110TH CONGRESS
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HOUSE OF REPRESENTATIVES
REPORT
110–331

FAA REAUTHORIZATION ACT OF 2007

SEPTEMBER 17, 2007.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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

R E P O R T

together with

MINORITY VIEWS

[To accompany H.R. 2881]

[Including cost estimate of the Congressional Budget Office]

The Committee on Transportation and Infrastructure, to whom was referred the bill (H.R. 2881) to amend title 49, United States Code, to authorize appropriations for the Federal Aviation Administration for fiscal years 2008 through 2011, to improve aviation safety and capacity, to provide stable funding for the national aviation system, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "FAA Reauthorization Act of 2007".

(b) TABLE OF CONTENTS.—

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

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

SEC. 3. EFFECTIVE DATE.

Except as otherwise expressly provided, this Act and the amendments made by this Act shall apply only to fiscal years beginning after September 30, 2007.

TITLE I—AUTHORIZATIONS

Subtitle A—Funding of FAA Programs

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

(a) AUTHORIZATION.—Section 48103 is amended—

(1) by striking "September 30, 2003" and inserting "September 30, 2007"; and

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

"(1) $3,800,000,000 for fiscal year 2008;

"(2) $3,900,000,000 fiscal year 2009;

"(3) $4,000,000,000 fiscal year 2010; and

"(4) $4,100,000,000 fiscal year 2011.".

(b) OBLIGATIONAL AUTHORITY.—Section 47104(c) is amended by striking "September 30, 2007" and inserting "September 30, 2011".

SEC. 102. AIR NAVIGATION FACILITIES AND EQUIPMENT.

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 48101(a) is amended by striking paragraphs (1) through (4) and inserting the following:

"(1) $3,120,000,000 for fiscal year 2008.
"(2) $3,246,000,000 for fiscal year 2009.
"(3) $3,259,000,000 for fiscal year 2010.
"(4) $3,353,000,000 for fiscal year 2011.".

(b) USE OF FUNDS.—Section 48101 is amended by striking subsections (c) through (i) and inserting the following:

"(c) WAKE VORTEX MITIGATION.—Of amounts appropriated under subsection (a), such sums as may be necessary for each of fiscal years 2008 through 2011 may be used for the development and analysis of wake vortex mitigation, including advisory systems.

"(d) WEATHER HAZARDS.—

"(1) IN GENERAL.—Of amounts appropriated under subsection (a), such sums as may be necessary for each of fiscal years 2008 through 2011 may be used for the development of in-flight and ground-based weather threat mitigation systems, including ground de-icing and anti-icing systems and other systems for predicting, detecting, and mitigating the effects of certain weather conditions on both airframes and engines.

"(2) SPECIFIC HAZARDS.—Weather conditions referred to in paragraph (1) include—

"(A) ground-based icing threats such as ice pellets and freezing drizzle;
"(B) oceanic weather, including convective weather, and other hazards associated with oceanic operations (where commercial traffic is high and only rudimentary satellite sensing is available) to reduce the hazards presented to commercial aviation, including convective weather ice crystal ingestion threats; and
"(C) en route turbulence prediction.

"(e) SAFETY MANAGEMENT SYSTEMS.—Of amounts appropriated under subsection (a) and section 106(k)(1), such sums as may be necessary for each of fiscal years 2008 through 2011 may be used to advance the development and implementation of safety management systems.

"(f) RUNWAY INCURSION REDUCTION PROGRAMS.—Of amounts appropriated under subsection (a), $8,000,000 for fiscal year 2008, $10,000,000 for fiscal year 2009, $12,000,000 for fiscal year 2010, and $12,000,000 for fiscal year 2011 may be used for the development and implementation of runway incursion reduction programs.

"(g) RUNWAY STATUS LIGHTS.—Of amounts appropriated under subsection (a), $15,000,000 for fiscal year 2008, $27,000,000 for fiscal year 2009, $12,000,000 for fiscal year 2010, and $20,000,000 for 2011 may be used for the acquisition and installation of runway status lights.".

SEC. 103. FAA OPERATIONS.

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

"(A) $8,726,000,000 for fiscal year 2008;
"(B) $8,978,000,000 for fiscal year 2009;
"(C) $9,305,000,000 for fiscal year 2010; and
"(D) $9,590,000,000 for fiscal year 2011.".

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

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

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

(3) in subparagraphs (A) and (B) (as so redesignated) by striking "2004 through 2007" and inserting "2008 through 2011".

(c) AIRLINE DATA AND ANALYSIS.—There is authorized to be appropriated to the Secretary of Transportation out of the Airport and Airway Trust Fund established by section 9502 of the Internal Revenue Code of 1986 (26 U.S.C. 9502) to fund airline data collection and analysis by the Bureau of Transportation Statistics in the Research and Innovative Technology Administration of the Department of Transportation—

(1) $4,000,000 for fiscal year 2008; and
(2) $6,000,000 for each of fiscal years 2009, 2010, and 2011.

SEC. 104. FUNDING FOR AVIATION PROGRAMS.

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

"(A) IN GENERAL.—The total budget resources made available from the Airport and Airway Trust Fund each fiscal year through fiscal year 2011 pursuant to sections 48101, 48102, 48103, and 106(k) shall—

"(i) in each of fiscal years 2008 and 2009, be equal to 95 percent of the estimated level of receipts plus interest credited to the Airport and Airway Trust Fund for that fiscal year; and

"(ii) in each of fiscal years 2010 and 2011, be equal to the sum of—

"(I) 95 percent of the estimated level of receipts plus interest credited to the Airport and Airway Trust Fund for that fiscal year; and

"(II) the actual level of receipts plus interest credited to the Airport and Airway Trust Fund for the second preceding fiscal year minus the total amount made available for obligation from the Airport and Airway Trust Fund for the second preceding fiscal year. Such amounts may be used only for aviation investment programs listed in subsection (b).".

(b) ADDITIONAL AUTHORIZATIONS OF APPROPRIATIONS FROM THE GENERAL FUND.—Section 48114(a)(2) is amended by striking "2007" and inserting "2011".

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

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

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

(d) ENFORCEMENT OF GUARANTEES.—Section 48114(c)(2) is amended by striking "2007" and inserting "2011".

Subtitle B—Passenger Facility Charges

SEC. 111. PFC AUTHORITY.

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

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

(b) INCREASE IN PFC MAXIMUM LEVEL.—Section 40117(b)(4) is amended by striking "$4.00 or $4.50" and inserting "$4.00, $4.50, $5.00, $6.00, or $7.00".

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

(1) by striking paragraph (7); and

(2) by redesignating paragraph (8) as paragraph (7).

(d) CORRECTION OF REFERENCES.—

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

(A) in the section heading by striking "**fees**" and inserting "**charges**";

(B) in the heading for subsection (e) by striking "FEES" and inserting "CHARGES";

(C) in the heading for subsection (l) by striking "FEE" and inserting "CHARGE";

(D) in the heading for paragraph (5) of subsection (l) by striking "FEE" and inserting "CHARGE";

(E) in the heading for subsection (m) by striking "FEES" and inserting "CHARGES";

(F) in the heading for paragraph (1) of subsection (m) by striking "FEES" and inserting "CHARGES";

(G) by striking "fee" each place it appears (other than the second sentence of subsection (g)(4)) and inserting "charge"; and

(H) by striking "fees" each place it appears and inserting "charges".

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

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

SEC. 112. PFC ELIGIBILITY FOR BICYCLE STORAGE.

(a) IN GENERAL.—Section 40117(a)(3) is amended by adding at the end the following:

"(H) A project to construct secure bicycle storage facilities that are to be used by passengers at the airport and that are in compliance with applicable security standards.".

(b) REPORT TO CONGRESS.—Not later than one year after the date of enactment of this Act, the Administrator of the Federal Aviation Administration shall submit to Congress a report on the progress being made by airports to install bicycle parking for airport customers and airport employees.

SEC. 113. NOISE COMPATIBILITY PROJECTS.

Section 40117(b) is amended by adding at the end the following:

"(7) NOISE MITIGATION FOR CERTAIN SCHOOLS.—

"(A) IN GENERAL.—In addition to the uses specified in paragraphs (1), (4), and (6), the Secretary may authorize a passenger facility charge imposed under paragraph (1) or (4) at a large hub airport that is the subject of an amended judgment and final order in condemnation filed on January 7, 1980, by the Superior Court of the State of California for the county of Los Angeles, to be used for a project to carry out noise mitigation for a building, or for the replacement of a relocatable building with a permanent building, in the noise impacted area surrounding the airport at which such building is used primarily for educational purposes, notwithstanding the air easement granted or any terms to the contrary in such judgment and final order, if—

"(i) the Secretary determines that the building is adversely affected by airport noise;

"(ii) the building is owned or chartered by the school district that was the plaintiff in case number 986,442 or 986,446, which was resolved by such judgment and final order;

"(iii) the project is for a school identified in one of the settlement agreements effective February 16, 2005, between the airport and each of the school districts;

"(iv) in the case of a project to replace a relocatable building with a permanent building, the eligible project costs are limited to the actual structural construction costs necessary to mitigate aircraft noise in instructional classrooms to an interior noise level meeting current standards of the Federal Aviation Administration; and

"(v) the project otherwise meets the requirements of this section for authorization of a passenger facility charge.

"(B) ELIGIBLE PROJECT COSTS.—In subparagraph (A)(iv), the term 'eligible project costs' means the difference between the cost of standard school construction and the cost of construction necessary to mitigate classroom noise to the standards of the Federal Aviation Administration.".

SEC. 114. INTERMODAL GROUND ACCESS PROJECT PILOT PROGRAM.

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

"(n) PILOT PROGRAM FOR PFC ELIGIBILITY FOR INTERMODAL GROUND ACCESS PROJECTS.—

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

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

"(3) ELIGIBLE COSTS.—

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

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

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

"(B) DETERMINATIONS REGARDING PROJECTED PROJECT USE.—

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

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

engineering to determine the projected use of the project for purposes of subparagraph (A).".

SEC. 115. IMPACTS ON AIRPORTS OF ACCOMMODATING CONNECTING PASSENGERS.

(a) STUDY.—Not later than 90 days after the date of enactment of this Act, the Secretary of Transportation shall initiate a study to evaluate—

(1) the impacts on airports of accommodating connecting passengers; and

(2) the treatment of airports at which the majority of passengers are connecting passengers under the passenger facility charge program authorized by section 40117 of title 49, United States Code.

(b) CONTENTS OF STUDY.—In conducting the study, the Secretary shall review, at a minimum, the following:

(1) the differences in facility needs, and the costs for constructing, maintaining, and operating those facilities, for airports at which the majority of passengers are connecting passengers as compared to airports at which the majority of passengers are originating and destination passengers;

(2) whether the costs to an airport of accommodating additional connecting passengers differs from the cost of accommodating additional originating and destination passengers;

(3) for each airport charging a passenger facility charge, the percentage of passenger facility charge revenue attributable to connecting passengers and the percentage of such revenue attributable to originating and destination passengers;

(4) the potential effects on airport revenues of requiring airports to charge different levels of passenger facility charges on connecting passengers and originating and destination passengers; and

(5) the added costs to air carriers of collecting passenger facility charges under a system in which different levels of passenger facility charges are imposed on connecting passengers and originating and destination passengers.

(c) REPORT TO CONGRESS.—

(1) IN GENERAL.—Not later than one year after the date of initiation of the study, the Secretary shall submit to Congress a report on the results of the study.

(2) CONTENTS.—The report shall include—

(A) the findings of the Secretary on each of the subjects listed in subsection (b); and

(B) recommendations, if any, of the Secretary based on the results of the study for any changes to the passenger facility charge program, including recommendations as to whether different levels of passenger facility charges should be imposed on connecting passengers and originating and destination passengers.

Subtitle C—Fees for FAA Services

SEC. 121. UPDATE ON OVERFLIGHTS.

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

"(b) ESTABLISHMENT AND ADJUSTMENT OF FEES.—

"(1) IN GENERAL.—In establishing and adjusting fees under subsection (a), the Administrator shall ensure that the fees are reasonably related to the Administration's costs, as determined by the Administrator, of providing the services rendered. Services for which costs may be recovered include the costs of air traffic control, navigation, weather services, training, and emergency services which are available to facilitate safe transportation over the United States and the costs of other services provided by the Administrator, or by programs financed by the Administrator, to flights that neither take off nor land in the United States. The determination of such costs by the Administrator, and the allocation of such costs by the Administrator to services provided, are not subject to judicial review.

"(2) ADJUSTMENT OF FEES.—The Administrator shall adjust the overflight fees established by subsection (a)(1) by expedited rulemaking and begin collections under the adjusted fees by October 1, 2008. In developing the adjusted overflight fees, the Administrator may seek and consider the recommendations offered by an aviation rulemaking committee for overflight fees that are provided to the Administrator by June 1, 2008, and are intended to ensure that overflight fees are reasonably related to the Administrator's costs of providing air traffic control and related services to overflights.

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

"(4) COSTS DEFINED.—In this subsection, the term 'costs' includes those costs associated with the operation, maintenance, leasing costs, and overhead expenses of the services provided and the facilities and equipment used in such services, including the projected costs for the period during which the services will be provided.

"(5) PUBLICATION; COMMENT.—The Administrator shall publish in the Federal Register any fee schedule under this section, including any adjusted overflight fee schedule, and the associated collection process as an interim final rule, pursuant to which public comment will be sought and a final rule issued.".

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

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

SEC. 122. REGISTRATION FEES.

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

"§ 45305. Registration, certification, and related fees

"(a) GENERAL AUTHORITY AND FEES.—The Administrator of the Federal Aviation Administration shall establish the following fees for services and activities of the Administration:

"(1) $130 for registering an aircraft.

"(2) $45 for replacing an aircraft registration.

"(3) $130 for issuing an original dealer's aircraft certificate.

"(4) $105 for issuing an aircraft certificate (other than an original dealer's aircraft certificate).

"(5) $80 for issuing a special registration number.

"(6) $50 for issuing a renewal of a special registration number.

"(7) $130 for recording a security interest in an aircraft or aircraft part.

"(8) $50 for issuing an airman certificate.

"(9) $25 for issuing a replacement airman certificate.

"(10) $42 for issuing an airman medical certificate.

"(11) $100 for providing a legal opinion pertaining to aircraft registration or recordation.

"(b) FEES CREDITED AS OFFSETTING COLLECTIONS.—

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

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

"(B) be available for expenditure only to pay the costs of activities and services for which the fee is imposed; and

"(C) remain available until expended.

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

"(3) ADJUSTMENTS.—The Administrator shall periodically adjust the fees established by subsection (a) when cost data from the cost accounting system developed pursuant to section 45303(e) reveal that the cost of providing the service is higher or lower than the cost data that were used to establish the fee then in effect.".

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

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

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

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

"(1) IN GENERAL.—A fee"; and

(2) by adding at the end the following:

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

Subtitle D—AIP Modifications

SEC. 131. AMENDMENTS TO AIP DEFINITIONS.

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

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

(2) by adding at the end the following:

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

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

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

(b) AIRPORT PLANNING.—Section 47102(5) is amended by inserting before the period at the end the following: "and developing an environmental management system".

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

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

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

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

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

"(A) does not have scheduled service; or

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

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

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

(e) TERMINAL DEVELOPMENT.—Section 47102 is further amended by adding at the end the following:

"(28) 'terminal development' means—

"(A) development of—

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

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

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

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

SEC. 132. AMENDMENTS TO GRANT ASSURANCES.

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

(b) WRITTEN ASSURANCES ON ACQUIRING LAND.—

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

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

"(4) PRIORITIES FOR REINVESTMENT.—In approving the reinvestment or transfer of proceeds under subsection (c)(2)(A)(iii), the Secretary shall give preference, in descending order, to the following actions:

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

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

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

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

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

(c) CLERICAL AMENDMENT.—Section 47107(c)(2)(B)(iii) is amended by striking "the Fund" and inserting "the Airport and Airway Trust Fund established under section 9502 of the Internal Revenue Code of 1986 (26 U.S.C. 9502)".

SEC. 133. GOVERNMENT SHARE OF PROJECT COSTS.

Section 47109 is amended—

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

(2) by adding at the end the following:

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

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

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

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

SEC. 134. AMENDMENTS TO ALLOWABLE COSTS.

(a) ALLOWABLE PROJECT COSTS.—Section 47110(b)(2) is amended—

(1) by striking "or" at the end of subparagraph (C);

(2) by striking the semicolon at the end of subparagraph (D) and inserting "; or"; and

(3) by adding at the end the following:

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

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

"(ii) the cost is in accordance with an airport layout plan approved by the Secretary and with all statutory and administrative requirements that would have been applicable to the project if the project had been carried out after execution of the grant agreement;

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

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

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

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

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

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

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

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

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

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

SEC. 135. UNIFORM CERTIFICATION TRAINING FOR AIRPORT CONCESSIONS UNDER DISADVANTAGED BUSINESS ENTERPRISE PROGRAM.

(a) IN GENERAL.—Section 47107(e) is amended—

(1) by redesignating paragraph (8) as paragraph (9); and

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

"(8) MANDATORY TRAINING PROGRAM FOR AIRPORT CONCESSIONS.—

"(A) IN GENERAL.—Not later than one year after the date of enactment of the FAA Reauthorization Act of 2007, the Secretary shall establish a mandatory training program for persons described in subparagraph (C) on

the certification of whether a small business concern in airport concessions qualifies as a small business concern owned and controlled by a socially and economically disadvantaged individual for purposes of paragraph (1).

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

"(C) PARTICIPANTS.—A person referred to in paragraph (1) is an official or agent of an airport owner or operator who is required to provide a written assurance under paragraph (1) that the airport owner or operator will meet the percentage goal of paragraph (1) or who is responsible for determining whether or not a small business concern in airport concessions qualifies as a small business concern owned and controlled by a socially and economically disadvantaged individual for purposes of paragraph (1).

"(D) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this paragraph.".

(b) REPORT.—Not later than 24 months after the date of enactment of this Act, the Secretary shall submit to the Committee on Transportation and Infrastructure of the House of Representatives, the Committee on Commerce, Science, and Transportation of the Senate, and other appropriate committees of Congress a report on the results of the training program conducted under the amendment made by subsection (a).

SEC. 136. PREFERENCE FOR SMALL BUSINESS CONCERNS OWNED AND CONTROLLED BY DISABLED VETERANS.

Section 47112(c) is amended by adding at the end the following:

"(3) A contract involving labor for carrying out an airport development project under a grant agreement under this subchapter must require that a preference be given to the use of small business concerns (as defined in section 3 of the Small Business Act (15 U.S.C. 1632)) owned and controlled by disabled veterans.".

SEC. 137. CALCULATION OF STATE APPORTIONMENT FUND.

Section 47114(d) is amended—

(1) in paragraph (2)—

(A) by striking "Except as provided in paragraph (3), the Secretary" and inserting "The Secretary"; and

(B) by striking "18.5 percent" and inserting "10 percent"; and

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

"(3) ADDITIONAL AMOUNT.—

"(A) IN GENERAL.—In addition to amounts apportioned under paragraph (2) and subject to subparagraph (B), the Secretary shall apportion to each airport, excluding primary airports but including reliever and nonprimary commercial service airports, in States the lesser of—

"(i) $150,000; or

"(ii) 1/5 of the most recently published estimate of the 5-year costs for airport improvement for the airport, as listed in the national plan of integrated airport systems developed by the Federal Aviation Administration under section 47103.

"(B) REDUCTION.—In any fiscal year in which the total amount made available for apportionment under paragraph (2) is less than $300,000,000, the Secretary shall reduce, on a prorated basis, the amount to be apportioned under subparagraph (A) and make such reduction available to be apportioned under paragraph (2), so as to apportion under paragraph (2) a minimum of $300,000,000.".

SEC. 138. REDUCING APPORTIONMENTS.

Section 47114(f)(1) is amended—

(1) by striking "and" at the end of subparagraph (A);

(2) in subparagraph (B)—

(A) by inserting "except as provided by subparagraph (C)," before "in the case"; and

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

(3) by adding at the end the following:

"(C) in the case of a charge of more than $4.50 imposed by the sponsor of an airport enplaning at least one percent of the total number of boardings each year in the United States, 100 percent of the projected revenues from the charge in the fiscal year but not more than 100 percent of the amount that otherwise would be apportioned under this section.".

SEC. 139. MINIMUM AMOUNT FOR DISCRETIONARY FUND.

Section 47115(g)(1) is amended by striking "sum of—" and all that follows through the period at the end of subparagraph (B) and inserting "sum of $520,000,000.".

SEC. 140. MARSHALL ISLANDS, MICRONESIA, AND PALAU.

Section 47115(j) is amended by striking "fiscal years 2004 through 2007" and inserting "fiscal years 2008 through 2011".

SEC. 141. USE OF APPORTIONED AMOUNTS.

Section 47117(e)(1)(A) is amended—

(1) in the first sentence—

(A) by striking "35 percent" and inserting "$300,000,000";

(B) by striking "and" after "47141,"; and

(C) by inserting before the period at the end the following: ", and for water quality mitigation projects to comply with the Federal Water Pollution Control Act (33 U.S.C. 1251 et. seq.) as approved in an environmental record of decision for an airport development project under this title"; and

(2) in the second sentence by striking "such 35 percent requirement is" and inserting "the requirements of the preceding sentence are".

SEC. 142. SALE OF PRIVATE AIRPORT TO PUBLIC SPONSOR.

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

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

(2) by adding at the end the following:

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

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

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

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

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

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

SEC. 143. AIRPORT PRIVATIZATION PILOT PROGRAM.

(a) APPROVAL REQUIREMENTS.—Section 47134 is amended in subsections (b)(1)(A)(i), (b)(1)(A)(ii), (c)(4)(A), and (c)(4)(B) by striking "65 percent" each place it appears and inserting "75 percent".

(b) PROHIBITION ON RECEIPT OF FUNDS.—

(1) SECTION 47134.—Section 47134 is amended by adding at the end the following:

"(n) PROHIBITION ON RECEIPT OF CERTAIN FUNDS.—An airport receiving an exemption under subsection (b) shall be prohibited from receiving apportionments under section 47114 or discretionary funds under section 47115.".

(2) CONFORMING AMENDMENTS.—Section 47134(g) is amended—

(A) in the subsection heading by striking "APPORTIONMENTS;";

(B) in paragraph (1) by striking the semicolon at the end and inserting "; or";

(C) by striking paragraph (2); and

(D) by redesignating paragraph (3) as paragraph (2).

(c) FEDERAL SHARE OF PROJECT COSTS.—Section 47109(a) is amended—

(1) by striking the semicolon at the end of paragraph (3) and inserting "; and";

(2) by striking paragraph (4); and

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

SEC. 144. AIRPORT SECURITY PROGRAM.

Section 47137(g) is amended by striking "$5,000,000" and inserting "$8,500,000".

SEC. 145. SUNSET OF PILOT PROGRAM FOR PURCHASE OF AIRPORT DEVELOPMENT RIGHTS.

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

"(f) SUNSET.—This section shall not be in effect after September 30, 2007.".

SEC. 146. EXTENSION OF GRANT AUTHORITY FOR COMPATIBLE LAND USE PLANNING AND PROJECTS BY STATE AND LOCAL GOVERNMENTS.

Section 47141(f) is amended by striking "September 30, 2007" and inserting "September 30, 2011".

SEC. 147. REPEAL OF LIMITATIONS ON METROPOLITAN WASHINGTON AIRPORTS AUTHORITY.

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

SEC. 148. MIDWAY ISLAND AIRPORT.

Section 186(d) of the Vision 100—Century of Aviation Reauthorization Act (117 Stat. 2518) is amended by striking "October 1, 2007" and inserting "October 1, 2011".

SEC. 149. MISCELLANEOUS AMENDMENTS.

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

(1) in subsection (a)—

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

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

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

(D) by striking paragraph (3);

(2) in subsection (b)—

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

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

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

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

(b) UPDATE VETERANS PREFERENCE DEFINITION.—Section 47112(c) is amended—

(1) in paragraph (1)—

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

(B) by adding at the end the following:

"(C) 'Afghanistan-Iraq war veteran' means an individual who served on active duty (as defined by section 101 of title 38) in the armed forces for a period of more than 180 consecutive days, any part of which occurred during the period beginning on September 11, 2001, and ending on the date prescribed by presidential proclamation or by law as the last date of Operation Iraqi Freedom, and who was separated from the armed forces under honorable conditions."; and

(2) in paragraph (2) by striking "veterans and" and inserting "veterans, Afghanistan-Iraq war veterans, and".

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

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

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

"(a) TERMINAL DEVELOPMENT PROJECTS.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(8) by adding at the end the following:

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

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

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

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

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

"(2) a summary of individual grants issued;

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

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

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

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

(2) in subsection (b)—

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

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

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

(g) OTHER CONFORMING AMENDMENTS.—Sections 40117(a)(3)(B) and 47108(e)(3) are each amended by striking "section 47110(d)" each place it appears and inserting "section 47119(a)".

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

(i) AIRPORT CAPACITY BENCHMARK REPORTS.—Section 47175(2) is amended by striking "Airport Capacity Benchmark Report 2001" and inserting "2001 and 2004 Airport Capacity Benchmark Reports or table 1 of the Federal Aviation Administration's most recent airport capacity benchmark report".

TITLE II—AIR TRAFFIC CONTROL MODERNIZATION

Subtitle A—Next Generation Air Transportation System

SEC. 201. MISSION STATEMENT; SENSE OF CONGRESS.

(a) FINDINGS.—Congress finds the following:

(1) The United States faces a great national challenge as the Nation's aviation infrastructure is at a crossroads.

(2) The demand for aviation services, a critical element of the United States economy, vital in supporting the quality of life of the people of the United States, and critical in support of the Nation's defense and national security, is growing at an ever increasing rate. At the same time, the ability of the United States air transportation system to expand and change to meet this increasing demand is limited.

(3) The aviation industry accounts for more than 10,000,000 jobs in the United States and contributes approximately $900,000,000,000 annually to the United States gross domestic product.

(4) The United States air transportation system continues to drive economic growth in the United States and will continue to be a major economic driver as air traffic triples over the next 20 years.

(5) The Next Generation Air Transportation System (in this section referred to as the "NextGen System") is the system for achieving long-term transformation of the United States air transportation system that focuses on developing and implementing new technologies and that will set the stage for the long-term development of a scalable and more flexible air transportation system without compromising the unprecedented safety record of United States aviation.

(6) The benefits of the NextGen System, in terms of promoting economic growth and development, are enormous.

(7) The NextGen System will guide the path of the United States air transportation system in the challenging years ahead.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) modernizing the air transportation system is a national priority and the United States must make a commitment to revitalizing this essential component of the Nation's transportation infrastructure;

(2) one fundamental requirement for the success of the NextGen System is strong leadership and sufficient resources;

(3) the Joint Planning and Development Office of the Federal Aviation Administration and the Next Generation Air Transportation System Senior Policy Committee, each established by Congress in 2003, will lead and facilitate this important national mission to ensure that the programs and capabilities of the NextGen System are carefully integrated and aligned;

(4) Government agencies and industry must work together, carefully integrating and aligning their work to meet the needs of the NextGen System in the development of budgets, programs, planning, and research;

(5) the Department of Transportation, the Federal Aviation Administration, the Department of Defense, the Department of Homeland Security, the Department of Commerce, and the National Aeronautics and Space Administration must work in cooperation and make transformational improvements to the United States air transportation infrastructure a priority; and

(6) due to the critical importance of the NextGen System to the economic and national security of the United States, partner departments and agencies must be provided with the resources required to complete the implementation of the NextGen System.

SEC. 202. NEXT GENERATION AIR TRANSPORTATION SYSTEM JOINT PLANNING AND DEVELOPMENT OFFICE.

(a) ESTABLISHMENT.—

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

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

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

"(2) The director of the Office shall be the Associate Administrator for the Next Generation Air Transportation System, who shall be appointed by the Administrator of the Federal Aviation Administration. The Associate Administrator shall report to the Administrator.".

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

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

(B) by adding at the end the following:

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

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

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

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

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

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

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

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

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

"(B) The Director, to the maximum extent practicable, shall—

"(i) oversee the development of the integrated plan under subsection (a)(3)(A);

"(ii) ensure that—

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

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

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

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

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

(1) in the matter preceding paragraph (1) by striking "beyond those currently included in the Federal Aviation Administration's operational evolution plan";

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

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

(4) by adding at the end the following:

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

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

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

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

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

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

(c) OPERATIONAL EVOLUTION PARTNERSHIP.—Section 709(d) of such Act (117 Stat. 2584) is amended to read as follows:

"(d) OPERATIONAL EVOLUTION PARTNERSHIP.—The Administrator of the Federal Aviation Administration shall develop and publish annually the document known as the 'Operational Evolution Partnership', or any successor document, that provides a detailed description of how the agency is implementing the Next Generation Air Transportation System.".

(d) AUTHORIZATION OF APPROPRIATIONS.—Section 709(e) of such Act (117 Stat. 2584) is amended by striking "2010" and inserting "2011".

SEC. 203. NEXT GENERATION AIR TRANSPORTATION SENIOR POLICY COMMITTEE.

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

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

"(e) ANNUAL REPORT.—

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

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

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

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

"(C) a detailed description of—

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

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

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

SEC. 204. AUTOMATIC DEPENDENT SURVEILLANCE-BROADCAST SERVICES.

(a) REPORT ON FAA PROGRAM AND SCHEDULE.—

(1) IN GENERAL.—The Administrator of the Federal Aviation Administration shall prepare a report detailing the program and schedule for integrating automatic dependent surveillance-broadcast (in this section referred to as "ADS-B") technology into the national airspace system.

(2) CONTENTS.—The report shall include—

(A) a description of segment 1 and segment 2 activity to acquire ADS-B services;

(B) a description of plans for implementation of advanced operational procedures and ADS-B air-to-air applications; and

(C) a discussion of protections that the Administration will require as part of any contract or program in the event of a contractor's default, bankruptcy, acquisition by another entity, or any other event jeopardizing the uninterrupted provision of ADS-B services.

(3) SUBMISSION TO CONGRESS.—Not later than 90 days after the date of enactment of this Act, the Administrator shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate the report prepared under paragraph (1).

(b) REQUIREMENTS OF FAA CONTRACTS FOR ADS-B SERVICES.—Any contract entered into by the Administrator with an entity to acquire ADS-B services shall contain terms and conditions that—

(1) require approval by the Administrator before the contract may be assigned to or assumed by another entity, including any successor entity, subsidiary of the contractor, or other corporate entity;

(2) provide that the assets, equipment, hardware, and software used in the performance of the contract be designated as critical national infrastructure for national security and related purposes;

(3) require the contractor to provide continued broadcast services for a reasonable period, as determined by the Administrator, until the provision of such services can be transferred to another vendor or to the Government in the event of a termination of the contract;

(4) require the contractor to provide continued broadcast services for a reasonable period, as determined by the Administrator, until the provision of such

services can be transferred to another vendor or to the Government in the event of material nonperformance, as determined by the Administrator; and

(5) permit the Government to acquire or utilize for a reasonable period, as determined by the Administrator, the assets, equipment, hardware, and software necessary to ensure the continued and uninterrupted provision of ADS-B services and to have ready access to such assets, equipment, hardware, and software through its own personnel, agents, or others, if the Administrator provides reasonable compensation for such acquisition or utilization.

(c) REVIEW BY DOT INSPECTOR GENERAL.—

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

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

(A) an examination of how program risks are being managed;

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

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

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

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

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

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

SEC. 205. INCLUSION OF STAKEHOLDERS IN AIR TRAFFIC CONTROL MODERNIZATION PROJECTS.

(a) IN GENERAL.—The Administrator of the Federal Aviation Administration shall establish a process for including in the planning, development, and deployment of air traffic control modernization projects (including the Next Generation Air Transportation System) and collaborating with qualified employees selected by each exclusive collective bargaining representative of employees of the Administration who are likely to be impacted by such planning, development, and deployment.

(b) PARTICIPATION.—

(1) BARGAINING OBLIGATIONS AND RIGHTS.—Participation in the process described in subsection (a) shall not be construed as a waiver of any bargaining obligations or rights under section 40122(a)(1) or 40122(g)(2)(C) of title 49, United States Code.

(2) CAPACITY AND COMPENSATION.—Exclusive collective bargaining representatives and selected employees participating in the process described in subsection (a) shall—

(A) serve in a collaborative and advisory capacity; and

(B) receive appropriate travel and per diem expenses in accordance with the travel policies of the Administration in addition to any regular compensation and benefits.

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

SEC. 206. GAO REVIEW OF CHALLENGES ASSOCIATED WITH TRANSFORMING TO THE NEXT GENERATION AIR TRANSPORTATION SYSTEM.

(a) IN GENERAL.—The Comptroller General shall conduct a review of the progress and challenges associated with transforming the Nation's air traffic control system into the Next Generation Air Transportation System (in this section referred to as the "NextGen System").

