon, starting
2 on the date of transition, except if the lower rate is the
3 result of adjustments made under section 4081(a)(2) of
4 title 26, United States Code.

5 “(3) FLIGHT PLAN INFORMATION.—Any person re-
6 quired to file a flight plan with the Administration, includ-
7 ing operators of flights described in paragraphs (1) and
8 (2), must specify in the plan whether the person is en-
9 gaged in an operation for compensation or hire, or a gen-
10 eral aviation operation, or a military or public aircraft op-
11 eration, for purposes of this section.

12 “(4) CANADA TO CANADA FLIGHTS.—The Adminis-
13 trator may waive a fee that would otherwise be assessed
14 under this chapter for flights that operate in U.S.-con-
15 trolled airspace but takeoff and land at an airport in Can-
16 ada without an intermediate stop outside Canada, if the
17 Administrator determines that not assessing and collecting
18 the fee for such flights would be in the public interest.

19 “(d) ADMINISTRATIVE PROVISIONS.—(1) FEES PAY-
20 ABLE TO THE ADMINISTRATOR.—Fees assessed and
21 amounts collected under this section are payable to the
22 Administrator. The Administrator may refund any fee, or
23 portion thereof, paid by mistake in excess of the amount
24 required.

1 “(2) COLLECTION PROCEDURES.—The Adminis-
2 trator shall establish procedures for the collection of fees.
3 These procedures shall establish the frequency of pay-
4 ment, deadlines for payment, a maximum amount of fees
5 that may be outstanding on the account of any person,
6 and such other limitations and conditions as the Adminis-
7 trator determines are necessary to obtain prompt payment
8 of fees.

9 “(3) FAILURE TO PAY REQUIRED FEES.—If the Ad-
10 ministrator determines that any person has failed to pay
11 fees when due under this section, or to comply with any
12 limitation or condition on payment under this section, or
13 to provide the Administration with the correct information
14 in the person’s flight plan or by other means regarding
15 the nature of the flight, including whether the person en-
16 gaged in an operation for compensation or hire or general
17 aviation operation, the Administrator may—

18 “(A) assess interest charges, using a rate equal
19 to 150 percent of a rate determined by the Secretary
20 of the Treasury based on the average of bond equiv-
21 alent yields on 13-week Treasury bills auctioned dur-
22 ing the previous calendar quarter, to be redeter-
23 mined quarterly, on amounts that have not been
24 paid by the deadline;

1 “(B) change the required payment schedule for
2 such person;

3 “(C) offset any amount of fees owed by with-
4 holding any payment otherwise owed or due to the
5 person by the Secretary or the Administrator;

6 “(D) upon 24 hours notice, terminate, reduce,
7 or withhold the provision of non-emergency air traf-
8 fic control and related services to such person, ex-
9 cept that, in any case involving a foreign air carrier,
10 the Administrator shall take such actions as are nec-
11 essary to comply with applicable international agree-
12 ments; or

13 “(E) impose a civil penalty for each day
14 amounts remain unpaid, or take other appropriate
15 enforcement action under this subtitle.

16 “(4) ACTION WHEN FUTURE PAYMENT IN JEOP-
17 ARDY.—If the Administrator reasonably determines that
18 an aircraft owner or operator will not pay its required fees
19 when due, the Administrator may—

20 “(A) change the required payment schedule for
21 such person; or

22 “(B) upon 24 hours notice, terminate, reduce,
23 or withhold the provision of non-emergency air traf-
24 fic control and related services to such person, ex-
25 cept that, in any case involving a foreign air carrier,

1 the Administrator shall take such actions as are nec-
2 essary to comply with applicable international agree-
3 ments.

4 “(5) PAYMENT NOT STAYED PENDING REVIEW.—In
5 any case where a person seeks administrative review of
6 the Administrator’s action under this section, the collec-
7 tion of fees from that person may not be stayed pending
8 resolution of the case.

9 “(e) CONSULTATION REQUIREMENTS; APPROVAL OF
10 FEES.—(1) Prior to establishing or modifying fees under
11 this section or section 45306 of this title, the Adminis-
12 trator shall consult with air carriers, including foreign air
13 carriers, consistent with international agreements, and
14 any other persons subject to such fees, and any other
15 member of the public who wishes to file comments. For
16 purposes of the section, ‘consult’ means to afford the op-
17 portunity to provide comments to, and have such com-
18 ments considered by, the Administrator.

19 “(2) Prior to establishing or modifying fees under
20 this section or section 45306 of this title, the Adminis-
21 trator shall consult with and seek the recommendations
22 of the type and level of such fees from the Air Transpor-
23 tation System Advisory Board (hereinafter ‘the Board’)
24 established under section 106(p) of this title. The Board
25 may, from time to time, recommend that the Adminis-

1 trator modify established fees based on the needs of the
2 agency or the users of the National Airspace System. If
3 the Board fails to recommend approval of any fee pro-
4 posed by the Administrator, or if the Administrator fails
5 to adopt the recommendation of the Board, the Adminis-
6 trator may establish or maintain such fees only after pub-
7 lishing in the Federal Register a written determination
8 setting forth the reasons for the Administrator’s establish-
9 ment or modification of the fees and summarizing the
10 views of the Board.

11 “(3) Any person who is subject to fees established
12 in this section or section 45306 of this title, and who ob-
13 jects to the establishment or amount of such fees may ap-
14 peal that decision exclusively to the Secretary of Transpor-
15 tation. The Secretary may disapprove the establishment
16 or modification of fees if the Secretary finds that the
17 fees—

18 “(A) are not, in the case of fees under this sec-
19 tion, based on costs as described in subsection
20 (b)(6);

21 “(B) do not fairly allocate system costs among
22 users who pay fees;

23 “(C) unreasonably discriminate against a par-
24 ticular category of users of the system; or

1 “(D) are not in accordance with the strategic
2 plan of the Administration.

3 “(4) The decision of the Administrator to establish
4 or modify a fee or schedule of fees under this section or
5 section 45306 of this title shall be effective unless dis-
6 approved by the Secretary within 60 days after submission
7 of the Administrator’s decision to the Secretary. The deci-
8 sion of the Secretary constitutes final agency action and
9 is not subject to judicial review.

10 “(f) EFFECT ON OTHER FEES.—Unless otherwise
11 specified, nothing in this section or section 45306 shall
12 be construed as affecting fees previously authorized and
13 established under this chapter.

14 “(g) EXEMPTION FROM RULEMAKING.—The require-
15 ments applicable to developing and issuing rules under
16 title 5, United States Code, shall not apply to the actions
17 of the Secretary, Administrator, or Board under this sec-
18 tion.

19 “(h) STATUS OF AIRPORT.—Based on fiscal year
20 2006 data, the Administrator shall publish a list of air-
21 ports that meet the criteria for a large hub airport under
22 subsection (b)(2). The Administrator shall periodically up-
23 date such list. If in the fiscal year during which the list
24 is first published or in any subsequent fiscal year in which
25 the list of airports is updated, an airport meets the criteria

1 for a large hub airport under subsection (b)(2), such air-
2 port shall be deemed to remain in such status for three
3 years regardless of fluctuation in the passenger boardings
4 during that time.

5 “(i) DEFINITIONS.—For the purposes of this sec-
6 tion—

7 “(1) ‘Air ambulance aircraft’ means—

8 “(A) rotorcraft, which are engaged in an
9 operation to provide emergency medical serv-
10 ices; or

11 “(B) fixed-wing aircraft, which are
12 equipped for and exclusively dedicated to pro-
13 viding acute care medical services.

14 “(2) ‘enroute airspace’ means airspace encom-
15 passing Class A and Class E airspace listed in part
16 71 of title 14 of the Code of Federal Regulations
17 and subpart B of Federal Aviation Administration
18 Order 7400.9N or a successor order;

19 “(3) ‘terminal airspace’ means airspace encom-
20 passing Class B, Class C and Class D airspace listed
21 in part 71 of title 14 of the Code of Federal Regula-
22 tions and subpart B of Federal Aviation Administra-
23 tion Order 7400.9N or a successor order.

24 “(4) ‘oceanic airspace’ means U.S. controlled
25 airspace over an ocean.

1 **“§ 45306. Registration, certification and related fees**

2 “(a) IMPOSITION OF REGISTRATION FEES.—On the
3 date of transition, the Administrator shall establish the
4 following fees for the following services or activities:

5 “(1) \$130 for registering an aircraft.

6 “(2) \$45 for replacing an aircraft registration.

7 “(3) \$130 for issuing an original dealer’s air-
8 craft certificate.

9 “(4) \$105 for issuing an additional aircraft cer-
10 tificate.

11 “(5) \$80 for issuing a special registration num-
12 ber.

13 “(6) \$50 for issuing a renewal of a special reg-
14 istration number.

15 “(7) \$130 for recording a security interest.

16 “(8) \$130 for recording a security interest in
17 aircraft parts.

18 “(9) \$50 for issuing an airman certificate.

19 “(10) \$25 for issuing a replacement airman
20 certificate.

21 “(11) \$42 for issuing an airman medical certifi-
22 cate.

23 “(12) \$100 for providing legal title opinions
24 pertaining to aircraft transactions.

1 “(b) ESTABLISHMENT OF CERTIFICATION FEES.—

2 (1) The Administrator shall establish fees for the following
3 services or activities:

4 “(A) The appointment of a designee (other than
5 designated medical examiners).

6 “(B) The appointment of delegated organiza-
7 tions.

8 “(C) The training of a designee.

9 “(D) The issuance of a certificate to a flight
10 school under Part 141 of title 14 of the Code of
11 Federal Regulations.

12 “(E) The issuance of a certificate to a training
13 center under Part 142 of title 14 of the Code of
14 Federal Regulations.

15 “(F) The issuance of a certificate to a large do-
16 mestic repair station under part 145 of title 14 of
17 the Code of Federal Regulations.

18 “(G) The issuance of a certificate to a medium
19 domestic repair station under part 145 of title 14 of
20 the Code of Federal Regulations.

21 “(H) The issuance of a certificate to a small
22 domestic repair station under part 145 of title 14 of
23 the Code of Federal Regulations.

1 “(I) The issuance of a certificate to a large for-
2 foreign repair station under part 145 of title 14 of the
3 Code of Federal Regulations.

4 “(J) The issuance of a certificate to a medium
5 foreign repair station under part 145 of title 14 of
6 the Code of Federal Regulations.

7 “(K) The issuance of a certificate to a small
8 foreign repair station under part 145 of title 14 of
9 the Code of Federal Regulations.

10 “(L) The issuance of a certificate to a mainte-
11 nance technical school under part 147 of title 14 of
12 the Code of Federal Regulations.

13 “(M) Training provided to foreign aviation au-
14 thorities.

15 “(2) RELATION TO COSTS.—The fees that the Ad-
16 ministrators establish and assess under this section,
17 shall be based on the costs to the Administration of pro-
18 viding such activities and services using the available data
19 derived from the agency’s cost accounting system and cost
20 allocation system to users. For purposes of this section,
21 the term ‘costs’ shall mean those costs associated with
22 capital, operation and maintenance, and overhead, includ-
23 ing the projected costs for the period during which the
24 services are provided.

1 “(c) FEES FOR OTHER SERVICES.—The Adminis-
2 trator may establish and collect such additional fees as
3 may be necessary to cover the cost of aviation certification,
4 regulation, and related services not enumerated in sub-
5 section (b), including any additional cost of providing serv-
6 ices outside the United States.

7 “(d) FEES CREDITED AS OFFSETTING COLLEC-
8 TIONS.—(1) Any fee authorized to be collected under this
9 section shall, subject to appropriation made in advance—

10 “(A) be credited as offsetting collections to the
11 account established under section 48202(a) of this
12 title; and

13 “(B) be available for expenditure only to pay
14 the costs of activities and services for which the fee
15 is imposed, including the costs to determine, assess,
16 review and collect the fee.

17 “(2) The Administrator may continue to assess and
18 collect and spend fees established under this section dur-
19 ing any period in which the agency’s funding is provided
20 under an Act providing continuing appropriations in lieu
21 of the agency’s regular appropriations.

22 “(e) ADJUSTMENTS.—The Administrator shall peri-
23 odically adjust the fees established by subsections (a) or
24 (b) in the following circumstances—

1 “(1) to account for changes in the Consumer Price
2 Index of All Urban Consumers published by the Secretary
3 of Labor;

4 “(2) when data reveal that the cost of providing the
5 service is higher or lower than the cost data that was used
6 to establish the fee then in effect; or

7 “(3) when the Board recommends an adjustment in
8 the fees, in accordance with the procedures under sub-
9 section (g).

10 “(f) ADMINISTRATIVE PROVISIONS.—(1) FEES PAY-
11 ABLE TO THE ADMINISTRATOR.—All fees assessed and
12 amounts collected under this section are payable to the
13 Administrator. The Administrator may refund any fee, or
14 portion thereof, paid by mistake in excess of the amount
15 required.

16 “(2) COLLECTION PROCEDURES.—The Adminis-
17 trator shall establish procedures for the collection of fees.
18 These procedures shall establish the frequency of pay-
19 ment, deadlines for payment, a maximum amount of fees
20 that may be outstanding on the account of any person,
21 and such other limitations and conditions as the Adminis-
22 trator determines are necessary to obtain prompt payment
23 of fees.

24 “(3) FAILURE TO PAY REQUIRED FEES.—If the Ad-
25 ministrator determines that any person has failed to pay

1 fees when due under this section or to comply with any
2 limitation or condition on payment under this section, the
3 Administrator may—

4 “(A) assess interest charges, using a rate equal
5 to 150 percent of a rate determined by the Secretary
6 of the Treasury based on the average of bond equiv-
7 alent yields on 13-week Treasury bills auctioned dur-
8 ing the previous calendar quarter, to be redeter-
9 mined quarterly, on amounts that have not been
10 paid by the deadline;

11 “(B) change the required payment schedule for
12 such person;

13 “(C) upon 24 hours notice to the person, termi-
14 nate, reduce or withhold non-emergency services or
15 in any case involving a foreign air carrier, the Ad-
16 ministrators shall take such actions as are necessary
17 to comply with applicable international agreements;
18 or

19 “(D) impose a civil penalty for each day
20 amounts remain unpaid, or take other appropriate
21 enforcement action under this subtitle.

22 “(4) ACTION WHEN FUTURE PAYMENT IN JEOP-
23 ARDY.—If the Administrator reasonably determines that
24 a person will not pay its required fees when due, the Ad-
25 ministrators may—

1 “(A) change the required payment schedule for
2 such person; or

3 “(B) upon 24 hours notice, terminate, reduce,
4 or withhold non-emergency services to such person,
5 except that, in any case involving a foreign air car-
6 rier, the Administrator shall take such actions as are
7 necessary to comply with applicable international
8 agreements.

9 “(5) PAYMENT NOT STAYED PENDING REVIEW.—In
10 any case where a person seeks administrative review of
11 the Administrator’s action under this section, the collec-
12 tion of fees from that person may not be stayed pending
13 resolution of the case.

14 “(g) PROCEDURE FOR IMPOSITION OF FEES.—In es-
15 tablishing or modifying fees under this section, the proce-
16 dures and requirements of section 45305(e) of this title
17 shall apply.

18 “(h) EXEMPTION FROM RULEMAKING.—The require-
19 ments applicable to developing and issuing rules under
20 title 5, United States Code, shall not apply to the actions
21 of the Secretary, Administrator, or Board under this sec-
22 tion.

23 **“§ 45307. Rules of construction**

24 “Notwithstanding any other law, the fees computed,
25 established, assessed, modified or approved under this

1 chapter shall be governed by the provisions of this chapter
2 and not the provisions of section 9701 of title 31.

3 **“§ 45308. Borrowing authority**

4 “(a) IN GENERAL.—(1) In order to support the tran-
5 sition to the Next Generation Air Transportation System,
6 in fiscal years 2013 through 2017 the Secretary of Trans-
7 portation is authorized to issue obligations to the Sec-
8 retary of the Treasury to finance capital investments in
9 the facilities and equipment of the air traffic control sys-
10 tem to be owned and operated by the Federal Aviation
11 Administration. The Secretary of the Treasury, in the Sec-
12 retary’s discretion, may purchase any such obligations,
13 provided that the Secretary first determines that there is
14 reasonable assurance of repayment of such obligations.

15 “(2) The Secretary shall not issue any obligations
16 under paragraph (1) without first obtaining approval by
17 the Director of the Office of Management and Budget of
18 the issuance of such obligations and proposed investments
19 to be financed.

20 “(b) CONDITIONS AND LIMIT ON INDEBTEDNESS.—
21 Obligations issued under this section shall be in such
22 forms and denominations, bear such maturities, and shall
23 be subject to such terms and conditions as may be pre-
24 scribed by the Secretary of the Treasury. The aggregate
25 amount of all such obligations shall not exceed

1 \$5,000,000,000 and all obligations shall be repaid by the
2 Secretary of Transportation by the end of fiscal year
3 2017.

4 “(c) USER FEE INCREASE.—Upon the issuance of
5 obligations under paragraph (1), the Secretary of Trans-
6 portation shall increase the user fees authorized in sec-
7 tions 45305 and 45306 in each of the fiscal years 2013
8 to 2017 in the amounts required to repay such obligations
9 with interest, and such payments shall have first priority
10 in the use of fees collected during this period. This in-
11 crease in user fees shall not be treated as discretionary
12 offsetting collections and shall only be used to repay the
13 obligations incurred under paragraph (1).

14 “(d) INTEREST RATE.—The interest rate on obliga-
15 tions issued under this section shall be a rate determined
16 by the Secretary of the Treasury, taking into consideration
17 the current market yields on outstanding marketable obli-
18 gations of the United States of comparable maturity, plus
19 a surcharge, determined by the Secretary of the Treasury,
20 to be sufficient to cover any potential losses and the ad-
21 ministrative costs associated with the obligations. Any sur-
22 charges for administrative costs collected by the Secretary
23 of the Treasury shall be credited to the appropriation ac-
24 count which incurred the cost.

1 “(e) PURCHASE OF OBLIGATIONS.—For the purposes
 2 of purchasing obligations under subsection (a), the Sec-
 3 retary of the Treasury may use as a public debt trans-
 4 action the proceeds from the sale of any securities issued
 5 under chapter 31 of title 31, United States Code, and the
 6 purposes for which securities may be issued under such
 7 chapter are extended to include any purchase of such obli-
 8 gations under this subsection.”.