(b) REVIEW.—The review shall include the following:

(1) An evaluation of the continued implementation and institutionalization of the processes that are key to the ability of the Air Traffic Organization to effec-

tively maintain management structures and systems acquisitions procedures utilized under the current air traffic control modernization program as a basis for the NextGen System.

(2) An assessment of the progress and challenges associated with collaboration and contributions of the partner agencies working with the Joint Planning and Development Office of the Federal Aviation Administration (in this section referred to as the "JPDO") in planning and implementing the NextGen System.

(3) The progress and challenges associated with coordinating government and industry stakeholders in activities relating to the NextGen System, including an assessment of the contributions of the NextGen Institute.

(4) An assessment of planning and implementation of the NextGen System against established schedules, milestones, and budgets.

(5) An evaluation of the recently modified organizational structure of the JPDO.

(6) An examination of transition planning by the Air Traffic Organization and the JPDO.

(7) Any other matters or aspects of planning and coordination of the NextGen System by the Federal Aviation Administration and the JPDO that the Comptroller General determines appropriate.

(c) REPORTS.—

(1) REPORT TO CONGRESS ON PRIORITIES.—Not later than one year after the date of enactment of this Act, the Comptroller General shall determine the priority of topics to be reviewed under this section and report such priorities to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.

(2) PERIODIC REPORTS TO CONGRESS ON RESULTS OF THE REVIEW.—The Comptroller General shall periodically submit to the committees referred to in paragraph (1) a report on the results of the review conducted under this section.

SEC. 207. GAO REVIEW OF NEXT GENERATION AIR TRANSPORTATION SYSTEM ACQUISITION AND PROCEDURES DEVELOPMENT.

(a) STUDY.—The Comptroller General shall conduct a review of the progress made and challenges related to the acquisition of designated technologies and the development of procedures for the Next Generation Air Transportation System (in this section referred to as the "NextGen System").

(b) SPECIFIC SYSTEMS REVIEW.—The review shall include, at a minimum, an examination of the acquisition costs, schedule, and other relevant considerations for the following systems:

(1) En Route Automation Modernization (ERAM).

(2) Standard Terminal Automation Replacement System/Common Automated Radar Terminal System (STARS/CARTS).

(3) Automatic Dependent Surveillance-Broadcast (ADS-B).

(4) System Wide Information Management (SWIM).

(5) Traffic Flow Management Modernization (TFM-M).

(c) REVIEW.—The review shall include, at a minimum, an assessment of the progress and challenges related to the development of standards, regulations, and procedures that will be necessary to implement the NextGen System, including required navigation performance, area navigation, the airspace management program, and other programs and procedures that the Comptroller General identifies as relevant to the transformation of the air traffic system.

(d) PERIODIC REPORTS TO CONGRESS ON RESULTS OF THE REVIEW.—The Comptroller General shall periodically submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report on the results of the review conducted under this section.

SEC. 208. DOT INSPECTOR GENERAL REVIEW OF OPERATIONAL AND APPROACH PROCEDURES BY A THIRD PARTY.

(a) REVIEW.—The Inspector General of the Department of Transportation shall conduct a review regarding the effectiveness of the oversight activities conducted by the Federal Aviation Administration in connection with any agreement with or delegation of authority to a third party for the development of flight procedures for the national airspace system.

(b) ASSESSMENTS.—The Inspector General shall include, at a minimum, in the review—

(1) an assessment of the extent to which the Federal Aviation Administration is relying or intends to rely on a third party for the development of new procedures and a determination of whether the Administration has established sufficient mechanisms and staffing to provide safety oversight of a third party; and

(2) an assessment regarding whether the Administration has sufficient existing personnel and technical resources or mechanisms to develop such flight procedures in a safe and efficient manner to meet the demands of the national airspace system without the use of third party resources.

(c) REPORT.—Not later than one year after the date of enactment of this Act, the Inspector General shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report on the results of the review conducted under this section, including the assessments described in subsection (b).

SEC. 209. EXPERT REVIEW OF ENTERPRISE ARCHITECTURE FOR NEXT GENERATION AIR TRANSPORTATION SYSTEM.

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

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

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

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

(3) include judgments on how risks with automation efforts for the Next Generation Air Transportation System can be mitigated based on the experiences of other public or private entities in developing complex, software-intensive systems.

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

SEC. 210. NEXTGEN TECHNOLOGY TESTBED.

Of amounts appropriated under section 48101(a) of title 49, United States Code, the Administrator of the Federal Aviation Administration shall use such sums as may be necessary for each of the fiscal years 2008 through 2011 to contribute to the establishment by a public-private partnership (including a university component with significant aviation expertise in air traffic management, simulation, meteorology, and engineering and aviation business) an airport-based testing site for existing Next Generation Air Transport System technologies. The Administrator shall ensure that next generation air traffic control integrated systems developed by private industries are installed at the site for demonstration, operational research, and evaluation by the Administration. The testing site shall serve a mix of general aviation and commercial traffic.

Subtitle B—Miscellaneous

SEC. 211. CLARIFICATION OF AUTHORITY TO ENTER INTO REIMBURSABLE AGREEMENTS.

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

SEC. 212. DEFINITION OF AIR NAVIGATION FACILITY.

Section 40102(a)(4) is amended—

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

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

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

"(C) aeronautical and meteorological information to air traffic control facilities or aircraft;

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

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

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

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

(4) by adding at the end the following:

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

SEC. 213. IMPROVED MANAGEMENT OF PROPERTY INVENTORY.

Section 40110(a)(2) is amended by striking "compensation" and inserting "compensation, and the amount received shall be credited as an offsetting collection to the account from which the amount was expended and shall remain available until expended".

SEC. 214. CLARIFICATION TO ACQUISITION REFORM AUTHORITY.

Section 40110(c) is amended—

(1) by striking the semicolon at the end of paragraph (3) and inserting "; and";

(2) by striking paragraph (4); and

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

SEC. 215. ASSISTANCE TO FOREIGN AVIATION AUTHORITIES.

Section 40113(e) is amended—

(1) in paragraph (1)—

(A) by inserting "public and private" before "foreign aviation authorities"; and

(B) by striking the period at the end of the first sentence and inserting "or efficiency. The Administrator may participate in, and submit offers in response to, competitions to provide such services and may contract with foreign aviation authorities to provide such services consistent with section 106(l)(6). Notwithstanding any other provision of law or policy, the Administrator may accept payments received under this subsection in arrears."; and

(2) in paragraph (3) by striking "credited" and all that follows through the period at the end and inserting "credited as an offsetting collection to the account from which the expenses were incurred in providing such services and shall remain available until expended.".

SEC. 216. FRONT LINE MANAGER STAFFING.

(a) STUDY.—Not later than 90 days after the date of enactment of this Act, the Administrator of the Federal Aviation Administration shall initiate a study on front line manager staffing requirements in air traffic control facilities.

(b) CONSIDERATIONS.—In conducting the study, the Administrator shall take into consideration—

(1) the number of supervisory positions of operation requiring watch coverage in each air traffic control facility;

(2) coverage requirements in relation to traffic demand;

(3) facility type;

(4) complexity of traffic and managerial responsibilities;

(5) proficiency and training requirements; and

(6) such other factors as the Administrator considers appropriate.

(c) DETERMINATIONS.—The Administrator shall transmit any determinations made as a result of the study to the Chief Operating Officer for the air traffic control system.

(d) REPORT.—Not later than one year after the date of enactment of this Act, the Administrator shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report on the results of the study and a description of any determinations submitted to the Chief Operating Officer under subsection (c).

SEC. 217. FLIGHT SERVICE STATIONS.

(a) ESTABLISHMENT OF MONITORING SYSTEM.—Not later than 60 days after the date of enactment of this Act, the Administrator of the Federal Aviation Administration shall develop and implement a monitoring system for flight service specialist staffing and training under service contracts for flight service stations.

(b) COMPONENTS.—At a minimum, the monitoring system shall include mechanisms to monitor—

(1) flight specialist staffing plans for individual facilities;

(2) actual staffing levels for individual facilities;

(3) the initial and recurrent certification and training of flight service specialists on the safety, operational, and technological aspects of flight services, including any certification and training necessary to meet user demand; and

(4) system outages, excessive hold times, dropped calls, poor quality briefings, and any other safety or customer service issues under a contract for flight service station services.

(c) REPORT TO CONGRESS.—Not later than 90 days after the date of enactment of this Act, the Administrator shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report containing—

(1) a description of monitoring system;

(2) if the Administrator determines that contractual changes or corrective actions are required for the Administration to ensure that the vendor under a contract for flight service station services provides safe and high quality service to consumers, a description of the changes or actions required; and

(3) a description of the contingency plans of the Administrator and the protections that the Administrator will have in place to provide uninterrupted flight service station services in the event of—

(A) material non-performance of the contract;

(B) a vendor's default, bankruptcy, or acquisition by another entity; or

(C) any other event that could jeopardize the uninterrupted provision of flight service station services.

TITLE III—SAFETY

Subtitle A—General Provisions

SEC. 301. AGE STANDARDS FOR PILOTS.

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

"§ 44729. Age standards for pilots

"(a) IN GENERAL.—Subject to the limitation in subsection (c), a pilot may serve in multicrew covered operations until attaining 65 years of age.

"(b) COVERED OPERATIONS DEFINED.—In this section, the term 'covered operations' means operations under part 121 of title 14, Code of Federal Regulations.

"(c) LIMITATION FOR INTERNATIONAL FLIGHTS.—

"(1) APPLICABILITY OF ICAO STANDARD.—A pilot who has attained 60 years of age may serve as pilot-in-command in covered operations between the United States and another country only if there is another pilot in the flight deck crew who has not yet attained 60 years of age.

"(2) SUNSET OF LIMITATION.—Paragraph (1) shall cease to be effective on such date as the Convention on International Civil Aviation provides that a pilot who has attained 60 years of age may serve as pilot-in-command in international commercial operations without regard to whether there is another pilot in the flight deck crew who has not attained age 60.

"(d) SUNSET OF AGE-60 RETIREMENT RULE.—On and after the date of enactment of this section, section 121.383(c) of title 14, Code of Federal Regulations, shall cease to be effective.

"(e) APPLICABILITY.—

"(1) NONRETROACTIVITY.—No person who has attained 60 years of age before the date of enactment of this section may serve as a pilot for an air carrier engaged in covered operations unless—

"(A) such person is in the employment of that air carrier in such operations on such date of enactment as a required flight deck crew member; or

"(B) such person is newly hired by an air carrier as a pilot on or after such date of enactment without credit for prior seniority or prior longevity for benefits or other terms related to length of service prior to the date of rehire under any labor agreement or employment policies of the air carrier.

"(2) PROTECTION FOR COMPLIANCE.—An action taken in conformance with this section, taken in conformance with a regulation issued to carry out this section, or taken prior to the date of enactment of this section in conformance with section 121.383(c) of title 14, Code of Federal Regulations (as in effect before such date of enactment), may not serve as a basis for liability or relief in a proceeding before any court or agency of the United States or of any State or locality.

"(f) AMENDMENTS TO LABOR AGREEMENTS AND BENEFIT PLANS.—Any amendment to a labor agreement or benefit plan of an air carrier that is required to conform with the requirements of this section or a regulation issued to carry out this section, and is applicable to pilots represented for collective bargaining, shall be made by agreement of the air carrier and the designated bargaining representative of the pilots of the air carrier.

"(g) MEDICAL STANDARDS AND RECORDS.—

"(1) MEDICAL EXAMINATIONS AND STANDARDS.—Except as provided by paragraph (2), a person serving as a pilot for an air carrier engaged in covered operations shall not be subject to different medical standards, or different, greater, or more frequent medical examinations, on account of age unless the Secretary determines (based on data received or studies published after the date of enact-

ment of this section) that different medical standards, or different, greater, or more frequent medical examinations, are needed to ensure an adequate level of safety in flight.

"(2) DURATION OF FIRST-CLASS MEDICAL CERTIFICATE.—No person who has attained 60 years of age may serve as a pilot of an air carrier engaged in covered operations unless the person has a first-class medical certificate. Such a certificate shall expire on the last day of the 6-month period following the date of examination shown on the certificate.

"(h) SAFETY.—

"(1) TRAINING.—Each air carrier engaged in covered operations shall continue to use pilot training and qualification programs approved by the Federal Aviation Administration, with specific emphasis on initial and recurrent training and qualification of pilots who have attained 60 years of age, to ensure continued acceptable levels of pilot skill and judgment.

"(2) LINE EVALUATIONS.—Not later than 6 months after the date of enactment of this section, and every 6 months thereafter, an air carrier engaged in covered operations shall evaluate the performance of each pilot of the air carrier who has attained 60 years of age through a line check of such pilot. Notwithstanding the preceding sentence, an air carrier shall not be required to conduct for a 6-month period a line check under this paragraph of a pilot serving as second in command if the pilot has undergone a regularly scheduled simulator evaluation during that period.

"(3) GAO REPORT.—Not later than 24 months after the date of enactment of this section, the Comptroller General shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report concerning the effect, if any, on aviation safety of the modification to pilot age standards made by subsection (a).".

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

"44729. Age standards for pilots.".

SEC. 302. JUDICIAL REVIEW OF DENIAL OF AIRMAN CERTIFICATES.

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

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

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

SEC. 303. RELEASE OF DATA RELATING TO ABANDONED TYPE CERTIFICATES AND SUPPLEMENTAL TYPE CERTIFICATES.

(a) RELEASE OF DATA.—Section 44704(a) is amended by adding at the end the following:

"(5) RELEASE OF DATA.—

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

"(i) the certificate containing the requested data has been inactive for 3 or more years;

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

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

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

(b) DESIGN ORGANIZATION CERTIFICATES.—Section 44704(e)(1) is amended by striking "Beginning 7 years after the date of enactment of this subsection," and inserting "Beginning January 1, 2013,".

SEC. 304. INSPECTION OF FOREIGN REPAIR STATIONS.

(a) IN GENERAL.—Chapter 447 (as amended by section 301 of this Act) is further amended by adding at the end the following:

"§ 44730. Inspection of foreign repair stations

"Not later than one year after the date of enactment of this section, and annually thereafter, the Administrator of the Federal Aviation Administration shall submit to Congress a certification that each foreign repair station that is certified by the Administrator under part 145 of title 14, Code of Federal Regulations, and performs work on air carrier aircraft or components has been inspected by safety inspectors of the Administration not fewer than 2 times in the preceding calendar year.".

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

"44730. Inspection of foreign repair stations.".

SEC. 305. RUNWAY INCURSION REDUCTION.

Not later than December 31, 2008, the Administrator of the Federal Aviation Administration shall submit to Congress a report containing a plan for the installation and deployment of systems the Administration is installing to alert controllers or flight crews, or both, of potential runway incursions. The plan shall be integrated into the annual Operational Evolution Partnership document of the Administration or any successor document.

SEC. 306. IMPROVED PILOT LICENSES.

(a) IN GENERAL.—Not later than 6 months after the date of enactment of this Act, the Administrator of the Federal Aviation Administration shall begin to issue improved pilot licenses consistent with the requirements of title 49, United States Code, and title 14, Code of Federal Regulations.

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

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

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

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

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

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

(e) REPORT.—Not later than 9 months after the date of enactment of this Act and every 6 months thereafter until September 30, 2011, the Administrator shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report on the issuance of improved pilot licenses under this section.

SEC. 307. AIRCRAFT FUEL TANK SAFETY IMPROVEMENT.

Not later than December 31, 2007, the Administrator of the Federal Aviation Administration shall issue a final rule regarding the reduction of fuel tank flammability in transport category aircraft.

SEC. 308. FLIGHT CREW FATIGUE.

(a) IN GENERAL.—Not later than 3 months after the date of enactment of this Act, the Administrator of the Federal Aviation Administration shall conclude arrangements with the National Academy of Sciences for a study of pilot fatigue.

(b) STUDY.—The study shall include consideration of—

(1) research on pilot fatigue, sleep, and circadian rhythms;

(2) sleep and rest requirements of pilots recommended by the National Aeronautics and Space Administration and the National Transportation Safety Board; and

(3) Federal Aviation Administration and international standards regarding flight limitations and rest for pilots.

(c) REPORT.—Not later than 18 months after initiating the study, the National Academy of Sciences shall submit to the Administrator a report containing its findings and recommendations regarding the study under subsections (a) and (b), including recommendations with respect to Federal Aviation Administration regulations governing flight time limitations and rest requirements for pilots.

(d) RULEMAKING.—After the Administrator receives the report of the National Academy of Sciences, the Administrator shall consider the findings in the report and

update as appropriate based on scientific data Federal Aviation Administration regulations governing flight time limitations and rest requirements for pilots.

(e) IMPLEMENTATION OF FLIGHT ATTENDANT FATIGUE STUDY RECOMMENDATIONS.—Not later than 60 days after the date of enactment of this Act, the Administrator shall initiate a process for the Civil Aerospace Medical Institute to carry out its recommendations for further study of the issue of flight attendant fatigue and to submit not later than March 31, 2009, to Congress a report on such process, including an analysis of the following:

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

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

(3) Field research on the effects of such fatigue.

(4) A validation of models for assessing flight attendant fatigue, international policies, and practices regarding flight limitations and rest of flight attendants, and the potential benefits of training flight attendants regarding such fatigue.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as necessary to carry out this section.

SEC. 309. OSHA STANDARDS.

(a) IN GENERAL.—The Administrator of the FAA shall—

(1) not later than 6 months after the date of enactment of this Act, establish milestones, in consultation with the Administrator of the OSHA, to complete work begun under the August 2000 memorandum of understanding between the FAA and OSHA and to address issues needing further action identified in the joint report of the FAA and OSHA in December 2000; and

(2) not later than 24 months after the date of enactment of this Act, issue a policy statement to set forth the circumstances in which requirements of OSHA may be applied to crewmembers while working in an aircraft cabin.

(b) CONTENTS OF POLICY STATEMENT.—

(1) ESTABLISHMENT OF COORDINATING BODY.—The policy statement to be developed under subsection (a)(2) shall provide for the establishment of a coordinating body, similar to the aviation safety and health joint team established pursuant to the August 2000 memorandum of understanding between the FAA and OSHA, that includes representatives designated by the FAA and OSHA—

(A) to examine the applicability of current and proposed regulations of OSHA for application and enforcement by the FAA;

(B) to recommend policies for facilitating the training of inspectors of the FAA; and

(C) to make recommendations that will govern the inspection and enforcement by the FAA of occupational safety and health standards on board an aircraft providing air transportation.

(2) FAA STANDARDS.—The policy statement to be developed under subsection (a)(2) shall ensure that standards adopted by the FAA set forth clearly—

(A) the circumstances under which an employer is required to take action to address occupational safety and health hazards;

(B) the measures required of an employer under the standard; and

(C) the compliance obligations of an employer under the standard.

(c) REPORT TO CONGRESS.—Not later than 6 months after the date of enactment of this Act, the Administrator of the FAA shall submit to Congress a report describing the milestones established under subsection (a)(1).

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

(1) FAA.—The term "FAA" means the Federal Aviation Administration.

(2) OSHA.—The term "OSHA" means the "Occupational Safety and Health Administration".

SEC. 310. AIRCRAFT SURVEILLANCE IN MOUNTAINOUS AREAS.

(a) ESTABLISHMENT.—The Administrator of the Federal Aviation Administration may establish a pilot program to improve safety and efficiency by providing surveillance for aircraft flying outside of radar coverage in mountainous areas.

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated such sums as may be necessary to carry out this section. Such sums shall remain available until expended.

SEC. 311. OFF-AIRPORT, LOW-ALTITUDE AIRCRAFT WEATHER OBSERVATION TECHNOLOGY.

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

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

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

Subtitle B—Unmanned Aircraft Systems

SEC. 321. COMMERCIAL UNMANNED AIRCRAFT SYSTEMS INTEGRATION PLAN.

(a) INTEGRATION PLAN.—

(1) COMPREHENSIVE PLAN.—Not later than 9 months after the date of enactment of this Act, the Secretary, in consultation with representatives of the aviation industry, shall develop a comprehensive plan to safely integrate commercial unmanned aircraft systems into the national airspace system.

(2) MINIMUM REQUIREMENTS.—In developing the plan under paragraph (1), the Secretary shall, at a minimum—

(A) review technologies and research that will assist in facilitating the safe integration of commercial unmanned aircraft systems into the national airspace system;

(B) provide recommendations for the rulemaking to be conducted under subsection (b) to—

(i) define the acceptable standards for operations and certification of commercial unmanned aircraft systems;

(ii) ensure that any commercial unmanned aircraft system includes a detect, sense, and avoid capability; and

(iii) develop standards and requirements for the operator or programmer of a commercial unmanned aircraft system, including standards and requirements for registration and licensing;

(C) recommend how best to enhance the technologies and subsystems necessary to effect the safe and routine operations of commercial unmanned aircraft systems in the national airspace system; and

(D) recommend how a phased-in approach to the integration of commercial unmanned aircraft systems into the national airspace system can best be achieved and a timeline upon which such a phase-in shall occur.

(3) DEADLINE.—The plan to be developed under paragraph (1) shall provide for the safe integration of commercial unmanned aircraft systems into the national airspace system as soon as possible, but not later than September 30, 2012.

(4) REPORT TO CONGRESS.—Not later than one year after the date of enactment of this Act, the Secretary shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a copy of the plan developed under paragraph (1).

(b) RULEMAKING.—Not later than 18 months after the date on which the integration plan is submitted to Congress under subsection (a)(4), the Administrator of the Federal Aviation Administration shall publish in the Federal Register a notice of proposed rulemaking to implement the recommendations of the integration plan.

(c) AUTHORIZATION.—There are authorized to be appropriated such sums as may be necessary to carry out this section.

SEC. 322. SPECIAL RULES FOR CERTAIN UNMANNED AIRCRAFT SYSTEMS.

(a) IN GENERAL.—Notwithstanding the requirements of sections 321 and 323, and not later than 6 months after the date of enactment of this Act, the Secretary shall determine if certain unmanned aircraft systems may operate safely in the national airspace system before completion of the plan and rulemaking required by section 321 or the guidance required by section 323.

(b) ASSESSMENT OF UNMANNED AIRCRAFT SYSTEMS.—In making the determination under subsection (a), the Secretary shall determine, at a minimum—

(1) which types of unmanned aircraft systems, if any, as a result of their size, weight, speed, operational capability, proximity to airports and population areas, and operation within visual line-of-sight do not create a hazard to users of the national airspace system or the public or pose a threat to national security; and

(2) whether a certificate of authorization or an airworthiness certification under section 44704 of title 49, United States Code, is required for the operation of unmanned aircraft systems identified under paragraph (1).

(c) REQUIREMENTS FOR SAFE OPERATION.—If the Secretary determines under this section that certain unmanned aircraft systems may operate safely in the national airspace system, the Secretary shall establish requirements for the safe operation of such aircraft systems in the national airspace system.

SEC. 323. PUBLIC UNMANNED AIRCRAFT SYSTEMS.

Not later than 9 months after the date of enactment of this Act, the Secretary shall issue guidance regarding the operation of public unmanned aircraft systems to—

(1) expedite the issuance of a certificate of authorization process;

(2) provide for a collaborative process with public agencies to allow for an incremental expansion of access to the national airspace system as technology matures and the necessary safety analysis and data become available and until standards are completed and technology issues are resolved; and

(3) facilitate the capability of public agencies to develop and use test ranges, subject to operating restrictions required by the Federal Aviation Administration, to test and operate unmanned aircraft systems.

SEC. 324. DEFINITIONS.

In this subtitle, the following definitions apply:

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

(2) DETECT, SENSE, AND AVOID CAPABILITY.—The term "detect, sense, and avoid capability" means the technical capability to perform separation assurance and collision avoidance, as defined by the Federal Aviation Administration.

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

(4) SECRETARY.—The term "Secretary" means the Secretary of Transportation.

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

(6) UNMANNED AIRCRAFT.—The term "unmanned aircraft" means an aircraft that is operated without the possibility of direct human intervention from within or on the aircraft.

(7) UNMANNED AIRCRAFT SYSTEM.—The term "unmanned aircraft system" means an unmanned aircraft and associated elements (such as communication links and a ground control station) that are required to operate safely and efficiently in the national airspace system.

TITLE IV—AIR SERVICE IMPROVEMENTS

SEC. 401. MONTHLY AIR CARRIER REPORTS.

(a) IN GENERAL.—Section 41708 is amended by adding at the end the following:

"(c) DIVERTED AND CANCELLED FLIGHTS.—

"(1) MONTHLY REPORTS.—The Secretary shall require an air carrier referred to in paragraph (2) to file with the Secretary a monthly report on each flight of the air carrier that is diverted from its scheduled destination to another airport and each flight of the air carrier that departs the gate at the airport at which the flight originates but is cancelled before wheels-off time.

"(2) APPLICABILITY.—An air carrier that is required to file a monthly airline service quality performance report under subsection (b) shall be subject to the requirement of paragraph (1).

"(3) CONTENTS.—A monthly report filed by an air carrier under paragraph (1) shall include, at a minimum, the following information:

"(A) For a diverted flight—

"(i) the flight number of the diverted flight;

"(ii) the scheduled destination of the flight;

"(iii) the date and time of the flight;

"(iv) the airport to which the flight was diverted;

"(v) wheels-on time at the diverted airport;

"(vi) the time, if any, passengers deplaned the aircraft at the diverted airport; and

"(vii) if the flight arrives at the scheduled destination airport—

"(I) the gate-departure time at the diverted airport;

"(II) the wheels-off time at the diverted airport;

"(III) the wheels-on time at the scheduled arrival airport; and

"(IV) the gate arrival time at the scheduled arrival airport.

"(B) For flights cancelled after gate departure—

"(i) the flight number of the cancelled flight;

"(ii) the scheduled origin and destination airports of the cancelled flight;

"(iii) the date and time of the cancelled flight;
"(iv) the gate-departure time of the cancelled flight; and
"(v) the time the aircraft returned to the gate.

"(4) PUBLICATION.—The Secretary shall compile the information provided in the monthly reports filed pursuant to paragraph (1) in a single monthly report and publish such report on the Web site of the Department of Transportation.".

(b) EFFECTIVE DATE.—The Secretary of Transportation shall require monthly reports pursuant to the amendment made by subsection (a) beginning not later than 90 days after the date of enactment of this Act.

SEC. 402. FLIGHT OPERATIONS AT REAGAN NATIONAL AIRPORT.

(a) BEYOND PERIMETER EXEMPTIONS.—Section 41718(a) is amended by striking "24" and inserting "34".

(b) LIMITATIONS.—Section 41718(c)(2) is amended by striking "3 operations" and inserting "5 operations".

(c) ALLOCATION OF BEYOND-PERIMETER EXEMPTIONS.—Section 41718(c) is amended —

(1) by redesignating paragraphs (3) and (4) as (4) and (5), respectively; and
(2) by inserting after paragraph (2) the following:

"(3) SLOTS.—The Administrator of the Federal Aviation Administration shall reduce the hourly air carrier slot quota for Ronald Reagan Washington National Airport in section 93.123(a) of title 14, Code of Federal Regulations, by a total of 10 slots that are available for allocation. Such reductions shall be taken in the 6:00 a.m., 10:00 p.m., or 11:00 p.m. hours, as determined by the Administrator, in order to grant exemptions under subsection (a).".

(d) SCHEDULING PRIORITY.—Section 41718 is amended—

(1) by redesignating subsections (e) and (f) as subsections (f) and (g), respectively; and
(2) by inserting after subsection (d) the following:

"(e) SCHEDULING PRIORITY.—Operations conducted by new entrant air carriers and limited incumbent air carriers shall be afforded a scheduling priority over operations conducted by other air carriers granted exemptions pursuant to this section, with the highest scheduling priority to be afforded to beyond-perimeter operations conducted by new entrant air carriers and limited incumbent air carriers.".

SEC. 403. EAS CONTRACT GUIDELINES.

Section 41737(a)(1) is amended—

(1) by striking "and" at the end of subparagraph (B);
(2) in subparagraph (C) by striking "provided." and inserting "provided;"; and
(3) by adding at the end the following:

"(D) include provisions under which the Secretary may encourage an air carrier to improve air service for which compensation is being paid under this subchapter by incorporating financial incentives in an essential air service contract based on specified performance goals; and

"(E) include provisions under which the Secretary may execute a long-term essential air service contract to encourage an air carrier to provide air service to an eligible place if it would be in the public interest to do so.".

SEC. 404. ESSENTIAL AIR SERVICE REFORM.

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 41742(a)(2) is amended by striking "$77,000,000" and inserting "$83,000,000".

(b) DISTRIBUTION OF EXCESS FUNDS.—

(1) IN GENERAL.—Section 41742(a) is amended by adding at the end the following:

"(4) DISTRIBUTION OF EXCESS FUNDS.—Of the funds, if any, credited to the account established under section 45303 in a fiscal year that exceed the $50,000,000 made available for such fiscal year under paragraph (1)—

"(A) one-half shall be made available immediately for obligation and expenditure to carry out section 41743; and

"(B) one-half shall be made available immediately for obligation and expenditure to carry out subsection (b).".

(2) CONFORMING AMENDMENT.—Section 41742(b) is amended—

(A) in the first sentence by striking "moneys credited" and all that follows before "shall be used" and inserting "amounts made available under subsection (a)(4)(B)"; and

(B) in the second sentence by striking "any amounts from those fees" and inserting "any of such amounts".

SEC. 405. SMALL COMMUNITY AIR SERVICE.

(a) PRIORITIES.—Section 41743(c)(5) is amended—

(1) by striking "and" at the end of subparagraph (D);

(2) in subparagraph (E) by striking "fashion." and inserting "fashion; and"; and

(3) by adding at the end the following:

"(F) multiple communities cooperate to submit a regional or multistate application to improve air service.".

(b) EXTENSION OF AUTHORIZATION.—Section 41743(e)(2) is amended by striking "2008" and inserting "2011".

SEC. 406. AIR PASSENGER SERVICE IMPROVEMENTS.

(a) IN GENERAL.—Subtitle VII is amended by inserting after chapter 421 the following:

"CHAPTER 423—AIR PASSENGER SERVICE IMPROVEMENTS

"§ 42301. Emergency contingency plans

"(a) SUBMISSION OF AIR CARRIER AND AIRPORT PLANS.—Not later than 90 days after the date of enactment of this section, each air carrier providing covered air transportation at a large hub airport or medium hub airport and each operator of a large hub airport or medium hub airport shall submit to the Secretary of Transportation for review and approval an emergency contingency plan in accordance with the requirements of this section.

"(b) COVERED AIR TRANSPORTATION DEFINED.—In this section, the term 'covered air transportation' means scheduled passenger air transportation provided by an air carrier using aircraft with more than 60 seats.

"(c) AIR CARRIER PLANS.—

"(1) PLANS FOR INDIVIDUAL AIRPORTS.—An air carrier shall submit an emergency contingency plan under subsection (a) for—

"(A) each large hub airport and medium hub airport at which the carrier provides covered air transportation; and

"(B) each large hub airport and medium hub airport at which the carrier has flights for which it has primary responsibility for inventory control.

"(2) CONTENTS.—An emergency contingency plan submitted by an air carrier for an airport under subsection (a) shall contain a description of how the air carrier will—

"(A) provide food, water, restroom facilities, cabin ventilation, and access to medical treatment for passengers onboard an aircraft at the airport that is on the ground for an extended period of time without access to the terminal; and

"(B) share facilities and make gates available at the airport in an emergency.

"(d) AIRPORT PLANS.—An emergency contingency plan submitted by an airport operator under subsection (a) shall contain a description of how the airport operator, to the maximum extent practicable, will provide for the sharing of facilities and make gates available at the airport in an emergency.

"(e) UPDATES.—

"(1) AIR CARRIERS.—An air carrier shall update the emergency contingency plan submitted by the air carrier under subsection (a) every 3 years and submit the update to the Secretary for review and approval.

"(2) AIRPORTS.—An airport operator shall update the emergency contingency plan submitted by the airport operator under subsection (a) every 5 years and submit the update to the Secretary for review and approval.

"(f) APPROVAL.—The Secretary shall review and approve emergency contingency plans submitted under subsection (a) and updates submitted under subsection (e) to ensure that the plans and updates will effectively address emergencies and provide for the health and safety of passengers.

"§ 42302. Consumer complaints

"(a) CONSUMER COMPLAINTS HOTLINE TELEPHONE NUMBER.—The Secretary of Transportation shall establish a consumer complaints hotline telephone number for the use of passengers in air transportation.

"(b) PUBLIC NOTICE.—The Secretary shall notify the public of the telephone number established under subsection (a).

"(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this section. Such sums shall remain available until expended.

"§ 42303. Use of insecticides in passenger aircraft

"No air carrier, foreign air carrier, or ticket agent may sell in the United States a ticket for air transportation for a flight on which an insecticide is planned to be used in the aircraft while passengers are on board the aircraft unless the air carrier, foreign air carrier, or ticket agent selling the ticket first informs the person purchasing the ticket of the planned use of the insecticide, including the name of the insecticide.".