9 (b) CONFORMING AMENDMENT.—

10 (1) The analysis of chapter 453 is amended—

11 (A) by inserting in the title after “FEES”,
 12 “AND FINANCING”;

13 (B) by adding at the end the following:

“45305. Air traffic control and related fees.

“45306. Certification, registration, and related fees.

“45307. Rules of construction.

“45308. Borrowing authority.”.

14 (2) The analysis of Part A of subtitle VII is
 15 amended by revising the entry for chapter 453 to
 16 read as follows:

“453. FEES AND FINANCING45301 (reserved)”.

17 **SEC. 202. CONFORMING AMENDMENTS.**

18 (a) CIVIL PENALTIES.—Section 46301 is amended—

19 (1) in paragraph (a)(1)(A), by inserting “chap-
 20 ter 453,” before “section 47107(b)”; and

21 (2) in paragraph (a)(5), by

1 (A) striking “or chapter 449” and insert-
2 ing “chapter 449”; and

3 (B) striking “44907–44909)” and insert-
4 ing “44907–44909), or chapter 453”.

5 (b) FEES FOR OVERFLIGHTS, FOREIGN SERVICES
6 AND SERVICES TO GENERAL AVIATION.—Effective Octo-
7 ber 1, 2008, sections 45301 and 45302 are repealed.

8 (c) ADMINISTRATIVE PROVISIONS.—Effective Octo-
9 ber 1, 2008, in section 45303—

10 (1) subsections (a), (b) and (c) are repealed;
11 and

12 (2) subsections (d), (e) and (f) are redesignated
13 as (a), (b) and (c) respectively.

14 **TITLE III—AIRPORT IMPROVE-**
15 **MENT PROGRAM AMEND-**
16 **MENTS**

17 **SEC. 301. REFORM OF PASSENGER FACILITY CHARGE AU-**
18 **THORITY.**

19 (a) BROADENING ELIGIBILITY.—(1) Section 40117
20 is amended—

21 (A) in the title, by striking “fees” and inserting
22 “charges”;

23 (B) in subsection (a)(3), by striking paragraphs

24 (A) through (G) and inserting:

1 “(A) A project for capital costs of the air-
2 port or local airport system under section
3 47107(b)(1)(A) and (B).

4 “(B) A project for capital costs of a local
5 facility that is directly and substantially related
6 to air transportation of passengers or property
7 and that is available for public use under sec-
8 tion 47107(b)(1)(C).”;

9 (C) by revising paragraph (a)(4) to read as fol-
10 lows:

11 “(4) INTERMODAL GROUND ACCESS PROJECT.—
12 The term ‘intermodal ground access project’ means
13 a local facility that is directly and substantially re-
14 lated to the movement of passengers or property in
15 the form of a fixed guideway system (as defined in
16 section 5302 of this title), that is a component of a
17 fixed guideway system that provides transportation
18 services to the general public or that connects to
19 such a fixed guideway system.”;

20 (D) in paragraph (a)(5), by striking “FEE” or
21 “fee” each time it appears and inserting
22 “CHARGE” or “charge”, respectively;

23 (E) in paragraph (a)(6), by striking “fee.” and
24 inserting “charge.”.

1 (2) CONFORMING AMENDMENTS.—(A) Section
2 47107(b)(1)(C) is amended to read as follows:

3 “(C) any other local facility that is directly
4 and substantially related to air transportation
5 of passengers or property and that is available
6 for public use.”.

7 (B) Section 47133(a)(3) is amended to read as fol-
8 lows:

9 “(3) any other local facility that is directly and
10 substantially related to air transportation of pas-
11 sengers or property and that is available for public
12 use.”.

13 (b) INCREASE IN PFC MAXIMUM LEVEL.—Section
14 40117(b) is amended—

15 (1) in paragraph (1)—

16 (A) by striking “The Secretary of Trans-
17 portation may authorize under this section an
18 eligible agency to” and inserting “An eligible
19 agency may”;

20 (B) by striking “fee” both times it appears
21 and inserting “charge”;

22 (C) by striking “or \$3” and inserting “\$3,
23 \$4, \$4.50, \$5, \$6”; and

24 (D) by inserting at the end, “An eligible
25 agency that is approved by the Administrator to

1 participate in the pilot program established
2 under section 44518 of this title may impose a
3 passenger facility charge of \$7.”;

4 (2) in paragraph (2), by inserting “directly or
5 indirectly” before “regulate”;

6 (3) in paragraph (3), by striking “fee” and in-
7 serting “charge”; and

8 (4) by striking paragraphs (4), (5) and (6).

9 (c) PASSENGER FACILITY CHARGE STREAM-
10 LINING.—Section 40117(c) is revised to read as follows:

11 “(c) PROCEDURAL REQUIREMENTS FOR IMPOSITION
12 OF PASSENGER FACILITY CHARGE.—(1) An eligible agen-
13 cy must submit to those air carriers and foreign air car-
14 riers operating at the airport with a significant business
15 interest, as defined in paragraph (3), and to the Secretary
16 and make available to the public annually a report, in the
17 form required by the Secretary, on the status of the eligi-
18 ble agency’s passenger facility fee program, including the
19 following:

20 “(A) the total amount of program revenue held
21 by the agency at the beginning of the twelve months
22 covered by the report;

23 “(B) the total amount of program revenue col-
24 lected by the agency during the period covered by
25 the report;

1 “(C) the amount of expenditures with program
2 revenue made by the agency on each eligible airport-
3 related project during the period covered by the re-
4 port;

5 “(D) each airport-related project for which the
6 agency plans to collect and use program revenue
7 during the next twelve-month period covered by the
8 report, including the amount of revenue projected to
9 be used for such project;

10 “(E) the level of program revenue the agency
11 plans to collect during the next twelve-month period
12 covered by the report;

13 “(F) a description of the notice and consulta-
14 tion process with air carriers and foreign air carriers
15 under paragraph (3), and with the public under
16 paragraph (4), including a copies of any adverse
17 comments received and how the agency responded;
18 and

19 “(G) any other information on the program
20 that the Secretary may require.

21 “(2) IMPLEMENTATION.—Subject to the require-
22 ments of paragraphs (3) and (4), (5) and (6), the eligible
23 agency may implement the planned collection and use of
24 passenger facility charges in accordance with its report
25 upon filing the report as required in paragraph (1).

1 “(3) CONSULTATION WITH CARRIERS FOR NEW
2 PROJECTS.—(A) An eligible agency proposing to collect or
3 use passenger facility charge revenue for a project not pre-
4 viously approved by the Secretary or not included in a re-
5 port required by paragraph (1) that was submitted in a
6 prior year, or an eligible agency proposing to increase the
7 level of the passenger facility charge to be collected at the
8 airport, must provide to air carriers and foreign air car-
9 riers operating at the airport reasonable notice, and an
10 opportunity to comment on the planned collection and use
11 of program revenue before providing the report required
12 under paragraph (1). The Secretary shall prescribe by reg-
13 ulation what constitutes reasonable notice under this para-
14 graph, which shall at a minimum include—

15 “(i) that the eligible agency provide to air car-
16 riers and foreign air carriers operating at the airport
17 written notice of the planned collection and use of
18 passenger facility charge revenue;

19 “(ii) that the notice include a full description
20 and justification for a proposed project;

21 “(iii) a detailed financial plan for the proposed
22 project; and

23 “(iv) the proposed level for the passenger facil-
24 ity charge.

1 “(B) An eligible agency providing notice and an op-
2 portunity for comment shall be deemed to have satisfied
3 the requirements of this paragraph if the eligible agency
4 provides such notice to air carriers and foreign air carriers
5 that have a significant business interest at the airport. For
6 purposes of this paragraph, the term “significant business
7 interest” means an air carrier or foreign air carrier that—

8 “(i) had not less than 1.0 percent of passenger
9 boardings at the airport in the prior calendar year;

10 “(ii) had at least 25,000 passenger boardings at
11 the airport in the prior calendar year; or

12 “(iii) provides scheduled service at the airport.

13 “(C) Not later than 45 days after written notice is
14 provided under subparagraph (A), each air carrier and
15 foreign air carrier may provide written comments to the
16 eligible agency indicating its agreement or disagreement
17 with the project or, if applicable, the proposed level for
18 a passenger facility charge.

19 “(D) The eligible agency may include, as part of the
20 notice and comment process, a consultation meeting to
21 discuss the proposed project or, if applicable, the proposed
22 level for a passenger facility charge. If the agency provides
23 a consultation meeting, the written comments specified in
24 subparagraph (C) shall be due not later than 30 days after
25 the meeting.

1 “(4) PUBLIC NOTICE AND COMMENT.—(A) An eligi-
2 ble agency proposing to collect or use passenger facility
3 charge revenue for a project not previously approved by
4 the Secretary or not included in a report required by para-
5 graph (1) that was filed in a prior year, or an eligible
6 agency proposing to increase the level of the passenger fa-
7 cility charge to be collected, must provide reasonable no-
8 tice and an opportunity for public comment on the planned
9 collection and use of program revenue before providing the
10 report required in paragraph (1).

11 “(B) The Secretary shall prescribe by regulation
12 what constitutes reasonable notice under this paragraph,
13 which shall at a minimum require—

14 “(i) that the eligible agency provide public no-
15 tice of intent to collect a passenger facility charge so
16 as to inform those interested persons and agencies
17 that may be affected;

18 “(ii) appropriate methods of publication, which
19 may include notice in local newspapers of general
20 circulation or other local media, or posting of the no-
21 tice on the agency’s internet website; and

22 “(iii) submission of public comments no later
23 than 45 days after the date of the publication of the
24 notice.

1 “(5) OBJECTIONS.—(A) Any interested person may
2 file with the Secretary a written objection to a proposed
3 project or to a proposed increase in the level of a pas-
4 senger facility charge included in a notice under this para-
5 graph provided that the filing is made within 30 days after
6 submission of the report specified in paragraph (1).

7 “(B) The Secretary shall provide not less than 30
8 days for the eligible agency to respond to any filed objec-
9 tion.

10 “(C) Not later than 90 days after receiving the eligi-
11 ble agency’s response to a filed objection, the Secretary
12 shall make a determination whether or not to terminate
13 authority to collect the passenger facility charge for the
14 project or at the increased level, based on the filed objec-
15 tion. The Secretary shall state the reasons for any deter-
16 mination. The Secretary may only terminate authority
17 if—

18 “(i) the project is not an eligible airport related
19 project;

20 “(ii) the eligible agency has not complied with
21 the requirements of this section or the Secretary’s
22 implementing regulations in proposing the project;

23 “(iii) the eligible agency has been found to be
24 in violation of section 47107(b) of this title and has

1 failed to take corrective action, prior to the filing of
2 the objection; or

3 “(iv) in the case of a proposed increase in the
4 passenger facility charge level, the level is not au-
5 thorized by this section.

6 “(D) Upon issuance of a decision terminating author-
7 ity, the public agency shall prepare an accounting of pas-
8 senger facility revenue collected under the terminated au-
9 thority and restore the funds for use on other authorized
10 projects.

11 “(E) Except as provided in paragraph (C), the eligi-
12 ble agency may implement the planned collection and use
13 of a passenger facility charge in accordance with its report
14 upon filing the report as specified in paragraph (1)(A).

15 “(6) APPROVAL REQUIREMENT FOR INTERMODAL
16 GROUND ACCESS PROJECT.—(A) An eligible agency may
17 not collect or use a passenger facility charge to finance
18 an intermodal ground access project, unless the project is
19 first approved by the Secretary in accordance with this
20 paragraph.

21 “(B) The eligible agency may submit to the Secretary
22 an application for authority to impose a passenger facility
23 charge for an intermodal ground access project. The appli-
24 cation shall contain information and be in the form that
25 the Secretary may require by regulation but, at a min-

1 imum, must include copies of any comments received by
2 the agency during the comment period described by sub-
3 paragraph (C).

4 “(C) Before submitting an application under this
5 paragraph, an eligible agency must provide air carriers
6 and foreign air carriers operating at the airport, and the
7 public, reasonable notice of and an opportunity to com-
8 ment on a proposed intermodal ground access project.
9 Such notice and opportunity to comment shall conform to
10 the requirements of paragraphs (3) and (4).

11 “(D) After receiving an application, the Secretary
12 may provide air carriers, foreign air carriers and other in-
13 terested persons notice and an opportunity to comment
14 on the application. The Secretary shall make a final deci-
15 sion on the application not later than 120 days after re-
16 ceiving it.”.

17 (d) CONFORMING CHANGES.—(1) CORRECTION.—In
18 subsections (d) through (m) of section 40117, by—

19 (A) striking “fee” or “fees” wherever the terms
20 appear and inserting “charge” or “charges”, respec-
21 tively; and

22 (B) striking “FEE” or “FEES” wherever the
23 terms appear and inserting “CHARGE” or
24 “CHARGES”, respectively.

1 (2) LIMITATIONS ON APPROVING APPLICATIONS.—

2 Section 40117(d) is amended—

3 (A) in the first sentence, by striking “sub-
4 section (c) of this section to finance a specific” and
5 inserting “subsection (c)(6) of this section to finance
6 an intermodal ground access”;

7 (B) in paragraph (1), by—

8 (i) striking “fee” and inserting “charge”;

9 and

10 (ii) striking “specific”;

11 (C) by revising paragraph (2) to read as fol-
12 lows:

13 “(2) the project is an eligible airport-related
14 project; and”;

15 (D) in paragraph (3), by striking “each of the
16 specific projects; and” and inserting “the project.”;
17 and

18 (E) by striking paragraph (4).

19 (3) LIMITATIONS ON IMPOSING FEES.—Section
20 40117(e)(1) is amended to read as follows:

21 “An eligible agency may impose a passenger fa-
22 cility charge only subject to terms the Secretary may
23 prescribe to carry out the objectives of this section.”.

24 (4) LIMITATIONS ON CONTRACTS, LEASES, AND USE
25 AGREEMENTS.—Section 40117(f)(2) is amended—

1 (A) by striking “long-term”; and

2 (B) by striking “Secretary.” and inserting
3 “Secretary, except a project for replacement of bag-
4 gage conveyor systems and reconfiguration of ter-
5 minal baggage areas that the Secretary determines
6 are necessary to install bulk explosive detection de-
7 vices.”.

8 (5) COMPLIANCE.—Section 40117(h) is amended—

9 (A) by inserting a new paragraph (3) as fol-
10 lows:

11 “(3) The Secretary may, on complaint of an in-
12 terested person or on the Secretary’s own initiative,
13 conduct an investigation into an eligible agency’s col-
14 lection and use of passenger facility charge revenue
15 to determine whether a passenger facility charge is
16 excessive or that passenger facility revenue is not
17 being used as provided in this section. The Secretary
18 shall prescribe regulations establishing procedures
19 for complaints and investigations. The regulations
20 may provide for the issuance of a final agency deci-
21 sion without resort to an oral evidentiary hearing.
22 The Secretary shall not accept complaints filed
23 under this paragraph until after the issuance of reg-
24 ulations establishing complaint procedures.”; and

1 (B) by redesignating paragraph (3) as para-
2 graph (4).

3 (6) PILOT PROGRAM FOR PFC AT NONHUB AIR-
4 PORTS.—Section 40117(l) is amended—

5 (A) in paragraph (2), by striking “(c)(2)” and
6 inserting “(c)(3)”; and

7 (B) in paragraph (7), by striking “date that is
8 3 years after the date of issuance of regulations to
9 carry out this subsection.” and inserting “date of
10 issuance of regulations to carry out subsection (c) of
11 this section, as amended by the Next Generation Air
12 Transportation System Financing Reform Act of
13 2007.”.

14 (7) PROHIBITION ON APPROVING PFC APPLICA-
15 TIONS FOR AIRPORT REVENUE DIVERSION.—Section
16 47111(e) is amended in the first sentence by striking from
17 “sponsor, and withhold approval of any new application
18 to impose a fee under section 40117.” through the end
19 of the subsection, and inserting “sponsor. A sponsor shall
20 not propose collection or use of passenger facility charges
21 for any new projects under section 40117(c)(3)–(6) unless
22 the Secretary determines that the sponsor has taken cor-
23 rective action to address the violation and the violation
24 no longer exists.”.

1 **SEC. 302. AMENDMENTS TO AIP DEFINITIONS.**

2 Section 47102 is amended—

3 (1) in subsection (3),

4 (A) in clause (B)(iv), by striking “20” and
5 inserting “9”; and

6 (B) by adding at the end, the following:

7 “(M) construction of mobile refueler park-
8 ing within a fuel farm at a nonprimary airport
9 meeting the requirements of section 112.8 of
10 title 40 of the Code of Federal Regulations.

11 “(N) terminal development subject to the
12 provisions of section 47119.”.

13 (2) by inserting the following new paragraph
14 (8) and redesignating paragraphs (8) through (22)
15 as paragraphs (9) through (23), respectively:

16 “(8) a ‘general aviation airport’ means a public
17 airport in a State that the Secretary determines—

18 “(A) does not have scheduled service; or

19 “(B) has scheduled service with less than
20 2,500 passenger boardings each year.”;

21 (3) by inserting the following new paragraph
22 (24) and redesignating paragraphs (23) through
23 (25) as (25) through (27), respectively:

24 “(24) ‘revenue producing aeronautical support
25 facilities’ means new fuel farms, new hangar build-
26 ings, self-service credit card aeronautical fueling sys-

1 tems, airplane wash racks, major rehabilitation of a
2 hangar owned by a sponsor, or other aeronautical
3 support facilities that the Secretary determines will
4 increase the revenue producing ability of the air-
5 port.”; and

6 (4) by inserting at the end the following new
7 paragraph (28):

8 “(28) ‘terminal development’ means—

9 “(A) development of an airport passenger
10 terminal building, including terminal gates, ac-
11 cess roads servicing exclusively airport traffic
12 that leads directly to or from a terminal build-
13 ing, and walkways that lead directly to or from
14 a terminal building; and

15 “(B) the cost of a vehicle under section
16 47119(a) of this title.”.