(b) CLERICAL AMENDMENT.—The analysis for subtitle VII is amended by inserting after the item relating to chapter 421 the following:

"423. Air Passenger Service Improvements ..... 42301".

(c) PENALTIES.—Section 46301 is amended in subsections (a)(1)(A) and (c)(1)(A) by inserting "chapter 423," after "chapter 421,".

(d) APPLICABILITY OF REQUIREMENTS.—Except as otherwise specifically provided, the requirements of chapter 423 of title 49, United States Code, as added by this section, shall begin to apply 60 days after the date of enactment of this Act.

SEC. 407. CONTENTS OF COMPETITION PLANS.

Section 47106(f)(2) is amended—

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

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

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

SEC. 408. EXTENSION OF COMPETITIVE ACCESS REPORTS.

Section 47107(s)(3) is amended by striking "2008" and inserting "2012".

SEC. 409. CONTRACT TOWER PROGRAM.

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

(1) by striking "(1) The Secretary" and inserting the following:

"(1) CONTRACT TOWER PROGRAM.—

"(A) CONTINUATION AND EXTENSION.—The Secretary";

(2) by adding at the end of paragraph (1) the following:

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

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

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

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

(b) CONTRACT AIR TRAFFIC CONTROL TOWER COST-SHARING PROGRAM.—

(1) FUNDING.—Section 47124(b)(3)(E) is amended—

(A) by striking "and"; and

(B) by inserting ", $8,500,000 for fiscal year 2008, $9,000,000 for fiscal year 2009, $9,500,000 for fiscal year 2010, and $10,000,000 for fiscal year 2011" after "2007".

(2) USE OF EXCESS FUNDS.—Section 47124(b)(3) is amended—

(A) by redesignating subparagraph (E) (as amended by paragraph (1) of this subsection) as subparagraph (F); and

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

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

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

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

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

SEC. 410. AIRFARES FOR MEMBERS OF THE ARMED FORCES.

(a) FINDINGS.—Congress finds that—

(1) the Armed Forces is comprised of approximately 1,400,000 members who are stationed on active duty at more than 6,000 military bases in 146 different countries;

(2) the United States is indebted to the members of the Armed Forces, many of whom are in grave danger due to their engagement in, or exposure to, combat;

(3) military service, especially in the current war against terrorism, often requires members of the Armed Forces to be separated from their families on short notice, for long periods of time, and under very stressful conditions;

(4) the unique demands of military service often preclude members of the Armed Forces from purchasing discounted advance airline tickets in order to visit their loved ones at home; and

(5) it is the patriotic duty of the people of the United States to support the members of the Armed Forces who are defending the Nation's interests around the world at great personal sacrifice.

(b) SENSE OF CONGRESS.—It is the sense of Congress that each United States air carrier should—

(1) establish for all members of the Armed Forces on active duty reduced air fares that are comparable to the lowest airfare for ticketed flights; and

(2) offer flexible terms that allow members of the Armed Forces on active duty to purchase, modify, or cancel tickets without time restrictions, fees, and penalties.

SEC. 411. MEDICAL OXYGEN AND PORTABLE RESPIRATORY ASSISTIVE DEVICES.

Not later than December 31, 2007, the Secretary of Transportation shall issue a final rule regarding the carriage and use of passenger-owned portable electronic respiratory assistive devices and carrier-supplied medical oxygen devices aboard commercial flights to improve accommodations in air travel for passengers with respiratory disabilities.

TITLE V—ENVIRONMENTAL STEWARDSHIP AND STREAMLINING

SEC. 501. AMENDMENTS TO AIR TOUR MANAGEMENT PROGRAM.

Section 40128 is amended—

(1) in subsection (a)(1)(C) by inserting "or voluntary agreement under subsection (b)(7)" before "for the park";

(2) in subsection (a) by adding at the end the following:

"(5) EXEMPTION.—

"(A) IN GENERAL.—Notwithstanding paragraph (1), a national park that has 50 or fewer commercial air tour flights a year shall be exempt from the requirements of this section, except as provided in subparagraph (B).

"(B) WITHDRAWAL OF EXEMPTION.—If the Director determines that an air tour management plan or voluntary agreement is necessary to protect park resources and values or park visitor use and enjoyment, the Director shall withdraw the exemption of a park under subparagraph (A).

"(C) LIST OF PARKS.—The Director shall inform the Administrator, in writing, of each determination under subparagraph (B). The Director and Administrator shall publish an annual list of national parks that are covered by the exemption provided by this paragraph.

"(D) ANNUAL REPORT.—A commercial air tour operator conducting commercial air tours in a national park that is exempt from the requirements of this section shall submit to the Administrator and the Director an annual report regarding the number of commercial air tour flights it conducts each year in such park.";

(3) in subsection (b) by adding at the end the following:

"(7) VOLUNTARY AGREEMENTS.—

"(A) IN GENERAL.—As an alternative to an air tour management plan, the Director and the Administrator may enter into a voluntary agreement with a commercial air tour operator (including a new entrant applicant and an operator that has interim operating authority) that has applied to conduct air tour operations over a national park to manage commercial air tour operations over such national park.

"(B) PARK PROTECTION.—A voluntary agreement under this paragraph with respect to commercial air tour operations over a national park shall address the management issues necessary to protect the resources of such

park and visitor use of such park without compromising aviation safety or the air traffic control system and may—

"(i) include provisions such as those described in subparagraphs (B) through (E) of paragraph (3);

"(ii) include provisions to ensure the stability of, and compliance with, the voluntary agreement; and

"(iii) provide for fees for such operations.

"(C) PUBLIC.—The Director and the Administrator shall provide an opportunity for public review of a proposed voluntary agreement under this paragraph and shall consult with any Indian tribe whose tribal lands are, or may be, flown over by a commercial air tour operator under a voluntary agreement under this paragraph. After such opportunity for public review and consultation, the voluntary agreement may be implemented without further administrative or environmental process beyond that described in this subsection.

"(D) TERMINATION.—A voluntary agreement under this paragraph may be terminated at any time at the discretion of the Director or the Administrator if the Director determines that the agreement is not adequately protecting park resources or visitor experiences or the Administrator determines that the agreement is adversely affecting aviation safety or the national aviation system. If a voluntary agreement for a national park is terminated, the operators shall conform to the requirements for interim operating authority under subsection (c) until an air tour management plan for the park is in effect.";

(4) in subsection (c) by striking paragraph (2)(I) and inserting the following:

"(I) may allow for modifications of the interim operating authority without further environmental review beyond that described in this section if—

"(i) adequate information regarding the operator's existing and proposed operations under the interim operating authority is provided to the Administrator and the Director;

"(ii) the Administrator determines that there would be no adverse impact on aviation safety or the air traffic control system; and

"(iii) the Director agrees with the modification, based on the Director's professional expertise regarding the protection of the park resources and values and visitor use and enjoyment.";

(5) in subsection (c)(3)(A) by striking "if the Administrator determines" and all that follows through the period at the end and inserting "without further environmental process beyond that described in this paragraph if—

"(i) adequate information on the operator's proposed operations is provided to the Administrator and the Director by the operator making the request;

"(ii) the Administrator agrees that there would be no adverse impact on aviation safety or the air traffic control system; and

"(iii) the Director agrees, based on the Director's professional expertise regarding the protection of park resources and values and visitor use and enjoyment."; and

(6) by redesignating subsections (d), (e), and (f) as subsections (e), (f), and (g), respectively; and

(7) by inserting after subsection (c) the following:

"(d) COMMERCIAL AIR TOUR OPERATOR REPORTS.—

"(1) REPORT.—Each commercial air tour operator providing a commercial air tour over a national park under interim operating authority granted under subsection (c) or in accordance with an air tour management plan under subsection (b) shall submit a report to the Administrator and Director regarding the number of its commercial air tour operations over each national park and such other information as the Administrator and Director may request in order to facilitate administering the provisions of this section.

"(2) REPORT SUBMISSION.—Not later than 3 months after the date of enactment of the FAA Reauthorization Act of 2007, the Administrator and Director shall jointly issue an initial request for reports under this subsection. The reports shall be submitted to the Administrator and Director on a frequency and in a format prescribed by the Administrator and Director.".

SEC. 502. STATE BLOCK GRANT PROGRAM.

(a) GENERAL REQUIREMENTS.—Section 47128(a) is amended—

(1) in the first sentence by striking "prescribe regulations" and inserting "issue guidance"; and

(2) in the second sentence by striking "regulations" and inserting "guidance".

(b) APPLICATIONS AND SELECTION.—Section 47128(b)(4) is amended by inserting before the semicolon the following: ", including the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), State and local environmental policy acts, Executive Orders, agency regulations and guidance, and other Federal environmental requirements".

(c) ENVIRONMENTAL ANALYSIS AND COORDINATION REQUIREMENTS.—Section 47128 is amended by adding at the end the following:

"(d) ENVIRONMENTAL ANALYSIS AND COORDINATION REQUIREMENTS.—A Federal agency, other than the Federal Aviation Administration, that is responsible for issuing an approval, license, or permit to ensure compliance with a Federal environmental requirement applicable to a project or activity to be carried out by a State using amounts from a block grant made under this section shall—

"(1) coordinate and consult with the State;

"(2) use the environmental analysis prepared by the State for the project or activity if such analysis is adequate; and

"(3) supplement such analysis, as necessary, to meet applicable Federal requirements.".

SEC. 503. AIRPORT FUNDING OF SPECIAL STUDIES OR REVIEWS.

Section 47173(a) is amended by striking "services of consultants in order to" and all that follows through the period at the end and inserting "services of consultants—

"(1) to facilitate the timely processing, review, and completion of environmental activities associated with an airport development project;

"(2) to conduct special environmental studies related to an airport project funded with Federal funds;

"(3) to conduct special studies or reviews to support approved noise compatibility measures described in part 150 of title 14, Code of Federal Regulations; or

"(4) to conduct special studies or reviews to support environmental mitigation in a record of decision or finding of no significant impact by the Federal Aviation Administration.".

SEC. 504. GRANT ELIGIBILITY FOR ASSESSMENT OF FLIGHT PROCEDURES.

Section 47504 is amended by adding at the end the following:

"(e) GRANTS FOR ASSESSMENT OF FLIGHT PROCEDURES.—

"(1) IN GENERAL.—In accordance with subsection (c)(1), the Secretary may make a grant to an airport operator to assist in completing environmental review and assessment activities for proposals to implement flight procedures at such airport that have been approved as part of an airport noise compatibility program under subsection (b).

"(2) ADDITIONAL STAFF.—The Administrator may accept funds from an airport operator, including funds provided to the operator under paragraph (1), to hire additional staff or obtain the services of consultants in order to facilitate the timely processing, review, and completion of environmental activities associated with proposals to implement flight procedures at such airport that have been approved as part of an airport noise compatibility program under subsection (b).

"(3) RECEIPTS CREDITED AS OFFSETTING COLLECTIONS.—Notwithstanding section 3302 of title 31, any funds accepted under this section—

"(A) shall be credited as offsetting collections to the account that finances the activities and services for which the funds are accepted;

"(B) shall be available for expenditure only to pay the costs of activities and services for which the funds are accepted; and

"(C) shall remain available until expended.".

SEC. 505. CLEEN ENGINE AND AIRFRAME TECHNOLOGY PARTNERSHIP.

(a) COOPERATIVE AGREEMENT.—Subchapter I of chapter 475 is amended by adding at the end the following:

"§ 47511. CLEEN engine and airframe technology partnership

"(a) IN GENERAL.—The Administrator of the Federal Aviation Administration shall enter into a cooperative agreement, using a competitive process, with an institution, entity, or consortium to carry out a program for the development, maturing, and certification of CLEEN engine and airframe technology for aircraft over the next 10 years.

"(b) CLEEN ENGINE AND AIRFRAME TECHNOLOGY DEFINED.—In this section, the term 'CLEEN engine and airframe technology' means continuous lower energy, emissions, and noise engine and airframe technology.

"(c) PERFORMANCE OBJECTIVE.—The Administrator shall establish the following performance objectives for the program, to be achieved by September 30, 2015:

"(1) Development of certifiable aircraft technology that reduces greenhouse gas emissions by increasing aircraft fuel efficiency by 25 percent relative to 1997 subsonic jet aircraft technology.

"(2) Development of certifiable engine technology that reduces landing and takeoff cycle nitrogen oxide emissions by 50 percent, without increasing other gaseous or particle emissions, over the International Civil Aviation Organization standard adopted in 2004.

"(3) Development of certifiable aircraft technology that reduces noise levels by 10 decibels at each of the 3 certification points relative to 1997 subsonic jet aircraft technology.

"(4) Determination of the feasibility of the use of alternative fuels in aircraft systems, including successful demonstration and quantification of the benefits of such fuels.

"(5) Determination of the extent to which new engine and aircraft technologies may be used to retrofit or re-engine aircraft to increase the integration of retrofitted and re-engined aircraft into the commercial fleet.

"(d) FUNDING.—Of amounts appropriated under section 48102(a), not more than the following amounts may be used to carry out this section:

"(1) $6,000,000 for fiscal year 2008.

"(2) $22,000,000 for fiscal year 2009.

"(3) $33,000,000 for fiscal year 2010.

"(4) $50,000,000 for fiscal year 2011.

"(e) REPORT.—Beginning in fiscal year 2009, the Administrator shall publish an annual report on the program established under this section until completion of the program.".

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

"47511. CLEEN engine and airframe technology partnership.".

SEC. 506. PROHIBITION ON OPERATING CERTAIN AIRCRAFT WEIGHING 75,000 POUNDS OR LESS NOT COMPLYING WITH STAGE 3 NOISE LEVELS.

(a) IN GENERAL.—Subchapter II of chapter 475 is amended by adding at the end the following:

"§ 47534. Prohibition on operating certain aircraft weighing 75,000 pounds or less not complying with stage 3 noise levels

"(a) PROHIBITION.—Except as provided in subsection (b), (c), or (d), after December 31, 2012, a person may not operate a civil subsonic jet airplane with a maximum weight of 75,000 pounds or less, and for which an airworthiness certificate other than an experimental certificate has been issued, to or from an airport in the United States unless the Secretary of Transportation finds that the aircraft complies with stage 3 noise levels.

"(b) EXCEPTION.—Subsection (a) shall not apply to aircraft operated only outside the 48 contiguous States.

"(c) EXCEPTIONS.—The Secretary may allow temporary operation of an airplane otherwise prohibited from operation under subsection (a) to or from an airport in the contiguous United States by granting a special flight authorization for one or more of the following circumstances:

"(1) To sell, lease, or use the aircraft outside the 48 contiguous States.

"(2) To scrap the aircraft.

"(3) To obtain modifications to the aircraft to meet stage 3 noise levels.

"(4) To perform scheduled heavy maintenance or significant modifications on the aircraft at a maintenance facility located in the contiguous 48 States.

"(5) To deliver the aircraft to an operator leasing the aircraft from the owner or return the aircraft to the lessor.

"(6) To prepare, park, or store the aircraft in anticipation of any of the activities described in paragraphs (1) through (5).

"(7) To provide transport of persons and goods in the relief of emergency situations.

"(8) To divert the aircraft to an alternative air port in the 48 contiguous States on account of weather, mechanical, fuel, air traffic control, or other safety reasons while conducting a flight in order to perform any of the activities described in paragraphs (1) through (7).

"(d) STATUTORY CONSTRUCTION.—Nothing in the section may be construed as interfering with, nullifying, or otherwise affecting determinations made by the Federal Aviation Administration, or to be made by the Administration, with respect to applications under part 161 of title 14, Code of Federal Regulations, that were pending on the date of enactment of this section.".

(b) CONFORMING AMENDMENTS.—

(1) Section 47531 is amended—

(A) in the section heading by striking "**for violating sections 47528–47530**"; and

(B) by striking "47529, or 47530" and inserting "47529, 47530, or 47534".

(2) Section 47532 is amended by inserting "or 47534" after "47528–47531".

(3) The analysis for chapter 475 is amended—

(A) by striking the item relating to section 47531 and inserting the following:

"47531. Penalties."; and

(B) by inserting after the item relating to section 47533 the following:

"47534. Prohibition on operating certain aircraft weighing 75,000 pounds or less not complying with stage 3 noise levels.".

SEC. 507. ENVIRONMENTAL MITIGATION PILOT PROGRAM.

(a) ESTABLISHMENT.—The Secretary of Transportation shall establish a pilot program to carry out not more than 6 environmental mitigation demonstration projects at public-use airports.

(b) GRANTS.—In implementing the program, the Secretary may make a grant to the sponsor of a public-use airport from funds apportioned under section 47117(e)(1)(A) of title 49, United States Code, to carry out an environmental mitigation demonstration project to measurably reduce or mitigate aviation impacts on noise, air quality, or water quality in the vicinity of the airport.

(c) ELIGIBILITY FOR PASSENGER FACILITY FEES.—An environmental mitigation demonstration project that receives funds made available under this section may be considered an eligible airport-related project for purposes of section 40117 of such title.

(d) SELECTION CRITERIA.—In selecting among applicants for participation in the program, the Secretary shall give priority consideration to applicants proposing to carry out environmental mitigation demonstration projects that will—

(1) achieve the greatest reductions in aircraft noise, airport emissions, or airport water quality impacts either on an absolute basis or on a per dollar of funds expended basis; and

(2) be implemented by an eligible consortium.

(e) FEDERAL SHARE.—Notwithstanding any provision of subchapter I of chapter 471 of such title, the United States Government share of allowable project costs of an environmental mitigation demonstration project carried out under this section shall be 50 percent.

(f) MAXIMUM AMOUNT.—The Secretary may not make grants for a single environmental mitigation demonstration project under this section in a total amount that exceeds $2,500,000.

(g) PUBLICATION OF INFORMATION.—The Secretary may develop and publish information on the results of environmental mitigation demonstration projects carried out under this section, including information identifying best practices for reducing or mitigating aviation impacts on noise, air quality, or water quality in the vicinity of airports.

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

(1) ELIGIBLE CONSORTIUM.—The term "eligible consortium" means a consortium of 2 or more of the following entities:

(A) A business incorporated in the United States.

(B) A public or private educational or research organization located in the United States.

(C) An entity of a State or local government.

(D) A Federal laboratory.

(2) ENVIRONMENTAL MITIGATION DEMONSTRATION PROJECT.—The term "environmental mitigation demonstration project" means a project that—

(A) demonstrates at a public-use airport environmental mitigation techniques or technologies with associated benefits, which have already been proven in laboratory demonstrations;

(B) utilizes methods for efficient adaptation or integration of innovative concepts to airport operations; and

(C) demonstrates whether a technique or technology for environmental mitigation identified in research is—

(i) practical to implement at or near multiple public-use airports; and

(ii) capable of reducing noise, airport emissions, greenhouse gas emissions, or water quality impacts in measurably significant amounts.

SEC. 508. AIRCRAFT DEPARTURE QUEUE MANAGEMENT PILOT PROGRAM.

(a) IN GENERAL.—The Secretary of Transportation shall carry out a pilot program at not more than 5 public-use airports under which the Federal Aviation Administration shall use funds made available under section 48101(a) to design, develop, and test air traffic flow management tools, methodologies, and procedures that will

allow air traffic controllers of the Administration to better manage the flow of aircraft on the ground and reduce the length of ground holds and idling time for aircraft.

(b) SELECTION CRITERIA.—In selecting from among airports at which to conduct the pilot program, the Secretary shall give priority consideration to airports at which improvements in ground control efficiencies are likely to achieve the greatest fuel savings or air quality or other environmental benefits, as measured by the amount of reduced fuel, reduced emissions, or other environmental benefits per dollar of funds expended under the pilot program.

(c) MAXIMUM AMOUNT.—Not more than a total of $5,000,000 may be expended under the pilot program at any single public-use airport.

(d) REPORT TO CONGRESS.—Not later than 3 years after the date of the enactment of this section, the Secretary shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report containing—

(1) an evaluation of the effectiveness of the pilot program, including an assessment of the tools, methodologies, and procedures that provided the greatest fuel savings and air quality and other environmental benefits, and any impacts on safety, capacity, or efficiency of the air traffic control system or the airports at which affected aircraft were operating;

(2) an identification of anticipated benefits from implementation of the tools, methodologies, and procedures developed under the pilot program at other airports;

(3) a plan for implementing the tools, methodologies, and procedures developed under the pilot program at other airports or the Secretary's reasons for not implementing such measures at other airports; and

(4) such other information as the Secretary considers appropriate.

SEC. 509. HIGH PERFORMANCE AND SUSTAINABLE AIR TRAFFIC CONTROL FACILITIES.

(a) IN GENERAL.—The Administrator of the Federal Aviation Administration shall implement, to the maximum extent practicable, sustainable practices for the incorporation of energy-efficient design, equipment, systems, and other measures in the construction and major renovation of air traffic control facilities of the Administration in order to reduce energy consumption and improve the environmental performance of such facilities.

(b) AUTHORIZATION.—Of amounts appropriated under section 48101(a) of title 49, United States Code, such sums as may be necessary may be used to carry out this section.

SEC. 510. REGULATORY RESPONSIBILITY FOR AIRCRAFT ENGINE NOISE AND EMISSIONS STANDARDS.

(a) INDEPENDENT REVIEW.—The Administrator of the FAA shall make appropriate arrangements for the National Academy of Public Administration or another qualified independent entity to review, in consultation with the FAA and the EPA, whether it is desirable to locate the regulatory responsibility for the establishment of engine noise and emissions standards for civil aircraft within one of the agencies.

(b) CONSIDERATIONS.—The review shall be conducted so as to take into account—

(1) the interrelationships between aircraft engine noise and emissions;

(2) the need for aircraft engine noise and emissions to be evaluated and addressed in an integrated and comprehensive manner;

(3) the scientific expertise of the FAA and the EPA to evaluate aircraft engine emissions and noise impacts on the environment;

(4) expertise to interface environmental performance with ensuring the highest safe and reliable engine performance of aircraft in flight;

(5) consistency of the regulatory responsibility with other missions of the FAA and the EPA;

(6) past effectiveness of the FAA and the EPA in carrying out the aviation environmental responsibilities assigned to the agency; and

(7) the international responsibility to represent the United States with respect to both engine noise and emissions standards for civil aircraft

(c) REPORT TO CONGRESS.—Not later than 6 months after the date of enactment of this Act, the Administrator of the FAA shall submit to Congress a report on the results of the review. The report shall include any recommendations developed as a result of the review and, if a transfer of responsibilities is recommended, a description of the steps and timeline for implementation of the transfer.

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

(1) EPA.—The term "EPA" means the Environmental Protection Agency.

(2) FAA.—The term "FAA" means the Federal Aviation Administration.

SEC. 511. PRODUCTION OF ALTERNATIVE JET FUEL TECHNOLOGY FOR CIVIL AIRCRAFT.

(a) ESTABLISHMENT OF RESEARCH PROGRAM.—Using amounts made available under section 48102(a) of title 49, United States Code, the Secretary of Transportation shall establish a research program related to developing jet fuel from alternative sources (such as coal, natural gas, biomass, ethanol, butanol, and hydrogen) through grants or other measures authorized under section 106(l)(6) of such title, including reimbursable agreements with other Federal agencies.

(b) PARTICIPATION BY EDUCATIONAL AND RESEARCH INSTITUTIONS.—In conducting the program, the Secretary provide for participation by educational and research institutions that have existing facilities and experience in the development and deployment of technology for alternative jet fuels.

(c) DESIGNATION OF INSTITUTE AS A CENTER OF EXCELLENCE.—Not later than 6 months after the date of enactment of this Act, the Administrator of the Federal Aviation Administration shall designate an institution described in subsection (a) as a Center of Excellence for Alternative Jet Fuel Research.

TITLE VI—FAA EMPLOYEES AND ORGANIZATION

SEC. 601. FEDERAL AVIATION ADMINISTRATION PERSONNEL MANAGEMENT SYSTEM.

(a) DISPUTE RESOLUTION.—Section 40122(a) is amended—

(1) by redesignating paragraphs (3) and (4) as paragraphs (5) and (6), respectively; and

(2) by striking paragraph (2) and inserting the following:

"(2) DISPUTE RESOLUTION.—

"(A) MEDIATION.—If the Administrator does not reach an agreement under paragraph (1) or the provisions referred to in subsection (g)(2)(C) with the exclusive bargaining representative of the employees, the Administrator and the bargaining representative—

"(i) shall use the services of the Federal Mediation and Conciliation Service to attempt to reach such agreement in accordance with part 1425 of title 29, Code of Federal Regulations (as in effect on the date of enactment of the FAA Reauthorization Act of 2007); or

"(ii) may by mutual agreement adopt alternative procedures for the resolution of disputes or impasses arising in the negotiation of the collective-bargaining agreement.

"(B) BINDING ARBITRATION.—

"(i) ASSISTANCE FROM FEDERAL SERVICE IMPASSES PANEL.—If the services of the Federal Mediation and Conciliation Service under subparagraph (A)(i) do not lead to an agreement, the Administrator and the exclusive bargaining representative of the employees (in this subparagraph referred to as the 'parties') shall submit their issues in controversy to the Federal Service Impasses Panel. The Panel shall assist the parties in resolving the impasse by asserting jurisdiction and ordering binding arbitration by a private arbitration board consisting of 3 members.

"(ii) APPOINTMENT OF ARBITRATION BOARD.—The Executive Director of the Panel shall provide for the appointment of the 3 members of a private arbitration board under clause (i) by requesting the Director of the Federal Mediation and Conciliation Service to prepare a list of not less than 15 names of arbitrators with Federal sector experience and by providing the list to the parties. Within 10 days of receiving the list, the parties shall each select one person from the list. The 2 arbitrators selected by the parties shall then select a third person from the list within 7 days. If either of the parties fails to select a person or if the 2 arbitrators are unable to agree on the third person within 7 days, the parties shall make the selection by alternately striking names on the list until one arbitrator remains.

"(iii) FRAMING ISSUES IN CONTROVERSY.—If the parties do not agree on the framing of the issues to be submitted for arbitration, the arbitration board shall frame the issues.

"(iv) HEARINGS.—The arbitration board shall give the parties a full and fair hearing, including an opportunity to present evidence in support of their claims and an opportunity to present their case in person, by counsel, or by other representative as they may elect.

"(v) DECISIONS.—The arbitration board shall render its decision within 90 days after the date of its appointment. Decisions of the arbitration board shall be conclusive and binding upon the parties.

"(vi) COSTS.—The parties shall share costs of the arbitration equally.

"(3) RATIFICATION OF AGREEMENTS.—Upon reaching a voluntary agreement or at the conclusion of the binding arbitration under paragraph (2)(B), the final agreement, except for those matters decided by an arbitration board, shall be subject to ratification by the exclusive bargaining representative of the employees, if so requested by the bargaining representative, and approval by the head of the agency in accordance with the provisions referred to in subsection (g)(2)(C).

"(4) ENFORCEMENT.—

"(A) ENFORCEMENT ACTIONS IN UNITED STATES COURTS.—Each United States district court and each United States court of a place subject to the jurisdiction of the United States shall have jurisdiction of enforcement actions brought under this section. Such an action may be brought in any judicial district in the State in which the violation of this section is alleged to have been committed, the judicial district in which the Federal Aviation Administration has its principal office, or the District of Columbia.

"(B) ATTORNEY FEES.—The court may assess against the Federal Aviation Administration reasonable attorney fees and other litigation costs reasonably incurred in any case under this section in which the complainant has substantially prevailed.".

(b) APPLICATION.—On and after the date of enactment of this Act, any changes implemented by the Administrator of the Federal Aviation Administration on and after July 10, 2005, under section 40122(a) of title 49, United States Code (as in effect on the day before such date of enactment), without the agreement of the exclusive bargaining representative of the employees of the Administration certified under section 7111 of title 5, United States Code, shall be null and void and the parties shall be governed by their last mutual agreement before the implementation of such changes. The Administrator and the bargaining representative shall resume negotiations promptly, and, subject to subsection (c), their last mutual agreement shall be in effect until a new contract is adopted by the Administrator and the bargaining representative. If an agreement is not reached within 45 days after the date on which negotiations resume, the Administrator and the bargaining representative shall submit their issues in controversy to the Federal Service Impasses Panel in accordance with section 7119 of title 5, United States Code, for binding arbitration in accordance with paragraphs (2)(B), (3), and (4) of section 40122(a) of title 49, United States Code (as amended by subsection (a) of this section).

(c) SAVINGS CLAUSE.—All cost of living adjustments and other pay increases, lump sum payments to employees, and leave and other benefit accruals implemented as part of the changes referred to in subsection (b) may not be reversed unless such reversal is part of the calculation of back pay under subsection (d). The Administrator shall waive any overpayment paid to, and not collect any funds for such overpayment, from former employees of the Administration who received lump sum payments prior to their separation from the Administration.

(d) BACK PAY.—

(1) IN GENERAL.—Employees subject to changes referred to in subsection (b) that are determined to be null and void under subsection (b) shall be eligible for pay that the employees would have received under the last mutual agreement between the Administrator and the exclusive bargaining representative of such employees before the date of enactment of this Act and any changes were implemented without agreement of the bargaining representative. The Administrator shall pay the employees such pay subject to the availability of amounts appropriated to carry out this subsection. If the appropriated funds do not cover all claims of the employees for such pay, the Administrator and the bargaining representative, pursuant to negotiations conducted in accordance with section 40122(a) of title 49, United States Code (as amended by subsection (a) of this section), shall determine the allocation of the appropriated funds among the employees on a pro rata basis.

(2) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $20,000,000 to carry out this subsection.

(e) INTERIM AGREEMENT.—If the Administrator and the exclusive bargaining representative of the employees subject to the changes referred to in subsection (b) reach a final and binding agreement with respect to such changes before the date of enactment of this Act, such agreement shall supersede any changes implemented by the Administrator under section 40122(a) of title 49, United States Code (as in effect on the day before such date of enactment), without the agreement of the bargaining representative, and subsections (b) and (c) shall not take effect.

SEC. 602. MSPB REMEDIAL AUTHORITY FOR FAA EMPLOYEES.

Section 40122(g)(3) of title 49, United States Code, is amended by adding at the end the following: "Notwithstanding any other provision of law, retroactive to April 1, 1996, the Board shall have the same remedial authority over such employee appeals that it had as of March 31, 1996.".

SEC. 603. FAA TECHNICAL TRAINING AND STAFFING.

(a) STUDY.—

(1) IN GENERAL.—The Comptroller General shall conduct a study on the training of the airway transportation systems specialists of the Federal Aviation Administration (in this section referred to as "FAA systems specialists").

(2) CONTENTS.—The study shall—

(A) include an analysis of the type of training provided to FAA systems specialists;

(B) include an analysis of the type of training that FAA systems specialists need to be proficient on the maintenance of latest technologies;

(C) include a description of actions that the Administration has undertaken to ensure that FAA systems specialists receive up-to-date training on the latest technologies;

(D) identify the amount and cost of FAA systems specialists training provided by vendors;

(E) identify the amount and cost of FAA systems specialists training provided by the Administration after developing courses for the training of such specialists;

(F) identify the amount and cost of travel that is required of FAA systems specialists in receiving training; and

(G) include a recommendation regarding the most cost-effective approach to providing FAA systems specialists training.

(3) REPORT.—Not later than 1 year after the date of enactment of this Act, the Comptroller General shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report on the results of the study.

(b) WORKLOAD OF SYSTEMS SPECIALISTS.—

(1) STUDY BY NATIONAL ACADEMY OF SCIENCES.—Not later than 90 days after the date of enactment of this Act, the Administrator of the Federal Aviation Administration shall make appropriate arrangements for the National Academy of Sciences to conduct a study of the assumptions and methods used by the Federal Aviation Administration to estimate staffing needs for FAA systems specialists to ensure proper maintenance and certification of the national airspace system.

(2) CONTENTS.—The study shall be conducted so as to provide the following:

(A) A suggested method of modifying FAA systems specialists staffing models for application to current local conditions or applying some other approach to developing an objective staffing standard.

(B) The approximate cost and length of time for developing such models.

(3) REPORT.—Not later than one year after the initiation of the arrangements under subsection (a), the National Academy of Sciences shall submit to Congress a report on the results of the study.

SEC. 604. DESIGNEE PROGRAM.

(a) REPORT.—Not later than 18 months after the date of enactment of this Act, the Comptroller General shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report on the status of recommendations made by the Government Accountability Office in its October 2004 report, "Aviation Safety: FAA Needs to Strengthen Management of Its Designee Programs" (GAO–05–40).

(b) CONTENTS.—The report shall include—

(1) an assessment of the extent to which the Federal Aviation Administration has responded to recommendations of the Government Accountability Office referred to in subsection (a);

(2) an identification of improvements, if any, that have been made to the designee programs referred to in the report of the Office as a result of such recommendations; and

(3) an identification of further action that is needed to implement such recommendations, improve the Administration's management control of the designee programs, and increase assurance that designees meet the Administration's performance standards.

SEC. 605. STAFFING MODEL FOR AVIATION SAFETY INSPECTORS.

(a) IN GENERAL.—Not later than October 31, 2009, the Administrator of the Federal Aviation Administration shall develop a staffing model for aviation safety inspectors. In developing the model, the Administrator shall follow the recommendations outlined in the 2007 study released by the National Academy of Sciences entitled "Staffing Standards for Aviation Safety Inspectors" and consult with interested persons, including the exclusive collective bargaining representative of the aviation safety inspectors.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this section.

SEC. 606. SAFETY CRITICAL STAFFING.

(a) AVIATION SAFETY INSPECTORS.—The Administrator of the Federal Aviation Administration shall increase the number of aviation safety inspectors in the Flight Standards Service to not less than—

(1) ____ full-time equivalent positions in fiscal year 2008;
(2) ____ full-time equivalent positions in fiscal year 2009;
(3) ____ full-time equivalent positions in fiscal year 2010; and
(4) ____ full-time equivalent positions in fiscal year 2011.

(b) OPERATIONAL SUPPORT.—The Administrator shall increase the number of safety technical specialists and operational support positions in the Flight Standards Service to the levels necessary, as determined by the Administrator, to ensure the most efficient and cost-effective use of the aviation safety inspectors authorized by subsection (a).

(c) AUTHORIZATION OF APPROPRIATIONS.—In addition to amounts authorized by section 106(k) of title 49, United States Code, there is authorized to be appropriated to carry out subsections (a) and (b)—

(1) $58,000,000 for fiscal year 2008;
(2) $134,000,000 for fiscal year 2009;
(3) $170,000,000 for fiscal year 2010; and
(4) $208,000,000 for fiscal year 2011.

Such sums shall remain available until expended.

(d) IMPLEMENTATION OF STAFFING STANDARDS.—Notwithstanding any other provision of this section, upon completion of the flight standards service staffing model pursuant to section 604 of this Act, and validation of the model by the Administrator, there are authorized to be appropriated such sums as may be necessary to support the number of aviation safety inspectors, safety technical specialists, and operation support positions that such model determines are required to meet the responsibilities of the Flight Standards Service.

SEC. 607. CENTER FOR EXCELLENCE IN AVIATION EMPLOYMENT.

(a) ESTABLISHMENT.—The Administrator of the Federal Aviation Administration shall establish a Center for Excellence in Aviation Employment (in this section referred to as the "Center").

(b) APPLIED RESEARCH AND TRAINING.—The Center shall conduct applied research and training on—

(1) human performance in the air transportation environment;
(2) air transportation personnel, including air traffic controllers, pilots, and technicians; and
(3) any other aviation human resource issues pertinent to developing and maintaining a safe and efficient air transportation system.

(c) DUTIES.—The Center shall—

(1) in conjunction with the Collegiate Training Initiative and other air traffic controller training programs, develop, implement, and evaluate a comprehensive, best-practices based training program for air traffic controllers;
(2) work with the Office of Human Resource Management of the Administration as that office develops and implements a strategic recruitment and marketing program to help the Administration compete for the best qualified employees and incorporate an employee value proposition process that results in attracting a broad-based and diverse aviation workforce in mission critical positions, including air traffic controller, aviation safety inspector, airway transportation safety specialist, and engineer;
(3) through industry surveys and other research methodologies and in partnership with the "Taskforce on the Future of the Aerospace Workforce" and the Secretary of Labor, establish a baseline of general aviation employment statistics for purposes of projecting and anticipating future workforce needs and demonstrating the economic impact of general aviation employment;
(4) conduct a comprehensive analysis of the airframe and powerplant technician certification process and employment trends for maintenance repair organi-

zation facilities, certificated repair stations, and general aviation maintenance organizations;

(5) establish a best practices model in aviation maintenance technician school environments; and

(6) establish a workforce retraining program to allow for transition of recently unemployed and highly skilled mechanics into aviation employment.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Administrator such sums as may be necessary to carry out this section. Such sums shall remain available until expended.

SEC. 608. FAA AIR TRAFFIC CONTROLLER STAFFING.

(a) STUDY BY NATIONAL ACADEMY OF SCIENCES.—Not later than 90 days after the date of enactment of this Act, the Administrator of the Federal Aviation Administration shall enter into appropriate arrangements with the National Academy of Sciences to conduct a study of the assumptions and methods used by the Federal Aviation Administration (in this section referred to as the "FAA") to estimate staffing needs for FAA air traffic controllers to ensure the safe operation of the national airspace system.

(b) CONSULTATION.—In conducting the study, the National Academy of Sciences shall consult with the exclusive bargaining representative of employees of the FAA certified under section 7111 of title 5, United States Code, the Administrator of the Federal Aviation Administration, and representatives of the Civil Aeronautical Medical Institute.

(c) CONTENTS.—The study shall include an examination of representative information on human factors, traffic activity, and the technology and equipment used in air traffic control.

(d) RECOMMENDATIONS AND ESTIMATES.—In conducting the study, the National Academy of Sciences shall develop—

(1) recommendations for the development by the FAA of objective staffing standards to maintain the safety and efficiency of the national airspace system with current and future projected air traffic levels; and

(2) estimates of cost and schedule for the development of such standards by the FAA or its contractors.

(e) REPORT.—Not later than 18 months after the date of enactment of this Act, the National Academy of Sciences shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report on the results of the study.

SEC. 609. ASSESSMENT OF TRAINING PROGRAMS FOR AIR TRAFFIC CONTROLLERS.

(a) STUDY.—The Administrator of the Federal Aviation Administration shall conduct a study to assess the adequacy of training programs for air traffic controllers.

(b) CONTENTS.—The study shall include—

(1) a review of the current training system for air traffic controllers;

(2) an analysis of the competencies required of air traffic controllers for successful performance in the current air traffic control environment;

(3) an analysis of competencies required of air traffic controllers as the Federal Aviation Administration transitions to the Next Generation Air Transportation System; and

(4) an analysis of various training approaches available to satisfy the controller competencies identified under paragraphs (2) and (3).

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

SEC. 610. COLLEGIATE TRAINING INITIATIVE STUDY.

(a) STUDY.—The Administrator of the Federal Aviation Administration shall conduct a study on training options for graduates of the Collegiate Training Initiative program conducted under section 44506(c) of title 49 United States Code. The study shall analyze the impact of providing as an alternative to the current training provided at the Mike Monroney Aeronautical Center of the Administration a new controller orientation session for graduates of such programs at the Mike Monroney Aeronautical Center followed by on-the-job training for newly hired air traffic controllers who are graduates of such program and shall include—

(1) the cost effectiveness of such an alternative training approach; and

(2) the effect that such an alternative training approach would have on the overall quality of training received by graduates of such programs.

(b) REPORT.—Not later than 180 days after the date of enactment of this Act, the Administrator shall submit to the Committee on Transportation and Infrastructure

of the House of Representatives and to the Committee on Commerce, Science, and Transportation of the Senate a report on the results of the study.

TITLE VII—AVIATION INSURANCE

SEC. 701. GENERAL AUTHORITY.

(a) EXTENSION OF POLICIES.—Section 44302(f)(1) is amended—

(1) by striking "August 31, 2006" and inserting "September 30, 2011"; and

(2) by striking "December 31, 2006" and inserting "September 30, 2017".

(b) SUCCESSOR PROGRAM.—Section 44302(f) is amended by adding at the end the following:

"(3) SUCCESSOR PROGRAM.—

"(A) IN GENERAL.—After December 31, 2017, coverage for the risks specified in a policy that has been extended under paragraph (1) shall be provided in an airline industry sponsored risk retention or other risk-sharing arrangement approved by the Secretary.

"(B) TRANSFER OF PREMIUMS.—

"(i) IN GENERAL.—On December 31, 2017, and except as provided in clause (ii), premiums that are collected by the Secretary from the airline industry after September 22, 2001, for any policy under this subsection, and interest earned thereon, as determined by the Secretary, shall be transferred to an airline industry sponsored risk retention or other risk-sharing arrangement approved by the Secretary.

"(ii) DETERMINATION OF AMOUNT TRANSFERRED.—The amount transferred pursuant to clause (i) shall be less—

"(I) the amount of any claims paid out on such policies from September 22, 2001, through December 31, 2017;

"(II) the amount of any claims pending under such policies as of December 31, 2017; and

"(III) the cost, as determined by the Secretary, of administering the provision of insurance policies under this chapter from September 22, 2001, through December 31, 2017.".

SEC. 702. EXTENSION OF AUTHORITY TO LIMIT THIRD PARTY LIABILITY OF AIR CARRIERS ARISING OUT OF ACTS OF TERRORISM.

Section 44303(b) is amended by striking "December 31, 2006" and inserting "December 31, 2012".

SEC. 703. CLARIFICATION OF REINSURANCE AUTHORITY.

Section 44304 is amended in the second sentence by striking "the carrier" and inserting "any insurance carrier".

SEC. 704. USE OF INDEPENDENT CLAIMS ADJUSTERS.

Section 44308(c)(1) is amended in the second sentence by striking "agent" and inserting "agent, or a claims adjuster who is independent of the underwriting agent,".

SEC. 705. EXTENSION OF PROGRAM AUTHORITY.

Section 44310 is amended by striking "March 30, 2008" and inserting "September 30, 2017".

TITLE VIII—MISCELLANEOUS

SEC. 801. AIR CARRIER CITIZENSHIP.

Section 40102(a)(15) is amended by adding at the end the following:

"For purposes of subparagraph (C), an air carrier shall not be deemed to be under the actual control of citizens of the United States unless citizens of the United States control all matters pertaining to the business and structure of the air carrier, including operational matters such as marketing, branding, fleet composition, route selection, pricing, and labor relations.".

SEC. 802. DISCLOSURE OF DATA TO FEDERAL AGENCIES IN INTEREST OF NATIONAL SECURITY.

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

"(3) LIMITATION ON APPLICABILITY OF FREEDOM OF INFORMATION ACT.—Section 552 of title 5, United States Code, shall not apply to disclosures that the Administrator of the Federal Aviation Administration may make from the systems of records of the Administration to any Federal law enforcement, intelligence, pro-

tective service, immigration, or national security official in order to assist the official receiving the information in the performance of official duties.".

SEC. 803. FAA ACCESS TO CRIMINAL HISTORY RECORDS AND DATABASE SYSTEMS.

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

"§ 40130. FAA access to criminal history records or databases systems

"(a) ACCESS TO RECORDS OR DATABASES SYSTEMS.—

"(1) ACCESS TO INFORMATION.—Notwithstanding section 534 of title 28, and regulations issued to implement such section, the Administrator of the Federal Aviation Administration may access a system of documented criminal justice information maintained by the Department of Justice or by a State but may do so only for the purpose of carrying out civil and administrative responsibilities of the Administration to protect the safety and security of the national airspace system or to support the missions of the Department of Justice, the Department of Homeland Security, and other law enforcement agencies.

"(2) RELEASE OF INFORMATION.— In accessing a system referred to in paragraph (1), the Administrator shall be subject to the same conditions and procedures established by the Department of Justice or the State for other governmental agencies with access to the system.

"(3) LIMITATION.—The Administrator may not use the access authorized under paragraph (1) to conduct criminal investigations.

"(b) DESIGNATED EMPLOYEES.—The Administrator shall designate, by order, employees of the Administration who shall carry out the authority described in subsection (a). The designated employees may—

"(1) have access to and receive criminal history, driver, vehicle, and other law enforcement information contained in the law enforcement databases of the Department of Justice, or any jurisdiction of a State, in the same manner as a police officer employed by a State or local authority of that State who is certified or commissioned under the laws of that State;

"(2) use any radio, data link, or warning system of the Federal Government, and of any jurisdiction in a State, that provides information about wanted persons, be-on-the-lookout notices, warrant status, or other officer safety information to which a police officer employed by a State or local authority in that State who is certified or commission under the laws of that State has access and in the same manner as such police officer; or

"(3) receive Federal, State, or local government communications with a police officer employed by a State or local authority in that State in the same manner as a police officer employed by a State or local authority in that State who is commissioned under the laws of that State.

"(c) SYSTEM OF DOCUMENTED CRIMINAL JUSTICE INFORMATION DEFINED.—In this section, the term 'system of documented criminal justice information' means any law enforcement database, system, or communication containing information concerning identification, criminal history, arrests, convictions, arrest warrants, wanted or missing persons, including the National Crime Information Center and its incorporated criminal history databases and the National Law Enforcement Telecommunications System.".

(b) CLERICAL AMENDMENT.—The analysis for chapter 401 is amended by adding at the end the following:

"40130. FAA access to criminal history records or databases systems.".

SEC. 804. CLARIFICATION OF AIR CARRIER FEE DISPUTES.

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

(1) in the section heading by striking "**air carrier**" and inserting "**carrier**";

(2) in subsection (a) by striking "(as defined in section 40102 of this title)" and inserting "(as such terms are defined in section 40102)";

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

(4) in the heading for paragraph (2) of subsection (d) by striking "AIR CARRIER" and inserting "AIR CARRIER AND FOREIGN AIR CARRIER";

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

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

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

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

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

SEC. 805. STUDY ON NATIONAL PLAN OF INTEGRATED AIRPORT SYSTEMS.

(a) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the Secretary of Transportation shall initiate a study to evaluate the formulation of the National Plan of Integrated Airport Systems (in this section referred to as the "plan") under section 47103 of title 49, United States Code.

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

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

(2) The changes in airport capital needs between fiscal years 2001 and 2007, as reported in the plan, as compared with the amounts apportioned or otherwise made available to individual airports over the same period of time.

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

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

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

(c) REPORT TO CONGRESS.—

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

(2) CONTENTS.—The report shall include—

(A) the findings of the Secretary on each of the subjects listed in subsection (b);

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

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

SEC. 806. EXPRESS CARRIER EMPLOYEE PROTECTION.

(a) IN GENERAL.—Section 201 of the Railway Labor Act (45 U.S.C. 181) is amended—

(1) by striking "All" and inserting "(a) IN GENERAL.—All";

(2) by inserting "and every express carrier" after "common carrier by air"; and

(3) by adding at the end the following:

"(b) SPECIAL RULES FOR EXPRESS CARRIERS.—

"(1) IN GENERAL.—An employee of an express carrier shall be covered by this Act only if that employee is in a position that is eligible for certification under part 61, 63, or 65 of title 14, Code of Federal Regulations, and only if that employee performs duties for the express carrier that are eligible for such certification. All other employees of an express carrier shall be covered by the provisions of the National Labor Relations Act (29 U.S.C. 151 et seq.).

"(2) AIR CARRIER STATUS.—Any person that is an express carrier shall be governed by paragraph (1) notwithstanding any finding that the person is also a common carrier by air.

"(3) EXPRESS CARRIER DEFINED.—In this section, the term 'express carrier' means any person (or persons affiliated through common control or ownership) whose primary business is the express shipment of freight or packages through an integrated network of air and surface transportation.".

(b) CONFORMING AMENDMENT.—Section 1 of such Act (45 U.S.C. 151) is amended in the first paragraph by striking ", any express company that would have been subject to subtitle IV of title 49, United States Code, as of December 31, 1995,,".

SEC. 807. CONSOLIDATION AND REALIGNMENT OF FAA FACILITIES.

(a) ESTABLISHMENT OF WORKING GROUP.—Not later than 9 months after the date of enactment of this Act, the Secretary of Transportation shall establish within the FAA a working group to develop criteria and make recommendations for the realignment of services and facilities of the FAA to assist in the transition to next generation facilities and to help reduce capital, operating, maintenance, and administrative costs in instances in which cost reductions can be implemented without adversely affecting safety.

(b) MEMBERSHIP.—The working group shall be composed of, at a minimum—

(1) the Administrator of the FAA;

(2) 2 representatives of air carriers;

(3) 2 representatives of the general aviation community;

(4) 2 representatives of labor unions representing employees who work at field facilities of the FAA; and

(5) 2 representatives of the airport community.

(c) REPORT TO CONGRESS CONTAINING RECOMMENDATIONS OF THE WORKING GROUP.—

(1) SUBMISSION.—Not later than 6 months after convening the working group, the Administrator shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report containing the criteria and recommendations developed by the working group under this section.

(2) CONTENTS.—The report shall include a justification for each recommendation to consolidate or realign a facility or service and a description of the costs and savings associated with the consolidation or realignment.

(d) PUBLIC NOTICE AND COMMENT.—The Administrator shall publish the report submitted under subsection (c) in the Federal Register and allow 45 days for the submission of public comments. In addition, the Administrator upon request shall hold a public hearing in a community that would be affected by a recommendation in the report.

(e) OBJECTIONS.—Any interested person may file with the Administrator a written objection to a recommendation of the working group.

(f) REPORT TO CONGRESS CONTAINING RECOMMENDATIONS OF THE ADMINISTRATOR.—Not later than 60 days after the last day of the period for public comment under subsection (d), the Administrator shall submit to the committees referred to in subsection (c)(1) a report containing the recommendations of the Administrator on realignment of services and facilities of the FAA and copies of any public comments and objections received by the Administrator under this section.

(g) LIMITATION ON IMPLEMENTATION OF REALIGNMENTS AND CONSOLIDATIONS.—The Administrator may not realign or consolidate any services or facilities of the FAA before the Administrator has submitted the report under subsection (f).

(h) FAA DEFINED.—In this section, the term "FAA" means the Federal Aviation Administration.

SEC. 808. TRANSPORTATION SECURITY ADMINISTRATION CENTRALIZED TRAINING FACILITY FEASIBILITY STUDY.

(a) STUDY.—The Secretary of Homeland Security shall carry out a study on the feasibility of establishing a centralized training center for advanced security training by the Transportation Security Administration.

(b) CONSIDERATIONS.—In conducting the study, the Secretary shall take into consideration the benefits, cost, equipment, and building requirements for a training center and whether the benefits of establishing a center would be an efficient process for training transportation security officers.

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

SEC. 809. GAO STUDY ON COOPERATION OF AIRLINE INDUSTRY IN INTERNATIONAL CHILD ABDUCTION CASES.

(a) STUDY.—The Comptroller General shall conduct a study to help determine how the Federal Aviation Administration (in this section referred to as the "FAA") could better ensure the collaboration and cooperation of air carriers and foreign air carriers providing air transportation and relevant Federal agencies to develop and enforce child safety control for adults traveling internationally with children.

(b) CONTENTS.—In conducting the study, the Comptroller General shall examine—

(1) the nature and scope of exit policies and procedures of the FAA, air carriers, and foreign air carriers and how the enforcement of such policies and procedures is monitored, including ticketing and boarding procedures;

(2) the extent to which air carriers and foreign air carriers cooperate in the investigations of international child abduction cases, including cooperation with the National Center for Missing and Exploited Children and relevant Federal, State, and local agencies;

(3) any effective practices, procedures, or lessons learned from the assessment of current practices and procedures of air carriers, foreign air carriers, and operators of other transportation modes that could improve the ability of the aviation community to ensure the safety of children traveling internationally with adults and, as appropriate, enhance the capability of air carriers and foreign air carriers to cooperate in the investigations of international child abduction cases; and

(4) any liability issues associated with providing assistance in such investigations.

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

SEC. 810. LOST NATION AIRPORT, OHIO.

(a) APPROVAL OF SALE.—The Secretary of Transportation may approve the sale of Lost Nation Airport from the city of Willoughby, Ohio, to Lake County, Ohio, if—

(1) Lake County meets all applicable requirements for sponsorship of the airport; and

(2) Lake County agrees to assume the obligations and assurances of the grant agreements relating to the airport executed by the city of Willoughby under chapter 471 of title 49, United States Code, and to operate and maintain the airport in accordance with such obligations and assurances.

(b) TREATMENT OF PROCEEDS FROM SALE.—The Secretary may grant to the city of Willoughby an exemption from the provisions of sections 47107 and 47133 of such title, any grant obligations of the city of Willoughby, and regulations and policies of the Federal Aviation Administration to the extent necessary to allow the city of Willoughby to use the proceeds from the sale approved under subsection (a) for any purpose authorized by the city of Willoughby.

SEC. 811. POLLOCK MUNICIPAL AIRPORT, LOUISIANA.

(a) FINDINGS.—Congress finds that—

(1) Pollock Municipal Airport located in Pollock, Louisiana (in this section referred to as the "airport"), has never been included in the National Plan of Integrated Airport Systems pursuant to section 47103 of title 49, United States Code, and is therefore not considered necessary to meet the current or future needs of the national aviation system; and

(2) closing the airport will not adversely affect aviation safety, aviation capacity, or air commerce.

(b) REQUEST FOR CLOSURE.—

(1) APPROVAL.—Notwithstanding any other provision of law, requirement, or agreement and subject to the requirements of this section, the Administrator of the Federal Aviation Administration shall—

(A) approve a request from the town of Pollock, Louisiana, to close the airport as a public airport; and

(B) release the town from any term, condition, reservation, or restriction contained in a surplus property conveyance or transfer document, and from any order or finding by the Department of Transportation on the use and repayment of airport revenue applicable to the airport, that would otherwise prevent the closure of the airport and redevelopment of the facilities to nonaeronautical uses.

(2) CONTINUED AIRPORT OPERATION PRIOR TO APPROVAL.—The town of Pollock shall continue to operate and maintain the airport until the Administrator grants the town's request for closure of the airport.

(3) USE OF PROCEEDS FROM SALE OF AIRPORT.—Upon the approval of the request to close the airport, the town of Pollock shall obtain fair market value for the sale of the airport property and shall immediately upon receipt transfer all such proceeds from the sale of the airport property to the sponsor of a public airport designated by the Administrator to be used for the development or improvement of such airport.

(4) RELOCATION OF AIRCRAFT.—Before closure of the airport, the town of Pollock shall provide adequate time for any airport-based aircraft to relocate.

SEC. 812. HUMAN INTERVENTION AND MOTIVATION STUDY PROGRAM.

(a) IN GENERAL.—Not later than 6 months after the date of enactment of this Act, the Administrator of the Federal Aviation Administration shall develop a human intervention and motivation study program for flight crewmembers involved in air carrier operations in the United States under part 121 of title 14, Code of Federal Regulations.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as may be necessary for each of fiscal years 2008 through 2011. Such sums shall remain available until expended.

SEC. 813. WASHINGTON, D.C., AIR DEFENSE IDENTIFICATION ZONE.

(a) SUBMISSION OF PLAN TO CONGRESS.—Not later than 90 days after the date of enactment of this Act, the Administrator of the Federal Aviation Administration, in coordination with Secretary of Homeland Security and Secretary of Defense, shall submit to the Committee on Transportation and Infrastructure of the House of Rep-

resentatives and the Committee on Commerce, Science, and Transportation of the Senate a plan for the Washington, D.C., Air Defense Identification Zone.

(b) CONTENTS OF PLAN.—The plan shall outline specific changes to the Washington, D.C., Air Defense Identification Zone that will decrease operational impacts and improve general aviation access to airports in the National Capital Region that are currently impacted by the zone.

SEC. 814. MERRILL FIELD AIRPORT, ANCHORAGE, ALASKA.

(a) IN GENERAL.—Notwithstanding any other provision of law, including the Federal Airport Act (as in effect on August 8, 1958), the United States releases, without monetary consideration, all restrictions, conditions, and limitations on the use, encumbrance, or conveyance of certain land located in the municipality of Anchorage, Alaska, more particularly described as Tracts 22 and 24 of the Fourth Addition to the Town Site of Anchorage, Alaska, as shown on the plat of U.S. Survey No. 1456, accepted June 13, 1923, on file in the Bureau of Land Management, Department of Interior.

(b) GRANTS.—Notwithstanding any other provision of law, the municipality of Anchorage shall be released from the repayment of any outstanding grant obligations owed by the municipality to the Federal Aviation Administration with respect to any land described in subsection (a) that is subsequently conveyed to or used by the Department of Transportation and Public Facilities of the State of Alaska for the construction or reconstruction of a federally subsidized highway project.

SEC. 815. WILLIAM P. HOBBY AIRPORT, HOUSTON, TEXAS.

It is the sense of Congress that the Nation—

(1) supports the goals and ideals of the 1940 Air Terminal Museum located at William P. Hobby Airport in the city of Houston, Texas;

(2) congratulates the city of Houston and the 1940 Air Terminal Museum on the 80-year history of William P. Hobby Airport and the vital role of the airport in Houston's and the Nation's transportation infrastructure; and

(3) recognizes the 1940 Air Terminal Museum for its importance to the Nation in the preservation and presentation of civil aviation heritage and recognizes the importance of civil aviation to the Nation's history and economy.

PURPOSE OF LEGISLATION

The bill, as amended, reauthorizes programs of the Federal Aviation Administration ("FAA") and makes a number of changes in aviation laws to increase the safety, efficiency, and capacity of the aviation system.

BACKGROUND AND NEED FOR LEGISLATION

The Airport Improvement Program ("AIP") is funded by contract authority that is provided in FAA authorizing legislation, rather than in annual appropriations acts. Therefore, if the AIP is not reauthorized, airports will not be able to receive any grants from the Airport and Airways Trust Fund ("Trust Fund") after September 30, 2007. This sets AIP apart from the other programs funded from the Trust Fund. While the other programs should be reauthorized as well, they can receive funding if an appropriations act is passed.

Programs providing Federal aid to airports began in 1946 and have been modified several times. The Trust Fund was created in 1970. The current AIP program began in 1982.

AIP is funded entirely by the Trust Fund. The Trust Fund, in turn, is supported entirely by the following taxes on aviation users:

- 7.5 percent passenger ticket tax;
- $3.40 passenger flight segment fee (does not apply to passengers departing from rural airports which are defined as those that have less than 100,000 passengers per year);
- 6.25 percent freight waybill tax;
- $15.10 international departure and arrival taxes;
- 7.5 percent frequent flyer award tax; and

- Aviation fuel taxes as follow: 4.3 cents on commercial aviation; 19.3 cents on general aviation gasoline; and 21.8 cents on general aviation jet fuel.

The Trust Fund receipts totaled $10.6 billion at the beginning of fiscal year (FY) 2006 ($11.1 billion including interest), with approximately $5.5 billion of this total derived from the 7.5 percent passenger ticket tax. The FAA estimates that, under the current tax structure, FY 2008 receipts will equal approximately $12.1 billion.

In addition to AIP, the Trust Fund also fully funds the FAA's Facilities and Equipment (F&E) and Research, Engineering, and Development (RE&D) accounts. The Trust Fund also partially pays for the salaries, expenses, and operations of the FAA. The Trust Fund share of the FAA Operations account varies from year to year depending on Trust Fund forecasted receipts and the amount spent on AIP, F&E and RE&D. Although most of the FAA's budget is derived from the Trust Fund, it also receives funding from the General Fund. The size of the General Fund contribution has varied significantly over time. Over the past 20 years (1988–2007), the General Fund contribution has averaged 25 percent of the FAA's total budget. Over the past 10 years (1998–2007), it has averaged 18 percent.

In 2007, FAA programs received the following amounts from the Trust Fund:

- AIP—$3.5 billion;
- F&E—$2.5 billion;
- FAA Operations—$5.6 billion from the Trust Fund (the remaining $2.7 billion of the $8.3 billion FAA operating budget comes from the General Fund); and
- RE&D—$130 million.

TRUST FUND PROCEDURAL PROTECTIONS

The Airport and Airway Trust Fund was created in 1970 to provide a stable long-term source of funding to develop our nation's airports and air traffic control system. The concept was that taxes would be imposed on users of the system, particularly airlines and their passengers, and general aviation. The revenues from users would be placed in a Trust Fund where they would be used promptly and exclusively for improvements in aviation infrastructure.

Problems developed with this mechanism in the 1980s. Because the revenues and expenditures of the Trust Fund are part of the overall budget, if the Trust Fund does not spend all of its revenues the "surplus" helps offset deficits in the rest of the general budget. As a result, chronic underfunding of critical investment in aviation infrastructure occurred. The uncommitted balance in the Trust Fund continued to grow, reaching a peak of $7.7 billion in 1991. This meant that there were billions of dollars in the Trust Fund unused even though there were significant needs to expand airport capacity and modernize the air traffic control system. The Trust Fund surplus was reduced by spending more Trust Fund money on FAA Operations, despite formulas in the law that intended to give priority to the capital programs.

For many years, the Committee on Transportation and Infrastructure ("Committee") and the aviation community sought to en-

sure that the money aviation users paid into the Trust Fund would actually be used for aviation infrastructure improvements. In the 1980s and 1990s, legislation was introduced to take the aviation trust fund off budget, but none was enacted.

In 1999, another effort was launched to unlock the Trust Fund. This effort culminated in the enactment of the Wendell H. Ford Aviation Investment and Reform Act for the 21st Century ("AIR 21") (P.L. 106–181) on April 5, 2000. While the Trust Fund remained on budget, AIR 21, through a series of procedural points of order, ensured that every dollar aviation users pay into the Trust Fund was actually invested in aviation programs.

AIR 21 required: (1) that the total amount available for spending from the Trust Fund each year is equal to the Trust Fund receipts plus interest as estimated by the President's budget for that year; and (2) that the total spending on the two major capital programs (AIP and F&E) must be at authorized levels. If an appropriations bill is brought to the House or Senate floor that does not meet these two requirements, any Member can make a point of order against it and the bill may not be considered in that form.

The AIR 21 funding guarantees were subsequently extended in Vision 100—the Century of Aviation Reauthorization Act ("Vision 100") (P.L. 108–176). Since AIR 21's enactment, aviation infrastructure investment has increased dramatically. AIP increased from $1.95 billion in 2000 to $3.5 billion in 2007 and F&E increased from $2 billion to $2.5 billion.

The Trust Fund share of FAA's Operations account varies from year to year depending on Trust Fund receipts and the amount invested in capital programs. Under AIR 21 and Vision 100, the Trust Fund share is calculated by subtracting from total estimated Trust Fund receipts and interest, the amount invested in the capital programs (AIP, F&E, and RE&D).

AIP FORMULA

There are approximately 19,847 airports in the United States. Of those, 5,261 are open to the public. The FAA's National Plan of Integrated Airport System ("NPIAS") identifies 3,431 airports that are significant to the national aviation system, and therefore are eligible for AIP grants. The NPIAS also includes a five-year estimate of the amounts of AIP investment needed to bring these airports up to current design standards and add capacity to congested airports. NPIAS airports account for 100 percent of passenger enplanements. In addition, 92 percent of all general aviation aircraft are based at these airports, and 98 percent of the population resides within 20 miles of these airports.

AIP grants are distributed by formulas that are set forth in the law. These formulas are described below.

Entitlements

The law divides AIP money into two broad categories: entitlement funds and discretionary funds. Entitlement funds are further divided into four sub-categories. They are—

Primary airport entitlements;
Cargo airport entitlements;
State and general aviation entitlements; and
Alaskan airport entitlements.

Primary airport entitlement

Regardless of the number of passengers boarded, the minimum entitlement of a primary, commercial service airport is $650,000 per year ($1,000,000 per year if AIP is at least $3.2 billion). Larger airports can receive a passenger entitlement as high as $26 million per year. There are 382 primary airports and 114 cargo airports that qualify for these entitlements.

To receive the entitlement, an airport must have a project, such as a runway, terminal, or noise abatement project that is eligible for AIP funding under the law. An airport can retain the right to receive its entitlement money for three years (four years in the case of smaller airports that are classified as non-hub airports). Entitlement money deferred to a later year is referred to as carryover entitlement.

Cargo airport entitlement

Cargo service airports include airports that: (1) are served by cargo-only (freighter) aircraft with a total annual landed weight of more than 100 million pounds; and (2) other airports that the Department of Transportation ("DOT") finds will be served primarily by freighter aircraft. These airports are entitled to share money that equals 3.5 percent of total AIP funds. A cargo service airport shares in this money in proportion to which the total landed weight of cargo-only aircraft landing at an airport is to the total landed weight of such aircraft at all cargo service airports. Landed weight means the weight of aircraft transporting only cargo under regulations prescribed by the Secretary of Transportation ("Secretary").

State apportionment/general aviation entitlement

General aviation airports receive 20 percent of total AIP funds. These airports are airports that are used by private planes or that have only limited commercial airline service (less than 10,000 passengers per year).

Each general aviation airport is entitled to receive the amount of money needed for their planned development as listed in the FAA's NPIAS. The amount of this entitlement is limited to $150,000 per year per airport.

The remaining money is allocated to the States by a formula that takes into account the population and area of each State. General aviation airports that are seeking AIP money from this allocation usually apply directly to the FAA. Some States require their airports to channel their AIP applications through the State aviation agency. The FAA then decides which airports will get the money. Eight States (Illinois, Michigan, Missouri, North Carolina, Pennsylvania, Tennessee, Texas, and Wisconsin) participate in the State Block Grant program. Under this program, the FAA gives the State aviation agency more responsibility to manage its AIP allocation and the State, not the FAA, decides which general aviation airports will receive grants. States that participate in the State Block Grant program do not receive more funding but they do get more control over how it is distributed to airports in their State.