17 **SEC. 303. AMENDMENTS TO GRANT ASSURANCES.**

18 Section 47107 is amended—

19 (1) in clause (a)(16)(D)(ii), by striking “made;”
20 and inserting “made, except that, if there is a
21 change in airport design standards that the Sec-
22 retary determines is beyond the owner or operator’s
23 control that requires the relocation or replacement of
24 an existing airport facility, the Secretary, upon the
25 request of the owner or operator, may grant funds

1 available under section 47114 to pay the cost of re-
2 locating or replacing such facility.”; and

3 (2) in clause (c)(2)(A)(iii), by striking from
4 “paid to the Secretary” through the end of the
5 clause, and inserting “reinvested in another project
6 at the airport or transferred to another airport as
7 the Secretary prescribes. In approving the reinvest-
8 ment or transfer of such proceeds, the Secretary
9 shall give preference, in descending order, to the fol-
10 lowing actions:

11 “(I) reinvestment in an approved
12 noise compatibility project;

13 “(II) reinvestment in an ap-
14 proved project that is eligible for
15 funding under section 47117(e);

16 “(III) reinvestment in an airport
17 development project that is eligible for
18 funding under sections 47114, 47115
19 or 47117 and meets the requirements
20 of this chapter;

21 “(IV) transfer to another sponsor
22 of another public airport to be rein-
23 vested in an approved noise compat-
24 ibility project at such airport; and

1 “(V) payment to the Secretary
2 for deposit in the Airport and Airway
3 Trust Fund established under section
4 9502 of the Internal Revenue Code of
5 1986 (26 U.S.C. 9502);”.

6 **SEC. 304. GOVERNMENT SHARE OF PROJECT COSTS.**

7 Section 47109 is amended—

8 (1) in subsection (a) by—

9 (A) by striking “subsection (b) or sub-
10 section (c)” and inserting “subsections (b), (c)
11 or (e)”;

12 (B) by striking “is—” and inserting “may
13 not exceed—”;

14 (C) by striking paragraphs (1) and (2) and
15 adding the following new paragraphs:

16 “(1) 50 percent for an airfield pavement reha-
17 bilitation project for runways, taxiways or aircraft
18 aprons at a large hub or medium hub primary air-
19 port, as defined in section 47102;

20 “(2) 75 percent for other approved airport de-
21 velopment projects at a large hub or medium hub
22 primary airport, as defined in section 47102;

23 “(3) 95 percent for a project funded by a grant
24 issued to a nonprimary airport that is not appor-
25 tioned funds under section 47114 of this title;”;

1 (D) by redesignating paragraphs (3), (4),
2 and (5) as paragraphs (4), (5), and (6); and
3 (2) in subsection (f), by striking “47118(f)”
4 and inserting “47118(e)”; and
5 (3) by adding at the end the following:

6 “(e) SPECIAL RULE FOR TRANSITION FROM SMALL
7 HUB TO MEDIUM HUB STATUS.—If the status of a small
8 hub primary airport changes to a medium hub primary
9 airport, the United States Government’s share of allow-
10 able project costs for the airport may not exceed 90 per-
11 cent for two fiscal years following such change in hub sta-
12 tus.”.

13 **SEC. 305. AMENDMENTS TO ALLOWABLE COSTS.**

14 Section 47110 is amended—

15 (1) by revising subsection (d) to read as follows:

16 “(d) RELOCATION OF AIRPORT-OWNED FACILI-
17 TIES.—The Secretary may determine that the costs of re-
18 locating or replacing an airport-owned facility are allow-
19 able for an airport development project at an airport only
20 if—

21 “(1) the Government’s share of such costs is
22 paid with funds apportioned to the airport sponsor
23 under sections 47114(c)(1) or 47114(d)(2);

1 “(2) the Secretary determines that the reloca-
2 tion or replacement is required due to a change in
3 the Secretary’s design standards; and

4 “(3) the Secretary determines that the change
5 is beyond the control of the airport sponsor.”; and

6 (2) in subsection (h) by striking “facilities, in-
7 cluding fuel farms and hangars,” and inserting “fa-
8 cilities, as defined by section 47102,”.

9 **SEC. 306. SIMPLIFICATION AND REFORM OF APPORTION-**
10 **MENT FORMULAS.**

11 Section 47114 is amended—

12 (1) in subsection (c)(1)—

13 (A) in subparagraph (A), by striking “pri-
14 mary airport” and inserting “small hub and
15 nonhub primary airport”;

16 (B) in clause (A)(i), by striking “\$7.80”
17 and inserting “\$15.60”;

18 (C) in clause (A)(ii), by striking “\$5.20”
19 and inserting “\$10.40”;

20 (D) in clause (A)(iii), by striking “\$2.60”
21 and inserting “\$5.20”;

22 (E) in clause (A)(iv), by striking “\$.65”
23 and inserting “\$1.30”;

24 (F) in clause (A)(v), by striking “\$.50”
25 and inserting “\$1.00”;

1 (G) in subparagraph (B), by striking
2 “\$650,000” and all that follows through the
3 end of the sentence and inserting “\$1,000,000
4 nor more than \$26,000,000 may be apportioned
5 under subparagraph (A) of this paragraph to
6 an airport sponsor of each large hub and me-
7 dium hub primary airport for fiscal years 2008
8 and 2009, and to each airport sponsor for a
9 small hub and nonhub primary airport for each
10 fiscal year.”

11 (H) by amending subparagraph (C) to
12 read as follows:

13 “(C) TRANSITIONAL RULE FOR LARGE AND
14 MEDIUM HUB AIRPORTS.—In fiscal years 2008
15 and 2009, the Secretary shall apportion to each
16 large and medium hub airport an amount equal
17 to 50 percent of the amount that is calculated
18 using the formulas set forth in subparagraph
19 (A).”;

20 (I) in subparagraph (D), by striking “(B)
21 or (C), as appropriate,” and inserting “(B)”;
22 and

23 (J) by striking subparagraph (F) and re-
24 designating subparagraph (G) as subparagraph
25 (F);

1 (2) in subsection (c)(2)—

2 (A) in subparagraph (A), by striking
3 “(D),” and inserting “(C),”; and

4 (B) by striking subparagraph (C) and re-
5 designating subparagraphs (D) and (E) as (C)
6 and (D), respectively;

7 (3) in subsection (d)—

8 (A) in subparagraph (2), by—

9 (i) striking “18.5 percent” and insert-
10 ing “10 percent”; and

11 (ii) adding a new subparagraph at the
12 end as follows:

13 “(D) MINIMUM APPORTIONMENT.—In any
14 fiscal year in which the total amount made
15 available for apportionment under this sub-
16 section is less than \$300,000,000, the Secretary
17 shall reduce, on a prorated basis, the amount to
18 be apportioned under subparagraph (d)(3)(A)
19 of this section, and make such reduction avail-
20 able to be apportioned under this subsection, so
21 as to meet a minimum apportionment of
22 \$300,000,000.”; and

23 (B) by revising paragraph (3) to read as
24 follows:

1 “(3) NONPRIMARY AIRPORTS.—Except as pro-
2 vided in subsection (2)(D), the Secretary shall each
3 fiscal year apportion—

4 “(A) to each airport, excluding primary
5 airports but including reliever and nonprimary
6 commercial service airports—

7 “(i) \$400,000 to each airport that is
8 either a nonprimary commercial service
9 airport or a reliever or that is a nonpri-
10 mary airport having 100 or more oper-
11 ational registered based aircraft;

12 “(ii) \$200,000 to each airport that is
13 a nonprimary airport (other than a nonpri-
14 mary commercial service or reliever air-
15 port), having 50 and 99 operational reg-
16 istered based aircraft, or three or more
17 operational registered based jet aircraft;
18 and

19 “(iii) \$100,000 to each airport that is
20 a nonprimary airport (other than a nonpri-
21 mary commercial service airport or a re-
22 liever airport), and has 10 to 49 oper-
23 ational, registered based aircraft.

24 “(B) For purposes of subparagraph (A),
25 the terms ‘operational registered based aircraft’

1 or ‘operational registered based jet aircraft’
2 shall be as defined in the Federal Aviation Ad-
3 ministration’s National Flight Data Center Air-
4 port Data Base or in a comparable, updated
5 agency database.”;

6 (4) subsection (e) is amended—

7 (A) in subparagraph (1)(B), by inserting
8 “twice” before “the minimum”; and

9 (B) by striking paragraph (4);

10 (5) in subsection (f)(1)—

11 (A) by striking “in a fiscal year to the
12 sponsor of an airport having at least .25 per-
13 cent of the total number of boardings each year
14 in the United States” and inserting “in fiscal
15 years 2008 and 2009 to a sponsor of a large
16 hub or medium hub airport”;

17 (B) in subparagraph (B), by striking
18 “\$3.00,” and inserting “\$3.00, but not more
19 than \$4.50,”;

20 (C) by adding a new subparagraph at the
21 end as follows:

22 “(C) in the case of a passenger facility charge
23 of more than \$4.50, 100 percent of the projected
24 revenues from the charge in the fiscal year but not

1 by more than 100 percent of the amount that other-
2 wise would be apportioned under this section.”; and

3 (D) by striking “fee” each place it appears
4 and inserting “charge”;

5 (6) in subsection (f)(2), by striking “fee” each
6 time it appears and inserting “charge”; and

7 (7) by adding at the end the following:

8 “(g) ENVIRONMENTAL SET-ASIDE.—(1) The Sec-
9 retary may apportion at least 8 percent of the amount sub-
10 ject to apportionment for each fiscal year for grants for—

11 “(A) airport noise compatibility planning under
12 section 47505(a)(2);

13 “(B) carrying out noise compatibility programs
14 under section 47504(c);

15 “(C) noise mitigation projects approved in an
16 environmental record of decision for an airport de-
17 velopment project under this title;

18 “(D) for compatible land use planning projects
19 carried out by State and local governments under
20 section 47141;

21 “(E) for airport development described in sec-
22 tion 47102(3)(F), 47102(3)(K) or 47102(3)(L) to
23 comply with the Clean Air Act (42 U.S.C. 7401 et
24 seq.);

1 “(F) for water quality mitigation projects to
2 comply with the Clean Water Act (33 U.S.C. 1251
3 et seq.) approved in an environmental record of deci-
4 sion for an airport development project under this
5 title; and

6 “(G) for carrying out an environmental mitiga-
7 tion demonstration project under section 47143 of
8 this title.

9 “(2) The Secretary may count the amount of grants
10 made for such planning and programs with funds appor-
11 tioned under section 47114 in that fiscal year in deter-
12 mining whether or not such 8 percent requirement is being
13 met in that fiscal year.”.

14 **SEC. 307. MINIMUM AMOUNT FOR THE DISCRETIONARY**
15 **FUND.**

16 Section 47115(g)(1) is amended by striking from
17 “sum of—” through the end of clause (B) and inserting
18 “sum of \$520,000,000.”.

19 **SEC. 308. FUNDING OF SPACE TRANSPORTATION INFRA-**
20 **STRUCTURE GRANTS PROGRAM.**

21 Section 47115 is amended by adding at the end the
22 following new subsection:

23 “(k) **FUNDING OF SPACE TRANSPORTATION INFRA-**
24 **STRUCTURE MATCHING GRANTS.**—Notwithstanding any
25 other provision of this chapter, from amounts made avail-

1 able under this section, the Secretary may issue a grant
2 for a project under section 70301 of this title, provided
3 that, in issuing such a grant, the Secretary shall follow
4 the provisions of chapter 703 of this title. Not more than
5 \$10,000,000 per fiscal year shall be available for grants
6 under this subsection.”.

7 **SEC. 309. REPEAL OF SMALL AIRPORT FUND.**

8 Section 47116 is repealed.

9 **SEC. 310. CREATION OF NEW SMALL AIRPORT SET-ASIDE,**
10 **AND REPEAL OF THE MILITARY AND RE-**
11 **LIEVER AIRPORT SET-ASIDES.**

12 Section 47117(e) is amended to read as follows:

13 “(e) **SMALL AIRPORT SET-ASIDE.**—Each fiscal year,
14 the Secretary shall provide at least 20 percent of the
15 amount available to the discretionary fund under section
16 47115 of this title to sponsors of small hub airports,
17 nonhub airports, nonprimary commercial service airports,
18 reliever airports or general aviation airports, for any pur-
19 pose for which amounts are made available under section
20 48103. An airport in a State participating in the State
21 block grant program under section 47128 may receive a
22 grant under this section to the same extent the airport
23 may receive a grant if the State were not participating
24 in such program.”.

1 **SEC. 311. MILITARY AIRPORT PROGRAM.**

2 Section 47118 is amended—

3 (1) in subsection (a), by striking “section
4 47117(e)(1)(B)” and inserting “sections
5 47114(c)(1), (c)(2) and (d), 47115, or 47117(e)”;

6 (2) by striking subsection (c) and redesignating
7 subsections (d) through (g) as (c) through (f) re-
8 spectively?];

9 (3) in subsection (c), as redesignated, by strik-
10 ing “section 47117(d)(1)(B) of this title” and in-
11 serting “sections 47114, 47115 or 47117 of this
12 title for projects at airports designated under this
13 section”;

14 (4) in subsection (d), as redesignated, by strik-
15 ing “section 47115, \$10,000,000 for each of fiscal
16 years 2004 and 2005, and \$7,000,000 for each fis-
17 cal year thereafter,” and inserting “sections 47114,
18 47115 or 47117, \$7,000,000 for each fiscal year,”;

19 (5) in subsection (e), as redesignated—

20 (A) by striking “(1) CONSTRUCTION.—
21 From” and inserting “From”;

22 (B) by striking “section 47115,
23 \$10,000,000 for each of fiscal years 2004 and
24 2005, and \$7,000,000 for each fiscal year
25 thereafter,” and inserting “sections 47114,

1 47115 or 47117, \$7,000,000 for each fiscal
2 year,”; and

3 (C) by striking paragraph (2); and

4 (6) in subparagraph (f), as redesignated, by
5 striking “one” and inserting “up to three”.

6 **SEC. 312. SALE OF PRIVATE AIRPORT TO PUBLIC SPONSOR.**

7 Section 47133(b) is amended—

8 (1) by striking “apply if” and inserting:
9 “apply—(1) if”;

10 (2) by striking “operator.” and inserting “oper-
11 ator; and”; and

12 (3) by adding at the end the following:

13 “(2) in the case of a privately owned airport, to
14 the proceeds from the sale of the airport to a public
15 sponsor if—

16 “(A) the sale is approved by the Secretary;

17 “(B) funding is provided under this title
18 for the public sponsor’s acquisition; and

19 “(C) an amount equal to the remaining
20 unamortized portion of the original grant, am-
21 ortized over a 20-year period, is repaid to the
22 Secretary by the private owner for deposit in
23 the Trust Fund for airport acquisitions.

24 “(3) This subsection shall apply to grants
25 issued on or after October 1, 1996.”.

1 **SEC. 313. SUNSET OF AIRPORT SECURITY PROGRAM.**

2 Section 47137 is amended by adding at the end the
3 following:

4 “(h) SUNSET.—This section shall not be in effect
5 after September 30, 2008.”.

6 **SEC. 314. SUNSET OF PILOT PROGRAM FOR PURCHASE OF**
7 **AIRPORT DEVELOPMENT RIGHTS.**

8 Section 47138 is amended by adding at the end the
9 following:

10 “(f) SUNSET.—This section shall not be in effect
11 after September 30, 2007.”.

12 **SEC. 315. EXTENSION OF GRANT AUTHORITY FOR COMPAT-**
13 **IBLE LAND USE PLANNING AND PROJECTS**
14 **BY STATE AND LOCAL GOVERNMENTS.**

15 Section 47141(f) is amended by striking “September
16 30, 2007.” and inserting “September 30, 2010.”.

17 **SEC. 316. MIDWAY ISLAND AIRPORT.**

18 Section 186(d) of the Vision 100—Century of Avia-
19 tion Reauthorization Act (Public Law No. 108–176, 117
20 Stat. 2490, 2518) is amended by striking “October 1,
21 2007” and inserting “October 1, 2010”.

22 **SEC. 317. PILOT PROGRAM FOR AIRPORT TAKEOVER OF**
23 **AIR NAVIGATION FACILITIES.**

24 (a) IN GENERAL.—Chapter 445 is amended by add-
25 ing at the end the following new section:

1 **“§ 44518. Pilot program for airport takeover of ter-**
2 **minal area air navigation equipment**

3 “(a) IN GENERAL.—Subject to the requirements of
4 this section, the Administrator of the Federal Aviation Ad-
5 ministrator may carry out a pilot program under which
6 the Administrator may transfer ownership, operating and
7 maintenance responsibilities for airport terminal area air
8 navigation equipment to sponsors of not more than 10 me-
9 dium or large hub airports.

10 “(b) TERMS AND CONDITIONS OF TRANSFER FOR
11 AIRPORT SPONSORS.—As a condition of participating in
12 this pilot program the sponsor shall agree that the sponsor
13 will—

14 “(1) operate and maintain all of the air naviga-
15 tion equipment that is subject to this section at the
16 airport in accordance with standards established by
17 the Administrator;

18 “(2) permit the Administrator or a person des-
19 ignated by the Administrator to conduct inspections
20 of the air navigation equipment under a schedule es-
21 tablished by the Administrator; and

22 “(3) acquire and maintain new air navigation
23 equipment as needed to replace facilities that have
24 to be replaced at the end of their useful life or to
25 meet new standards established by the Adminis-
26 trator.

1 “(c) TERMS AND CONDITIONS OF TRANSFER FOR
2 THE ADMINISTRATOR.—When the Administrator approves
3 a sponsor’s participation in this pilot program, the Admin-
4 istrator shall—

5 “(1) transfer, at no cost to the sponsor, the
6 title and ownership of the air navigation equipment
7 facilities approved for transfer under this program;
8 and

9 “(2) transfer, at no cost to the sponsor, the
10 government’s property interest in the land on which
11 the air navigation facilities transferred under sub-
12 section (1) are located.

13 “(d) TREATMENT OF AIRPORT COSTS UNDER PILOT
14 PROGRAM.—Upon transfer by the Administrator, any
15 costs incurred by the airport for ownership and mainte-
16 nance of the equipment transferred under this section
17 shall be considered a cost of providing airfield facilities
18 and services under standards and guidelines issued by the
19 Secretary under section 47129(b)(2) and may be recov-
20 ered in rates and charges assessed for use of the airfield.

21 “(e) SPECIAL PASSENGER FACILITY CHARGE AU-
22 THORITY.—Notwithstanding the maximum amount for a
23 passenger facility charge provided under section
24 40117(b)(1), a participating sponsor in the pilot program
25 under this section is authorized to impose a passenger fa-

1 cility charge of \$7 provided that the sponsor meets the
2 otherwise applicable requirements of section 40117.

3 “(f) DEFINITIONS.—In this section—

4 “(1) ‘large hub airport’ and ‘medium hub air-
5 port’ shall have the meaning set forth in section
6 40102;

7 “(2) ‘sponsor’ shall have the same meaning as
8 in section 47102;

9 “(3) ‘terminal area air navigation equipment’
10 means an air navigation facility under section
11 40102, other than buildings used for air traffic con-
12 trol functions, that exists to provide approach and
13 landing guidance to aircraft.