Alaska entitlement

By law, Alaskan airports are entitled to receive at least the same amount of money that they received in 1980, i.e., $10.5 million. If

total AIP funding is at least $3.2 billion in a year, that amount is doubled.

DISCRETIONARY FUNDING

The FAA, at its own discretion, can invest any funds remaining after entitlements are funded. However, this discretionary fund is subject to three set-asides.

Noise/environment

The law sets aside 35 percent of AIP discretionary funds for noise/environmental projects.

Military airports

Under the military airport program ("MAP"), FAA selects 15 current or former military airports (including at least one general aviation airport) to share in a set-aside, which is equal to four percent of the discretionary fund. The purpose of the MAP program is to increase overall system capacity by promoting joint civilian-military use of military airports or by converting former military airports to civilian use.

Discretionary

After the entitlements and set-asides are funded, the remaining money can be invested at FAA's discretion. These funds are often referred to as "pure discretionary" AIP money. Seventy-five percent of these discretionary funds must be invested in airport projects that will enhance capacity, safety, or security, or that will reduce noise.

PASSENGER FACILITY CHARGE

In 1990, the Committee became concerned that AIP alone would not be able to meet the future infrastructure needs of U.S. airports. Consequently, the Omnibus Budget Reconciliation Act of 1990 (P.L. 101–508) permitted an airport to assess a fee on passengers. This fee is known as the passenger facility charge ("PFC"). PFCs are collected by the airlines and paid directly to the airport. They are intended to supplement AIP by providing more funding for runways, taxiways, terminals, gates, and other airport improvements.

The 1990 law limited the PFC to $3.00. AIR 21 increased the PFC cap to $4.50. No airport may charge a PFC of more than $4.50 per passenger and no passenger has to pay more than $18 in PFCs per round-trip regardless of the number of airports through which the passenger connects. No airport can charge a PFC until the FAA approves it.

The FAA has approved PFCs at 365 airports and 332 were collecting fees as of May 2007. Last year, airports collected approximately $2.6 billion of PFCs. This year, airports expect to collect approximately $2.7 billion of PFCs.

If a medium or large hub airport charges a $3.00 PFC, it must forego up to 50 percent of its AIP passenger entitlement. If it charges more than $3.00, it must forego 75 percent of its AIP passenger entitlement. The foregone entitlements go into a special small airport fund to be distributed as follows:

50 percent to non-hub airports;

25 percent to general aviation airports;

12.5 percent to small hub airports;
and 12.5 percent to the discretionary fund.

As of September 1, 2007, 229 small hub, non-hub, and commercial service airports were approved to receive the maximum level of PFC, and 52 medium and large hubs were approved to receive the maximum PFC. The Committee continues to support the PFC program.

AIR SERVICE TO UNDERSERVED AIRPORTS

The Committee continues to be concerned about air service to small- and medium-sized airports. Section 203 of AIR 21, codified at section 41743 of title 49, United States Code, included a pilot program to make grants to small communities to help them bolster their air service referred to as the Small Community Air Service Development ("SCASD") program. This program was extended in Vision 100.

ESSENTIAL AIR SERVICE (EAS) PROGRAM

The EAS program was created in 1978 to ensure that no communities lost air service as a result of the Airline Deregulation Act. It provides subsidies to commuter airlines to provide service to small communities where there are not enough passengers to operate profitably. Under the EAS program, DOT establishes a minimum level of air service for each of the eligible airports. The minimum level is usually two round-trips per day to a medium or large hub airport using 15–seat or larger aircraft. Eligible communities are those communities that were listed on an airline's certificate when the Airline Deregulation Act was passed. The cost of this program has increased from $22.9 million in 1996 to more than $109 million in 2007.

H.R. 2881, THE "FAA REAUTHORIZATION ACT OF 2007"

H.R. 2881, the "FAA Reauthorization Act of 2007", provides historic funding levels for the FAA capital programs. Between FY 2008 and FY 2011, the bill provides $15.8 billion for the AIP, and nearly $13 billion for F&E. These robust funding levels will enable the FAA to modernize the air traffic control ("ATC") system and make capacity enhancing improvements at our nation's airports. In addition, the FAA Reauthorization Act of 2007 also provides $37.2 billion for FAA Operations over the next four years.

To combat inflation and to help airports meet increased capital needs, the FAA Reauthorization Act of 2007 increases the PFC cap from $4.50 to $7.00. According to the FAA, if every airport currently collecting a $4.00 or $4.50 PFC raised its PFC to $7.00, it would generate approximately $1.1 billion in additional revenue for airport development each year.

The FAA Reauthorization Act of 2007 rejects the Administration's proposal to cut funding for the EAS program by more than one-half, to $50 million, and instead increases the total amount authorized for EAS each year from $127 million to $133 million (including $50 million derived from overflight fees). To improve the quality of air service received by EAS communities, the bill authorizes the Secretary to incorporate financial incentives into EAS contracts based on specified performance goals. To encourage in-

creased air carrier participation, the bill authorizes the Secretary to enter into long-term EAS contracts that would provide more stability for participating air carriers. In contrast to the Administration's proposal to sunset the SCASD program on September 30, 2008, the bill extends the program through FY 2011, at the current authorized funding level of $35 million per year.

The FAA Reauthorization Act of 2007 contains several environmental-related provisions, many safety provisions (including an increase in aviation safety inspectors), and increased funding, authority, accountability, and oversight of ATC modernization and Next Generation Air Transportation System ("NextGen").

SUMMARY OF THE LEGISLATION

Sec. 1. Short title; table of contents

This section provides that the short title of the Act is the "FAA Reauthorization Act of 2007" and sets out the table of contents for the bill.

Sec. 2. Amendments to title 49, United States Code

This section provides that, except where otherwise expressly provided, any references to sections are made to title 49, United States Code ("USC").

Sec. 3. Effective date

This section provides that, unless otherwise expressly provided, the amendments made by this Act are effective only to fiscal years beginning after September 30, 2007.

TITLE I—AUTHORIZATIONS

Subtitle A—Funding of FAA Programs

Sec. 101. Airport planning and development and noise compatibility planning and programs

This section authorizes the following amounts for the FAA's AIP: $3.8 billion for FY 2008; $3.9 billion for FY 2009; $4.0 billion for FY 2010; and $4.1 billion for FY 2011.

Sec. 102. Air navigation facilities and equipment

Subsection (a) authorizes the following amounts for the FAA's F&E account: (1) $3.12 billion for FY 2008; (2) $3.246 billion for FY 2009; (3) $3.259 billion for FY 2010; and (4) $3.353 billion for FY 2011. Subsection (b) authorizes some of these funds to be used for: the development of wake vortex mitigation systems; the development of in-flight and ground based weather mitigation systems; and the development and implementation of safety management systems ("SMS"). Runway incursion reduction programs are funded from F&E at $8 million for FY 2008, $10 million for FY 2009, and $12 million for FY 2010 and FY 2011. Runway status light acquisition and installation is funded at $15 million for FY 2008, $27 million for FY 2009, $12 million for FY 2010 and $20 million for FY 2011.

The Committee strongly encourages the development of the SMS at the FAA and throughout the industry. The FAA should use the funds specified above for the development of data analysis tools, as

well as analysis, rulemaking, and other initiatives both within the FAA and in partnership with industry. The FAA should also make every effort to extend the benefits of SMS to part 135 organizations.

Sec. 103. FAA operations

Subsection (a) authorizes the following amounts for the FAA Operations Account: $8.726 billion for FY 2008; $8.978 billion for FY 2009; $9.305 billion for FY 2010; and $9.59 billion for FY 2011. Subsection (b) authorizes the Air Traffic Control Collegiate Training Initiative and the Aviation Safety Reporting System for such sums as may be necessary. Subsection (c) authorizes $4 million in FY 2008 and $6 million in each of fiscal years 2009 through 2011 to be appropriated to the Secretary, out of the Trust Fund, to fund airline data collection and analysis by the Bureau of Transportation Statistics in DOT's Research and Innovative Technology Administration.

Sec. 104. Funding for aviation programs

This section continues the points of order established in AIR 21 in 2000. It also modifies the method for determining Trust Fund revenues for a year, which is the basis against which aviation spending is measured. Under existing law, the revenue target is taken exclusively from the estimates included in the President's Budget. There may be a variation between these estimates and actual revenues.

Section 104 modifies the statutory formula to make available from the Trust Fund an amount equal to 95 percent of the estimated revenues, rather than 100 percent, until the actual level of revenues received for that year is known. Once actual revenues are known, a "look back" adjustment compares the actual revenues received by the Trust Fund to the amounts made available from the Trust Fund for that year, and the difference between the two is applied as an adjustment to the amount made available from the Trust Fund for the current budget year. The bill includes this change to have the amount spent from the Trust Fund better reflect actual revenues.

Subtitle B—Passenger Facility Charges

Sec. 111. PFC authority

This section provides for an increase in the PFC from the current maximum of $4.50 to $7.00, a change that reflects not only the impacts of inflation since the last statutory increase, but is also intended to help airports meet increased capital needs identified in the FAA's latest NPIAS. This section continues the pilot program for PFC collection at non-hub airports and also changes the word "fee" to "charge" throughout subtitle VII of title 49, United States Code.

Sec. 112. PFC eligibility for bicycle storage

To facilitate intermodal access to airports by bicycle, this section expands PFC eligibility to include secure bicycle storage facilities. It also requires the FAA to submit a report to Congress on the

progress being made by airports to install bicycle parking for both airport customers and employees.

Sec. 113. Noise compatibility projects

This section authorizes the Secretary to permit PFCs to be used for school sound mitigation in certain school districts. For some schools, sound insulation and other retrofitting of existing buildings may not provide meaningful noise relief, and a new building must be constructed. This section defines eligible project costs for any new construction as limited to the difference in cost between constructing to ordinary building code standards for schools and the cost of incorporating noise mitigation features in the construction.

Sec. 114. Intermodal ground access project pilot program

Under current law, PFCs may be used to fund intermodal ground access projects and facilities only if they are on airport property and dedicated 100 percent to airport use. This section creates a pilot program allowing up to five airports to use PFCs to fund ground access projects applying more flexible standards currently in place for airport revenue funding of these projects, i.e., that these projects are on airport property and are "directly and substantially" related to airport use. In addition, the amount of PFC revenues that can be dedicated to these projects is constrained by limiting the percentage of total project costs that may be funded by PFCs to the percentage of individuals using the project to gain access to the airport.

Sec. 115. Impacts on airports of accommodating connecting passengers

This section requires the Secretary to study the costs imposed by originating and destination ("O&D") passengers on an airport compared with the cost imposed by connecting passengers. It also requires the Secretary to report the results of the study to Congress within one year, and to recommend any appropriate changes to the PFC program, including whether different levels of PFCs should be imposed on connecting passengers and O&D passengers.

Subtitle C—Fees for FAA Services

Sec. 121. Update on overflights

This section directs the Administrator of the FAA ("Administrator") to update, by October 1, 2008, the overflight fee rates that are currently charged to operators of aircraft that fly in U.S.-controlled airspace, but neither take off nor land in the United States, to ensure that the fees reflect the FAA's current cost of providing services to such flights. These fees were initially authorized by the Federal Aviation Reauthorization Act of 1996 (P.L. 104–264), and the rates currently in effect are identical to those originally established by the FAA's Final Rule on Overflight Fees, dated August 20, 2001.

Sec. 122. Registration fees

This section requires the Administrator to impose fees to pay for the costs of 11 listed activities in the areas of certification and reg-

istration, including registering or replacing an aircraft registration; issuance of aircraft certificates; issuance of special registrations; recording security interests; replacing or issuing airman certificates; and legal opinions for aircraft registration or recordation.

Fees collected under this section shall, subject to appropriation made in advance, be credited as offsetting collections to the account that finances the activities and services for which the fee is imposed.

The initial fee rates specified in this section reflect the FAA's current costs of providing each service. The FAA shall periodically adjust the fees established in this section when cost data reveal that the cost of providing the service is higher or lower than the cost data that were used to establish the fee then in effect.

A conforming change is made to section 45302 of title 49, United States Code. Existing authority to collect certain similar fees pursuant to section 45302 is limited to any period in which a fee for the same service or activity is not imposed under section 45305.

Subtitle D—AIP Modifications

Sec. 131. Amendments to AIP definitions

Subsection (a) makes several amendments to section 47102 to update and add terms that are used in AIP. The first amendment conforms the definition of airport development relating to firefighting and rescue equipment with a recent final rulemaking for airport certification requirements for airports serving scheduled air carrier operations in aircraft designed for more than nine (not 20 as in current law) passenger seats but less than 31 passenger seats; broadens the definition of airport development to include mobile fuel truck containment systems at a non-primary airport, if such systems are required by Environmental Protection Agency ("EPA") rule; and adds a reference to the definition of "terminal development" as part of technical amendments to consolidate several statutory provisions relating to terminal development. In addition, this section adds as an eligible use of AIP funds the acquisition and installation of facilities and equipment to provide air conditioning, heating or electric power from terminal-based, non-exclusive use facilities to aircraft parked at an airport to reduce emissions and energy consumption.

Subsection (b) allows AIP funds to be used to develop an environmental management system. Subsection (c) adds a definition of "general aviation airport". Subsection (d) adds a definition of "revenue producing aeronautical support facilities", which is referenced in section 47110 (allowable project costs), to authorize nonprimary airports to use their entitlements to build or rehabilitate new facilities that can help generate revenue. The expansion of the definition allows more flexibility to build these facilities. Subsection (e) adds a definition of "terminal development" consistent with current statutory provisions.

Sec. 132. Amendments to grant assurances

This section changes two provisions related to required grant assurances (section 47107) for AIP projects. First, a limited exception is allowed to permit an airport owner to use AIP entitlement funds to move or replace a facility when the need to relocate or replace

it is beyond the owner's control (such as new design standards that render the facility a safety hazard), a change from current law that requires the airport owner to bear the full cost of such a relocation.

Second, language is added dealing with the disposition of proceeds from the sale of land that an airport acquired for a noise compatibility purpose, but no longer needs for that purpose. Current law requires that the Federal government's proportional share of the sale proceeds be reinvested in an approved noise compatibility project at that airport, if prescribed by the Secretary, or returned to the Trust Fund for reinvestment in other airport development or airport planning projects. This change further prescribes the use of the Government's share of the proceeds, giving priority, in descending order, to the following: reinvestment in another noise compatibility project at the airport; reinvestment in another environmentally related project at the airport; reinvestment in another otherwise eligible AIP project at the airport; transfer to another public airport for a noise compatibility project; and finally, payment to the Trust Fund.

Sec. 133. Government share of project costs

This section makes a change to current requirements for the Federal Government's matching share of AIP projects costs. In general, current law (section 47109) provides that the Federal share of project costs is 75 percent at a large or medium hub airport; not more than 90 percent for a project funded under the State Block Grant program; and 90 percent at any other airport. A special rule is added to allow for small hub airports that have increased operations and are reclassified as medium hub airports to retain, for two years, their eligibility for up to a 90 percent Federal share of project costs, instead of the 75 percent Federal share of project costs otherwise required for medium hubs.

In addition, subsection (f) adds a special rule to reduce the local share of project costs from 10 percent to five percent for certain economically distressed communities. To be eligible under this special rule, a community must be receiving subsidized air service under the EAS program and have one of the following economic conditions, as determined by the Secretary of Commerce: (1) a per capita income of 80 percent or less of the national average; (2) an unemployment rate that is at least one percent greater than the national average; or (3) a special need arising from actual or threatened severe unemployment or economic adjustment problems. These economic criteria are the same criteria used by the Economic Development Administration of the U.S. Department of Commerce to determine eligibility for assistance under economic development programs.

Sec. 134. Amendments to allowable costs

Current law (section 47110) provides that most AIP-eligible projects lose their grant eligibility if development work has been undertaken before an AIP grant is awarded. Because most FAA AIP discretionary grants are awarded between July and September (after FAA determines how much AIP entitlement funding can be converted temporarily to discretionary grants within that fiscal year), this end-of-Federal-fiscal-year timing disadvantages AIP-eligible projects in States that have shorter construction seasons than

other parts of the nation. Subsection (a) amends section 47110(b)(2) by adding a new subparagraph (E) that extends project grant eligibility until the end of the fiscal year in which work begins on otherwise AIP-eligible projects costs if the Secretary determines that: the cost was incurred before the execution of the grant agreement due to a short construction season; the cost is in accordance with an airport layout plan approved by the Secretary; the sponsor notifies the Secretary before authorizing work to commence on the project; and the sponsor's decision to proceed with the project in advance of a grant agreement does not affect its priority for allocation of funds.

Subsection (b) adds a new subsection (d) to section 47110 relating to the relocation of airport-owned facilities, making such relocation an allowable cost if: the Government's portion will be paid with AIP funds apportioned to the airport sponsor; the Secretary determines the relocation or replacement is due to a change in design standards; and the Secretary determines the change is beyond the sponsor's control. This provision is similar to a change made to the grant assurances section, as noted above.

According to the FAA, this section is necessary to correct discrimination between sponsor-owned facilities that must be relocated and facilities owned by third parties. The current eligibility rules permit AIP funds to pay for the relocation or reconstruction of facilities that must be moved to meet FAA design standards if they are owned by third parties. If the facilities are owned by the airport sponsor, only demolition costs may be paid for with AIP. The FAA states that there is no reason to differentiate between AIP eligibility based on ownership of the facilities, as long as the facilities meet FAA design standards that were in effect at the time the facilities were first constructed.

Subsection (c) clarifies that while nonprimary airports may use AIP funds for revenue-producing aeronautical facilities, such use is limited to the construction of those facilities.

Sec. 135. Uniform certification training for airport concessions under disadvantaged business enterprise program

Current law (section 47107(e)) requires that before the Secretary may approve an airport project grant application, the airport must make written assurances that the airport owner or operator will take necessary action to ensure to the maximum extent practicable at least ten percent of all businesses at the airport are small businesses owned and operated by socially and economically disadvantaged individuals defined by section 47113(a) (or are qualified HubZone Small Businesses as defined in section 3(p) of the Small Business Act). This section requires the Secretary to establish, not later than one year after the date of enactment, a mandatory program to train airport owners and operators on how to properly certify whether a small business in airport concessions qualifies as a small business concern owned and operated by socially and economically disadvantaged individuals. Twenty-four months after the date of enactment, the Secretary shall submit a report to Congress on the results of the training program.

Congress has long been concerned about the need to remedy discrimination against businesses owned by women and minorities in aviation-related industries. Toward this end, Congress enacted and

has maintained a disadvantaged business enterprise program (49 U.S.C. 47107(e)) for airports receiving AIP project grants. This program currently applies both to airport contracting activities and to airport concessions arrangements. The bill retains these provisions of current law because, notwithstanding some progress, both current discrimination and the present day effects of past discrimination are still prevalent in airport contracting. The Committee has collected a number of highly detailed disparity studies documenting such discrimination from airports (and other transportation agencies with similar contracting needs) from across the country and is receiving new studies as they are identified and produced. These studies contain both statistical and anecdotal evidence and demonstrate that, in every region of this country, minority- and women-owned contractors vital to airport construction and operation confront discrimination. The studies represent extensive and compelling evidence that the disadvantaged business enterprise program is still needed to address discrimination in aviation-related contracting.

The Committee has paid careful attention to the constitutional litigation that has surrounded minority contracting programs, in general, and the DOT's Disadvantaged Business Enterprise ("DBE") program, in particular. The Committee notes that DOT has worked diligently to craft regulations, found in 49 CFR parts 23 and 26, to ensure that the DBE program and the Airport Concessions Disadvantaged Business program are narrowly tailored to address discrimination against small, socially and economically disadvantaged businesses. Among other things, these regulations require the use of race-neutral mechanisms to level the playing field and only allow the use of race-conscious mechanisms when race-neutral mechanisms alone are insufficient to level the playing field. The regulations also strictly prohibit quotas and require airports to both periodically reexamine any race-conscious goals utilized and submit their program goals to the FAA for review. In addition, the regulations ensure that white males who are socially and economic disadvantaged are permitted to participate in the program.

Sec. 136. Preference for small business concerns owned and controlled by disabled veterans

This section creates a preference for the use of disabled veteran-owned small businesses in carrying out airport development projects under the AIP program.

Sec. 137. Calculation of State apportionment fund

Currently, States are entitled to 20 percent of AIP funds for their general aviation airports and commercial service non-primary airports, which are distributed to States through the state apportionment program and directly to non-primary airports in those States through the non-primary entitlement program ("NPE"). This section separates the AIP state apportionment from the NPE program (which is kept intact as a separate program) and sets the state apportionment at 10 percent of total AIP funding. The NPE entitlement funding remains intact at $150,000 per airport. The bill also provides for a minimum state apportionment funding level of $300 million per year.

Sec. 138. Reducing apportionments

Airports that have high passenger volumes are in a position to make more money through a PFC rather than accepting AIP funding. Under current law (section 47114(f)), if a medium or large hub airport charges a PFC of $3.00 or less, it must forego up to 50 percent of its primary AIP entitlement. If one of these airports charges a fee greater than $3.00, it must forego 75 percent of its primary AIP entitlement. The foregone entitlements are turned back into the AIP program and divided between discretionary AIP (12.5 percent) and the Small Airport Fund (87.5 percent), which is distributed primarily to non-hub and general aviation airports. This section requires a large hub airport that charges a PFC greater than $4.50 to turn back 100 percent of its AIP primary entitlement funding.

Sec. 139. Minimum amount for discretionary fund

This section increases the minimum amount of the AIP discretionary fund and eliminates an obsolete formula. Current law sets that minimum at $148 million plus a calculated amount based on Letters of Intent prior to January 1, 1996. This section sets the minimum amount at $520 million. This increase is necessary to cover Letter of Intent commitments (approximately $280 million per year) and high priority safety and capacity projects (exclusive of the noise and environmental set-aside projects), which include statutorily mandated runway safety area improvement projects.

Sec. 140. Marshall Islands, Micronesia and Palau

This section reauthorizes a section in Vision 100 that makes the sponsors of airports located in the Republic of the Marshall Islands (RMI), the Federated States of Micronesia (FSM) and Palau eligible for AIP discretionary grants and funding from the Small Airport Fund. These three independent nations were formerly part of the Trust Territory of the Pacific Islands, a United Nations trusteeship administered by the United States Navy from 1947 to 1951 and by the United States Department of the Interior from 1951 to 1994. The United States subsequently entered into a Compact of Free Association with each of them, under which the United States recognizes them as sovereign nations, but maintains responsibility for their defense and provides certain financial assistance. In 2003, the Compacts for the RMI and FSM were renewed for 20 years. The Compact for Palau expires in 2009. All three of these nations have requested that their eligibility to receive AIP funds be extended.

Sec. 141. Use of apportioned amounts

This section amends section 47117 by changing the discretionary environmental set-aside from 35 percent of annual AIP discretionary to $300 million per year, an increase of $15 million over previous appropriations. This section also allows these AIP funds to be used for projects needed to comply with the requirements of the Clean Water Act.

Sec. 142. Sale of private airport to public sponsor

This section amends section 47133 (restriction on use of revenue) to facilitate the sale of a private airport, which has in the past received AIP funds for improvement projects, to a public entity such

as a State or local government. If a private owner wishes to dispose of the airport, a sale to a public sponsor usually benefits the airport through more stable and reliable ownership. Under current law, if an owner of a private airport sells to a public entity, the proceeds of the sale must be treated as airport revenue with all the restrictions that attach to such a characterization. While this protects airport revenue, it also prevents a private owner from recovering his or her own private capital that has been invested in the airport. In other words, current law treats the private owner's capital as if it were public and to be used only for airport purposes. By creating an exception to such treatment, this section facilitates these sales without undermining revenue diversion protections. Specifically, this section establishes three criteria that must be met for the private owner to be able to recover his or her own private capital from the sale proceeds: (1) the sale must be approved by the Secretary; (2) funding for the public sponsor's acquisition of the airport land is provided by the AIP or PFC programs; and (3) the private owner has repaid the remaining unamortized portion of any AIP grant made to that airport for purposes other than land acquisition, plus an amount equal to the Federal share of the current fair market value of any land acquired with an AIP grant made to that airport. The amendments made by this section are applicable to grant assistance provided to private airports on or after October 1, 1996.

Sec. 143. Airport privatization pilot program

Current law (section 47134) contains specific provisions for issuance of exemptions in connection with a transfer of airport operation to a private owner. This section authorizes the Secretary to exempt the selling airport sponsor from the revenue diversion prohibition if at least 75 percent of the scheduled air carriers at a primary airport approve of the sale or lease proceeds going "off-airport"—a 10 percent increase over the current 65 percent. Further, at non-primary airports, the exemption would also be based on approval of at least 75 percent of the based-aircraft owners—also a 10 percent increase over current law. It also would require approval of fee increases above the rate of inflation by 75 percent of the carriers serving the airport instead of 65 percent. Finally, it would terminate apportionment of both entitlement and discretionary AIP funds for airports that receive an exemption for privatization.

Sec. 144. Airport security program

This section increases the authorized funding level for an airport security program under section 47137 from $5 million to $8.5 million.

Sec. 145. Sunset of pilot program for purchase of airport development rights

Section 47138, enacted as part of Vision 100, established a pilot program (for a maximum of 10 airports) to allow grants to a State (or political subdivision of a State) to help purchase the development rights related to a privately owned, public use airport, so as to help keep an airport open and operating. The FAA states that this has not been a successful pilot program and this section sunsets the authority at the end of FY 2007.

Sec. 146. Extension of grant authority for compatible land use planning and projects by State and local governments

Section 47141, which was enacted as part of Vision 100, authorizes grants to States and local governments to support planning and projects with a goal of reducing non-compatible land uses around airports. Due to a slow start-up for the program, only two grants have been made to date. To test this concept further, this section extends this authority, now scheduled to sunset at the end of FY 2007, for four additional fiscal years.

Sec. 147. Repeal of limitations on Metropolitan Washington Airports Authority

This section repeals the limitations on the Metropolitan Washington Airports Authority, which oversees both Ronald Reagan Washington National Airport ("National Airport") and Washington Dulles International Airport, to apply for AIP grants and collect PFCs.

Sec. 148. Midway Island Airport

This section provides a four-year extension of the current Vision 100 authorization, now scheduled to expire October 1, 2007, for the Secretary to enter into a reimbursable agreement with the Secretary of the Interior to provide AIP discretionary funds (at a maximum level of $2.5 million per fiscal year) for airport development projects at Midway Island Airport. Midway Island is critical to the safety of flights over the Pacific Ocean.

Sec. 149. Miscellaneous amendments

This section makes a number of amendments to chapter 471 to update or clarify sections.

Subsection (a) makes technical changes to section 47103 regarding the NPIAS to remove obsolete language and update the section to conform to what the FAA is currently including in the NPIAS. For example, the NPIAS includes only categories of airports. The language in section 47103(a) that references "each airport" is deleted in favor of a reference to the "airport system". Similarly, further amendments to section 47103(a) reflect that the NPIAS does not try to forecast trends in other transportation sectors, but instead forecasts how airports connect to other modes of transportation (e.g., an airport and a transit system). Section 47103(b) is amended to delete two references that are obsolete: the NPIAS does not consider how tall structures reduce safety and capacity (that is done under a separate FAA order), and the NPIAS no longer takes into account Short/Takeoff and Landing operations. Finally, in section 47103(d), the language is clarified to state that the NPIAS must be published every two years, not just the "status" of the plan.

Subsection (b) adds veterans from the current Afghanistan/Iraq conflict to the definition of those veterans eligible for employment preference on AIP projects.

Subsection (c) consolidates in one section (47119), without substantive change, language on terminal development costs by moving the current text of 47110(d), regarding terminal development costs, to section 47119 as a new subsection (a), and re-designating the existing sections accordingly. This subsection also adds a new

subsection (f) to 47119, which caps at $20 million the amount of discretionary AIP funds that could support terminal development projects at nonhub or small hub primary airports. Today, there is no limit on the amount of discretionary funds that may be used on a terminal at non-hub airports. The FAA found that some communities and airports overbuild their terminals, but that a $20 million cap (after normalizing for inflation) allows an airport to build a suitable terminal building. This subsection does not preclude airports from supplementing a terminal project with PFCs, entitlement or local funds.

Subsection (d) conforms the requirements for the annual report on the AIP program to current practice as to timing for the submission of the report and its contents.

Subsection (e) corrects an inaccurate cross-reference in section 47139 (enacted by Vision 100), under which an airport is able to "bank" emissions credits when the airport does air quality work that is not required, but is "surplus." However, section 47139 references a section (47102(3)(F)), which is for required air quality work, not surplus work.

Subsection (f) makes a conforming amendment to section 46301 (FAA civil penalty assessment authority) to clarify that the FAA has civil penalty assessment authority regarding violations of section 46319, which was added by Vision 100 and provides for a $10,000 per day civil penalty for permanently closing an airport listed in the NPIAS, without 30 days notice to the FAA.

Subsection (g) makes other conforming amendments and technical corrections related to terminal development.

Subsection (h) removes restrictive language added by Vision 100 that was intended to address concerns over disposal of land due to particular military base closures occurring at that time. Removal of the obsolete restriction will add to the FAA's effort to support the conversion of unused military airports to civilian use.

Subsection (i) provides for a reference to updated versions of the FAA's Airport Capacity Benchmark reports (not just the original 2001 Report).

TITLE II—AIR TRAFFIC CONTROL MODERNIZATION

Subtitle A—Next Generation Air Transportation System

Sec. 201. Mission statement; sense of Congress

This section highlights the need for the Next Generation Air Transportation System ("NextGen") to accommodate the significant forecasted growth of aviation in the United States (approximately one billion U.S. passengers by 2015). This section also highlights the important safety, national security, and economic benefits of NextGen and stresses the need for a coherent, integrated long-term plan.

Sec. 202. Next Generation Air Transportation System Joint Planning and Development Office

This section elevates the Director of the Joint Planning and Development Office ("JPDO") to the status of Associate Administrator of the NextGen within the FAA. It will also make the Associate Administrator a voting member of the Joint Resources Council, the

FAA's decision-making body for major acquisitions. The FAA is also required to publish annually an Operational Evolution Partnership document that provides a description of how the FAA is implementing NextGen.

This section also requires NextGen partner agencies to designate senior officials responsible for carrying out NextGen activities at their respective agencies. In addition, the JPDO is required to develop an Integrated Work Plan that will outline the activities required by partner agencies to achieve NextGen. Further, this section requires the JPDO to coordinate NextGen activities with the Office of Management and Budget.

Sec. 203. Next Generation Air Transportation Senior Policy Committee

This section requires the NextGen Senior Policy Committee to meet at least twice each year. It also requires the Secretary to submit an annual report on the status of Cabinet agencies progress in implementing the NextGen Integrated Work Plan.

Sec. 204. Automatic Dependent Surveillance-Broadcast services

In 2007, the FAA is expected to award a contract for Automatic Dependent Surveillance-Broadcast ("ADS–B") services. The FAA intends to structure its ADS–B acquisition as a service contract, whereby the FAA plans to let vendors install, own and maintain the ground-based infrastructure. This section requires the FAA to submit a report detailing the Administration's plans and schedule for integrating ADS–B into the national airspace system. In addition, this section requires the FAA to insert provisions into the contract that protect the Government's interest. Specifically, this section mandates that the FAA insert contract provisions that: require the FAA's approval before the contract is assigned to or assumed by another entity, including any successor entity, subsidiary of the contractor, or other corporate entity; provide that the assets, equipment, hardware and software used in the performance of the contract be designated as critical national infrastructure for national security and related purposes; in the event of termination or material non-performance of the contract, require the contractor to provide continued broadcast services for a reasonable period until the provision of such services can be transferred to another vendor or to the Government; and permit the Government to acquire or utilize the assets, equipment, hardware and software necessary to assure the continued and uninterrupted provision of ADS–B services for reasonable compensation.

This section also requires an annual audit of the ADS–B program by the Department of Transportation Inspector General (DOT IG).

The Committee believes it is important to do research into human factors problems related to the integration of automatic dependent surveillance-broadcast (ADS–B) technology into the national airspace system. The Committee recommends the establishment of an ADS–B aviation working group composed of avionics engineers, pilots, flight instructors, air traffic controllers, scientists, and educators working in collaboration with NASA and FAA scientists to identify, or confirm, and resolve human factors problems related to ADS–B, such as pilot difficulties and errors.

Sec. 205. Inclusion of stakeholders in air traffic control modernization projects

This section requires the FAA to establish a process for including and collaborating with qualified employees selected by each impacted exclusive collective bargaining representative in the planning, development and deployment of air traffic control modernization projects, including NextGen. In addition, the FAA is required to report on the implementation of this section within six months.

Sec. 206. GAO review of challenges associated with transforming to the Next Generation Air Transportation System

This section requires the Government Accountability Office ("GAO") to conduct a study to evaluate current processes and acquisitions under air traffic control modernization, and assess collaboration and contributions of partner agencies working with the JPDO. GAO will also assess challenges to working with stakeholders, roadmaps, organizational structure, transitional planning, and any other issues of interest.

Sec. 207. GAO review of Next Generation Air Transportation System acquisition and procedures development

This section requires GAO to conduct a study to analyze acquisition of specific systems identified for implementation under NextGen, including: En Route Automation Modernization ("ERAM"); Standard Terminal Automation Replacement System/ Common Automated Radar Terminal System ("STARS/CARTS"); ADS–B; System Wide Information Management (SWIM); and Traffic Flow Management Modernization ("TFM–M"). The study should assess the progress and challenges relating to standards, regulations, and procedures for NextGen as well as required navigation performance, area navigation, the airspace management program and other relevant transformational needs. Reports should be submitted periodically to the congressional committees of jurisdiction.

Sec. 208. DOT Inspector General review of operational and approach procedures by a third party

This section requires the DOT IG to assess the FAA's reliance on third parties for development of new operational and approach procedures and determine the FAA's ability to provide oversight. It will also analyze whether the FAA can perform the same work safely without third party assistance.

Sec. 209. Expert review of enterprise architecture for Next Generation Air Transportation System

This section requires the National Research Council ("NRC") to review NextGen's technical blueprint, the Enterprise Architecture, to highlight the activities that will be necessary to transition successfully to NextGen, assess technical, cost and schedule risk for software development associated with NextGen, and include judgments on how such risks can be mitigated. The NRC shall report to the Administrator. The Administrator shall submit a report to Congress within one year of the date of enactment.

Sec. 210. NEXTGEN testbed

This section establishes a public-private partnership to explore airport-based testing for existing NextGen technologies. NextGen air traffic control integrated systems shall be installed at a site that serves a mix of general aviation and commercial aircraft for demonstration, operational research, and evaluation.

Subtitle B—Miscellaneous

Sec. 211. Clarification of authority to enter into reimbursable agreements

This section makes a minor change to section 106(m), to clarify the FAA's authority under that section (along with the FAA's broad contract authority under section 106(l)(6)) to enter into reimbursable interagency agreements). This change is necessary to correct any confusion resulting from language added to 106(m) by Congress after the terrorist attacks of September 11th. Congress added the last sentence in 106(m) to expressly allow FAA to provide services, equipment, etc. to other agencies "without reimbursement". This provision was intended, for example, to allow the FAA to provide services and personnel to the newly created Transportation Security Administration, without reimbursement. Such language was never intended to alter the FAA's pre-existing authority to enter into interagency agreements that required reimbursement. This section makes it clear that the FAA may perform work for other agencies "with or without" reimbursement.

Sec. 212. Definition of air navigation facility

This section updates and broadens the definition of an air navigation facility to clarify that F&E funding may be used for many capital expenses directly related to the acquisition or improvement of buildings, equipment and new systems related to the national airspace system and NextGen. In addition, certain NextGen-related acquisitions, such as a service contract to develop security protocols for the FAA's internet-like SWIM program, may not completely fit under the current definition of air navigation facilities.

Sec. 213. Improved management of property inventory

This section amends section 40110(a) to make it clear that the FAA's current authority to purchase and sell property needed for airports and air navigation facilities includes the authority to retain funds associated with disposal of property. Currently, because of costs associated with disposal (e.g., demolition, environmental audits, and asbestos abatement), some extraneous properties and equipment (e.g., non-directional beacons, radars, and outer markers) remain in the FAA's active inventory for long periods of time unnecessarily. Clarifying that the FAA has the authority to retain proceeds from the sale of property allows the FAA to cover the costs of disposal and facilitates shutting down extraneous equipment.

Sec. 214. Clarification to acquisition reform authority

This section repeals a provision of law that conflicts with the FAA's procurement reform authority that Congress granted the FAA in 1996. The FAA now has broad flexibility to use measures

other than competitive procedures in various compelling circumstances, e.g., in response to an emergency such as a hurricane or other natural or man-made disaster when there could be multiple sources of supply but there is insufficient time to run a competition. This section repeals more restrictive conflicting language that predated the 1996 reforms. Removing the conflicting language clarifies the FAA's ability to limit competition in response to an emergency, as noted above, or set-aside procurements for small businesses or disabled veteran-owned businesses or small businesses owned and controlled by socially and economically disadvantaged groups.

Sec. 215. Assistance to foreign aviation authorities

This section clarifies the FAA's current authority to provide air traffic services abroad, whether or not the foreign entity to which such services are provided is private or governmental, and that the FAA may participate in any competition to provide such services. It also clarifies that the Administrator may allow foreign authorities to pay in arrears rather than in advance, and that any payment for such assistance may be credited to the account from which the expenses were incurred in providing the services.

Sec. 216. Front line manager staffing

This section requires the Administrator to conduct a study on frontline manager staffing requirements in air traffic control facilities. The study shall take into consideration the number of supervisors in each facility, coverage requirements related to traffic, facility type, complexity of traffic and management, and proficiency and training required. The FAA Chief Operating Officer ("COO") for air traffic control shall receive any determinations resulting from the study. One year after the date of enactment, the Administrator shall submit to the congressional committees of jurisdiction the results of this study and a description of determinations submitted to the COO.

Sec. 217. Flight service stations

This section requires the FAA to establish a system to monitor the staffing of flight service stations and training of specialists, as well as any other safety or customer service issues relating to the vendor's performance of the contract. This section also requires the FAA to report on: the implementation of its monitoring system; any necessary changes to the contract to ensure safe, high quality service to consumers; and any contingency plans that the FAA has developed to ensure uninterrupted service.

TITLE III—SAFETY

Subtitle A—General Provisions

Sec. 301. Age standards for pilots

FAA's regulations include mandatory pilot retirement at age 60. This section allows pilots to serve in a multicrew part 121 operation until age 65. On international flights, pilots over the age of 60 may pilot the plane only if there is another pilot in the flight

deck crew who is under 60, in accordance with current International Civil Aviation Organization standards.

This provision does not apply to any person who has attained 60 years of age before the date of enactment of this section unless the person was, on the date of enactment, a required flight crew member or such person was hired by an air carrier as a pilot on or after enactment date without credit for prior seniority or benefits under any labor agreement or employment policies of the air carrier.

Any amendment to a labor agreement to conform to this provision shall be made by agreement of the air carrier and designated representative of the pilots and the air carrier. Pilots over the age of 60 must: (1) have a first-class medical certificate renewed every six months; (2) continue to participate in FAA pilot training and qualification programs administered by the air carrier to ensure continued acceptable levels of pilot skill and judgment; and (3) be administered a line check every six months. A line check is an evaluation conducted during line operation, administered by an FAA designated check pilot, who evaluates the pilot's airmanship abilities, skills, judgment, and adherence to standard operating procedures. However, for pilots serving as second in command, if he or she received and passed a simulator check during that same six month period, a line check during that period need not be conducted. Within two years of the date of enactment, the GAO shall report to congressional committees of jurisdiction concerning the effect, if any, on aviation safety of the modification to pilot age standards.

Sec. 302. Judicial review of denial of airman certificates

Since the early 1990s, the FAA has had authority to seek judicial review of National Transportation Safety Board ("NTSB") decisions that are issued under section 44709 and section 46301(d)(5) of title 49, United States Code, which involve orders of suspension and revocation, and civil penalties against airman. Current law does not allow the FAA to take an appeal for an NTSB decision for a denial of an airman certificate (49 USC 1153 cites section 44709 and section 46301, but not section 44703). This section adds corresponding authority to seek judicial review of NTSB decisions involving airman certificate denials.

Sec. 303. Release of data relating to abandoned type certificates and supplemental type certificates

Subsection (a) allows the FAA to make aircraft certification data relating to older aircraft available, upon request, to a person seeking to maintain the airworthiness of their aircraft, without the consent of the owner of record, if the FAA first determines that there has been no proprietary interest exercised over the data for three years, the type certificate owner has not been located, and that it enhances safety if the data were made available to aircraft operators to safely maintain and operate the aircraft. Subsection (b) extends the timeline for the FAA to begin to issue design organization certificates by one year from 2012 to 2013.

Sec. 304. Inspection of foreign repair stations

This section requires the FAA to certify to Congress not later than one year after the date of enactment, and annually thereafter,

that it has inspected each foreign repair station certificated under part 145 of the FAA's regulations at least twice in the preceding year.

Sec. 305. Runway incursion reduction

This section requires the Administrator to submit a report to Congress containing a plan for the installation and deployment of systems to alert controllers and/or flight crews to potential runway incursions. The runway incursion reduction plan shall be integrated into the Operational Evolution Partnership document.

Sec. 306. Improved pilot licenses

This section requires the Administrator to issue improved pilot licenses that are tamper-resistant, include a photograph, and are capable of accommodating a digital photograph, a biometric identifier, or any other unique identifier. The FAA is also required, to the extent practicable, to develop methods to determine whether a license has been tampered with, altered or counterfeited. In addition, the FAA may use designees to carry out this section, and must report every six months on the progress it has made issuing the improved licenses. This section is similar to section 4022 of the Intelligence Reform and Terrorism Prevention Act of 2004 (P.L. 108–796).

Sec. 307. Aircraft fuel tank safety improvement

This section requires the FAA to issue a final rule regarding the reduction of fuel tank flammability in transport category aircraft no later than December 31, 2007.

Sec. 308. Flight crew fatigue

This section requires the FAA to contract with the National Academy of Sciences ("Academy") to conduct a study on pilot fatigue. Not later than 18 months after initiating the study, the Academy shall submit the report to the Administrator, with recommendations governing flight limitations and rest requirements for pilots. The FAA is required to consider the findings of the Academy and update, where appropriate, its regulations with regard to flight time limitations and rest requirements for pilots. This section also mandates that the FAA initiate a process to carry out the recommendations of the Civil Aerospace Medical Institute regarding flight attendant fatigue.

Sec. 309. OSHA standards

This section requires the FAA Administrator, not later than six months after the date of enactment, to establish milestones with the Occupational, Safety, and Health Administration ("OSHA") Administrator to complete work begun to address issues related to the aircraft cabin work environment. The FAA is directed to issue a policy statement within two years to set forth the circumstances in which the requirements of OSHA apply to crewmembers while working in an aircraft cabin. The policy statement must provide for the establishment of a coordinating body that includes both FAA and OSHA representatives to examine the applicability of current and proposed OSHA regulations to FAA activities, recommend policies for FAA inspector training, and make recommendations to gov-

ern the inspection and enforcement by the FAA of occupational health standards on-board an aircraft. The policy statement shall ensure that standards adopted by the FAA clearly spell out the circumstances in which an employer is required to take action to address occupational safety and health standards, the measures required of an employer, as well as compliance obligations of an employer. The FAA shall report to Congress within six months after the date of enactment on the milestones established.

Sec. 310. Aircraft surveillance in mountainous areas

This section authorizes the FAA to establish a pilot program to improve safety and efficiency by providing surveillance for aircraft flying outside radar coverage in mountainous areas where radar surveillance may be obstructed.

In certain areas of the country, aircraft radar surveillance is obstructed by mountainous terrain. According to the FAA, the ability to provide surveillance coverage in these areas would greatly improve efficiency, arrival rates and safety.

For example, the Committee understands that the FAA has been working with the Colorado Department of Transportation ("CDOT") to develop and deploy technology that would provide surveillance to airports located in mountainous regions. In March 2006, the FAA and the CDOT completed an 18 month study identifying technological solutions to providing radar surveillance coverage at those airports. The study determined that the preferred solution is a cooperative surveillance system (i.e., it requires transponders on the aircraft and multiple sensors on the ground) called Wide Area Multilateration. The FAA initially prototyped Wide Area Multilateration in Juneau, Alaska, as part of the Capstone program, where it is expected to be fully operational in 2009.

The Committee believes that the implementation of Wide Area Multilateration has the potential to improve efficiency, arrival rates and safety. Therefore, the Committee encourages the FAA to continue to deploy technologies that will provide aircraft surveillance coverage in mountainous areas, such as Colorado, as well as other parts of the country.

Sec. 311. Off-airport, low-altitude aircraft weather observation technology

This section directs the Administrator to conduct, within one year of the date of enactment, a review of off-airport, low-altitude aircraft weather reporting needs, an assessment of technical alternatives (including automated weather observation stations), an investment analysis, and recommendations for improving weather reporting for these aircraft.

Subsection B—Unmanned Aircraft Systems

Sec. 321. Commercial unmanned aircraft systems integration plan

This section requires the Secretary to create a plan for the safe integration of commercial unmanned aircraft systems ("UAS") into the national airspace system. This plan shall consider technologies and research, provide recommendations for rulemaking, recommend how best to enhance technologies and subsystems to ensure safety, and recommend a realistic time-frame for UAS integra-

tion into the national airspace system as soon as possible, but no later than September 30, 2012. The plan is due to Congress within one year of the date of enactment, and rulemaking shall begin no later than eighteen months thereafter.

Sec. 322. Special rules for certain unmanned aircraft systems

This section requires, within six months of the date of enactment, an assessment of whether certain UAS may operate safely in the national airspace system prior to completion of the proposed rulemaking in section 321 and the guidance in section 323. This assessment must define the types of UAS allowed and determine how they will be regulated and safely operate in the national airspace system.

Sec. 323. Public unmanned aircraft systems

This section requires the Secretary, not later than nine months after the date of enactment, to issue guidance on the operation of public unmanned aircraft systems to expedite the issuance of the certificate of authorization process, provide a collaborative process with public agencies, and facilitate the capability of public agencies to develop and use test ranges.

Sec. 324. Definitions

This section defines terms relating to the use of UAS including: certificate of authorization; detect, sense, and avoid capability; public unmanned aircraft system; Secretary; test range; unmanned aircraft; and unmanned aircraft system.

TITLE IV—AIR SERVICE IMPROVEMENTS

Sec. 401. Monthly air carrier reports

This section requires the Secretary to collect and publish data pertaining to cancelled and diverted flights of air carriers. These reports will be published monthly and posted on the DOT website.

Sec. 402. Flight operations at Reagan National Airport

This section increases the beyond perimeter exempted slots at National Airport from 24 to 34, offset by a reduction of 10 slots within the perimeter that are currently available but unused. In addition, this section limits operations per hour to no more than 67 flights. Scheduling priorities are afforded to new entrant and limited incumbent air carriers for these beyond perimeter exemptions.

Sec. 403. EAS contract guidelines

This section requires the Secretary to include in the guidelines governing the rate of compensation payable under the EAS program provisions under which the Secretary may: (1) encourage air carriers to improve air service to EAS communities by incorporating in EAS contracts financial incentives based on specified performance goals; and (2) execute long-term EAS contracts to encourage air carriers to provide service to EAS communities if it is in the public interest to do so.

Sec. 404. Essential air service reform

This section increases the general fund authorization for the EAS program from $77 million to $83 million. This authorization is in addition to the $50 million currently authorized from the FAA's collection of overflight fees.

In addition, subsection (b) amends current law (section 41742) to allow overflight fees in excess of $50 million for a fiscal year to be available immediately for obligation and expenditure equally between the SCASD program and EAS.

Sec. 405. Small community air service

This section adds an additional factor that the Secretary shall consider in selecting communities for participation in the SCASD program. Under this section, in addition to the existing criteria for participation in the program, the Secretary shall give priority to multiple communities that cooperate to submit a regional or multistate application to improve air service. This section extends the authorization for the SCASD program, through fiscal year 2011, at the current authorized funding level of $35 million per year.

The Committee is sensitive to concerns that grants made under the SCASD program may be used by an airport operator to compete with existing private businesses providing aviation services at the airport. Before making a grant under section 41743 that would allow an airport operator to purchase fueling or other ground service equipment that would compete with, or replace, that of an existing aviation service provider already in service at the airport, the Secretary should consider the impact such a grant would have on the aviation service provider, and weigh that impact relative to the public interest that would be served by making the grant. In addition, if the Secretary determines that the SCASD program review currently being conducted by the DOT IG, or any other SCASD program reviews conducted in the future, demonstrate that such grants do not improve the quality of air service available to the community, then the Secretary should not make such grants in the future.

Sec. 406. Air passenger service improvements

This section creates a new chapter 423 in title 49, United States Code, entitled Air Passenger Service Improvements. Except where otherwise specified, the requirements of chapter 423 shall begin to apply 60 days after the date of enactment.

New section 42301, Emergency Contingency Plans, requires that no later than 90 days after the date of enactment, air carriers participating in commercial air transport at medium or large hub airports and each operator of a medium or large hub airport will file emergency contingency plans with the Secretary for review and approval. These plans must detail how the air carrier will provide food, water, restroom facilities, cabin ventilation, and medical treatment for passengers on-board an aircraft that is on the ground for an extended period of time without access to the terminal. The plans must also detail how facilities and gates will be shared. The Secretary is required to review and approve each plan submitted as well as any updates to those plans. Air carriers must update their plans every three years and airports must update their plans every five years.

New section 42302, Consumer Complaints, requires the Secretary to establish and publicize a consumer complaints hotline number for the DOT Aviation Consumer Protection Division.

New section 42303, Use of Insecticides on Passenger Aircraft, requires that no air carrier, foreign air carrier, or ticket agent can sell a ticket for a flight on which an insecticide is planned to be used in the aircraft while passengers are on-board the aircraft unless the air carrier, foreign air carrier, or ticket agent first informs the person purchasing the ticket of the planned use of the insecticide, including the name of the insecticide.

Sec. 407. Contents of competition plans

Current law (section 47106(f)(2)) requires that no PFC or AIP grant be approved for a covered airport unless the airport has submitted to the Secretary a written competition plan. The competition plan requirement has resulted in the adoption by airports of many practices that reduce barriers to entry by new air carriers and expansion by smaller carriers, and enhance competitive access. However, covered airports have complained that providing information on patterns of air service and comparative airfare levels is burdensome, and essentially compels covered airports to feed DOT's data back to the FAA. This section eliminates those requirements because the information is publicly available. Furthermore, according to FAA officials, DOT and FAA staffs who review competition plans do not use fare and schedule data to evaluate whether an AIP grant or PFC should be approved. Rather, they review each airport's lease terms, such as the length of leases, use-or-lose provisions, gate sharing requirements; the availability of vacant gates; and policies on assisting new entrants to gain access to the airports to make such determinations.

Sec. 408. Extension of competitive access reports

Vision 100 required large and medium hub airports to file semiannual competition disclosure reports with the Secretary ("competitive access" reports) before receiving approval of an AIP grant, if the airport was unable to accommodate an airline's request for facility access. The report must explain the reason for the lack of accommodation and provide a timeframe for accommodation. The competitive access report requirement terminates on October 1, 2008; this section extends the current sunset provision for competitive access reports until October 1, 2012.

771Sec. 409. Contract tower program

Subsection (a) provides a special rule for air traffic control towers that are transitioning from the FAA's Contract Tower Program (under which the cost of operating the tower is fully funded by the FAA), and the FAA's Contract Tower Cost-Sharing Program (under which the local airport pays the portion of the costs that exceeds the benefits of operating the tower). Specifically, subsection (a) provides that, if the Secretary determines that an air traffic control tower that is already operating under the FAA's Contract Tower Program falls below a benefit-to-cost ratio of 1.0, then the sponsor of the airport at which the tower is located shall not be required to pay the portion of the costs that exceeds the benefit for a period of 18 months after such determination is made.

Subsection (a) also provides that, if the Secretary finds that all or part of an amount made available to carry out the fully-funded Contract Tower Program is not required during a fiscal year, the Secretary may use such excess funds to carry out the Contract Tower Cost-Sharing Program.

Subsection (b)(1) provides that, of the amount appropriated for FAA Operations, not more than $8.5 million for FY 2008, $9 million for FY 2009, $9.5 million for FY 2010, and $10 million for FY 2011, may be used to carry out the Contract Tower Cost-Sharing Program.

Subsection (b)(2) provides that, if the Secretary finds that all or part of an amount made available to carry out the Contract Tower Cost-Sharing Program is not required during a fiscal year, the Secretary may use such excess funds to carry out the fully-funded Contract Tower Program.

Subsection (c) increases the maximum Federal share of the cost of new contract tower construction from $1.5 million to $2 million.

Subsection (d) requires the Secretary to establish uniform standards and requirements for contract tower safety audits.

Sec. 410. Airfares for members of the Armed Forces

This section states that it is the sense of Congress that each U.S. air carrier should establish for all members of the Armed Services on active duty, reduced air fares that are comparable to the lowest airfare for ticketed flights; and offer flexible terms that allow for such members to purchase, modify, or cancel tickets without time restrictions, fees and penalties.

Sec. 411. Medical oxygen and portable respiratory assistive devices

This section requires the Secretary to issue a final rule by December 31, 2007, regarding carriage and use of passenger-owned portable electronic respiratory assistive devices and other medical oxygen devices aboard commercial flights.

TITLE V—ENVIRONMENTAL STEWARDSHIP AND STREAMLINING

Sec. 501. amendments to air tour management program

This section makes several changes to section 40128 that governs commercial air tour operations over national parks. This section exempts parks with 50 or fewer annual air tour flights, with a provision for the National Park Service ("NPS") Director to withdraw an exemption on a park-specific basis based on concerns regarding the protection of park resources or visitor experiences. This section also allows that the Director and the Administrator may enter into a voluntary agreement with a commercial air tour operator as an alternative to an air tour management plan. This section provides more flexibility to the FAA and NPS to increase the number of operations or allow new entrant air tour operators under interim operating authority conditions before an air tour management plan has been established at a park. The additional interim operating flexibility includes considerations by NPS of the environmental impacts on park resources and by the FAA of impacts on aviation safety and the air traffic control system. This section also includes

a reporting requirement by commercial air tour operators regarding to the number of commercial air tours over parks.

Sec. 502. State Block Grant Program

This section codifies current practice that State participants in the AIP State Block Grant Program (i.e., Illinois, Michigan, Missouri, North Carolina, Pennsylvania, Tennessee, Texas and Wisconsin) have the responsibility and authority to comply with environmental requirements for projects at non-commercial service airports within the State Block Grant program, and that other Federal agencies must recognize State environmental review analyses for Federal approvals, licenses, or permits related to these projects. This section also makes a minor change to section 47128(a) by replacing the term "regulations" with "guidance" because the FAA has issued guidance in the form of the AIP Handbook, 5100.38. This is a ministerial change and does not impact the State Block Grant program or the Secretary's ability to place requirements on the States under section 47128.

Sec. 503. Airport funding of special studies or reviews

Vision 100 codified the FAA's authority to enter into reimbursable agreements with airport sponsors to fund additional FAA staff and/or contract support (using airport funds or AIP funds received by the airport) to help streamline environmental reviews for airport capacity projects. This section broadens this authority by allowing FAA to accept such funds from airport sponsors to conduct special environmental studies for ongoing federally funded airport projects, or studies to support approved airport noise compatibility measures or environmental mitigation commitments in an agency record of decision or a finding of no significant impact.

Sec. 504. Grant eligibility for assessment of flight procedures

This section encourages the implementation of environmentally-beneficial aircraft flight procedures at airports by supporting, with AIP assistance, the environmental review of airport-proposed procedures that are approved by the FAA under 14 CFR part 150, Airport Noise Compatibility Planning. This section also allows the FAA to accept funds, including AIP/PFC funds, from an airport sponsor to hire staff or obtain services to provide environmental reviews for new flight procedures that have been approved for airport noise compatibility planning purposes.

Sec. 505. CLEEN engine and airframe technology partnership

This language adds a new section to chapter 475 to direct the FAA to enter into a cooperative agreement using a competitive process, with an institution, entity, or eligible consortium to carry out a program for the development, maturing and certification of continuous lower energy, emissions and noise ("CLEEN") engine and airframe technology for aircraft over the next ten years. The performance objectives for the program are to: decrease greenhouse gas emissions by increasing fuel efficiency by 25 percent; decrease nitrogen oxide emissions by 50 percent without producing other gaseous or particle emissions; reduce noise levels by ten decibels; explore the viability of alternative fuels in aircraft systems; and determine the feasibility of retrofit or re-engine aircraft technologies.

Annual status reports are required until the completion of the program.

Sec. 506. Prohibition on operating certain aircraft weighing 75,000 pounds or less not complying with stage 3 noise levels

This section requires that after December 31, 2012, all civil subsonic jet aircraft under 75,000 pounds must meet stage 3 noise levels within the 48 contiguous states, with some exceptions for temporary operations.

Sec. 507. Environmental mitigation pilot program

This section authorizes a new pilot program to allow the FAA to fund six environmental mitigation demonstration projects at public-use airports to take promising environmental research concepts that have been proven in the laboratory into the airport environment. Eligible projects should show whether the technology could measurably reduce or mitigate aviation impacts on noise, air quality or water quality in the airport environment. Grants will be awarded to eligible consortia based on greatest reductions in aircraft noise, airport emissions, or water quality impacts; if it utilizes innovative concepts; or demonstrates a technique or technology for environmental mitigation is practical or capable. The Federal share of the project is 50 percent, not to exceed $2.5 million per project. Information shall be developed and published to include program results and "best practices" for reducing or mitigating aviation impacts on noise, air quality, or water quality in the vicinity of airports.

Sec. 508. Aircraft departure queue management pilot program

This section authorizes a pilot program at five public-use airports to design, develop, and test new air traffic flow management technology to better manage the flow of aircraft on the ground and reduce ground holds and idling times for aircraft. Airports will be selected based on the greatest fuel savings or air quality measured by the amount of reduced fuel and emissions per dollar of funds expended under the pilot program. The Secretary shall submit a report to congressional committees of jurisdiction within three years after the date of enactment to assess the program's greatest fuel savings and air quality benefits and any impacts to safety, capacity, or efficiency of the air traffic or airport operations. The report must also include an assessment of benefits and a plan for implementation at other airports. Not more than $5 million per airport may be allocated for this pilot project.

Sec. 509. High performance and sustainable air traffic control facilities

This section requires the FAA, to the maximum extent possible, to implement environmentally-beneficial practices for new construction and major renovation of air traffic control facilities of amounts appropriated for the FAA's F&E account, such sums as may be necessary may be used for this program.

The Committee encourages the FAA to replace or retrofit existing support equipment at air traffic control facilities with equipment that seeks to achieve lower emissions and higher operating efficiency, including hydrogen and fuel cell energy systems. Further,

the Committee encourages the FAA to improve the energy efficiency, cost effectiveness, reliability and environmental performance of standby and backup power systems at air traffic control facilities through the use of alternative energy technology like hydrogen and fuel cell systems.

Sec. 510. Regulatory responsibility for aircraft engine noise and emissions standards

This section directs the Administrator to arrange for the National Academy of Public Service or other independent entity to review, with input from the EPA and the FAA, where regulatory responsibility for engine noise and emissions standards should reside. The review shall consider: interrelationships between aircraft engine noise and emissions and the need to evaluate and address them in an integrated manner; which organization has the scientific expertise to evaluate the impact of such noise and emissions on the environment; which organization has the expertise to interface environmental performance with ensuring the highest levels of safety and reliability in engine performance of aircraft in flight; consistency with mission and regulatory authority; effectiveness in carrying out past aviation environmental responsibilities; and international responsibility to represent engine noise and emissions standards for civil aviation. The FAA shall submit the report to Congress within six months of the date of enactment. If a jurisdictional transfer is recommended, this report shall include a description of steps and a timeline for transfer.

Sec. 511. Production of alternative jet fuel technology for civil aviation

This section requires the Secretary to establish a research program related to developing jet fuel from alternative sources through grants or other measures. The program shall include participation by educational and research institutions. Further, the Administrator shall designate an institution as a Center of Excellence for Alternative Jet Fuel Research.

TITLE VI—FAA EMPLOYEES AND ORGANIZATION

Sec. 601. Federal Aviation Administration personnel management system

The section amends section 40122(a)(2) to modify the dispute resolution process for proposed changes to the FAA personnel management system, and replaces it with a new dispute resolution process. Subsection (a) of this section requires that if the FAA and one of its bargaining units do not reach agreement, the services of the Federal Mediation and Conciliation Service (FMCS) shall be used or the parties may agree to an alternative dispute resolution procedure. If mediation between the parties with the assistance of the FMCS is unsuccessful, bargaining impasses shall be submitted to binding interest arbitration before a three-person board appointed under authority of the Federal Service Impasses Panel (FSIP). The arbitration board would have 90 days from the date of appointment to render a decision. The parties would be bound by the decision issued by the arbitration board. If an agreement is reached voluntarily or at the conclusion of arbitration, the final agreement (other

than those matters decided by the arbitration board), would be subject to employee ratification and agency head review under 5 USC Chapter 71. This section also clarifies that U.S. District Courts would have jurisdiction to enforce the requirements of this section.

Subsection (b) of this section would apply the new dispute resolution process to the ongoing dispute between the National Air Traffic Controllers Association (NATCA) and the FAA. Specifically, the changes implemented by the FAA on and after July 10, 2005, under the old statute, would be null and void and the parties will be governed by their last mutual agreement. In addition, FAA and NATCA are required to resume negotiations until a new contract is adopted. If an agreement is not reached within 45 days after negotiations resume, then the dispute would be governed by the new dispute resolution process under subsection (a), including the 90 day limit for the arbitration board to render a final decision.

Subsection (c) is a savings clause that prohibits the FAA from reversing any cost of living adjustments, lump sum payments or leave and other benefits under the implemented changes, unless the reversal is calculated as part of the back pay calculation in subsection (d). The Administrator shall waive any overpayment to former employees. Subsection (d) would make affected employees eligible for back pay, subject to the availability of appropriations, not to exceed $20 million.μ Subsection (e) states that if an interim agreement is reached between the FAA and NATCA before the date of enactment, then the new agreement shall supersede any changes implemented by the Administrator, and subsections (b) and (d) shall not take effect.

The Committee strongly believes that air traffic controllers were treated unfairly in 2006, when FAA broke off contract negotiations, refused to submit the remaining issues to arbitration, and imposed FAA's own terms on pay and benefits. Many of our colleagues on both sides of the aisle agreed. When legislation to send the dispute to arbitration was brought to the Floor of the House in June 2006, the vote was 271 to 148 in favor; an overwhelming majority but eight votes short of the two-thirds needed under the special procedures under which the bill was considered. Moreover, the amendment offered to add section 601 was adopted by an overwhelming majority during Committee consideration of the bill. The vote was 53 to 16.

Following the failed contract negotiations in April 2006, the FAA imposed its terms on the controllers, including a reduction of 30 percent in the pay bands, which define the maximum and minimum pay for controllers at a facility. These terms resulted in about 95 percent of the controllers having pay in excess of the maximum for their band. FAA's proposal was that these controllers would have their pay frozen for five years and would not receive government-wide cost of living increases in their base pay. When inflation is considered, these controllers would be making about 16 percent less in 2011 than in 2006. In addition, there were other reductions in various forms of pay received by the controllers.

It is clear that FAA's unilateral imposition of wages, hours, and other terms and conditions of employment has had a harmful impact on the controller workforce, including major morale problems and an acceleration of retirements. Since the end of fiscal year

2006, veteran controllers have been retiring at the rate of more than three a day.

The Committee believes that it is highly important that there be a fair resolution of the controllers' concerns. The best technology in the world will not improve our air traffic control system if the workforce operating this technology is distracted by resentments over unfair treatment or if the system is dangerously understaffed due to accelerating retirements. The Committee does not want a repeat of the disaster of 1981, when rigid Administration policies led to morale problems which festered for years, culminating in a strike and the firing of most of the controller workforce.

The Committee leadership devoted substantial time and energy to determine if a voluntary agreement could be reached for a new contract between FAA and the controllers. Several meetings were held with all of the parties and they have had extensive negotiations with each other. Regrettably, there are basic disagreements on principle that made it virtually impossible for there to be a voluntary agreement.

The FAA seemed determined to begin negotiations for a new contract in 2011 at pay bands below those which were in effect in 2006. FAA apparently believes that controllers are overpaid on the basis of comparisons with military controllers, who have substantially less responsibility, and with other FAA employees who have important responsibilities, but do not have to make instant decisions, which if made incorrectly could cost hundreds of lives.

The FAA's attitudes are not surprising when we recall that, during the negotiations in 2005 to 2006, FAA undertook an extensive public relations campaign to convince the general public that controllers were overpaid. The Committee is not aware of any other instance in which a Federal Government agency has tried to stir up public resentment against its employees.

The controllers, on the other hand, while willing to negotiate, could not agree to a package that would leave most controllers with lower salaries in 2011, after adjustment for inflation, than in 2006. The controllers' unwillingness to accept these reductions is strengthened by their belief that these reductions are unnecessary when the transition to a less experienced controller workforce over the next five years (mainly due to retirements) means that FAA could restore most of the pay cuts made in 2006, without increasing its total expense for controllers.

Accordingly, the Committee believes that what is needed now is independent, third-party arbitration to resolve this dispute, as well as any disputes that may arise with other FAA bargaining units.