14 “(g) GUIDELINES.—The Administrator shall issue
15 advisory guidelines on the implementation of the program.
16 The guidelines shall not be subject to administrative rule-
17 making requirements under subchapter II of chapter 5 of
18 title 5.”.

19 (b) CONFORMING AMENDMENT.—The analysis of
20 chapter 445 is amended by inserting at the end:

“44518. Pilot program for airport takeover of terminal area air navigation
equipment.”.

21 **SEC. 318. ADS-B SUPPORT PILOT PROGRAM.**

22 (a) IN GENERAL.—Chapter 445 is amended by add-
23 ing at the end the following new section:

1 **“§ 44519. ADS–B support pilot program**

2 “(a) IN GENERAL.—The Secretary may carry out a
3 pilot program to support non-Federal acquisition of Na-
4 tional Airspace System (NAS) compliant Automatic De-
5 pendent Surveillance—Broadcast (ADS–B) ground sta-
6 tions if—

7 “(1) the Secretary determines that acquisition
8 of the ground stations benefits the improvement of
9 safety or capacity in the National Airspace System;

10 “(2) the ground stations provide the required
11 transmit and receive data formats consistent with
12 the National Airspace System architecture at the ap-
13 propriate service delivery point; and

14 “(3) the ground stations acquired under this
15 program are supplemental to ground stations estab-
16 lished under programs administered by the Adminis-
17 trator of the Federal Aviation Administration.

18 “(b) PROJECT GRANTS.—(1) For purposes of car-
19 rying out this pilot program and notwithstanding the re-
20 quirements of section 47114(d), the Secretary may make
21 a project grant out of funds apportioned under section
22 47114(d)(2) to not more than ten eligible sponsors to ac-
23 quire and install ADS–B ground stations in order to serve
24 any public-use airport.

25 “(2) The Secretary shall establish procurement pro-
26 cedures applicable to grants issued under this section. The

1 procedures shall permit the sponsor to carry out the
2 project using Federal Aviation Administration contracts.
3 The procedures established by the Secretary may provide
4 for the direct reimbursement (including administrative
5 costs) of the Administrator by the sponsor using grant
6 funds under this section, for the ordering of such equip-
7 ment and its installation, or for the direct ordering of such
8 equipment and its installation by the sponsor, using such
9 grant funds, from the suppliers with which the Adminis-
10 trator has contracted.

11 “(c) MATCHING REQUIREMENT.—The amount of a
12 grant to an eligible sponsor under subsection (b) may not
13 exceed 90 percent of the costs of the acquisition and in-
14 stallation of the ground support equipment.

15 “(d) DEFINITIONS.—In this section—

16 “(1) ‘ADS–B ground station’ means electronic
17 equipment that provides for ADS–B reception and
18 broadcast services.

19 “(2) ‘eligible sponsor’ means a state, a metro-
20 politan planning organization in the area where the
21 project is located, or any consortium of two or more
22 state or local governments meeting the definition of
23 a sponsor under section 47102 of this title.”.

24 (b) CONFORMING AMENDMENT.—The analysis of
25 chapter 445 is amended by inserting at the end:

“44519. ADS–B support pilot program.”.

1 **SEC. 319. AIP ELIGIBILITY FOR METROPOLITAN WASH-**
2 **INGTON AIRPORTS AUTHORITY.**

3 Section 49108 is amended by striking “October 1,
4 2008,” and inserting “October 1, 2010”.

5 **SEC. 320. MISCELLANEOUS AMENDMENTS.**

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

9 (1) in subsection (a), by striking “each airport
10 to—” and inserting “the airport system to—”;

11 (2) in subsection (a)(1), by striking “system in
12 the particular area;” and inserting “system, includ-
13 ing connection to the surface transportation net-
14 work; and”;

15 (3) in subsection (a)(2), by striking “aero-
16 nautics; and” and inserting “aeronautics.”;

17 (4) by striking subsection (a)(3);

18 (5) by striking subsection (b)(2) and redesignig-
19 nating (b)(3) as (b)(2);

20 (6) in subsection (b)(2), as redesignated, by
21 striking “operations, Short Takeoff and Landing/
22 Very Short Takeoff and Landing aircraft oper-
23 ations,” and inserting “operations”; and

24 (7) in subsection (d), by striking “status of
25 the”.

1 (b) CONFORMING CHANGE TO PROJECT GRANT
2 AGREEMENTS.—Section 47108(e)(3) is amended by strik-
3 ing “and the small airport fund”.

4 (c) UPDATE VETERANS PREFERENCE DEFINI-
5 TION.—Section 47112(c) is amended—

6 (1) in paragraph (1) by—

7 (A) in subparagraph (B), by striking “sep-
8 arated from” and inserting “discharged or re-
9 leased from active duty in”; and

10 (B) inserting at the end the following:

11 “(C) ‘Afghanistan-Iraq war veteran’ means
12 an individual who served on active duty, as de-
13 fined by section 101(21) of title 38, at any time
14 in the armed forces for a period of more than
15 180 consecutive days, any part of which oc-
16 curred during the period beginning on Sep-
17 tember 11, 2001, and ending on the date pre-
18 scribed by Presidential proclamation or by law
19 as the last date of Operation Iraqi Freedom.”;
20 and

21 (2) in paragraph (2), by striking “veterans
22 and” and inserting “veterans, Afghanistan-Iraq war
23 veterans, and”.

24 (d) CONSOLIDATION OF TERMINAL DEVELOPMENT
25 PROVISIONS.—Section 47119 is amended—

1 (1) redesignating subsections (a), (b), (c) and
2 (d) as subsections (b), (c), (d) and (e) respectively,
3 and by inserting a new subsection (a) as follows:

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

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

11 “(i) all the safety equipment required for
12 certification of the airport under section 44706
13 of this title;

14 “(ii) all the security equipment required by
15 regulation; and

16 “(iii) provided for access, to the area of the
17 airport for passengers for boarding or exiting
18 aircraft, to those passengers boarding or exiting
19 aircraft, except air carrier aircraft;

20 “(B) if the cost is directly related to moving
21 passengers and baggage in air commerce within the
22 airport, including vehicles for moving passengers be-
23 tween terminal facilities and between terminal facili-
24 ties and aircraft; and

1 “(C) under terms necessary to protect the inter-
2 ests of the Government.

3 “(2) In making a decision under paragraph (1) of
4 this subsection, the Secretary may approve as allowable
5 costs the expenses of terminal development in a revenue-
6 producing area and construction, reconstruction, repair,
7 and improvement in a nonrevenue-producing parking lot
8 if—

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

13 “(B) the sponsor certifies that any needed air-
14 port development project affecting safety, security,
15 or capacity will not be deferred because of the Sec-
16 retary’s approval.”;

17 (2) in subsection (b), as redesignated—

18 (A) in paragraph (4)(A), by striking “sec-
19 tion 47110(d)” and inserting “subsection (a)”;
20 and

21 (B) in paragraph (5), by striking “sub-
22 section (b)(1) and (2)” and inserting “sub-
23 section (c)(1) and (2)”;

24 (3) by inserting at the end the following new
25 subsections:

1 “(f) LIMITATION ON DISCRETIONARY FUNDS.—The
2 Secretary may distribute not more than \$20,000,000 from
3 the discretionary fund established under section 47115 of
4 this title for terminal development projects at a nonhub
5 airport or a small hub primary airport that is eligible to
6 receive discretionary funds under section 47108(e)(3) of
7 this title.”.

8 (e) ANNUAL REPORT.—Section 47131(a) is amend-
9 ed—

10 (1) by striking “April 1” and inserting “June
11 1”; and

12 (2) by revising paragraphs (1), (2), (3) and (4)
13 to read as follows:

14 “(1) a summary of airport development and
15 planning completed;

16 “(2) a summary of individual grants issued;

17 “(3) an accounting of discretionary and appor-
18 tioned funds allocated;

19 “(4) the allocation of appropriations; and”.

20 (f) CORRECTION TO EMISSION CREDITS PROVI-
21 SION.—Section 47139 is amended—

22 (1) in subsection (a), by striking
23 “47102(3)(F),”; and

24 (2) in subsection (b)—

25 (A) by striking “47102(3)(F),”;

1 (B) by striking “47102(3)(L), or 47140”
2 and inserting “or 47102(3)(L),”;

3 (C) by striking “47103(3)(F),”;

4 (D) by striking “47102(3)(L), or 47140,”
5 and inserting “or “47102(3)(L),”.

6 (g) REPEAL OF AIRPORT GROUND SUPPORT EQUIP-
7 MENT EMISSIONS RETROFIT PILOT PROGRAM.—Section
8 47140 is repealed.

9 (h) CORRECTION TO SURPLUS PROPERTY AUTHOR-
10 ITY.—Section 47151(e) is amended by striking “(other
11 than real property that is subject to section 2687 of title
12 10, section 201 of the Defense Authorization Amendments
13 and Base Closure and Realignment Act (10 U.S.C. 2687
14 note), or section 2905 of the Defense Base Closure and
15 Realignment Act of 1990 (10 U.S.C. 2687 note)”.

16 (i) AIRPORT CAPACITY BENCHMARK REPORTS; DEFINI-
17 TION OF JOINT USE AIRPORT.—Section 47175 is
18 amended—

19 (1) in paragraph (2), by striking “Airport Ca-
20 pacity Benchmark Report 2001.” and inserting
21 “2001 and 2004 Airport Capacity Benchmark Re-
22 ports or of the most recent Benchmark report.”; and

23 (2) by adding at the end:

24 “(7) JOINT USE AIRPORT.—The term ‘joint use
25 airport’ means an airport owned by the United

1 States Department of Defense, at which both mili-
2 tary and civilian aircraft make shared use of the air-
3 field.”.

4 (j) CONFORMING AMENDMENT TO CIVIL PENALTY
5 ASSESSMENT AUTHORITY.—Section 46301(d)(2) is
6 amended by striking “46318,” and inserting “46318,
7 46319”.

8 (k) FUNDING FOR ADMINISTRATIVE EXPENSES FOR
9 AIRPORT PROGRAMS.—(1) Section 48105 is amended to
10 read as follows:

11 **“§ 48105. Airport programs administrative expenses**

12 “Of the amount newly made available, the following
13 shall be available for administrative expenses relating to
14 the Airport Improvement Program, passenger facility fee
15 approval and oversight, national airport system planning,
16 airport standards development and enforcement, airport
17 certification, airport-related environmental activities (in-
18 cluding legal services), and other airport-related activities
19 (including airport technology research), to remain avail-
20 able until expended—

21 “(1) for fiscal year 2008, \$80,676,000;

22 “(2) for fiscal year 2009, \$85,000,000; and

23 “(3) for fiscal year 2010, \$89,000,000.”.

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

“48105. Airport programs administrative expenses.”.

4 **TITLE IV—MANAGEMENT AND**
5 **ORGANIZATION REFORMS**

6 **SEC. 401. AIR TRANSPORTATION SYSTEM ADVISORY**
7 **BOARD.**

8 Section 106 is amended by striking subsection (p)
9 and inserting in lieu thereof the following:

10 “(p) AIR TRANSPORTATION SYSTEM ADVISORY
11 BOARD.—

12 “(1) ESTABLISHMENT.—The Secretary shall es-
13 tablish an Advisory Board which shall be known as
14 the Air Transportation System Advisory Board (in
15 this subsection referred to as the ‘Board’).

16 “(2) MEMBERSHIP.—The Board shall be com-
17 prised of 13 members, who shall consist of—

18 “(A) the Administrator of the Federal
19 Aviation Administration and a representative
20 from the Department of Defense;

21 “(B) three members who shall have a fidu-
22 ciary responsibility to represent the public in-
23 terest; and

24 “(C) eight members representing aviation
25 interests:

1 “(i) one representative of the airport
2 community;

3 “(ii) one representative each of major
4 air carriers (Carrier Group I), national air
5 carriers (Carrier Group II), and the re-
6 gional air carriers (Carrier Group III), as
7 previously defined by the Secretary of
8 Transportation under section 4, part 241
9 of title 49 of the Code of Federal Regula-
10 tions;

11 “(iii) one representative of the cargo
12 airlines;

13 “(iv) one representative of the general
14 aviation community;

15 “(v) one representative of the business
16 aviation community; and

17 “(vi) one representative of the avia-
18 tion manufacturing community.

19 “(3) APPOINTMENT AND QUALIFICATIONS.—

20 “(A) Members of the Board appointed
21 under paragraphs (2)(B) and (2)(C) shall be
22 appointed by the Secretary and shall not be
23 considered to be employees of the Federal Gov-
24 ernment.

1 “(B) Members of the Board appointed
2 under paragraph (2)(B) shall be citizens of the
3 United States, and it is recommended that they
4 shall be appointed without regard to political
5 affiliation and solely on the basis of their pro-
6 fessional experience and expertise in one or
7 more of the following areas and, in the aggre-
8 gate, should collectively bring to bear expertise
9 in the following areas:

10 “(i) management of large service or-
11 ganizations;

12 “(ii) customer service;

13 “(iii) management of large procure-
14 ments;

15 “(iv) information and communications
16 technology;

17 “(v) organizational development; and

18 “(vi) labor relations.

19 “(4) FUNCTIONS.—

20 “(A) IN GENERAL.—The Board shall—

21 “(i) review and provide advice on the
22 Administration’s safety programs, budget,
23 and cost accounting system;

24 “(ii) review the Administration’s stra-
25 tegic plan and make recommendations on

1 the non-safety program portions of the
2 plan, and provide advice on the safety pro-
3 grams of the plan;

4 “(iii) review the operational efficiency
5 of the air traffic control system and make
6 recommendations on the operational and
7 performance metrics for that system;

8 “(iv) review and make recommenda-
9 tions on the Administration’s plan for
10 modernizing that system and capital ex-
11 penditures for a project of \$100,000,000
12 or more related to the system;

13 “(v) make recommendations of the
14 type and level of fees to be established by
15 the Administration under sections 45305
16 and 45306 and for any adjustments to
17 those fees in accordance with the proce-
18 dures established under those sections; and

19 “(vi) provide advice on the Adminis-
20 trator’s selection of a Chief Operating Offi-
21 cer for the Air Traffic Organization and on
22 the appointment and compensation of its
23 managers.

1 “(B) MEETINGS.—The Board shall meet
2 on a regular and periodic basis or at the call of
3 the Chairman or of the Administrator.

4 “(C) ACCESS TO DOCUMENTS AND
5 STAFF.—The Administration may give the
6 Board appropriate access to relevant documents
7 and personnel of the Administration, and the
8 Administrator shall make available, consistent
9 with the authority to withhold commercial and
10 other proprietary information under section 552
11 of title 5 (commonly known as the ‘Freedom of
12 Information Act’), cost data associated with the
13 acquisition and operation of air traffic control
14 systems. Any member of the Board who re-
15 ceives commercial or other proprietary data
16 from the Administrator shall be subject to the
17 provisions of section 1905 of title 18, pertaining
18 to unauthorized disclosure of such information.

19 “(5) FEDERAL ADVISORY COMMITTEE ACT NOT
20 TO APPLY.—The Federal Advisory Committee Act (5
21 U.S.C. App.) shall not apply to the Board or such
22 rulemaking committees as the Administrator shall
23 designate.

24 “(6) ADMINISTRATIVE MATTERS.—

1 “(A) TERMS OF MEMBERS.—Members of
2 the Board appointed under paragraphs (2)(B)
3 and (2)(C) shall be appointed for a term of 3
4 years. Of the members first appointed by the
5 Secretary—

6 “(i) 3 shall be appointed for terms of
7 1 year;

8 “(ii) 4 shall be appointed for terms of
9 2 years;

10 “(iii) 4 shall be appointed for terms of
11 3 years.

12 “(B) REAPPOINTMENT.—No individual
13 may be appointed to the Board for more than
14 six years total.

15 “(C) VACANCY.—Any vacancy on the
16 Board shall be filled in the same manner as the
17 original position. Any member appointed to fill
18 a vacancy occurring before the expiration of the
19 term for which the member’s predecessor was
20 appointed shall be appointed for the remainder
21 of that term.

22 “(D) CONTINUATION IN OFFICE.—A mem-
23 ber of the Board whose term expires shall con-
24 tinue to serve until the date on which the mem-
25 ber’s successor takes office.

1 “(E) REMOVAL.—Any member of the
2 Board appointed under paragraph (2)(B) or
3 (2)(C) may be removed by the Secretary.

4 “(F) CLAIMS AGAINST MEMBERS OF THE
5 BOARD.—

6 “(i) IN GENERAL.—A member ap-
7 pointed to the Board shall have no per-
8 sonal liability under State or Federal law
9 with respect to any claim arising out of or
10 resulting from an act or omission by such
11 member within the scope of service as a
12 member of the Board.

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

15 (I) to affect any other immunity
16 or protection that may be available to
17 a member of the Board under applica-
18 ble law with respect to such trans-
19 actions;

20 (II) to affect any other right or
21 remedy against the United States
22 under applicable law; or

23 (III) to limit or alter in any way
24 the immunities that are available

1 under applicable law for Federal offi-
2 cers and employees.

3 “(G) ETHICAL CONSIDERATIONS.—Each
4 member of the Board appointed under para-
5 graph (2)(B) must self-certify that he or she—

6 “(i) does not have a pecuniary interest
7 in, or own stock in or bonds of, an aviation
8 or aeronautical enterprise, except an inter-
9 est in a diversified mutual fund or an in-
10 terest that is exempt from the application
11 of section 208 of title 18;

12 “(ii) does not engage in another busi-
13 ness related to aviation or aeronautics; or

14 “(iii) is not a member of any organi-
15 zation that engages, as a substantial part
16 of its activities, in activities to influence
17 aviation-related legislation.

18 “(H) CHAIRMAN; VICE CHAIRMAN.—The
19 Board shall elect a chair and a vice chair from
20 among its members, each of whom shall serve
21 for a term of 2 years. The vice chair shall per-
22 form the duties of the chairman in the absence
23 of the chairman.

24 “(I) COMPENSATION.—No member shall
25 receive any compensation or other benefits from

1 the Federal Government for serving on the
2 Board, except for compensation benefits for in-
3 juries under subchapter I of chapter 81 of title
4 5, United States Code (Federal Employees'
5 Compensation Act) and except as provided
6 under subparagraph (J).

7 “(J) EXPENSES.—Each member of the
8 Board shall be paid actual travel expenses and
9 per diem in lieu of subsistence expenses when
10 away from his or her usual place of residence,
11 in accordance with section 5703 of title 5.