Sec. 602. MSPB remedial authority for FAA employees

This section gives the Merit Systems Protection Board the same remedial authority it had over employee appeals since March 31, 1996.

Sec. 603. FAA technical training and staffing

Subsection (a) requires the GAO to study FAA systems specialists training to include: type of training they have; type of training they should have; FAA actions to ensure adequate training; vendor costs for training; FAA costs for training; costs of travel for training; and a recommendation on the best and most cost-effective ap-

proach to training FAA systems specialists. The study is due within one year of the date of enactment to the congressional committees of jurisdiction.

Subsection (b) requests a study by the National Academy of Sciences to assess FAA assumptions and methods used to determine FAA systems specialist staffing needs to ensure proper maintenance and certification of the national airspace system. The study will suggest improvements or a new staffing model as well as assess costs and time needed to develop such a model. The report to Congress is due one year after contracted.

Sec. 604. Designee program

This section requires the GAO to conduct a follow-up report within 18 months of the date of enactment, regarding the FAA response to recommendations made in GAO's October 2004 report on designee programs, including an assessment of improvements made to the designee programs since the report and any further action the GAO recommends to manage and increase assurances that designees meet the Administrator's performance standards.

Sec. 605. Staffing model for aviation safety inspectors

The section requires the FAA to develop a staffing model for aviation safety inspectors by October 31, 2009, following the recommendations outlined in the 2007 Staffing Standards for Aviation Safety Inspectors report issued by the National Academy of Sciences. The FAA shall consult with stakeholders including the exclusive representative of the aviation safety inspectors in developing the model. Such sums as necessary are authorized to carry out this section.

Sec. 606. Safety critical staffing

This section directs the Administrator to increase the number of Aviation Safety Inspectors in the FAA's Flight Standards Service. In addition, the Administrator is directed to increase the number of related support staff to the levels necessary to ensure the most efficient use of these inspectors. The Committee believes these increases in the inspector workforce are needed to address safety-critical workload demands. To carry out this section, the following amounts are authorized to be appropriated in addition to amounts authorized under section 103: $58 million for FY 2008, $134 million for FY 2009, $170 million for FY 2010, and $208 million for FY 2011. Upon completion of the aviation safety inspector staffing model, pursuant to section 605, such sums as may be necessary to support the number of positions that such model determines are required, are authorized to be appropriated.

Sec. 607. Center for Excellence in aviation employment

This section requires the FAA to develop a Center for Excellence focused on research and training of aviation employees.

Sec. 608. FAA air traffic controller staffing

This section directs the FAA to enter into an arrangement with the National Academy of Sciences to conduct a study of the assumptions and methods used by the FAA to estimate staffing needs for FAA air traffic controllers. The Academy shall consult with the

exclusive bargaining representative of the affected FAA employees, the FAA Administrator, and the Civil Aerospace Medical Institute. The report shall include recommendations for objective staffing standards based on current and future projected air traffic levels, and estimates of the cost and schedules for developing such standards. The study would also include human factors considerations relevant to air traffic control performance. The Academy shall transmit a report not later than 18 months after the date of enactment to the appropriate committees of jurisdiction.

Sec. 609. Assessment of training programs for air traffic controllers

This section requires the Administrator to conduct a study to assess the adequacy of training programs for air traffic controllers. The study shall include a review of the current training system for air traffic controllers, an analysis of the competencies required of controllers under the current air traffic control environment, an analysis of the competencies that will be required under the NextGen, and an analysis of various training approaches available to satisfy these competencies. The Administrator shall submit to Congress, within 180 days of enactment, a report on the results of this study.

Sec. 610. Collegiate Training Initiative study

This section requires the Administrator to conduct a study on training options for graduates of the Collegiate Training Initiative ("CTI") under section 44506(c). The study must review the impact of providing a new controller orientation session for such graduates followed by on-the-job training for newly hired air traffic controllers. The study must analyze the cost effectiveness of this alternative training approach as well as the effect that such alternative training would have on the overall quality of training received by CTI graduates. The study is required to be submitted to the congressional committees of jurisdiction 180 days after the date of enactment.

TITLE VII—AVIATION INSURANCE

Sec. 701. General authority

Current law (section 44302(f)), initially added by section 1202 of the Homeland Security Act of 2002, as amended by P.L. 110–5 requires the FAA, for insurance that was in effect on November 25, 2002, to provide U.S. airlines aviation insurance until September 30, 2007, from the first dollar of loss at capped premium rates. Subsection (a) extends this requirement until September 30, 2011. This requirement then becomes discretionary until September 30, 2017. Subsection (b) requires that, after December 31, 2017, such insurance be provided instead by an airline industry sponsored risk-sharing arrangement approved by the Secretary. Premiums collected by the Secretary from the airlines from September 22, 2001, through December 31, 2017, shall be transferred to such airline industry risk-sharing arrangement.

Sec. 702. Extension of authority to limit third party liability of air carriers arising out of acts of terrorism

Current law (section 44303(b)) allows the Secretary to limit an airline's third-party liability to $100 million and also prohibits punitive damages against either an airline or the Federal government for any cause resulting from a terrorist event. This section extends the expiration date of this authority, which expires on September 30, 2007, to December 31, 2012.

Sec. 703. Clarification of reinsurance authority

This section makes a minor clarifying change to the reinsurance section in title 49, United States Code, to restore a phrase that was altered during the recodification of the aviation portion of title 49 to ensure that the DOT may, as a risk mitigation technique, purchase reinsurance from commercial reinsurers to supplement payment of claims from the aviation insurance revolving fund.

Sec. 704. Use of independent claims adjusters

Section 44308 provides that the FAA may use commercial insurance carriers to underwrite insurance and adjust claims. This clarifying amendment adds language to section 44308(c)(1) to provide explicit authority for the FAA to have the option to use claims adjusters independent of an insurance underwriting agent. Having the flexibility to use an independent claims adjuster should, depending on the circumstances of a claim, avoid potential conflict of interest between a commercial insurance company acting as a claims adjuster for the FAA and its role as a provider of other insurance to an airline. It could also expedite claims both in the United States and foreign jurisdictions.

Sec. 705. Extension of program authority

This section extends the basic authority of the Secretary to provide insurance and reinsurance under chapter 443 of title 49 from March 30, 2008, to September 30, 2017.

TITLE VIII—MISCELLANEOUS

Sec. 801. Air carrier citizenship

This section further clarifies the term "actual control" as it pertains to the definition of a "citizen of the United States." This provision states that an air carrier shall not be deemed to be under the "actual control" of U.S. citizens unless U.S. citizens control all matters pertaining to the business and structure of the air carrier, including operational matters such as marketing, branding, fleet composition, route selection, pricing and labor relations.

In 2005, the Bush administration, in an administrative proposal, attempted to accommodate the demands of the European Union for additional foreign control of U.S. airlines by proposing a rule to interpret the "actual control" requirement as only requiring control over safety, security, and the Civil Reserve Air Fleet program, and not requiring control over basic commercial decisions, such as the markets to be served or the rates to be charged. After several votes in the Congress rejecting the administration's proposed interpretation of "actual control," the administration withdrew its proposal.

The DOT has recently announced that in the future it will develop its policies on foreign control of U.S. airlines on a case-by-case basis rather than by a general rule. To guide DOT in its case-by-case interpretations of the requirement of actual control by U.S. citizens, section 801 clarifies that there must be actual control by U.S. citizens over all elements of a carrier's operations, including marketing, branding, fleet composition, route selection, pricing and labor relations. This does not mean that a U.S. air carrier may not hire foreign citizens to responsible positions involving these areas, so long as ultimate control over these decisions rests with citizens of the U.S. In this regard, the Committee notes that existing law, section 40102(a)(15), requires that the president of a U.S. air carrier and "at least two-thirds of the board of directors and other managing officers" must be citizens of the U.S.

In addition, the requirement in section 801 that U.S. citizens have control over "branding" should not be interpreted to mean that an air carrier cannot have legitimate franchising arrangements involving foreign citizens so long as U.S. citizens have ultimate control over the decision to enter into such arrangements. In this context, however, branding and/or franchising arrangements should not be interpreted to include arrangements that give foreign citizens significant influence over basic commercial decisions such as fleet composition, route selection, pricing and labor relations.

Sec. 802. Disclosure of data to Federal agencies in interest of national security

This section clarifies that the FAA has limited authority to release data and reports that are pulled from the FAA's systems of records, which are subject to the Privacy Act (5 U.S.C. 552), to other Federal agencies in the interest of national security.

Sec. 803. FAA access to criminal history records and database systems

The Federal Bureau of Investigation recently notified FAA that a statutory clarification is necessary for the FAA to continue to have access to the National Crime Information Center ("NCIC"), and consequently State data bases as well, that contain criminal history information (e.g., arrests, convictions, warrants, etc.). This section provides statutory authority for the FAA to continue to access the NCIC and related State criminal history databases so that FAA may continue to perform its critical safety and security functions. Specifically, certain designated FAA staff have permission to access Federal, State, and local law enforcement databases, use their radio, data link or warning systems, and receive Government communications, at least to the same extent and in the same manner as State and local police.

Sec. 804. Clarification of air carrier fee disputes

Current law (section 47129) provides an expedited administrative forum for determining whether air carrier fees levied by airports are reasonable, in the context of a significant dispute brought before the Secretary. The section requires complaining airlines to continue to pay disputed fees, and prohibits the charging airport from locking out complaining airlines. It also requires the charging airports to provide a mechanism such as a bond, surety or line of cred-

it, to guarantee refunds plus interest to complaining airlines of fees determined to be unreasonable. The DOT had treated the section as applying to both air carriers and foreign air carriers. The U.S. Court of Appeals for the District of Columbia Circuit, in *Port Authority of New York and New Jersey* v. *DOT*, 479 F. 3d 21 (D.C. Cir. 2007), determined that foreign airlines are not covered by section 47129. This section amends current law to clarify the applicability of section 47129 to both air carriers and foreign air carriers.

Sec. 805. Study on national plan of integrated airport systems

This section requires the Secretary to initiate a study within 90 days of the date of enactment to evaluate the formulation of the NPIAS including criteria for inclusion in the plan; changes to capital needs; comparison of amounts airports received from AIP with capital needs; and the effect of transfers of airport apportionments. The study must be submitted within 36 months of initiation and shall include findings, recommendations for changes to the plan, and recommendations for changes to methods for determining apportionments to airports.

Sec. 806. Express carrier employee protection

This section amends the Railway Labor Act ("RLA") to clarify that employees of an "express carrier" shall only be covered by the RLA if they are employed in a position that is eligible for certification under FAA's rules, such as mechanics or pilots, and they are actually performing that type of work for the express carrier. All other express carrier employees would be governed by the National Labor Relations Act ("NLRA"). In addition, this section provides that a company's status as an "air carrier" will not provide a shield from coverage under the NLRA if it is also an express carrier. An express carrier is defined as any person whose primary business is the express shipment of freight or packages through an integrated network of air and surface transportation.

Because of historical anomalies involving different companies in the express package industry, drivers and package handlers working for one major company in the industry do not have the same rights to organize and bargain collectively as employees performing the exact same jobs at other companies.

The Committee believes that it is important that all truck delivery employees who work for express carriers providing integrated air and truck delivery systems be given equal treatment under the law.

For example, Federal Express was organized as an airline; therefore, its drivers and package handlers are covered by the RLA. Under the RLA, workers can only organize for collective bargaining on a national basis, which is an enormous challenge in today's environment. Therefore, if Federal Express drivers in Virginia want to be represented by a union, they can only do so if drivers all over the country agree.

By contrast, other large companies in the express industry, such as United Parcel Service, began by supplying only truck delivery service, but then evolved into providing integrated truck and air service, similar to Federal Express. The truck drivers and package handlers at these companies have continued to be covered by the

NLRA, which allows these companies to organize locally for collective bargaining.

There are no significant differences between the jobs of drivers and package handlers at Federal Express, and the jobs of such employees at other express companies. It is unfair and inequitable for the Federal Express employees not to have the same rights to organize and bargain collectively as their peers at other companies.

Section 806 removes the disparity and places employees of major express companies on a similar footing by allowing drivers and package handlers at express companies to organize under the NLRA, while express company employees engaged in aviation operations would continue to be allowed to organize under the RLA.

Sec. 807. Consolidation and realignment of FAA facilities

This section requires the Secretary, no later than nine months after the date of enactment, to establish within the FAA a working group to develop criteria and make recommendations for the realignment and consolidation of services and facilities, comprised of at a minimum: the FAA; air carriers; the general aviation community; employees of the FAA field facilities; and the airport community.

The Administrator shall issue a report no later than six months after convening the working group that provides justification for each consolidation or realignment to the committees of jurisdiction. The Administrator will also publish the report in the Federal Register and allow 45 days for public comments. Public hearings can be held in affected communities should they be requested. Any interested person can file an objection. Not later than 60 days after the end of the public comment period, the Administrator shall submit final recommendations and public comments to the committees of jurisdiction. The Administrator cannot realign any facility until the final report is submitted to the committees of jurisdiction.

Sec. 808. Transportation Security Administration centralized training facility feasibility study

This section requires the Secretary of Homeland Security to carry out a study on the feasibility of establishing a centralized training center for advanced security training by the Transportation Security Administration. A report will be submitted to the committees of jurisdiction.

Sec. 809. GAO study on cooperation of airline industry in international child abduction cases

This section requires the GAO to study how the FAA could better ensure the collaboration and cooperation of domestic air carriers, foreign air carriers certified to operate in the United States and other Federal agencies to develop and enforce child safety controls for adults traveling internationally with children. The GAO shall also examine any liability issues associated with providing assistance in such investigations. Not later than one year after the date of enactment, the GAO shall submit a report to Congress on the results of the study.

Sec. 810. Lost Nation Airport, Ohio

This section allows the City of Willoughby to sell the Lost Nation Airport to Lake County, Ohio, pursuant to certain requirements.

Sec. 811. Pollock Municipal Airport, Louisiana

This section requires the Administrator to approve a request from the town of Pollock, Louisiana, to close the Pollock Municipal Airport, and release the town from any condition contained in a surplus property conveyance or transfer document, and from any order by the DOT on the use and repayment of airport revenue, that would otherwise prevent the closure of the airport. Upon approval of such request to close the airport, the town of Pollock shall obtain fair market value for the sale of airport property and shall transfer all proceeds from such sale to the sponsor of a public airport designated by the Administrator to be used for the development or improvement of such airport. The Pollock airport has never been included in the NPIAS and, therefore, it is not considered necessary to meet the current or future needs of the national aviation system and is not eligible to receive AIP grants.

Sec. 812. Human Intervention and Motivation Study program

This section authorizes and expands the Human Intervention and Motivation Study ("HIMS") program to combat chemical dependency to include all flight crewmembers involved in carrier operations in the United States under part 121 of the FAA's regulations. HIMS program development is required within six months of the date of enactment for such sums as are appropriate to carry out this program from FY 2008 through FY 2011.

Sec. 813. Washington D.C., Air Defense Identification Zone

This section requires that, within 90 days, the FAA Administrator, in coordination with the Secretary of Homeland Security and the Secretary of Defense, to submit a report to the appropriate congressional committees that outlines changes to the Washington D.C. Air Defense Identification Zone that will decrease operational impacts and improve general aviation access to airports in the region.

Sec. 814. Merrill Field Airport, municipality of Anchorage, Alaska

This section allows the release of specific airport land without monetary consideration to the town of Anchorage, Alaska, for construction or reconstruction of a federally subsidized highway project.

Sec. 815. William P. Hobby Airport, Houston, Texas

This section states the House of Representatives' support for the goals and ideals of the 1940 Air Terminal Museum and congratulates the City of Houston and the 1940 Air Terminal Museum for William P. Hobby Airport's 80-year history as a vital part of Houston and the Nation's transportation infrastructure. Congress also acknowledges the Museum's preservation and presentation of civil aviation heritage and the importance civil aviation plays in our Nation's history and economy.

ADDITIONAL MATERIALS

Flight caps at O'Hare

The Committee believes that the cap on flights currently placed on O'Hare International Airport is a short-term solution to manage congestion and delay until enhancements from the O'Hare Modernization Plan ("OMP") begin to come on-line. To mitigate congestion and expand capacity at O'Hare International Airport, the Committee believes the FAA should implement long term solutions that utilize the increased capacity and benefits expected from the OMP.

Further, as new capacity becomes available at O'Hare International Airport, preference should be given to hub carriers, given that they temporarily agreed to a 12.5 percent reduction in their peak-hour schedules to reduce congestion in 2004, and little has been done to restore or redistribute capacity to accommodate for that voluntary reduction.

Qualifications Based Selection ("QBS")

QBS is an open, competitive procurement process where firms compete on the basis of qualifications, past experience, and the specific expertise they can bring to the project. QBS is currently applicable to planning, architectural, and engineering contracts that utilize AIP funding. The Committee believes this process fosters creative, cost-saving, and time-saving approaches to AIP projects. For this reason, the Committee encourages use of the QBS process for PFC-funded projects with the goal of serving the needs of all affected stakeholders.

Joint use airports

The Committee believes that the DOT should continue to work with the Department of Defense ("DOD") to ensure that the civil aviation needs of Joint Use airports are met. Where appropriate, the FAA should provide AIP grants to meet the civil aviation airside needs of Joint Use airports.

Public aircraft

The Committee strongly believes that DOT and DOD should work together to better define when aircraft under contract with the armed forces qualify as public aircraft.

Cell phone use in-flight

Federal Communications Commission ("FCC") and FAA rules prohibit the use of cellular phones and other wireless devices on airborne aircraft. This ban was put in place because of potential interference with wireless networks on the ground. The Subcommittee on Aviation held a hearing on cell phone use on aircraft July 14, 2005, where many safety, security, and human factor issues were raised. Further, in March 2007, the FCC terminated a proceeding that it began in late 2004 to consider potentially lifting this ban because of insufficient technical information. For these reasons, the Committee strongly supports the current ban on cellular phones and other wireless devices on airborne aircraft and believes no changes should be made.

Denied boarding compensation

The Committee is encouraged that the DOT is revisiting its rules on denied boarding compensation given that compensation amounts have not changed since 1978. Further, the 2006 DOT IG report on airline customer service highlighted this issue as one that needed to be addressed. The Committee strongly believes compensation amounts should periodically be evaluated by DOT, and that DOT should broaden the applicability of denied boarding compensation to aircraft with 30 seats or fewer, given the growth of regional aircraft.

Required navigation performance at Teterboro Airport

The Committee supports the FAA's inclusion of Teterboro Airport ("TEB") in Teterboro, New Jersey, among the list of high priority airports for the installation of at least one Required Navigation Performance ("RNP") approach at the airport. A RNP approach will alleviate many of the concerns of local residents and help ease air traffic congestion in the New York Metropolitan area by providing a more efficient and continuous approach for aircraft flying into and out of TEB.

Northern Virginia congestion

The Committee understands that the FAA is working with the leadership of the Metropolitan Washington Airports Authority and Arlington County, Virginia, on air traffic operations and surveillance impact issues concerning National Airport. Specifically, the most recent round of Base Relocations and Closures will have a major adverse impact on the area known as Crystal City in Arlington County which will require the redevelopment of many of the older buildings. Redevelopment of Crystal City, and of nearby Rosslyn, is critical to the economic well-being of northern Virginia, including the airports. The Committee commends the FAA for its efforts to protect national airspace assets, while accommodating legitimate economic and civic interests in Arlington County. The Committee encourages the FAA to work with Arlington County toward mutually agreeable, short-term solutions and to consider readily available and emerging technologies to develop a long-term solution.

National airport noise and land use compatibility plan

The Committee is aware that the Metropolitan Washington Airports Authority is working to resolve some technical issues with regard to its proposed National Airport part 150 Noise and Land Use Compatibility Plan and encourages the FAA to work with the authority to resolve these issues in a timely manner.

Cabin air quality

The Committee is concerned with the lack of progress on the study of aircraft cabin air quality called for in section 815 of Vision 100. Specifically, the Committee is interested in seeing completion of the projects to sample and analyze air on board the cabin aircraft. While some of the initial work on this study has been done, the vital collection and analyzing of air onboard the aircraft has been delayed repeatedly. The Committee is aware that reports continue to come in from passengers and flight attendants about ill-

nesses suffered from what could be dangerous contaminants in the aircraft cabin air. To properly determine what, if any, contaminants exist in the air of the aircraft cabin, samples of the air on board the aircraft must be collected and analyzed. The Committee asks that the FAA take all appropriate action to guarantee completion of this vital research.

Animal dander allergens in aircraft cabins

The Committee commends the FAA for issuing guidance in the past to air carriers on air cabin allergens and encourages air carriers to accommodate passengers with severe animal dander allergies. Because prohibiting animals will not completely eliminate all exposures of sensitive passengers to allergens introduced from other sources, including passenger clothing, in the cabin environment, the Committee encourages air carriers to communicate with passengers with severe allergies to ensure they are not sitting near an animal or, if necessary, provide another alternative. The Committee also encourages air carriers to train crewmembers to identify and respond to severe allergic reactions.

St. George airport

To support capacity needs of the more than 400,000 residents of Washington County, Utah, the Committee encourages the FAA and the City of St. George to use all available resources to ensure that the new St. George airport meets its opening date goal of January 2011.

Obstacle marking and lighting methods study completion

The Committee is concerned by the growing number of reported accidents and collisions involving low flying aircraft striking power lines and other man-made obstacles. The FAA cites wire and obstruction accidents as the agency's number one problem for rotorcraft. The Committee is concerned about current obstruction marking and lighting methods, and urges the FAA towards timely completion of certification of new obstacle collision avoidance systems. The Committee encourages the FAA and FAA's Flight Standards division to complete its ongoing study to assess the safety and efficiency of audio/visual systems compared with existing mechanical systems for aviation safety and report back to Congress by December 31, 2007. Once certified, the FAA should describe this new standard in all applicable FAA orders and guidance materials.

LEGISLATIVE HISTORY AND COMMITTEE CONSIDERATION

On June 27, 2007, Representative Oberstar introduced H.R. 2881. This bill has not been introduced in a previous Congress.

On June 28, 2007, the Committee on Transportation and Infrastructure met in open session to consider H.R. 2881. An amendment was offered to address the FAA personnel management system. The amendment was agreed to by a record vote of 53 to 16. An amendment was also offered on express carrier employee protection. The amendment was agreed to by a record vote of 51 to 18, with one present vote. The Committee on Transportation and Infrastructure ordered the bill reported favorably to the House by voice vote.

RECORD VOTES

Clause 3(b) of rule XIII of the House of Representatives requires each committee report to include the total number of votes cast for and against on each record vote on a motion to report and on any amendment offered to the measure or matter, and the names of those members voting for and against. During consideration of H.R. 2881, an amendment was offered to address the FAA personnel management system. The amendment was agreed to by a record vote of 53 to 16. An amendment was also offered on express carrier employee protection. The amendment was agreed to by a record vote of 51 to 18, with one present vote. A motion to order H.R. 2881, as amended, reported favorably to the House was agreed to by voice vote with a quorum present.

COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE
FULL COMMITTEE – ROLL CALL
U.S. HOUSE OF REPRESENTATIVES – 110th CONGRESS

Number of Members: 74 (40/34) Quorum: 38 Working Quorum: 25
Date: June 28, 2007 Presiding: Oberstar Convened: 12:08pm Adjourned: 5:07pm Clerk: tgm
Amendment or matter voted on: Costello amendment to H.R. 2881
Vote: 53 - 16

	Yeas	Nays	Present		Yeas	Nays	Present
Mr. Altmire	X			*Mr. Johnson (IL)*	X		
Mr. Arcuri	X			Mr. Kagen	X		
Mr. Baird	X			*Mr. Kuhl*	X		
Mr. Baker				Mr. Lampson	X		
Mr. Bishop	X			Mr. Larsen	X		
Mr. Boozman		X		*Mr. LaTourette*	X		
Mr. Boswell	X			Mr. Lipinski	X		
Mr. Boustany	X			*Mr. LoBiondo*	X		
Mr. Braley	X			*Mr. Mack*		X	
Ms. Brown (FL)	X			Mrs. Matsui	X		
Mr. Brown (SC)		X		Mr. McNerney	X		
Mr. Buchanan		X		*Mr. Mica*		X	
Ms. Capito	X			Mr. Michaud	X		
Mr. Capuano	X			*Ms. Miller (MI)*	X		
Mr. Carnahan	X			*Mr. Miller (CA)*		X	
Mr. Carney	X			Mr. Mitchell	X		
Ms. Carson	X			*Mr. Moran*	X		
Mr. Coble		X		Mr. Nadler	X		
Mr. Cohen	X			Mrs. Napolitano	X		
Mr. Costello	X			Ms. Norton	X		
Mr. Cummings	X			*Mr. Petri*		X	
Mr. DeFazio	X			*Mr. Platts*	X		
Mr. Dent	X			*Mr. Poe*	X		
Mr. Diaz-Balart		X		Mr. Rahall			
Ms. Drake		X		*Mr. Reichert*	X		
Mr. Duncan		X		Mr. Salazar	X		
Mr. Ehlers		X		*Ms. Schmidt*		X	
Ms. Fallin		X		Mr. Shuler	X		
Mr. Filner	X			*Mr. Shuster*		X	
Mr. Gerlach	X			Mr. Space	X		
Mr. Gilchrest				Mrs. Tauscher	X		
Mr. Graves		X		Mr. Taylor			
Mr. Hall	X			Mr. Walz	X		
Mr. Hayes	X			*Mr. Westmoreland*			
Mr. Higgins	X			*Mr. Young*	X		
Ms. Hirono	X			Mr. Oberstar, Chairman	X		
Mr. Holden	X			Vacancy			
Ms. Johnson (TX)	X						

COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE
FULL COMMITTEE – ROLL CALL
U.S. HOUSE OF REPRESENTATIVES – 110th CONGRESS

Number of Members: 74 (40/34) Quorum: 38 Working Quorum: 25
Date: June 28, 2007 Presiding: Oberstar Convened: 12:08pm Adjourned: 5:08pm Clerk: tgm
Amendment or matter voted on: Oberstar amendment to H.R. 2881
Vote: 51 – 18 - 1

	Yeas	Nays	Present		Yeas	Nays	Present
Mr. Altmire	X			*Mr. Johnson (IL)*	X		
Mr. Arcuri	X			Mr. Kagen	X		
Mr. Baird	X			*Mr. Kuhl*	X		
Mr. Baker		X		Mr. Lampson	X		
Mr. Bishop	X			Mr. Larsen	X		
Mr. Boozman		X		*Mr. LaTourette*	X		
Mr. Boswell	X			Mr. Lipinski	X		
Mr. Boustany		X		*Mr. LoBiondo*	X		
Mr. Braley	X			*Mr. Mack*		X	
Ms. Brown (FL)	X			Mrs. Matsui	X		
Mr. Brown (SC)		X		Mr. McNerney	X		
Mr. Buchanan		X		*Mr. Mica*		X	
Ms. Capito	X			Mr. Michaud	X		
Mr. Capuano	X			*Ms. Miller (MI)*	X		
Mr. Carnahan	X			*Mr. Miller (CA)*	X		
Mr. Carney	X			Mr. Mitchell	X		
Ms. Carson	X			*Mr. Moran*		X	
Mr. Coble		X		Mr. Nadler	X		
Mr. Cohen		X		Mrs. Napolitano	X		
Mr. Costello	X			Ms. Norton	X		
Mr. Cummings	X			*Mr. Petri*		X	
Mr. DeFazio	X			*Mr. Platts*	X		
Mr. Dent	X			*Mr. Poe*	X		
Mr. Diaz-Balart	X			Mr. Rahall			
Ms. Drake	X			*Mr. Reichert*	X		
Mr. Duncan		X		Mr. Salazar	X		
Mr. Ehlers		X		*Ms. Schmidt*	X		
Ms. Fallin		X		Mr. Shuler	X		
Mr. Filner	X			*Mr. Shuster*		X	
Mr. Gerlach			X	Mr. Space	X		
Mr. Gilchrest				Mrs. Tauscher	X		
Mr. Graves		X		Mr. Taylor			
Mr. Hall	X			Mr. Walz	X		
Mr. Hayes		X		*Mr. Westmoreland*			
Mr. Higgins	X			*Mr. Young*		X	
Ms. Hirono	X			Mr. Oberstar, Chairman	X		
Mr. Holden	X			Vacancy			
Ms. Johnson (TX)	X						

COMMITTEE OVERSIGHT FINDINGS

With respect to the requirements of clause 3(c)(I) of rule XIII of the Rules of the House of Representatives, the Committee's oversight findings and recommendations are reflected in this report.

COST OF LEGISLATION

Clause 3(c)(2) of rule XIII of the Rules of the House of Representatives does not apply where a cost estimate and comparison prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974 has been timely submitted prior to the filing of the report and is included in the report. Such a cost estimate is included in this report.

COMPLIANCE WITH HOUSE RULE XIII

1. With respect to the requirement of clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, and 308(a) of the Congressional Budget Act of 1974, the Committee references the report of the Congressional Budget Office included in the report.
2. With respect to the requirement of clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the performance goals and objectives of this legislation are to reauthorize the Federal Aviation Administration and make a number of changes in aviation laws to increase the safety, efficiency, and capacity of the aviation system.
3. With respect to the requirement of clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 402 of the Congressional Budget Act of 1974, the Committee has received the enclosed cost estimate for H.R. 2881 from the Director of the Congressional Budget Office:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, September 5, 2007.

Hon. JAMES L. OBERSTAR,
Chairman, Committee on Transportation and Infrastructure, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 2881, the FAA Reauthorization Act of 2007.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Megan Carroll.

Sincerely,

PETER R. ORSZAG,
Director.

Enclosure.

H.R. 2881—FAA Reauthorization Act of 2007

Summary: H.R. 2881 would authorize appropriations, mainly over the 2008–2011 period, for activities of the Federal Aviation Administration (FAA). CBO estimates that implementing the bill would have a discretionary cost of $51 billion over the 2008–2012 period, assuming the appropriation of the necessary amounts. In addition, we estimate that enacting the bill would reduce net direct

spending by $336 million over the 2008–2012 period but increase it by $216 million over the 2008–2017 period. Finally, CBO and the Joint Committee on Taxation (JCT) estimate that enacting H.R. 2881 would increase revenues by $18 million over the 2008–2012 period and reduce them by $122 million over the 2008–2017 period.

H.R. 2881 contains intergovernmental mandates as defined in the Unfunded Mandates Reform Act (UMRA), but CBO estimates that the total cost of those mandates would be minimal and would be significantly below the threshold established in that act ($66 million in 2007, adjusted annually for inflation).

H.R. 2881 would impose several private-sector mandates as defined in UMRA. The bill would impose new requirements on operators of certain aircraft weighing 75,000 pounds or less, entities registering or obtaining certification with the FAA, and commercial air carriers. Based on information from the FAA and industry sources, CBO estimates that the aggregate direct cost of complying with those mandates would likely exceed the annual threshold established by UMRA for private-sector mandates ($131 million in 2007, adjusted annually for inflation) in at least one of the first five years the mandates are in effect.

Estimated Cost to the Federal Government: The estimated budgetary impact of H.R. 2881 is shown in Table 1. The costs of this legislation fall primarily within budget functions 400 (transportation) and 600 (income security).

TABLE 1.—ESTIMATED BUDGETARY EFFECTS OF H.R. 2881

	By fiscal year, in millions of dollars—					
	2007	2008	2009	2010	2001	2012
SPENDING SUBJECT TO APPROPRIATION						
Spending Under Current Law:						
Budget Authority/Authorization Level [1]	11,064	162	127	127	77	77
Estimated Outlays [2]	15,059	5,161	2,078	901	301	112
Proposed Changes:						
FAA Operations:						
Authorization Level	0	8,726	8,978	9,305	9,590	0
Estimated Outlays	0	7,766	8,950	9,269	9,559	1,055
Air Navigation Facilities and Equipment:						
Authorization Level	0	3,120	3,246	3,259	3,353	0
Estimated Outlays	0	1,810	2,663	3,170	3,309	1,392
Airport Improvement Program Outlays: [3]						
Authorization Level	0	0	0	0	0	0
Estimated Outlays	0	62	134	224	320	402
Changes to FAA Personnel Management System:						
Estimated Authorization Level	0	179	126	100	72	0
Estimated Outlays	0	159	132	103	75	8
Increased Funding for Aviation Safety Inspectors:						
Authorization Level	0	58	134	170	208	0
Estimated Outlays	0	29	96	152	189	104
Other Provisions:						
Estimated Authorization Level	0	25	74	84	151	9
Estimated Outlays	0	22	59	77	132	47
Total Changes:						
Estimated Authorization Level	0	12,108	12,558	12,918	13,375	9
Estimated Outlays	0	9,848	12,034	12,995	13,585	3,008
Spending Under H.R. 2881:						
Estimated Authorization Level [1]	11,064	12,270	12,685	13,045	13,452	86
Estimated Outlays	15,059	15,009	14,112	13,896	13,886	3,120
DIRECT SPENDING [4]						
Baseline Spending Under Current Law:						
Estimated Budget Authority [2]	3,725	3,725	3,725	3,725	3,725	3,725

TABLE 1.—ESTIMATED BUDGETARY EFFECTS OF H.R. 2881—Continued

	By fiscal year, in millions of dollars—					
	2007	2008	2009	2010	2001	2012
Estimated Outlays	40	50	50	50	50	50
Proposed Changes:						
Estimated Budget Authority	0	−140	106	249	393	446
Estimated Outlays	0	−78	−140	−90	−41	13
Spending Under H.R. 2881:						
Estimated Budget Authority [4]	3,725	3,585	3,831	3,974	4,118	4,171
Estimated Outlays [4]	40	−28	−90	−40	9	63
CHANGES IN REVENUES [5]						
Estimated Revenues	0	1	15	7	1	−6

[1] The 2007 level is the amount appropriated for that year for FAA operations; facilities and equipment; research, engineering, and development; essential air service; and the Joint Planning and Development Office (JPDO). The 2008–2012 1evels reflect amounts authorized to be appropriated under current law for essential air service, small community air service, and the JPDO.