12 “(K) DETAIL OF PERSONNEL FROM THE
13 ADMINISTRATION.—The Administrator shall
14 make available to the Board such staff, infor-
15 mation, and administrative services and assist-
16 ance as may reasonably be required to enable
17 the Board to carry out its responsibilities under
18 this subsection.

19 “(L) QUORUM AND VOTING.—A simple
20 majority of members of the Board shall con-
21 stitute a quorum. A majority vote of members
22 present and voting shall be required for the
23 Committee to take action.

24 “(7) ROLE OF THE ADMINISTRATOR AND THE
25 SECRETARY.—All actions and functions of the Board

1 are subject to the approval or disapproval of the Ad-
2 ministrator and the Secretary.

3 “(8) AIR TRAFFIC CONTROL SYSTEM DE-
4 FINED.—In this section, the term ‘air traffic control
5 system’ has the meaning such term has under sec-
6 tion 40102(a).”.

7 **SEC. 402. FACILITATION OF NEXT GENERATION AIR TRAF-
8 FIC SERVICES.**

9 Section 106(l) is amended by adding at the end the
10 following:

11 “(7) SERVICES BY PRIVATE SECTOR.—In deter-
12 mining what actions to take, by rule or through an
13 agreement or transaction under paragraph (6) or
14 under section 44502, to permit non-government pro-
15 viders of communications, navigation, surveillance or
16 other services to provide such services in the Na-
17 tional Airspace System, or to require the usage of
18 such services, the Administrator shall consider
19 whether such actions would:

20 (A) promote the safety of life and prop-
21 erty;

22 (B) improve the efficiency of the National
23 Airspace System and reduce the regulatory bur-
24 den upon National Airspace System users,
25 based upon sound engineering principles, user

1 operational requirements, and marketplace de-
2 mands;

3 (C) encourage competition and provide
4 services to the largest feasible number of users;
5 and

6 (D) take into account the unique role
7 served by general aviation.”.

8 **SEC. 403. CLARIFICATION OF AUTHORITY TO ENTER INTO**
9 **REIMBURSABLE AGREEMENTS.**

10 Section 106(m) is amended in the last sentence by
11 inserting “with or” before “without”.

12 **SEC. 404. DEFINITION OF AIR NAVIGATION FACILITY.**

13 Section 40102(4) is amended—

14 (1) by revising paragraph (B) to read “runway
15 lighting and airport surface visual and other naviga-
16 tion aids;”;

17 (2) in paragraph(C), by striking “weather infor-
18 mation, signaling, radio-directional finding, or radio
19 or other electromagnetic communication; and” and
20 inserting “aeronautical and meteorological informa-
21 tion to air traffic control facilities or aircraft, sup-
22 plying communication, navigation or surveillance
23 equipment for air-to-ground or air-to-air applica-
24 tions;”;

25 (3) in paragraph (D)—

1 (A) by striking “another structure” and
2 inserting “any structure or equipment”; and

3 (B) by striking “aircraft.” and inserting
4 “aircraft; and”; and

5 (4) by adding at the end the following:

6 “(E) buildings, equipment and systems
7 dedicated to the National Airspace System.”.

8 **SEC. 405. IMPROVED MANAGEMENT OF PROPERTY INVEN-**
9 **TORY.**

10 Section 40110(a)(2) is amended by striking “com-
11 pensation; and” and inserting “compensation, and the
12 amount received may be credited to the appropriation cur-
13 rent when the amount is received; and”.

14 **SEC. 406. CLARIFICATION TO ACQUISITION REFORM AU-**
15 **THORITY.**

16 Section 40110(c) is amended by—

17 (1) by striking paragraph (4); and

18 (2) by redesignating paragraph (5) as para-
19 graph (4).

20 **SEC. 407. ASSISTANCE TO FOREIGN AVIATION AUTHORI-**
21 **TIES.**

22 Section 40113(e) is amended—

23 (1) in paragraph (1), by—

24 (A) inserting “(public or private)” after
25 the word “authorities”; and

1 (B) striking the period at the end of the
2 first sentence and inserting: “or efficiency. The
3 Administrator is authorized to participate in,
4 and submit offers in response to, competitions
5 to provide these services, and to contract with
6 foreign aviation authorities to provide these
7 services consistent with the provisions under
8 section 106(l)(6) of this title. The Adminis-
9 trator is also authorized, notwithstanding any
10 other provision of law or policy, to accept pay-
11 ments in arrears.”; and

12 (2) in paragraph (3) by striking from “appro-
13 priation” through the end of the sentence and in-
14 serting “appropriation current when the expendi-
15 tures are or were paid, or the appropriation current
16 when the amount is received”.

17 **SEC. 408. PRESIDENTIAL RANK AWARD PROGRAM.**

18 Section 40122(g)(2) is amended—

19 (1) in paragraph (H) by striking “Board.” and
20 inserting “Board;”; and

21 (2) by inserting at the end the following new
22 subparagraph:

23 “(G) section 4507(b), (c), and (d), relating
24 to Meritorious Executive or Distinguished Exec-
25 utive rank awards, and section 4507a(b) and

1 (c), relating to Meritorious Senior Professional
2 or Distinguished Senior Professional rank-
3 awards: *Provided*, That for purposes of applying
4 such provisions to the personnel management
5 system, “agency” means the Department of
6 Transportation, “senior executive” means an
7 Federal Aviation Administration executive, “ca-
8 reer appointee” means an Federal Aviation Ad-
9 ministration career executive, and “senior ca-
10 reer employee” means an Federal Aviation Ad-
11 ministration career senior professional: *Pro-*
12 *vided further*, That receipt by a career ap-
13 pointee of the rank of Meritorious Executive or
14 Meritorious Senior Professional entitles such in-
15 dividual to a lump-sum payment of an amount
16 equal to 20 percent of annual basic pay, which
17 shall be in addition to the basic pay paid under
18 the Federal Aviation Administration Executive
19 Compensation Plan: *Provided further*, That re-
20 ceipt by a career appointee of the rank of Dis-
21 tinguished Executive or Distinguished Senior
22 Professional entitles the individual to a lump-
23 sum payment of an amount equal to 35 percent
24 of annual basic pay, which shall be in addition
25 to the basic pay paid under the Federal Avia-

1 tion Administration Executive Compensation
2 plan.”.

3 **SEC. 409. REALIGNMENT AND CONSOLIDATION OF AVIA-**
4 **TION FACILITIES AND SERVICES.**

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

7 **“§ 44518. Realignment and consolidation of aviation**
8 **facilities and services**

9 “(a) PURPOSE.—The purpose of this section is to
10 provide a fair process that will result in the realignment
11 or consolidation of services and facilities of the Federal
12 Aviation Administration to help reduce capital, operating,
13 maintenance, and administrative costs with no adverse ef-
14 fect on safety.

15 “(b) DEFINITIONS.—(1) The term ‘congressional
16 committees of interest’ means the Committee on Com-
17 merce, Science and Transportation of the Senate, the
18 Committee on Transportation and Infrastructure of the
19 House of Representatives and the Committees on Appro-
20 priations of the Senate and House of Representatives.

21 “(2) The term ‘Commission’ means the Commission
22 established by subsection (c) of this section.

23 “(3) The term ‘realignment’ includes any action
24 which relocates functions and personnel positions but does

1 not include a reduction in personnel resulting from work-
2 load adjustments.

3 “(c) ESTABLISHMENT OF COMMISSION.—(1) The
4 Secretary may establish an independent commission to be
5 known as the ‘Realignment and Consolidation of Aviation
6 Facilities and Services Commission’.

7 “(2) The Commission shall carry out the duties speci-
8 fied for it in this part.

9 “(3) The Commission shall be composed of five mem-
10 bers appointed by the Secretary. Such members shall not
11 be considered employees of the Federal Government.

12 “(4) Members of the Commission shall be appointed
13 for a term of 3 years.

14 “(5) The Commission shall elect a chair from among
15 its members.

16 “(6) A vacancy in the Commission shall be filled in
17 the same manner as the original appointment but the indi-
18 vidual appointed to fill the vacancy shall serve only for
19 the unexpired portion of the term for which the individ-
20 ual’s predecessor was appointed.

21 “(7) No member shall receive any compensation or
22 other benefits from the Federal Government for serving
23 on the Commission, except for compensation benefits for
24 injuries under subchapter I of chapter 81 of title 5, United
25 States Code (Federal Employees’ Compensation Act, and

1 except that each member of the Commission shall be paid
2 actual travel expenses and per diem in lieu of subsistence
3 expenses when away from his or her usual place of resi-
4 dence in accordance with section 5703 of title 5, United
5 States Code.

6 “(8) The Administrator of the Federal Aviation Ad-
7 ministration shall make available to the Commission such
8 staff, information, and administrative services and assist-
9 ance as may reasonably be required to enable the Commis-
10 sion to carry out its responsibilities under this paragraph.
11 The Commission may employ experts or consultants on a
12 temporary or intermittent basis with the approval of the
13 Secretary.

14 “(9) The Federal Advisory Committee Act (5 U.S.C.
15 App.) shall not apply to the Commission.

16 “(d) FAA RECOMMENDATIONS FOR FACILITIES RE-
17 ALIGNMENT AND CONSOLIDATION.—Within six months
18 after the establishment of the Commission by the Sec-
19 retary, the Administrator, after providing an opportunity
20 for public comment, shall publish the final criteria to be
21 used in making the Administrator’s recommendations for
22 the realignment and consolidation of services and facilities
23 under this section. On the basis of such final criteria, the
24 Administrator shall publish in the Federal Register and
25 transmit to the Commission a list of the services and fa-

1 cilities that the Administrator recommends for realign-
2 ment and consolidation including a justification for each
3 recommendation.

4 “(e) REVIEW AND RECOMMENDATIONS BY THE COM-
5 MISSION.—(1) After receiving the recommendations from
6 the Administrator pursuant to subsection (d), the Com-
7 mission shall opportunity for public comment on such rec-
8 ommendations.

9 “(2) Based on its review and analysis of the Adminis-
10 trator’s recommendations and any public comment it may
11 receive, the Commission shall make its independent rec-
12 ommendations to the President for realignment and con-
13 solidation of aviation services or facilities.

14 “(3) The Commission shall explain and justify in its
15 report submitted to the President any recommendation
16 made by the Commission that is different from the rec-
17 ommendations made by the Administrator pursuant to
18 subsection (d). The Commission shall transmit a copy of
19 such report to the congressional committees of interest on
20 the same date on which it transmits its recommendations
21 to the President under paragraph (2).

22 “(f) REVIEW BY THE PRESIDENT.—(1) The Presi-
23 dent shall transmit to the Commission and to the Con-
24 gress a report containing the President’s approval or dis-
25 approval of the Commission’s recommendations.

1 “(2) If the President approves all the recommenda-
2 tions of the Commission, the President shall transmit a
3 copy of such recommendations to the Congress, together
4 with a certification of such approval.

5 “(3) If the President disapproves the recommenda-
6 tions of the Commission, in whole or in part, the President
7 shall transmit to the Commission and the Congress the
8 reasons for that disapproval. The Commission shall con-
9 sider the President’s report and may then transmit to the
10 President a revised list of recommendations for the re-
11 alignment and consolidation of services and facilities.

12 “(4) If the President approves all of the revised rec-
13 ommendations of the Commission transmitted to the
14 President under paragraph (3), the President shall trans-
15 mit a copy of such revised recommendations to the Con-
16 gress, together with a certification of such approval.

17 “(5) If the President does not transmit to the Con-
18 gress an approval and certification, the process by which
19 agency services and facilities may be selected for realign-
20 ment or consolidation under this section shall be termi-
21 nated.

22 “(g) REALIGNMENT AND CONSOLIDATION OF SERV-
23 ICES FACILITIES.—Subject to paragraph (h), the Admin-
24 istrator shall—

1 “(1) realign or consolidate all FAA services and
2 facilities recommended for realignment or consolida-
3 tion by the Commission in the report transmitted to
4 the Congress by the President pursuant to sub-
5 section (f)(2) or (4);

6 “(2) initiate all such realignments and consoli-
7 dations no later than two years after the date on
8 which the President transmits a report to the Con-
9 gress containing the recommendations for such re-
10 alignments or consolidations; and

11 “(3) complete all such realignments and con-
12 solidations no later than the end of the six-year pe-
13 riod beginning on the date on which the President
14 transmits the report containing the recommenda-
15 tions for such realignments or consolidations.

16 “(h) CONGRESSIONAL DISAPPROVAL.—(1) The Ad-
17 ministrator may not carry out any closure or realignment
18 recommended by the Commission in a report transmitted
19 from the President pursuant to subsection (f)(2) or (4)
20 if a joint resolution is enacted, disapproving such rec-
21 ommendations of the Commission before the earlier of—

22 “(A) the end of the 60 day period beginning on
23 the date on which the President transmits such re-
24 port; or

1 “(B) the adjournment of Congress sine die for
2 the session during which such report is transmitted.

3 “(2) For purposes of paragraph (1)(A), the days on
4 which either House of Congress is not in session because
5 of an adjournment of more than three days to a day cer-
6 tain shall be excluded in the computation of the 60 day
7 period.

8 “(i) AUTHORIZATION.—(1) There is authorized to be
9 appropriated to the Administrator such sums as may be
10 necessary for the Commission to carry out its duties and
11 for the Administrator to implement the realignment and
12 consolidation of services and facilities as described in sub-
13 section (g).

14 “(2) Such sums shall remain available until ex-
15 pended.

16 “(j) EFFECT ON OTHER AUTHORITIES.—Nothing in
17 this section shall affect the authorities provided in section
18 44503 or the existing authorities or responsibilities of the
19 Administrator under this title to manage the operations
20 of the Federal Aviation Administration, including realign-
21 ing or consolidating facilities or services.”.

22 (b) CONFORMING AMENDMENT.—The analysis of
23 chapter 455 is amended by adding at the end the fol-
24 lowing:

“44518. Realignment and consolidation of aviation facilities and services.”.

1 **SEC. 410. OPERATIONAL AND APPROACH PROCEDURES BY**
2 **THIRD PARTIES THROUGH DELEGATION.**

3 Section 44701 is amended by adding at the end the
4 following:

5 “(g) DELEGATION.—Subject to any regulations, su-
6 pervision, and review that the Administrator may pre-
7 scribe, the Administrator may delegate to a qualified pri-
8 vate person, or to an employee under the supervision of
9 that person, the development, testing and maintenance of
10 flight procedures.”.

11 **SEC. 411. JUDICIAL REVIEW OF DENIAL OF AIRMAN CER-**
12 **TIFICATES.**

13 (a) JUDICIAL REVIEW OF NTSB DECISIONS.—Sec-
14 tion 44703(d) is amended by adding at the end the fol-
15 lowing:

16 “(3) JUDICIAL REVIEW.—A person substan-
17 tially affected by an order of the Board under sub-
18 section (d) of this section, or the Administrator
19 when the Administrator decides that an order of the
20 Board will have a significant adverse impact on car-
21 rying out this part, may obtain judicial review of the
22 order under section 46110 of this title. The Admin-
23 istrator shall be made a party to the judicial review
24 proceedings. The findings of fact of the Board in
25 any such case are conclusive if supported by sub-
26 stantial evidence.”

1 (b) CONFORMING AMENDMENT.—Section 1153(c) is
2 amended by striking “section 44709 or” and inserting
3 “section 44703(d), 44709 or”.

4 **SEC. 412. RELEASE OF DATA RELATING TO ABANDONED**
5 **TYPE CERTIFICATES AND SUPPLEMENTAL**
6 **TYPE CERTIFICATES.**

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

9 “(5) RELEASE OF DATA.—(A) Notwithstanding
10 any other provision of law, the Administrator may
11 designate, without the consent of the owner of
12 record, engineering data in the agency’s possession
13 related to a type certificate or a supplemental type
14 certificate for an aircraft, engine, propeller or appli-
15 ance, along with any associated supplier approved
16 data for that product as public data, and therefore
17 releasable, upon request, to a person seeking to
18 maintain the airworthiness of such product, if the
19 Administrator determines that:

20 (i) the certificate containing the requested
21 data has been inactive for three years;

22 (ii) the owner of record, or the owner of
23 record’s heir, of the type certificate or supple-
24 mental certificate has not been located despite
25 a search of due diligence by the agency; and

1 (iii) the designation of such data as public
2 data will enhance aviation safety.

3 (B) For purposes of this section, “engineering
4 data” means type design drawings and specifications
5 for the entire product, including the original design
6 data, any approved data for any supplemental type
7 certificates, and any approved data for individual
8 parts or components for the particular aeronautical
9 product.”.

10 **SEC. 413. DESIGN ORGANIZATION CERTIFICATES.**

11 Section 44704(e) is amended—

12 (1) in paragraph (1)—

13 (A) by striking “Beginning 7 years after
14 the date of enactment of this subsection,” and
15 inserting “Effective January 1, 2013,”; and

16 (B) by striking “44701(a) for the type cer-
17 tification of aircraft, aircraft engines, propel-
18 lers, or appliances.” and inserting “44701.”;

19 (2) in paragraph (2), by striking “testing” and
20 inserting “production”; and

21 (3) by revising paragraph (3) to read as follows:

22 “(3) ISSUANCE OF CERTIFICATE BASED ON DE-
23 SIGN ORGANIZATION CERTIFICATION.—The Adminis-
24 trator may rely on the Design Organization for cer-
25 tification of compliance under this section.”.

1 **SEC. 414. CONTRACT TOWER PROGRAM.**

2 Section 47124(b) is amended—

3 (1) in paragraph (1), by striking “(Visual
4 Flight Rules) level I” and inserting “nonapproach
5 control”; and

6 (2) in paragraph (2), by striking “an airport
7 traffic control tower classified as a level I (Visual
8 Flight Rules)” and inserting “a low activity non-
9 approach control air traffic control”.

10 **SEC. 415. ENHANCED OVERSIGHT OF NEXT GENERATION**
11 **AIR TRANSPORTATION SYSTEM JOINT PLAN-**
12 **NING AND DEVELOPMENT OFFICE.**

13 Section 709 of Vision 100—Century of Aviation Re-
14 authorization Act (Public Law 108–176, Dec. 12, 2003,
15 117 Stat. 2490, 2582) (49 U.S.C. 40101 note) is amend-
16 ed—

17 (1) in subsection (a)—

18 (A) in paragraph (1), by adding at the
19 end, “The Director of the Office shall be super-
20 vised for various purposes by such officer or of-
21 ficers of the Department as the Secretary may
22 specify.

23 (B) adding at the end the following:

24 “(5) The Director of the Office shall be a vot-
25 ing member of the Federal Aviation Administration’s

1 Joint Resources Council and the Air Traffic Organi-
2 zation’s Executive Council.”;

3 (2) by redesignating subsections (d) and (e) as
4 (e) and (f) and inserting the following:

5 “(d) CONSOLIDATED OPERATIONAL EVOLUTION
6 PARTNERSHIP.—The Administrator of the Federal Avia-
7 tion Administration shall develop and publish annually a
8 consolidated operational evolution partnership that pro-
9 vides a detailed description of how the agency is imple-
10 menting the Next Generation Air Transportation Sys-
11 tem.”; and

12 (3) in subsection (e)(2), as redesignated, by
13 striking “plan.” and inserting “plan, and how the
14 respective budgets, and assignment of expert per-
15 sonnel, of the Federal Aviation Administration, the
16 National Aeronautics and Space Administration, the
17 Departments of Defense, the Department of Home-
18 land Security, the Department of Commerce and any
19 other Federal agency that has an important interest
20 in, or responsibility for, the Next Generation Air
21 Transportation System support specific operational
22 improvements for such System.”.

1 **TITLE V—AVIATION SAFETY, SE-**
2 **CURITY, CAPACITY AND**
3 **CONNECTIVITY IMPROVE-**
4 **MENTS**

5 **SEC. 501. DISCLOSURE OF DATA TO FEDERAL AGENCIES IN**
6 **INTEREST OF NATIONAL SECURITY.**

7 Section 40119(b) is amended by adding at the end
8 the following:

9 “(3) Section 552 of title 5, United States Code,
10 does not apply to disclosures the Administrator of
11 the Federal Aviation Administration may make from
12 the agency’s systems of records to any Federal law
13 enforcement, intelligence, protective, immigration, or
14 national security official in order to assist the offi-
15 cial receiving that information in the performance of
16 official duties.”.

17 **SEC. 502. FAA ACCESS TO CRIMINAL HISTORY RECORDS OR**
18 **DATABASE SYSTEMS.**

19 (a) IN GENERAL.—Chapter 401 is revised by adding
20 new section 40130 to read as follows:

21 **“§ 40130. FAA access to criminal history records or**
22 **databases systems**

23 “(a) ACCESS TO RECORDS OR DATABASES SYS-
24 TEMS.—(1) Notwithstanding section 534 of title 28,
25 United States Code, and the implementing regulations for

1 such section (28 C.F.R. part 20), the Administrator of
2 the Federal Aviation Administration is authorized to ac-
3 cess a system of documented criminal justice information
4 maintained by the Department of Justice or by a State
5 but may do so only for the purpose of carrying out its
6 civil and administrative responsibilities to protect the safe-
7 ty and security of the National Airspace System or to sup-
8 port the missions of the Department of Justice, the De-
9 partment of Homeland Security and other law enforce-
10 ment agencies. The Administrator shall be subject to the
11 same conditions or procedures established by the Depart-
12 ment of Justice or State for access to such an information
13 system by other governmental agencies with access to the
14 system.

15 “(2) The Administrator may not use the access au-
16 thorized under paragraph (1) to conduct criminal inves-
17 tinations.

18 “(b) DESIGNATED EMPLOYEES.—The Administrator
19 shall, by order, designate those employees of the Adminis-
20 tration who shall carry out the authority described in sub-
21 section (a). Such designated employees may—

22 “(1) have access to and receive criminal history,
23 driver, vehicle, and other law enforcement informa-
24 tion contained in the law enforcement databases of
25 the Department of Justice, or of any jurisdiction in

1 a State in the same manner as a police officer em-
2 ployed by a State or local authority of that State
3 who is certified or commissioned under the laws of
4 that State;

5 “(2) use any radio, data link, or warning sys-
6 tem of the Federal Government and of any jurisdic-
7 tion in a State that provides information about
8 wanted persons, be-on-the-lookout notices, or war-
9 rant status or other officer safety information to
10 which a police officer employed by a State or local
11 authority in that State who is certified or commis-
12 sioned under the laws of that State has access and
13 in the same manner as such police officer; or

14 “(3) receive Federal, State, or local government
15 communications with a police officer employed by a
16 State or local authority in that State in the same
17 manner as a police officer employed by a State or
18 local authority in that State who is commissioned
19 under the laws of that State.

20 “(c) DEFINITION.—For purposes of this section, ‘sys-
21 tem of documented criminal justice information’ means
22 any law enforcement databases, systems or communica-
23 tions containing information concerning identification,
24 criminal history, arrests, convictions, arrest warrants,
25 wanted or missing persons, including the National Crime

1 Information Center (NCIC) and its incorporated criminal
2 history databases and the National Law Enforcement
3 Telecommunications System (NLETS).”.

4 (b) CONFORMING AMENDMENT.—The analysis for
5 chapter 401 is amended by adding at the end the fol-
6 lowing:

“40130. FAA access to criminal history records or databases systems.”.

7 **SEC. 503. ALLOCATION OF OPERATING AUTHORIZATIONS**
8 **AT LAGUARDIA AIRPORT.**

9 (a) IN GENERAL.—Subchapter I of Chapter 417 of
10 title 49, United States Code, is amended by adding at the
11 end the following:

“Sec. 41724. Allocation of operating authorizations at LaGuardia Airport.

12 “(a) GENERAL AUTHORITY.—(1) Notwithstanding
13 any other provision of law, the Secretary of Transpor-
14 tation and the Administrator of the Federal Aviation Ad-
15 ministration may determine that the use of a market
16 based mechanism, such as an auction or congestion prie-
17 ing, is appropriate to promote the efficient movement of
18 air traffic at LaGuardia Airport. To accomplish this objec-
19 tive, the Administrator shall determine the operational ca-
20 pacity of LaGuardia airport, in accordance with section
21 40103 of this title.

22 “(2) If the Secretary makes a the determination
23 under subsection (a) that use of a market-based mecha-
24 nism is appropriate, the Secretary and the Administrator

1 shall permit the Port Authority of New York and New
2 Jersey (Port Authority) to implement a market-based
3 measure for the allocation of operating authorizations at
4 the airport in accordance with subsection (b). If the Port
5 Authority fails to implement such a mechanism within one
6 year of the Secretary's determination, the Secretary may
7 implement a market-based mechanism at LaGuardia Air-
8 port in accordance with section 41725 of this title.

9 “(b) RULEMAKING.—(1) The Secretary shall issue a
10 rule to establish the terms and conditions under which in-
11 terested persons may obtain operating authorizations
12 through a market-based mechanism authorized by sub-
13 section (a). The rule shall also, at a minimum, establish
14 the procedures, timing, terms and conditions for the im-
15 plementation of this mechanism. Such regulation shall in-
16 clude provisions to protect the public interest as set forth
17 in section 40101 of this title including:

18 “(A) placing maximum reliance on competitive
19 market forces;

20 “(B) avoiding unreasonable industry concentra-
21 tion;

22 “(C) encouraging entry into air transportation
23 markets by new and existing air carriers;

1 “(D) ensuring that passengers in small commu-
2 nities and rural and remote areas have access to af-
3 fordable, scheduled air service; and

4 “(E) providing air carriers and the traveling
5 public a stable and predictable schedule for planning
6 future travel.

7 “(2) In developing the terms and conditions for an
8 allocation mechanism, the Secretary may distinguish
9 among classes of aircraft operators and among types of
10 air service.

11 “(c) ESCROW ACCOUNT.—If the Port Authority im-
12 plements a market-based mechanism under this section
13 and such mechanism produces annual revenue in excess
14 of the annual administrative costs associated with the es-
15 tablishment and administration of the mechanism, the
16 Port Authority shall deposit the excess revenue in an es-
17 crow account. Expenditures may be made from the escrow
18 account on eligible airport-related projects, in accordance
19 with section 40117 of this title, or on any other project
20 that the Secretary finds is in the public interest.

21 “(d) RULES OF CONSTRUCTION.—Nothing in this
22 section or in the use of a market-based mechanism author-
23 ized by this section shall:

24 “(1) diminish the authority of the Adminis-
25 trator under other provisions of this title to regulate

1 the safe and efficient use of the national airspace,
 2 including the withdrawal of operating authorizations
 3 obtained under this section when required in the
 4 public interest; or

5 “(2) be considered for purpose of any Federal
 6 law a major Federal action significantly affecting
 7 the human environment.

8 “(e) TREATMENT AS ADDITIONAL REVENUE.—Ex-
 9 penditures or other financial assistance provided under
 10 paragraph (c) shall be in addition to funds that would oth-
 11 erwise be provided under the Airport Improvement Pro-
 12 gram or any other Federal assistance program.”.

13 (b) CONFORMING AMENDMENT.—The analysis of
 14 subchapter I of chapter 417 is amended by adding at the
 15 end the following:

“41724. Allocation of operating authorizations at LaGuardia Airport.”.

16 **SEC. 504. PILOT PROGRAM FOR MARKET-BASED MECHA-**
 17 **NISMS AT CONGESTED AIRPORTS.**

18 (a) PILOT PROGRAM.—Subchapter I of chapter 417
 19 of title 49, United States Code, is amended by adding at
 20 the end the following:

21 **“§ 41725. Pilot Program to evaluate market-based**
 22 **mechanisms at congested airports**

23 “(a) IN GENERAL.—In order to promote the efficient
 24 use of airport capacity or the efficient movement of air
 25 traffic, the Secretary of Transportation shall establish a

1 pilot program for market-based pricing mechanisms for
2 domestic flights at not more than fifteen airports under
3 which an airport owner or operator may adopt, or the Ad-
4 ministrator of the Federal Aviation Administration may
5 impose, a market-based mechanism for the airport in ac-
6 cordance with the procedures established by this section.

7 “(b) REGIONAL DELAY.—(1) The Secretary may ap-
8 prove the application of an airport owner or operator to
9 participate in the program if the Secretary finds that:

10 “(A) the airport experiences demand exceeding
11 existing capacity in the aggregate or during specific
12 times or dates;

13 “(B) delays at the airport have a significant ad-
14 verse effect on the regional airspace; and

15 “(C) the market-based mechanism proposed by
16 the airport owner or operator will not result in a dis-
17 incentive for the airport operator to add capacity
18 where possible.

19 “(2) Once the airport’s participation in the program
20 is approved, the airport owner or operator may implement
21 a market-based mechanism, and, in the case of a conges-
22 tion fee or auction, establish the method of collecting such
23 revenue. Such fees shall be reasonable and not unjustly
24 discriminatory.

1 “(3) An airport owner or operator may establish or
2 adjust a market-based mechanism under this program
3 only after consultation with the Administrator, air carriers
4 serving the airport, and operators of aircraft based at the
5 airport.

6 “(4) If an auction or congestion fee implemented
7 under this section produces annual revenue in excess of
8 the annual administrative costs associated with the estab-
9 lishment and administration of the fee, the airport owner
10 or operator shall deposit the excess revenue in an escrow
11 account. Expenditures may be made from the escrow ac-
12 count on eligible airport-related projects, in accordance
13 with section 40117 of this title, or on any other project
14 that the Secretary finds is in the public interest.

15 “(c) DELAYS AFFECTING THE NATIONAL SYSTEM.—

16 (1) If the Secretary finds that the capacity constraints at
17 an airport cause significant delays beyond the region in
18 which the airport is located and have negative effects on
19 the National Airspace System, and the owner or operator
20 of such airport has not already adopted a market-based
21 mechanism under paragraph (b), then the Secretary may
22 implement, through rulemaking, a market-based mecha-
23 nism at the airport under the program to address these
24 effects on the system. If market-based mechanisms are im-
25 plemented, the Administrator of the Federal Aviation Ad-

1 ministration shall establish the method of collecting such
2 fees. Such fees shall be reasonable and not unjustly dis-
3 criminatory.

4 “(2) The Administrator may establish or adjust a
5 market-based mechanism under this program only after
6 consultation with the airport owner or operator, air car-
7 riers serving the airport, and operators of aircraft based
8 at the airport.

9 “(3) If market-based mechanisms implemented by
10 the Administrator under this section produce annual rev-
11 enue in excess of the annual administrative costs associ-
12 ated with the establishment and administration of the fee,
13 the Administrator shall deposit the surplus funds in an
14 account established in the Treasury, and designated as the
15 Airspace Congestion Mitigation Account. Such surplus
16 revenue shall be available to the Secretary, as specified
17 in appropriations Acts, until expended, for the following
18 uses:

19 “(A) airport capacity expansion or airport con-
20 gestion and delay reduction at the airport at which
21 a market based mechanism is implemented;

22 “(B) airport capacity expansion or airport con-
23 gestion and delay reduction at other congested air-
24 ports, with priority given to capacity projects in the

1 same region as the airport at which a market based
2 mechanism is implemented;

3 “(C) improvement of ground access to the air-
4 ports in the vicinity, as defined by the Secretary, if
5 the Secretary finds that it would help relieve conges-
6 tion at the airport where a market-based mechanism
7 is implemented;

8 “(D) construction, reconstruction or reconfig-
9 uration of gates and related areas at the airport
10 where a market-based mechanism is implemented;

11 “(E) facilities, equipment, or other air traffic
12 control improvement projects that would enhance
13 airport or airspace capacity in the National Airspace
14 System, with priority given to projects in the region
15 of an airport where a market-based mechanism is
16 implemented; and

17 “(F) assistance to air carriers in the purchase
18 of equipment for their aircraft to enable them to uti-
19 lize air traffic control facilities and equipment, in-
20 cluding the facilities and equipment purchased under
21 subparagraph (E), in order to enhance airport and
22 airspace capacity.

23 “(d) CONFORMANCE WITH REQUIREMENTS.—A mar-
24 ket-based mechanism implemented under this pilot pro-

1 gram shall be deemed to meet the requirements of section
2 40116 and chapter 471 of this title.

3 “(e) DEFINITION.—For purposes of this section, the
4 term ‘market-based mechanism’ includes the use of auc-
5 tions, or congestion or peak period pricing under which
6 fees may vary by time of day or day of the week in order
7 to reduce aviation congestion and delays.

8 “(f) EXCLUSION.—An airport subject to the require-
9 ments of section 41724 shall not be eligible to participate
10 in this pilot program.”.

11 (b) CONFORMING AMENDMENT.—The analysis of
12 subchapter I of chapter 417 is amended by adding at the
13 end the following:

“41725. Pilot Program for market-based mechanisms at congested airports.”.

14 **TITLE VI—ENVIRONMENTAL**
15 **STEWARDSHIP AND STREAM-**
16 **LINING**

17 **SEC. 601. AIRPORT COOPERATIVE RESEARCH PROGRAM.**

18 Section 44511(f) is amended—

19 (1) in paragraph (1), by striking “establish a 4-
20 year pilot” and inserting “maintain an”; and

21 (2) in paragraph (4), by—

22 (A) inserting “pilot” before “program” the
23 first time it appears; and

24 (B) striking “program, including rec-
25 ommendations as to the need for establishing a

1 permanent airport cooperative research pro-
2 gram.” and inserting “program.”.

3 **SEC. 602. STATE BLOCK GRANT PROGRAM.**

4 Section 47128 is amended—

5 (1) in subsection (a), by striking “regulations”
6 both times it appears and inserting “guidance”;

7 (2) in subsection (b)(4), by striking “grant;”
8 and inserting “grant, including Federal environ-
9 mental requirements or an agreed upon equivalent;”;
10 and

11 (3) by redesignating subsection (c) as (d) and
12 inserting the following new subsection (c):

13 “(c) ENVIRONMENTAL ANALYSIS AND COORDINA-
14 TION REQUIREMENTS.—Any Federal agency that must
15 approve, license or permit a proposed action by a partici-
16 pating State shall coordinate and consult with the State.
17 Such agency shall utilize the environmental analysis pre-
18 pared by the State, provided it is adequate, or supplement
19 that analysis as necessary to meet applicable Federal re-
20 quirements.”.

21 **SEC. 603. AIRPORT FUNDING OF SPECIAL STUDIES OR RE-**
22 **VIEWS.**

23 Section 47173(a) is amended by striking “project.”
24 and inserting “project, or to conduct special environmental
25 studies related to a federally funded airport project or for

1 special studies or reviews to support approved noise com-
2 patibility measures in a Part 150 program or environ-
3 mental mitigation in a Federal Aviation Administration
4 Record of Decision or Finding of No Significant Impact.”.

5 **SEC. 604. ENVIRONMENTAL MITIGATION DEMONSTRATION**
6 **PILOT PROGRAM.**

7 (a) PILOT PROGRAM.—Chapter 471 is amended at
8 the end by adding the following new section:

9 **“§ 47143. Environmental Mitigation Demonstration**
10 **Pilot Program**

11 “(a) IN GENERAL.—The Secretary of Transportation
12 shall carry out a pilot program involving not more than
13 six projects at public-use airports under which the Sec-
14 retary may make grants to sponsors of such airports from
15 funds apportioned under paragraph 47117(e)(1)(A) for
16 use at such airports for environmental mitigation dem-
17 onstration projects that will measurably reduce or mitigate
18 aviation impacts on noise, air quality or water quality in
19 the vicinity of the airport. Notwithstanding any other pro-
20 vision of this subchapter, an environmental mitigation
21 demonstration project approved under this section shall be
22 treated as eligible for assistance under this subchapter.

23 “(b) PARTICIPATION IN PILOT PROGRAM.—A public-
24 use airport shall be eligible for participation in the pilot
25 program.

1 “(c) SELECTION CRITERIA.—In selecting from
2 among applicants for participation in the pilot program,
3 the Secretary may give priority consideration to environ-
4 mental mitigation demonstration projects that—

5 “(1) will achieve the greatest reductions in air-
6 craft noise, airport emissions, or airport water qual-
7 ity impacts either on an absolute basis, or on a per
8 dollar of funds expended basis; and

9 “(2) will be implemented by an eligible consor-
10 tium.

11 “(d) UNITED STATES GOVERNMENT’S SHARE.—Not-
12 withstanding any other provision of this subchapter, the
13 United States Government’s share of the costs of a project
14 carried out under this section shall be 50 percent.

15 “(e) MAXIMUM AMOUNT.—Not more than
16 \$2,500,000 may be made available by the Secretary in
17 grants under this section for any single project.

18 “(f) IDENTIFYING BEST PRACTICES.—The Adminis-
19 trator may develop and publish information identifying
20 best practices for reducing or mitigating aviation impacts
21 on noise, air quality, or water quality in the vicinity of
22 airports, based on the projects carried out under the pilot
23 program.

24 “(g) DEFINITIONS.—In this section—

1 “(1) the term ‘eligible consortium’ means a con-
2 consortium that comprises two or more of the following
3 entities:

4 “(A) businesses incorporated in the United
5 States;

6 “(B) public or private educational or re-
7 search organizations located in the United
8 States;

9 “(C) entities of State or local governments
10 in the United States; or

11 “(D) Federal laboratories.

12 “(2) the term ‘environmental mitigation dem-
13 onstration project’ means a project that:

14 “(A) introduces new conceptual environ-
15 mental mitigation techniques or technology with
16 associated benefits, which have already been
17 proven in laboratory demonstrations;

18 “(B) proposes methods for efficient adap-
19 tation or integration of new concepts to airport
20 operations; and

21 “(C) will demonstrate whether new tech-
22 niques or technology for environmental mitiga-
23 tion identified in research are—

24 “(i) practical to implement at or near
25 multiple public use airports; and

1 “(ii) capable of reducing noise, airport
2 emissions, or water quality impacts in
3 measurably significant amounts.”.

4 (b) CONFORMING AMENDMENT.—The analysis for
5 subchapter I of chapter 471 is amended by adding at the
6 end the following:

“47143. Environmental mitigation demonstration pilot program.”.

7 **SEC. 605. GRANT ELIGIBILITY FOR ASSESSMENT OF FLIGHT**
8 **PROCEDURES.**

9 Section 47504 is amended by adding at the end the
10 following new subsection:

11 “(e) GRANTS FOR ASSESSMENT OF FLIGHT PROCE-
12 DURES.—(1) The Secretary is authorized in accordance
13 with paragraph (c)(1) to make a grant to an airport oper-
14 ator to assist in completing environmental review and as-
15 sessment activities for proposals to implement flight proce-
16 dures that have been approved for airport noise compat-
17 ibility planning purposes under subsection (b).

18 “(2) The Administrator of the Federal Aviation Ad-
19 ministration may accept funds from an airport sponsor,
20 including funds provided to the sponsor under paragraph
21 (1), to hire additional staff or obtain the services of con-
22 sultants in order to facilitate the timely processing, review
23 and completion of environmental activities associated with
24 proposals to implement flight procedures submitted and
25 approved for airport noise compatibility planning purposes

1 in accordance with this section. Funds received under this
 2 authority shall not be subject to the procedures applicable
 3 to the receipt of gifts by the Administrator.”.

4 **SEC. 606. RESEARCH CONSORTIUM FOR LOWER ENERGY,**
 5 **EMISSIONS AND NOISE TECHNOLOGY PART-**
 6 **nership.**

7 (a) ESTABLISHMENT OF CONSORTIUM.—Subchapter
 8 I of chapter 475 is amended by adding at the end the
 9 following:

10 **“§ 47512. Research consortium for lower energy,**
 11 **emissions and noise technology partner-**
 12 **ship**

13 “(a) CLEEN ENGINE TECHNOLOGY PARTNER-
 14 SHIP.—The Administrator of the Federal Aviation Admin-
 15 istration shall enter into a cooperative agreement with the
 16 Partnership for Air Transportation Noise and Emissions
 17 Reduction (PARTNER) Center of Excellence for the de-
 18 velopment, maturing, and certification for Continuous
 19 Lower Energy, Emissions and Noise (CLEEN) engine and
 20 airframe technology for aircraft over the next ten years.

21 “(b) PERFORMANCE OBJECTIVE.—The Adminis-
 22 trator shall establish the following performance objectives
 23 for the program to be completed by 2015:

1 “(1) certifiable aircraft technology that in-
2 creases aircraft fuel efficiency by 25 percent relative
3 to 1997 subsonic aircraft technology;

4 “(2) certifiable engine technology that reduces
5 landing and takeoff cycle (LTO) nitrogen oxide
6 emissions by 50 percent, without increasing other
7 gaseous or particle emissions, over the International
8 Civil Aviation Organization (ICAO) standard adopt-
9 ed in 2004;

10 “(3) certifiable aircraft technology that reduces
11 noise levels by 10 dB relative to 1997 subsonic jet
12 aircraft technology;

13 “(4) determination of the feasibility of use of
14 alternative fuels in aircraft systems, including suc-
15 cessful demonstration and quantification of benefits;
16 and

17 “(5) determination of the extent to which new
18 engine and aircraft technologies may be used to ret-
19 rofit or re-engine aircraft so as to increase the level
20 of penetration into the commercial fleet.

21 “(c) AUTHORIZATION OF APPROPRIATIONS.—There
22 are authorized to be appropriated from the funding pro-
23 vided for the Next Generation Air Transportation System
24 program such sums as necessary to carry out this section.

1 “(d) The Administrator shall publish a progress re-
 2 port on the CLEEN program each year beginning in
 3 2009.”.

4 (b) CONFORMING AMENDMENT.—The analysis of
 5 subchapter I of chapter 475 is amended by adding at the
 6 end:

“47512. Research consortium for lower energy, emissions and noise technology
 partnership.”.

7 **SEC. 607. AMENDMENTS TO AIR TOUR MANAGEMENT PRO-**
 8 **GRAM.**

9 Section 40128 is amended—

10 (1) in subsection (a)—

11 (A) in clause (1)(C), by striking “lands.”
 12 and inserting “lands, or a voluntary agree-
 13 ment.”; and

14 (B) by adding at the end the following:

15 “(5) EXEMPTION.—Notwithstanding paragraph
 16 (1), units of the national park system that have 50
 17 or fewer commercial air tour flights a year shall be
 18 exempt from the requirements of this section, except
 19 that the Director may determine at any time that
 20 this exemption shall not apply to any park for which
 21 the Director determines an air tour management
 22 plan or voluntary agreement is necessary to protect
 23 park resources and values or park visitor use and
 24 enjoyment. The Director shall inform the Adminis-

1 trator in writing of such determinations. The Direc-
2 tor and Administrator shall publish an annual list of
3 national parks that fall within the exemption pro-
4 vided by this paragraph. A commercial air tour oper-
5 ator conducting commercial air tours in a national
6 park that is exempt from the requirements of this
7 section shall submit to the Administrator and the
8 Director an annual report of the number of air tour
9 flights it conducts each year in such exempted
10 park.”;

11 (2) in subsection (b), by adding at the end the
12 following new paragraph:

13 “(7) VOLUNTARY AGREEMENTS.—(A) As an al-
14 ternative to an air tour management plan, for any
15 unit of the national park system, the Director and
16 the Administrator may enter into a voluntary agree-
17 ment to manage commercial air tour operations over
18 a park unit with any commercial air tour operators
19 that have applied for authority to conduct air tour
20 operations over the park unit, including existing op-
21 erators that have interim operating authority, and
22 new entrant applicants.

23 “(B) Such voluntary agreement shall address
24 the management issues necessary to protect park re-

1 sources and visitor use without compromising avia-
2 tion safety, and may—

3 “(i) include provisions described in para-
4 graph (3)(B) through (E);

5 “(ii) include provisions to insure the sta-
6 bility of and compliance with the voluntary
7 agreement; and

8 “(iii) provide for fees for operating over
9 the park.

10 “(C) The Director and the Administrator shall
11 offer the opportunity for public review of a proposed
12 voluntary agreement, and shall consult with any In-
13 dian tribe whose tribal lands are, or may be,
14 overflowed by commercial air tour operators under a
15 voluntary agreement.

16 “(D) Following such public review and con-
17 sultation, a voluntary agreement may be imple-
18 mented without further administrative or environ-
19 mental process.

20 “(E) A voluntary agreement may be rescinded
21 at the discretion of the Director or the Adminis-
22 trator if the Director determines that the agreement
23 is not adequately protecting park resources or visitor
24 experiences, or the Administrator determines that
25 the agreement is adversely affecting aviation safety

1 or the national aviation system. If a voluntary agree-
2 ment for a park is rescinded, the operators must
3 conform to the requirements for interim operating
4 authority under subsection (c) until an air tour man-
5 agement plan for the park is in effect.”;

6 (3) in subsection (c)—

7 (A) by revising clause (2)(I) to read as fol-
8 lows:

9 “(I) may allow for modifications of the in-
10 terim operating authority without further envi-
11 ronmental process provided that—

12 “(i) adequate information on the oper-
13 ator’s existing and proposed operations is
14 provided to the Administrator and the Di-
15 rector by the operator making the request;

16 “(ii) the Administrator agrees that
17 there would be no adverse impact on avia-
18 tion safety; and

19 “(iii) the Director agrees, based on
20 professional expertise regarding the protec-
21 tion of the park resources and values and
22 visitor use and enjoyment.”;

23 (B) in paragraph (3)—

24 (i) in clause (A), by striking from “if
25 the Administrator determines” through the

1 end and inserting “without further envi-
2 ronmental process provided that—

3 “(i) adequate information on the oper-
4 ator’s proposed operations is provided to
5 the Administrator and the Director by the
6 operator making the request;

7 “(ii) the Administrator agrees that
8 there would be no adverse impact on avia-
9 tion safety; and

10 “(iii) the Director agrees, based on
11 professional expertise regarding the protec-
12 tion of park resources and values and vis-
13 itor use and enjoyment.”; and

14 (ii) by striking clause (B) and redesign-
15 ating clause (C) as (B);

16 (4) by redesignating subsections (d) and (e) as
17 subsections (e) and (f), respectively; and

18 (5) inserting new subsection (d) as follows:

19 “(d) COMMERCIAL AIR TOUR OPERATOR RE-
20 PORTS.—Each commercial air tour operator providing a
21 commercial air tour over a national park unit under in-
22 terim operating authority or in accordance with an air
23 tour management plan shall report the number of com-
24 mercial air tour operations over each park unit and other
25 data requested by the Administrator and Director in order

1 to facilitate administering the provisions of this section.
2 The reports shall be on a frequency and in a format re-
3 quested by the Administrator and Director, and shall be
4 submitted to both the Administrator and Director or their
5 designees. The Administrator and Director shall jointly
6 issue an initial request for the reports authorized in this
7 subsection no later than three months after the date of
8 enactment of this provision.”.

9 **TITLE VII—AVIATION**

10 **INSURANCE**

11 **SEC. 701. GENERAL AUTHORITY.**

12 (a) IN GENERAL.—Section 44302 is amended—

13 (1) by repealing subsection (b); and

14 (2) in subsection (f)(2)—

15 (A) by striking “paragraph (1)—(A) in”

16 and inserting “paragraph (1), in”; and

17 (B) by striking “2002; and” and inserting

18 “2002.”; and

19 (C) by striking paragraph (B).

20 (b) CONFORMING AMENDMENT.—Section 44303(a)

21 is amended by striking “, or reimburse insurance costs,”.

1 **SEC. 702. EXTENSION OF AUTHORITY TO LIMIT THIRD**
2 **PARTY LIABILITY OF AIR CARRIERS ARISING**
3 **OUT OF ACTS OF TERRORISM.**

4 Section 44303(b) is amended by striking “December
5 31, 2006” and inserting “December 31, 2011”.

6 **SEC. 703. CLARIFICATION OF REINSURANCE AUTHORITY.**

7 Section 44304 is amended in the second sentence by
8 striking “the carrier” and inserting “any insurance car-
9 rier”.

10 **SEC. 704. USE OF INDEPENDENT CLAIMS ADJUSTERS.**

11 Section 44308 is amended in subsection (c)(1) in the
12 second sentence by striking “agent” and inserting “agent,
13 or a claims adjuster who is independent of the under-
14 writing agent,”.

15 **SEC. 705. EXTENSION OF PROGRAM AUTHORITY.**

16 Section 44310 is amended by striking “March 30,
17 2008.” and inserting “March 30, 2013.”.

18 **TITLE VIII—AVIATION SERVICE**
19 **IMPROVEMENTS**

20 **SEC. 801. EXTENSION OF COMPETITIVE ACCESS REPORTS.**

21 Section 47107(s)(3) is amended by striking “2008”
22 and inserting “2012”.

23 **SEC. 802. ESSENTIAL AIR SERVICE REFORM.**

24 (a) DEFINITION.—Section 41731 is amended to read
25 as follows:

1 **“§ 41731. Definition**

2 “In this subchapter ‘eligible place’ means a place in
3 the United States—

4 “(1) that as of the date of enactment of the
5 Next Generation Air Transportation System Financ-
6 ing Reform Act of 2007, was receiving subsidized
7 Essential Air Service;

8 “(2) that is more than 70 highway miles from
9 the nearest medium or large hub airport; and

10 “(3) at which the subsidy per passenger does
11 not exceed \$200 for a community that is less than
12 210 miles from the nearest medium or large hub air-
13 port.”.

14 (b) ESSENTIAL AIR SERVICE.—Section 41732 is
15 amended to read as follows:

16 **“§ 41732. Essential air service**

17 “Essential air service provided under section 41733
18 of this title is transportation of passengers and cargo to
19 a destination airport and at a level of service comparable
20 to what the community received on the date of enactment
21 of the Next Generation Air Transportation System Fi-
22 nancing Reform Act of 2007.”.

23 (c) AVAILABILITY OF COMPENSATION.—Section
24 41733 is amended to read as follows:

1 giving substantial weight to the views of the
2 elected officials representing the users; and

3 “(E) the relative subsidy costs to the
4 United States Government based on the appli-
5 cants’ proposals.

6 “(2) Under guidelines prescribed under section
7 41737 of this subchapter, the Secretary shall pay
8 the rate of compensation for providing essential air
9 service under this section and section 41734 of this
10 subchapter.

11 “(b) COMPENSATION PAYMENTS.—The Secretary
12 shall pay compensation under this section at times and
13 in the way the Secretary decides is appropriate. The Sec-
14 retary shall end payment of compensation to an air carrier
15 for providing essential air service to an eligible place when
16 the Secretary decides the compensation is no longer nec-
17 essary to maintain essential air service to the place.

18 “(c) REVIEW.—The Secretary shall review periodi-
19 cally the level of essential air service for each eligible place.
20 Based on the review and consultations with the interested
21 community and the appropriate State authority of the
22 State in which the community is located, the Secretary
23 may make appropriate adjustments in the level of service.
24 However, the level of service that is subsidized will not
25 be more than that which a community is receiving as of

1 the date of enactment of the Next Generation Air Trans-
2 portation System Financing Reform Act of 2007.”.

3 (d) ENDING, SUSPENDING OR REDUCING ESSENTIAL
4 AIR SERVICE.—Section 41734 is amended to read as fol-
5 lows:

6 **“§ 41734. Ending, suspending, and reducing essential**
7 **air service**

8 “(a) NOTICE REQUIRED.—An air carrier may end,
9 suspend, or reduce air transportation to an eligible place
10 below the level of essential air service established for that
11 place under this subchapter only after giving the Secretary
12 of Transportation, the appropriate State authority, and
13 the affected communities at least 90 days’ notice before
14 ending, suspending, or reducing that air service.

15 “(b) CONTINUATION OF SERVICE FOR 30 DAYS
16 AFTER NOTICE PERIOD.—If at the end of the notice pe-
17 riod under subsection (a) of this section the Secretary has
18 not found another air carrier to provide essential air serv-
19 ice to the eligible place, the Secretary shall require the
20 carrier providing notice to continue to provide essential air
21 service to the place for an additional 30-day period or until
22 another air carrier begins to provide essential air service
23 to the place, whichever occurs first.

24 “(c) CONTINUATION OF SERVICE FOR ADDITIONAL
25 30-DAY PERIODS.—If at the end of the 30-day period

1 under subsection (b) of this section the Secretary decides
2 another air carrier will not provide essential air service
3 to the place on a continuing basis, the Secretary shall re-
4 quire the air carrier providing service to continue to pro-
5 vide service for additional 30-day periods until another air
6 carrier begins providing service on a continuing basis. At
7 the end of each 30-day period, the Secretary shall decide
8 if another air carrier will provide service on a continuing
9 basis.

10 “(d) CONTINUATION OF COMPENSATION AFTER NO-
11 TICE PERIOD.—If an air carrier receiving compensation
12 under this subchapter for providing essential air service
13 to an eligible place is required to continue to provide serv-
14 ice to the place under this section after the 90-day notice
15 period under subsection (a) of this section, the Secretary
16 shall continue to pay that compensation after the last day
17 of that period. The Secretary shall pay the compensation
18 until the Secretary finds another air carrier to provide the
19 service to the place or the 180th day after the carrier filed
20 notice to suspend service, whichever is earlier. If, after the
21 180th day, the Secretary has not found another air carrier
22 to provide the service, the carrier required to continue to
23 provide that service shall receive compensation sufficient
24 to pay for the fully allocated actual cost to the air carrier
25 of performing the essential air service that was being pro-

1 vided when the 90-day notice was given under subsection
 2 (a) of this section plus a reasonable return on investment
 3 that is equal to 5 percent of operating costs.

4 “(e) FINDING REPLACEMENT SERVICE PRO-
 5 VIDERS.—When the Secretary requires an air carrier to
 6 continue to provide essential air service to an eligible
 7 place, the Secretary shall promptly issue a request for pro-
 8 posals to find another air carrier to provide at least the
 9 essential air service set forth in section 41732 to the place
 10 on a continuing basis.”.

11 (e) COMPENSATION GUIDELINES.—Section 41737 is
 12 amended to read as follows:

13 “§ 41737. **Compensation guidelines, limitations, and**
 14 **claims**

15 “(a) COMPENSATION GUIDELINES.—

16 “(1) The Secretary of Transportation shall pre-
 17 scribe guidelines governing the rate of compensation
 18 payable under this subchapter. The guidelines shall
 19 be used to determine the reasonable amount of com-
 20 pensation required to ensure the continuation of air
 21 service or air transportation under this subchapter.

22 The guidelines shall—

23 “(A) provide for a reduction in compensa-
 24 tion when an air carrier does not provide serv-
 25 ice or transportation agreed to be provided;

1 “(B) consider amounts needed by an air
2 carrier to promote public use of the service or
3 transportation for which compensation is being
4 paid; and

5 “(C) include expense elements based on
6 representative costs of air carriers providing
7 scheduled air transportation of passengers,
8 property, and mail on equipment of the type the
9 Secretary decides is appropriate for providing
10 the service or transportation for which com-
11 pensation is being provided.

12 “(2) Promotional amounts described in para-
13 graph (1)(B) of this subsection shall be a special,
14 segregated element of the compensation provided to
15 a carrier under this subchapter.

16 “(b) CLAIMS.—Not later than 15 days after receiving
17 a written claim from an air carrier for compensation under
18 this subchapter, the Secretary shall—

19 “(1) pay or deny the United States Govern-
20 ment’s share of a claim; and

21 “(2) if denying the claim, notify the person of
22 the denial and the reasons for the denial.

23 “(c) AUTHORITY TO MAKE AGREEMENTS AND INCUR
24 OBLIGATIONS.—The Secretary may make agreements and
25 incur obligations from the Airport and Airway Trust Fund

1 established under section 9502 of the Internal Revenue
2 Code of 1986 (26 U.S.C. 9502) to pay compensation
3 under this subchapter. An agreement by the Secretary
4 under this subsection is a contractual obligation of the
5 Government to pay the Government's share of the com-
6 pensation.

7 “(d) ELIGIBILITY DETERMINATIONS.—

8 “(1) In making all determinations on eligibility
9 for compensation under this subchapter, the Sec-
10 retary shall rank all compensated points in their
11 order of relative decreasing driving distance from the
12 nearest large or medium hub airport. The term
13 “driving distance” means the shortest driving dis-
14 tance as determined by the Federal Highway Admin-
15 istration.

16 “(2) If the funds appropriated under Section
17 41742 are not sufficient to pay for service to all of
18 the eligible places, the Secretary shall provide sub-
19 sidy first to the eligible communities that do not
20 have highway access to a medium or large hub air-
21 port, then to the most isolated community, as deter-
22 mined under paragraph (1), that requires compensa-
23 tion and then the next most isolated community re-
24 quiring compensation, and so on, in order, until the
25 Secretary has obligated not more than the amount

1 authorized to be appropriated from the Airport and
2 Airway Trust Fund under 49 U.S.C. 48203(b),
3 which shall remain available until expended.”.

4 (e) AUTHORIZATION.—Section 41742 is amended to
5 read as follows:

6 **“§ 41742. Essential Air Service authorization**

7 “Beginning in fiscal year 2009, \$50,000,000 is au-
8 thorized and shall be made available immediately for obli-
9 gation and expenditure to the Secretary of Transportation
10 out of the Airport and Airway Trust Fund established
11 under section 9502 of the Internal Revenue Code of 1986
12 (26 U.S.C. 9502), to carry out the essential air service
13 program under this subchapter for each fiscal year. Such
14 amount shall remain available until expended.”.

15 (f) REPEALED PROVISIONS.—

16 (1) Sections 41735, 41736, 41745, 41747, and
17 41748 are repealed.

18 (2) Subchapter III of chapter 417 is repealed.

19 (g) CONFORMING AMENDMENTS.—

20 (1) The analysis to chapter 417 is amended by
21 striking the items relating to sections 41735, 41736,
22 41745, 41747, and 41748.

23 (2) The analysis to chapter 417 is amended by
24 striking all of the items relating to subchapter III.

1 (3) Section 41738 is amended by deleting “or
2 air transportation to a place designated under
3 41736”.

4 **SEC. 803. TERMINATION OF DOT AUTHORITY TO SET INTER-**
5 **NATIONAL MAIL RATES.**

6 (a) **ELIMINATION OF INTERNATIONAL MAIL RATE**
7 **SETTING AUTHORITY.**—Section 41901(b)(1) is amended
8 by striking “in foreign air transportation or”.

9 (b) **EFFECTIVE DATE.**—The amendment made by
10 subsection (a) shall become effective 16 months after the
11 date of enactment of this Act.

12 **SEC. 804. AIR CARRIAGE OF INTERNATIONAL MAIL.**

13 (a) **ELIMINATION OF REQUIREMENT TO FILE CON-**
14 **TRACT.**—Section 5402(b) of title 39, United States Code,
15 is amended by striking the last three sentences.

16 (b) **ELIMINATION OF SCHEDULES FOR MAIL TRANS-**
17 **PORTATION.**—Section 41902 is amended—

18 (1) in subsection (a) by striking “in foreign air
19 transportation or”;

20 (2) by revising subsection (b) to read as follows:

21 “(b) **STATEMENTS ON PLACES AND SCHEDULES.**—
22 Every air carrier shall file with the United States Postal
23 Service a statement showing—

24 “(1) the places between which the carrier is au-
25 thorized to transport mail in Alaska;

1 “(2) every schedule of aircraft regularly oper-
2 ated by the carrier between places described in
3 clause (1) of this subsection and every change in
4 each schedule; and

5 “(3) for each schedule, the places served by the
6 carrier and the time of arrival at, and departure
7 from, each place.”;

8 (3) by deleting subsections (e) and (f).

9 (c) EFFECTIVE DATE.—The amendment made by
10 subsection (a) shall become effective 16 months after the
11 date of enactment of this Act.

12 **SEC. 805. CONTENTS OF COMPETITION PLANS.**

13 Section 47106(f)(2) is amended—

14 (1) by striking “patterns of air service,”;

15 (2) by inserting “and” before “whether”; and

16 (3) by striking “, and airfare levels (as com-
17 piled by the Department of Transportation) com-
18 pared to other large airports”.

19 **SEC. 806. AIRPORT PRIVATIZATION.**

20 Section 47134 is amended—

21 (1) in the first sentence of subsection (b), by
22 striking “5 airports” and inserting “15 airports”;

23 (2) by revising paragraph (b)(1)(A) to read as
24 follows:

25 “(1) USE OF REVENUES.—

1 “(A) IN GENERAL.—The Secretary may
2 grant an exemption to a sponsor from the pro-
3 visions of section 47107(b) and 47133 of this
4 title (and any other law, regulation, or grant
5 assurance) to the extent necessary to permit the
6 sponsor to recover from the sale or lease of the
7 airport such amount as may be approved by the
8 Secretary after the sponsor has consulted—

9 “(i) in the case of a primary airport,
10 with each air carrier and foreign air car-
11 rier serving the airport as determined by
12 the Secretary; or

13 “(ii) in the case of a non-primary air-
14 port, with at least 65 percent of the own-
15 ers of aircraft based at that airport, as de-
16 termined by the Secretary.”;

17 (3) by striking subparagraph (b)(1)(C);

18 (4) in subsection (c), by—

19 (A) striking paragraphs (4), (5), and (9)
20 and redesignating paragraphs (6) through (8)
21 as paragraphs (4) through (6) respectively; and

22 (B) adding a new paragraph (7) at the end
23 to read as follows:

24 “(7) No part of a fee charged to an air carrier
25 or a foreign air carrier may include a return on in-

1 vestment or recovery of principal with respect to
2 consideration paid to the public agency for the lease
3 or sale of the airport unless such part of the fee is
4 approved by the air carrier or foreign air carrier.”;
5 and

6 (5) by striking paragraph (d) and redesignating
7 paragraphs (e) through (m) as (d) through (l) re-
8 spectively.

9 **SEC. 807. CLARIFICATION OF AIR CARRIER FEE DISPUTES.**

10 Section 47129 is amended—

11 (1) by inserting “and foreign air carrier” after
12 “air carrier” in the section heading, in the heading
13 for subsection (d), and in the paragraph heading for
14 paragraph (d)(2);

15 (2) by striking “air carrier” each place it ap-
16 pears in text, and inserting “air carrier or foreign
17 air carrier”;

18 (3) by striking “air carrier’s” each place it ap-
19 pears and inserting “air carrier’s or foreign air car-
20 rier’s”;

21 (4) by striking “air carriers” each place it ap-
22 pears and inserting “air carriers or foreign air car-
23 riers”; and

1 (5) by striking “(as defined in section 40102 of
2 this title)” in subsection (a) and inserting “(as those
3 terms are defined in section 40102 of this title)”.

4 **SEC. 808. AMENDMENTS TO CHAPTER 415.**

5 (a) IN GENERAL.—Chapter 415 is amended—

6 (1) by revising section 41501 to read as follows:

7 **“§ 41501. Establishing reasonable prices, classifica-**
8 **tions, rules and practices for foreign air**
9 **transportation**

10 “Every air carrier and foreign air carrier shall estab-
11 lish, comply with, and enforce reasonable prices, classifica-
12 tions, rules and practices related to foreign air transpor-
13 tation.”.

14 (2) by revising section 41502 to read as follows:

15 **“§ 41502. Establishing joint prices for through routes**
16 **with other carriers**

17 “An air carrier, including an indirect air carrier, may
18 establish reasonable joint prices and through service with
19 another carrier.”.

20 (3) by repealing sections 41503, 41505, 41506,
21 41508, and 41510.

22 (4) by revising section 41504(a) to read as fol-
23 lows:

24 “(a) FILING AND CONTENTS.—In the way prescribed
25 by regulation by the Secretary of Transportation, any air

1 carrier or foreign air carrier providing foreign air trans-
2 portation between places designated by the Secretary, and
3 any air carrier or foreign air carrier granted immunity
4 from the antitrust laws for the coordination of prices pur-
5 suant to section 41308 of this title, shall file with the Sec-
6 retary, publish, and keep open to public inspection, tariffs
7 showing the prices for the foreign air transportation pro-
8 vided by the carrier or provided by the carrier and another
9 air carrier or foreign air carrier in which through service
10 and joint prices have been established. A tariff—

11 “(1) shall contain—

12 “(A) to the extent the Secretary requires
13 by regulation, a description of the classifica-
14 tions, rules, and practices related to the foreign
15 air transportation;

16 “(B) a statement of the prices in money of
17 the United States; and

18 “(C) other information the Secretary re-
19 quires by regulation; and

20 “(2) may contain—

21 “(A) a statement of the prices in money
22 that is not money of the United States; and

23 “(B) information that is required under
24 the laws of a foreign country in or to which the

1 air carrier or foreign air carrier is authorized to
2 operate.”; and

3 (5) by striking subsection 41509(e) and redesi-
4 gnating subsections 41509(f) and (g) as 41509(e)
5 and (f) respectively.

6 (b) CONFORMING AMENDMENTS.—

7 (1) The analysis for chapter 415 is amended by
8 striking the items relating to sections 41503, 41505,
9 41506, 41508, and 41510;

10 (2) Section 40109(c) is amended by striking
11 “41505,”;

12 (3) Section 41110(a)(2)(B) is amended—

13 (A) by striking “41503,”;

14 (B) by striking “41506,”; and

15 (C) by striking “41510,”

16 (4) Section 46301 is amended by striking
17 “41505,”.

18 **TITLE IX—INTERNAL REVENUE**

19 **CODE AMENDMENTS**

20 **SEC. 901. AMENDMENT OF 1986 CODE.**

21 Except as otherwise expressly provided, whenever in
22 this Title an amendment or repeal is expressed in terms
23 of an amendment to, or a repeal of, a section or other
24 provision, the reference shall be considered to be made to

1 a section or other provision of the Internal Revenue Code
2 of 1986.

3 **SEC. 902. MODIFICATIONS TO TAX ON AVIATION FUEL.**

4 (a) IN GENERAL.—Effective October 1, 2008, section
5 4081(a)(2) (relating to rates of tax) is amended—

6 (1) in paragraph (A) by inserting before the
7 comma at the end of subparagraph (A)(ii) “, except
8 that the rate of tax imposed on and after October
9 1, 2008, shall be 70.0 cents per gallon”;

10 (2) by revising paragraph (C) to read as fol-
11 lows:

12 “(C) TAXES IMPOSED ON FUEL USED IN
13 AVIATION.—In the case of kerosene for use in
14 aviation, the rate of tax under subparagraph
15 (A)(iii) shall be—

16 “(i) in the case of use for commercial
17 aviation by a person registered for such
18 use under section 4101 and in which the
19 fuel is removed from any refinery or ter-
20 minal directly into the fuel tank of an air-
21 craft, 4.3 cents per gallon, except that the
22 rate of tax imposed on and after October
23 1, 2008, shall be 13.6 cents per gallon;
24 and

1 “(ii) in the case of use for aviation
2 not described in clause (i), 21.8 cents per
3 gallon, except that the rate of tax imposed
4 on and after October 1, 2008, shall be
5 70.0 cents per gallon in a case in which
6 the fuel is removed from any refinery or
7 terminal directly into the fuel tank of an
8 aircraft.”; and

9 (3) by inserting at the end the following:

10 “(E) INFLATION ADJUSTMENT OF TAX
11 RATES.—In the case of taxable events in a cal-
12 endar year after 2009, the amount per gallon
13 specified in subparagraph (C)(i) shall be in-
14 creased by an amount equal to such amount,
15 multiplied by the cost-of-living adjustment de-
16 termined under section 1(f)(3) for such cal-
17 endar year by substituting “2008” for “1992”
18 in subparagraph (B) thereof. Any increase de-
19 termined under the preceding sentence shall be
20 rounded to the nearest tenth of a cent.

21 “(F) ADJUSTMENT OF TAX RATES TO RE-
22 FLECT COST IMPOSED ON THE SYSTEM.—In the
23 case of taxable events in a calendar year after
24 2009, the amount per gallon specified in sub-
25 paragraphs (A)(ii) and (C)(ii) in excess of the

1 rate specified in (C)(i) shall be an amount
2 based on the costs, as defined in section
3 45305(b)(6), imposed by operators who use fuel
4 on which such taxes are paid as determined by
5 the Federal Aviation Administration's cost allo-
6 cation system, and shall be increased or de-
7 creased once every two years as necessary to
8 cover such costs by an amount determined by
9 the Federal Aviation Administration. Any in-
10 crease or decrease determined under the pre-
11 ceeding sentence shall be rounded to the nearest
12 tenth of a cent.”.

13 (b) CONFORMING CHANGES TO FUEL TAX RATE
14 PROVISIONS.—

15 (1) TAX RATES UNDER SECTION 4081(d)(2).—
16 Effective October 1, 2007, section 4081(d)(2) (relat-
17 ing to aviation fuel tax termination) is amended to
18 read as follows:

19 “(2) AVIATION FUELS.—The rates of tax speci-
20 fied in subsection (a)(2)(A)(ii), (a)(2)(C)(i), and
21 (a)(2)(C)(ii) shall be 0.00 cents per gallon after Sep-
22 tember 30, 2017.”.

23 (2) TAX RATES UNDER SECTION 4041.—Effec-
24 tive October 1, 2008, section 4041(c)(3) (relating to
25 certain liquids used as a fuel in aviation) is amended

1 by inserting before the period at the end of para-
2 graph (3) “, except that the rate of tax imposed on
3 and after October 1, 2008, shall be the rate, after
4 adjustment for inflation under 4081(a)(2)(E), appli-
5 cable under section 4081(a)(2)(C)(i) with respect to
6 any fuel sold for use or used for commercial avia-
7 tion, and under section 4081(a)(2)(A)(ii) or
8 4081(a)(2)(C)(ii) with respect to any other fuel sold
9 for use or used in aircraft.”.

10 (c) FUEL TAX REFUND LIMITATIONS.—Effective Oc-
11 tober 1, 2008, section 6427(l) is amended—

12 (1) in subsection (l)(4), by inserting before the
13 period at the end of subsection (l)(4)(A)(ii) “and, on
14 and after October 1, 2008, so much of the rate of
15 tax specified in section 4081(a)(2)(A)(iii) as does
16 not exceed the tax specified in section
17 4081(a)(2)(C)(i), after adjustment for inflation
18 under 4081(a)(2)(E)”;

19 (2) in subsection (l)(5), by inserting before the
20 period at the end of subsection (l)(5)(A)(ii) “and, on
21 and after October 1, 2008, so much of the rate of
22 tax specified in section 4081(a)(2)(A)(iii) as does
23 not exceed the tax specified in section
24 4081(a)(2)(C)(ii), after adjustment for inflation
25 under 4081(a)(2)(E).”.

1 **SEC. 903. MODIFICATIONS TO TAX ON TRANSPORTATION OF**
2 **PERSONS BY AIR.**

3 (a) ONE-YEAR EXTENSION OF CURRENT TAXES.—

4 (1) Section 4261(j)(1)(ii) (relating to imposition of tax on
5 persons) is amended by striking “September 30, 2007,”
6 and inserting “September 30, 2008”.

7 (2) Section 4271(d)(1)(A)(ii) (relating to imposition
8 of tax on property) is amended by striking “September
9 30, 2007,” and inserting “September 30, 2008”.

10 (b) MODIFICATIONS TO TAXES.—Effective October 1,
11 2008, section 4261 (relating to imposition of tax) is
12 amended—

13 (1) in subsection (c),

14 (A) by inserting before the period at the
15 end of subsection (c)(1) “, except that the rate
16 of tax imposed for transportation beginning on
17 and after October 1, 2008, shall be \$6.39”;

18 (B) by amending subsection (c)(2) to read
19 as follows:

20 “(2) EXCEPTION FOR CERTAIN TRANSPOR-
21 TATION.—This subsection shall not apply to any
22 transportation that consumes fuel taxed under sec-
23 tion 4081(a)(2)(C)(i).”;

24 (C) by inserting after “In any case” in
25 subsection (c)(3) “involving transportation be-
26 ginning before October 1, 2008, and”;

1 (D) by inserting before the period at the
2 end of subsection (e)(4)(B)(ii) “, except that
3 the last nonindexed year is 2009 in the case of
4 the dollar amounts contained in subsection (c)
5 that apply to taxable events in a calendar year
6 after 2009.”; and

7 (2) by amending subsection (j) to insert the fol-
8 lowing at the end:

9 “(3) EXTENSION OF TAXABLE PERIOD IN THE
10 CASE OF INTERNATIONAL TRAVEL FACILITIES.—
11 Notwithstanding paragraph (1), the taxes imposed
12 by subsection (c) of this section shall apply to—

13 “(A) transportation beginning during the
14 period beginning on March 7, 1997, and ending
15 on September 30, 2017; and

16 “(B) amounts paid during such period for
17 transportation beginning after such period.”.

18 **SEC. 904. EXTENSION OF AIRPORT AND AIRWAY TRUST**
19 **FUND EXPENDITURE AUTHORITY.**

20 (a) IN GENERAL.—Paragraph (1) of section 9502(d)
21 of the Internal Revenue Code of 1986 (relating to expendi-
22 tures from Airport and Airway Trust Fund) is amended—

23 (1) by striking “October 1, 2007” and inserting
24 “October 1, 2017”; and

1 (2) by inserting before the semicolon at the end
2 of subparagraph (A) the following: “, or the Next
3 Generation Air Transportation System Financing
4 Reform Act of 2007”.

5 (b) CONFORMING AMENDMENT.—Paragraph (2) of
6 section 9502(f) of the Internal Revenue Code of 1986 is
7 amended by striking “October 1, 2007” and inserting
8 “October 1, 2017”.

○