[2] Estimated outlays under current law are from amounts appropriated for 2007 and previous years for FAA operations, facilities and equipment; research, engineering, and development; essential air service; and the Joint Planning and Development Office as well as discretionary outlays from the obligation limitations for the Airport Improvement Program, as assumed to continue in the budget resolution baseline.

[3] Budget authority for the Airport Improvement Program is provided as contract authority, a mandatory form of budget authority; however, outlays from that contract authority are subject to limitations on obligations specified in appropriation acts and are therefore discretionary.

[4] Enacting H.R. 2881 would reduce direct spending over the 2008–2012 period, but it would increase direct spending by $216 million over the 2008–2017 period (see Table 2 for annual effects through 2017).

[5] Enacting H.R. 2881 would increase revenues over the 2008–2012 period, but it would reduce revenues by $122 million over the 2008–2017 period (see Table 2 for annual effects through 2017).

Notes.—* = between −$500,000 and $500,000; FAA = Federal Aviation Administration.

Basis of estimate: Implementing H.R. 2881 would result in significant discretionary spending for aviation programs. Enacting the bill would reduce net direct spending and revenues over the next five years but increase net direct spending and revenues over the 2008–2017 period. For this estimate, CBO assumes that H.R. 2881 will be enacted near the end of fiscal year 2007. Outlay estimates are based on historical spending patterns for affected programs and on information provided by the Department of Transportation (DOT) and the FAA.

Spending subject to appropriation

CBO estimates that fully funding aviation programs under H.R. 2881 would cost about $9.8 billion in 2008 and $51 billion over the 2008–2012 period. That estimate assumes that amounts authorized and estimated to be necessary will be provided near the start of each fiscal year.

FAA Operations. H.R. 2881 would authorize appropriations totaling $8.7 billion in 2008 and $36.6 billion over the 2008–2011 period for FAA operations, particularly for salaries and expenses related to operating the air traffic control system. (In comparison, the Congress provided $8.3 billion for operations in fiscal year 2007.) Assuming appropriation of the authorized amounts, CBO estimates such spending would total $7.8 billion in 2008 and $36.6 billion over the 2008–2012 period.

Air Navigation Facilities and Equipment. H.R. 2881 would authorize appropriations totaling $3.1 billion in 2008 and $13.0 billion over the 2008–2011 period for facilities and equipment—primarily infrastructure and systems for communication, navigation, and radar surveillance related to air travel. (In comparison, the Congress provided $2.5 billion for such activities during fiscal year 2007.) Assuming appropriation of the authorized amounts, CBO estimates that resulting outlays would total $1.8 billion in 2008 and $12.3 billion over the 2008–2012 period, with additional spending occurring in later years.

By authorizing appropriations for facilities and equipment over the 2008–2011 period, H.R. 2881 would authorize adjustments to contract authority for the airport improvement program in those years. Current law provides for increases to contract authority (a mandatory form of budget authority) for that program in any year that the amounts authorized to be appropriated for facilities and equipment exceed amounts actually provided in appropriation acts for such activities. Any such changes authorized under H.R. 2881 and triggered by annual appropriation acts would be considered changes in direct spending and are discussed later in this estimate (see "Direct Spending").

Airport Improvement Program Outlays. H.R. 2881 would provide $3.8 billion in contract authority (a mandatory form of budget authority) in 2008 and $15.8 billion over the 2008–2011 period for the Airport Improvement Program (AlP). Through that program, the FAA provides grants to airports for projects to enhance capacity and safety. Outlays of AlP contact authority are controlled by limitations on obligations set in annual appropriation acts and are therefore considered discretionary.

CBO estimates that enacting H.R. 2881 would increase contract authority over levels assumed in the current budget resolution baseline by $1.1 billion over the 2008–2011 period specifically covered under H.R. 2881 and by $425 million annually thereafter. (See "Direct Spending" for a discussion of the budgetary treatment of AlP contract authority under the budget resolution baseline and for purposes of projecting costs under proposed legislation.)

The legislation would make several changes, such as increasing the maximum federal share of certain airport projects and expanding eligibility criteria for AIP grants, that CBO expects would increase the rate of spending of AlP funds. In total, assuming that obligation limitations of AlP spending, as set forth in annual appropriation acts, are equal to the levels of contract authority projected under H.R. 2881, CBO estimates that implementing this provision would increase discretionary spending by $1.1 billion over the 2008–2012 period, with additional spending occurring in later years. That amount includes $200 million in accelerated outlays from contract authority assumed in the current baseline and $900 million in spending from additions to contract authority under H.R. 2881.

Changes to the FAA Personnel Management System. Under the FAA's personnel system, many employees participate in collective bargaining units. H.R. 2881 would establish a new process for resolving disputes between the FAA and such units and apply that process to an ongoing dispute between the agency and certain collective bargaining units, the largest of which involves air traffic controllers represented by the National Air Traffic Controllers Association (NATCA). CBO estimates that fully funding those proposed changes would require additional appropriations of $179 million in 2008 and $477 million during the four-year reauthorization period covered by the bill.

Background. In 2005, the FAA and NATCA began negotiating an extension of the collective bargaining agreement covering air traffic controllers that was originally put into effect in 1998 and extended for two years, with minor changes, in 2003. In April 2006, negotiations stalled and the FAA declared an impasse. In the absence of

a negotiated contract and under certain conditions, current law authorizes the agency to implement changes to its personnel management system. Under that authority, the FAA began to implement changes toward the end of 2006, particularly related to compensation for air traffic controllers. According to both the FAA and NATCA, FAA spending under current law—including spending resulting from changes to its personnel policies implemented during the past year—will be less than spending would have been under the parties' last mutual agreement.

Changes Under H.R. 2881. Under H.R. 2881, any personnel policy changes implemented by the FAA after July 25, 2005, for collective bargaining units without current contracts would be null and void, and the parties would be governed by their last mutual agreement. The bill would specify conditions under which employees could receive back pay, subject to the availability of appropriated funds, and would specifically authorize the appropriation of $20 million for such payments. Under the bill, if appropriations are insufficient to cover all claims for such pay, payments would be prorated among eligible employees. H.R. 2881 would require the FAA to resume negotiations with NATCA and other collective bargaining units that do not have current contracts. If agreements are not reached within 45 days of resuming negotiations, the new dispute resolution process set forth in the bill would apply.

Estimated Costs. According to the FAA and NATCA, returning to the work and pay rules under previous mutual agreements would increase costs, particularly for salaries and benefits of employees covered by those agreements. For this estimate, CBO assumes that the agreements that would be reinstated upon enactment of H.R. 2881 would remain in effect through the first half of fiscal year 2008 while the dispute resolution process prescribed by the bill unfolds. Relative to current law, CBO expects that reinstating those agreements would result in increases to base salaries of both existing employees and individuals hired between the date of enactment of H.R. 2881 and the conclusion of the dispute resolution process.

Based on information from the FAA and NATCA, CBO estimates that implementing this provision would require additional funding of $179 million in 2008 and $477 million over the four-year authorization period covered by H.R. 2881. That total includes $20 million specifically authorized for back pay and assumes that payments would be prorated, if necessary, as specified in the bill. Remaining amounts are primarily for sustaining higher levels of spending for compensation and benefits for individuals employed as of the date of enactment of H.R. 2881 or hired prior to the conclusion of the new dispute resolution process.

For this estimate, CBO assumes that process will conclude within about six months of enacting H.R. 2115. Federal costs would be greater if that process takes longer. This estimate does not include potential changes (savings or increases) in costs for individuals hired after the conclusion of the process, or changes that could result from future negotiations from the FAA's collective bargaining units as required by H.R. 2881.

Increased Funding for Aviation Safety Inspectors. H.R. 2881 would specifically authorize appropriations of $58 million in 2008 and $570 million over the 2008–2011 period for the FAA to

hire additional staff to inspect various aspects of the aviation system, such as aircraft and parts manufacturing, aircraft operation, aircraft safety, and cabin safety. Assuming appropriation of the authorized amounts, CBO estimates that spending would total $29 million in 2008 and $570 million over the 2008–2012 period.

Offsetting Collections from Registration and Certification Fees. The FAA administers a regulatory program designed to ensure the safety of air travel. The agency oversees and regulates the registration of aircraft, certification of pilots, and other related activities. Under current law, the FAA issues most registrations and certificates free of charge or at nominal prices. CBO estimates that fees charged by the agency currently total about $1 million annually.

H.R. 2881 would require the FAA to charge specific fees for services related to processing certain registrations and certificates. Based on information from the agency regarding the annual volume of such actions, CBO estimates that the proposed fees would generate discretionary offsetting collections totaling $50 million in 2008 and $375 million over the 2008–2011 reauthorization period specifically covered by H.R. 2881. Because H.R. 2881 would authorize the FAA to spend such collections, we estimate that implementing this provision would have no significant net effect on federal spending.

Other Provisions. CBO estimates that implementing other provisions of H.R. 2881 would require appropriations totaling $343 million over the 2008–2012 period. (In comparison, CBO estimates that the Congress provided nearly $230 million for related programs in 2007.) That amount includes:

- $111 million for research on technologies to reduce environmental impacts of operating aircraft and aircraft engines;
- $105 million to extend, through 2011, the authorization of appropriations totaling $35 million a year for the Small Community Air Service Development Program (currently authorized at that level through 2008);
- $50 million to continue, though 2011, activities of the Joint Planning and Development Office, currently authorized at $50 million a year through 2010, which coordinates multiple agencies' activities related to modernizing the nation's air traffic control system;
- $30 million to increase, by $6 million a year, the amount authorized to be appropriated for the Essential Air Service program (currently permanently authorized at $77 million a year);
- $22 million for data collection and analysis related to aviation; and
- $25 million for various studies, reports, and activities to be carried out by the FAA, DOT, and other agencies.

Assuming appropriation of amounts specified and estimated to be necessary, CBO estimates that fully funding those activities would cost $22 million in 2008 and $337 million over the 2008–2012 period.

Direct spending

CBO estimates enacting H.R. 2881 would reduce direct spending by $336 million over the 2008–2012 period but increase it by $216 million over the 2008–2017 period. Those changes, presented in

Table 2, result primarily from provisions that would provide additional contract authority for the AIP, increase direct spending of overflight fees, increase spending for retirement benefits for certain FAA employees, increase the mandatory retirement age for pilots. and extend the FAA's authority to sell certain insurance.

Airport Improvement Program Contract Authority. H.R. 2881 would provide $3.7 billion in additional contract authority for the AIP over the 2008–2017 period. As previously noted, additional spending from such contract authority would be controlled by obligation limitations specified in annual appropriation acts. Thus, outlays for the AIP are considered discretionary.

Baseline Treatment of AIP Contract Authority. The Balanced Budget and Emergency Deficit Control Act of 1985, which established rules that govern the calculation of CBO's baseline, expired on September 30, 2006. Nevertheless, CBO continues to prepare baselines and estimate costs of proposed legislation according to the methodology prescribed in that law, including the requirement that funding for certain expiring programs—such as contract authority for AIP—be assumed to continue for budget projection purposes. Consistent with that practice, the budget resolution baseline assumes that AIP contract authority over the 2008–2017 period will remain at the 2007 level of nearly $3.7 billion.

Net Increases to Contract Authority. Under H.R. 2881, AIP contract authority would total $3.8 billion in 2008 and increase gradually to $4.1 billion in 2011. Consistent with CBO's methodology for projecting contract authority under proposed legislation, we assume that contract authority for AIP would continue after 2011 and would remain at $4.1 billion annually over the 2012–2017 period. In total, CBO estimates that contract authority under H.R. 2881 would exceed levels of contract authority assumed in the current budget resolution baseline by $125 million in 2008, $1.1 billion over the four-year period covered by the bill, and $3.7 billion over the 2008–2017 period.

TABLE 2.—EFFECTS ON DIRECT SPENDING AND REVENUES UNDER H.R. 2881

	By fiscal year, in millions of dollars—											
	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2008–2012	2008–2017
CHANGES IN DIRECT SPENDING												
AIP Contract Authority[1]:												
Budget Authority	−71	225	325	425	425	425	425	425	425	425	1,329	3,454
Estimated Outlays	0	0	0	0	0	0	0	0	0	0	0	0
Increased Spending from Overflight Fees:												
Estimated Budget Authority	0	18	18	19	19	20	20	21	21	21	74	177
Estimated Outlays	0	14	18	19	19	20	20	21	21	21	70	173
Changes to FAA Personnel Management System:												
Estimated Budget Authority	1	3	6	9	12	16	19	21	21	21	31	129
Estimated Outlays	1	3	6	9	12	16	19	21	21	21	3I	129
Retirement Benefits for Pilots:												
Estimated Budget Authority	0	0	0	0	0	0	0	0	0	0	0	0
Estimated Outlays	−9	−17	−14	−9	−8	−3	1	1	1	1	−57	−56
Aviation War-Risk Insurance:												
Estimated Budget Authority	−70	−140	−100	−60	−10	30	60	70	90	100	−380	−30
Estimated Outlays	−70	−140	−100	−60	−10	30	60	70	90	100	−380	−30
Total Changes:												
Estimated Budget Authority	−140	106	249	393	446	491	524	537	557	567	1,054	3,730
Estimated Outlays	−78	−140	−90	−41	13	63	100	113	133	143	−336	216
CHANGES IN REVENUES												
Estimated Revenues	1	15	7	1	−6	−13	−21	−27	−35	−44	18	−122

Note: AIP = Airport Improvement Program.

[1] Budget authority for the Airport Improvement Program is provided as contract authority, a mandatory form of budget authority; however, outlays from that contract authority are subject to limitations on obligations specified in appropriation acts and are therefore discretionary.

Upon enactment, H.R. 2881 would effectively cancel balances of contract authority that, under current law, the agency is not authorized to obligate. Such "excess" contract authority reflects the cumulative difference between contract authority provided in prior years and obligation limitations specified in annual appropriation acts for those years. Based on information from the FAA, CBO estimates that excess contract authority at the start of fiscal year 2008 (when we assume H.R. 2881 will take effect) will total $196 million. Cancelling those balances would result in a savings of contract authority that would more than offset the proposed increase of $125 million for 2008, reducing net budget authority by $71 million.

Adjustments to AlP Contract Authority. Public Law 106–181, enacted in 2000, reauthorized FAA programs for fiscal years 1999 through 2003. That law created a permanent mechanism that provides for an increase to AlP contract authority in any year that the amount authorized to be appropriated for air navigation and facilities exceeds the amount provided for such activities in an appropriation act. By authorizing appropriations for facilities and equipment over the 2008–2011 period, H.R. 2881—in conjunction with that provision of current law—would authorize adjustments to AIP contract authority for those years as wel1. Any adjustment authorized under this legislation, once triggered by annual appropriation acts, would constitute new direct spending authority. All spending for AIP—including spending triggered by such adjustments—would still be subject to obligation limitations established in appropriation acts. Although H.R. 2881 could result in additional AIP contract authority of as much as $13.0 billion over the 2008–2011 period if no appropriations were provided for air navigation facilities and equipment, CBO assumes that appropriations will equal or exceed the amounts authorized by the bill; thus, we project no additional increases to AIP contract authority under H.R. 2881.

Increased Spending of Overflight Fees. Under current law, DOT has authority to spend, without further appropriation, revenues from overflight fees paid by air carriers to reimburse the FAA for costs to provide navigational support to flights that neither take off nor land in the United States. As discussed below, H.R. 2881 would increase revenues from such fees starting in 2009. CBO estimates that resulting increases in direct spending would total $173 million over the 2009–2017 period. Under the bill, such spending would support activities related to enhancing air service to rural communities.

Changes to FAA Personnel Management System. Section 601 would modify the dispute resolution process for the proposed changes to the FAA's personnel management system and would replace it with new procedures. The new system would be used to address an existing dispute between the National Air Traffic Controllers Association and the FAA relating to the compensation paid to air traffic controllers. The bill would restore the terms of the labor contract in effect in June 2006 until the new dispute resolution process has reached its conclusion.

Assuming that the dispute resolution process would take most or all of the time allowed under limits established by the bill, this section would boost the salaries of air traffic controllers by awarding them annual increases for 2007 and 2008. Those increases would raise the salary bases used in the calculation of retirement benefits

by 7.5 percent for all new retirees after 2008. Based on data provided by the FAA on the characteristics (salary, years of service, and retirement system) of recent retirees and the agency's projections of retirements over the next decade, CBO estimates that civil service retirement benefits would increase by $1 million in 2008, $31 million over the 2008–2012 period, and $129 million over the 2008–2017 period. This provision also would affect employee contributions to the Civil Service Retirement System which is discussed below under "Revenues."

Pilots' Mandatory Retirement Age. H.R. 2881 would raise the mandatory retirement age for commercial pilots from age 60 to age 65 within 30 days of the bill's enactment. That change would allow pilots to continue flying for up to five additional years, which in some cases would enable them to accrue higher pension benefits or to receive higher guaranteed pension insurance payments from the Pension Benefit Guaranty Corporation (PBGC). CBO estimates that the change would reduce direct spending by $9 million in 2008, $57 million over the 2008–2012 period, and $56 million over the 2008–2017 period.

Under current law, FAA regulations require that commercial airline pilots retire from service when they reach age 60. (This standard has been in place since 1959.) As a result, age 60 is frequently the age at which pilots begin to receive their pension benefits. For pilots participating in pension plans that have been terminated by the PBGC, the age-60 requirement means that many pilots will receive benefits limited to the agency's maximum guaranteed benefits for participants who retire at age 60, which is about 35 percent less than the age-65 guarantee. (Special rules apply to participants who were eligible for benefits within three years of a plan's termination.)

In January 2007, the FAA announced that it was initiating the rulemaking process that would allow it to raise the mandatory retirement age to age 65, a process that the agency indicated would likely take 18 months to 24 months.

For this estimate, CBO assumes that the proposed increase in the mandatory retirement age for pilots would take place around the beginning of fiscal year 2008, effectively accelerating the implementation of the higher retirement age by about one year relative to current law.

Based on data provided by the PBGC, CBO anticipates that about 600 pilots participating in terminated pension plans will turn 60 years old in fiscal year 2008, and would have the opportunity to continue flying until age 65 if H.R. 2881 were enacted. CBO expects that those pilots would continue to fly for up to five more years and retire at ages similar to other workers under Social Security. (That is, about one-third would begin collecting pension benefits at age 62 and about one-half at age 65.) The postponed retirements would reduce PBGC outlays—net of reimbursements from the pension plans—by $9 million in 2008, $57 million over the 2008–2012 period, and $56 million over the 2008–2017 period.

However, because the PBGC guarantees are intended to be actuarially fair, the net impact of the retirement age change would likely be only a small increase and would result from the likelihood that the pilots affected would probably be significantly healthier than the general population of pension recipients.

Aviation Insurance. Under current law, the FAA offers a commercial aviation insurance program that, in exchange for a premium payment, insures air carriers and certain manufacturers against liabilities arising from losses caused by terrorist events. The FAA also offers a nonpremium insurance program to air carriers that participate in the Civil Reserve Air Fleet (CRAF). The FAA's authority to operate both of those programs is scheduled to expire on March 30, 2008. H.R. 2881 would extend that authority through October 1, 2017. CBO estimates that extending the CRAF program through that time would have no significant budgetary impact; however, extending the FAA's authority to offer commercial aviation insurance through fiscal year 2017 would reduce net direct spending by $30 million over the 2008–2017 period. Over the long run, however, we estimate that extending the authority to operate the program would result in net costs to the federal government after 2017.

Program Extension Through 2017. Initial savings under this provision of H.R. 2881 would result because the FAA would collect premiums in full when coverage is sold, while payments for expected losses would likely begin slowly and occur over several years. For this estimate, CBO assumes that the FAA would continue to offer commercial aviation insurance at rates that would not fully offset the government's cost of providing that coverage. Based on information from the FAA about current insurance rates, CBO estimates that increased offsetting receipts from premiums (which are credited against direct spending) would total just over $1.8 billion over the 2008–2017 period. We also estimate that total expected losses for claims will total $3.3 billion, resulting in net nominal costs over time of $1.5 billion. Of those total claims payments, however, we expect that just under $1.8 billion would be spent over the 2008–2017 period, resulting in net cash-flow savings of $30 million over that period. Remaining cash outlays for claims would occur after 2017.

CBO cannot predict how much damage terrorists might cause in any specific year. Instead, our estimate of the cost of insurance coverage under H.R. 2881 represents an expected value of payments from the program—a weighted average that reflects the probabilities of various outcomes, from zero damages up to very large damages due to possible future terrorist attacks. The expected value can be thought of as the amount of an insurance premium that would be necessary to just offset the risk of providing this insurance; indeed, our estimate of the expected cost for H.R. 2881 is based on private-sector premiums for terrorism insurance that have been adjusted for differences in costs faced by private insurance firms that are not borne by the federal government. While this cost estimate reflects CBO's best judgment on the basis of available information, costs are a function of inherently unpredictable future terrorist attacks. As such, actual costs could fall anywhere within an extremely broad range.

Successor Program. Under H.R. 2881, after the Secretary of Treasury's authority to offer commercial insurance ends on December 31, 2017, air carriers could seek coverage through risk-pooling arrangements sponsored by the airline industry and approved by the Secretary. The bill would authorize the Secretary to transfer net premiums earned over the period from September 22, 2001,

through December 31, 2017, to a nonfederal risk pool; any such transfers would be net of estimates of pending claims. Transferring those amounts to a nonfederal entity would be recorded in the budget as an increase in direct spending in fiscal year 2018. Based on information from the FAA about premiums collected since September 22, 2001, and anticipated levels of premium collections expected under H.R. 2881, such increased spending could range from zero (if a covered event requires the FAA to use all premiums to pay claims) to nearly $3 billion (if the FAA's program incurs no losses through 2017).

Revenues

CBO and JCT estimate that enacting H.R. 2881 would increase net revenues by $7 million over the 2008–2012 period but reduce them by $138 million over the 2008–2017 period. The estimated changes stem from provisions related to passenger facility fees, overflight fees, and the changes to FAA personnel management.

Passenger Facility Fees. Under current law, airport agencies may collect, subject to DOT approval, fees of up to $4.50 per passenger to fund airport infrastructure programs. (Such fees are collected and spent by airport agencies and are not included in the federal budget.) H.R. 2881 would allow the Secretary of Transportation to authorize airport agencies to charge fees of up to $7.00 per passenger. JCT expects that the proposed change would increase revenues to airports from such fees, subsequently lead to increased tax-exempt financing for airport construction and related projects and, consequently, reduce federal revenues. JCT estimates that federal revenue losses would total $67 million over the 2008–2012 period and $315 million over the 2008–2017 period.

Overflight Fees. H.R. 2881 would amend current law to authorize the FAA to increase fees for certain navigational services provided for flights that neither take off nor land in the United States—commonly known as overflight fees. Such fees are typically paid by foreign air carriers and are recorded as revenues. (CBO estimates that the agency will collect about $50 million in overflight fees in 2007.) H.R. 2881 would direct the agency to update the amounts charged, through an expedited rulemaking, to fully recover its costs starting in fiscal year 2009. Based on information from the FAA, CBO estimates that the agency's costs to provide support for overflights currently exceeds revenues from fees by about $18 million annually. CBO estimates that raising fees to cover that shortfall would increase revenues by $74 million over the 2009–2012 period and $177 million over the 2009–2017 period. (As discussed earlier, those increased revenues would result in corresponding increases in direct spending for certain activities related to enhancing air service to rural communities.)

Changes to FAA Personnel Management System. As discussed previously, the changes to the FAA management system, including the dispute resolution process, would result in the agency paying more in salaries than it would under current practices. Pay raises required for 2007 and 2008 would result in higher salaries subject to the withholding of employee contributions to the Civil Service Retirement trust fund. The increase in contributions would begin to fade out over time as those workers retire or otherwise leave FAA employment. The additional revenues would total $11

million over the 2008–2012 period and $16 million over the 2008–2017 period.

Estimated impact on state, local, and tribal governments: H.R. 2881 contains intergovernmental mandates as defined in UMRA, but CBO estimates that the total cost of those mandates would be minimal and would be significantly below the threshold established in that act ($66 million in 2007, adjusted annually for inflation).

Contingency plans

The bill would require certain airport operators to submit to DOT contingency plans for emergency circumstances that ground aircraft. This administrative duty is a mandate under UMRA, but CEO estimates that the costs of this requirement to airport operators would be minimal.

Access to criminal history records

The bill would give the FAA the right to (1) access criminal justice data maintained by the states, (2) use state or local radio, data links, or warning systems that provide public safety information, and (3) receive communications from state or local police officers. Those provisions constitute intergovernmental mandates as defined in UMRA because state and local governments would be required to comply with requests for information from the FAA. Although we cannot predict the extent to which the FAA would access state or local data systems, or make inquiries of state or local police officers, CBO estimates that the additional costs to state, local, and tribal governments of complying with those requests would be small.

The bill would benefit state and local governments by authorizing grants to airports for planning, development, noise mitigation, and other initiatives. In addition, states would benefit from provisions that would authorize an increase in the passenger facility fees used to fund FAA-approved projects. Any costs that they might incur would result from complying with conditions of federal assistance.

Estimated impact on the private sector: H.R. 2881 contains several private-sector mandates as defined in UMRA. Those mandates include:

- A prohibition on operating certain aircraft not in compliance with low-noise criteria,
- A revised schedule of fees for certain services and activities of the FAA, and
- Requirements on air carriers related to airline service.

Based on information from the FAA and industry sources, CBO estimates that the aggregate direct cost of complying with the bill's mandates would likely exceed the annual threshold established by UMRA for private-sector mandates ($131 million in 2007, adjusted annually for inflation) in at least one of the first five years the mandates are in effect.

Prohibition on aircraft noise levels below stage 3

The FAA classifies aircraft into three stages based on measurements of noise level: stage 1, stage 2, and stage 3—in order from loudest to the least noisy. Section 506 would prohibit, with certain exemptions, operation of civil aircraft weighing 75,000 pounds or

less in the 48 contiguous states that do not comply with stage-3 noise levels. The prohibition would take affect after December 31, 2012. According to industry sources, compliance could require engine modifications to be made on existing aircraft when possible, or decommissioning of aircraft that cannot be modified to meet the noise requirement. Those sources estimate that the total cost of bringing existing aircraft into compliance could range from a low of $300 million to more than $1 billion depending on the technology used. CBO expects that the direct cost to comply with the mandate would be highest in 2012, the year before the prohibition would take effect, and would likely exceed the UMRA's annual threshold for private-sector mandates in that year.

FAA registration, certification, and related fees

Section 122 would require the FAA to establish a new schedule of fees for certain services and activities of the agency. This requirement would impose a new mandate on entities who are required to register with the FAA or obtain specific certifications, such as aircraft owners and pilots. Based on the number of entities required to register with the FAA or obtain certification, CBO expects that the incremental cost in new fees for those private-sector entities would be about $44 million per year.

Air carriers: Airline service requirements

The bill would impose several new requirements on air carriers related to airline service. Based on information from industry sources, CBO expects that the aggregate direct cost to comply with those mandates would be small relative to the annual threshold. .

Section 401 would require an air carrier to file with the Secretary of Transportation a monthly report with specific information on each flight that is diverted from its scheduled destination to another airport and on each flight that departs the gate at the originating airport but is cancelled before take off.

Section 406 would require each air carrier serving large and medium hub airports to develop and submit to the Secretary an emergency contingency plan for each airport it serves no later than 90 days after the date of enactment. Each plan would be required to contain a description of how the air carrier will provide food, water, restroom facilities, cabin ventilation, and access to medical treatment for passengers onboard an aircraft that is on the ground for an extended period of time without access to the terminal. The plan also would be required to describe how the air carrier would share facilities and make gates available at the airport in an emergency. Air carriers would be required to update the plan every three years and submit the updated plan to the Secretary.

Section 406 also would prohibit an air carrier from selling tickets for a flight on which insecticide is planned to be used in the aircraft while passengers are on board the aircraft unless the air carrier informs such passengers purchasing the ticket of the planned use of the insecticide, including the name of the insecticide.

Previous CBO estimate: On July 17, 2007, CBO transmitted a cost estimate for S. 1300, the Aviation Investment and Modernization Act of 2007, as ordered reported by the Senate Committee on Commerce, Science, and Transportation on May 16, 2007. Many provisions of S. 1300 are substantively similar to H.R. 2881. Both

bills would authorize appropriations for major FAA programs over the 2008–2011 period.

Differences in our estimates of spending subject to appropriation reflect differences in amounts authorized to be appropriated to the FAA. The estimate of spending under H.R. 2881 is higher, primarily because it would provide more funding than S. 1300 for facilities and equipment and aviation safety inspectors.

Direct spending estimates related to AlP contract authority, spending of overflight fees, retirement benefits for pilots, and aviation war-risk insurance are the same under H.R. 2881 and S. 1300. In total, S. 1300 would result in a greater increase in net direct spending than H.R. 2881, primarily because S. 1300 would provide new direct spending authority for FAA to modernize the U.S. air traffic control system. S. 1300 also would establish a new surcharge intended to offset such increased spending, but CBO estimates such fees would not fully offset the increased spending over the 2008–2017 period.

While CBO and the JCT estimate that enacting S. 1300 would increase revenues over the 2008–2017 period, we estimate that H.R. 2881 would reduce revenues during that time, primarily because it would lead to a greater increase in airport agencies' use of tax-exempt financing and, consequently, larger reductions in federal revenues.

CBO estimates both H.R. 2881 and S. 1300 would impose several new private-sector mandates with aggregate direct costs that would exceed UMRA' s annual threshold. The mandate provisions prohibiting the operation of certain aircraft below stage-3 noise levels and requiring air carriers to provide contingency plans related air passenger service improvements are contained in both bills. S. 1300 also contains private-sector mandates—per-flight surcharge and safety requirements on certain helicopters—not contained in H.R. 2881.

Estimate prepared by: Federal Costs: FAA spending—Megan Carroll; Retirement Benefits—David Rafferty; Revenues—Andrew Langan; Impact on state, local, and tribal governments: Elizabeth Cove; Impact on the private sector: Paige Piper/Bach and Justin Hall.

Estimate approved by: Peter H. Fontaine, Assistant Director for Budget Analysis; G. Thomas Woodward, Assistant Director for Tax Analysis.

COMPLIANCE WITH HOUSE RULE XXI

Pursuant to clause 9 of rule XXI of the Rules of the House of Representatives, H.R. 2881, does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(d), 9(e), or 9(f) of rule XXI of the Rules of the House of Representatives.

CONSTITUTIONAL AUTHORITY STATEMENT

Pursuant to clause 3(d)(1) of rule XIII of the Rules of the House of Representatives, committee reports on a bill or joint resolution of a public character shall include a statement citing the specific powers granted to the Congress in the Constitution to enact the measure. The Committee on Transportation and Infrastructure

finds that Congress has the authority to enact this measure pursuant to its powers granted under article I, section 8 of the Constitution.

FEDERAL MANDATE STATEMENT

The Committee adopts as its own the estimate of Federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act (Public Law 104–4).

PREEMPTION CLARIFICATION

Section 423 of the Congressional Budget Act of 1974 requires the report of any Committee on a bill or joint resolution to include a statement on the extent to which the bill or joint resolution is intended to preempt state, local, or tribal law. The Committee states that H.R. 2881 does not preempt any state, local, or tribal law.

ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act are created by this legislation.

APPLICABILITY OF LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act (Public Law 104–1).

COMMITTEE CORRESPONDENCE

BENNIE G. THOMPSON, MISSISSIPPI
CHAIRMAN

PETER T. KING, NEW YORK
RANKING MEMBER

One Hundred Tenth Congress
U.S. House of Representatives
Committee on Homeland Security
Washington, DC 20515

September 14, 2007

The Honorable James L. Oberstar
Chairman
Committee on Transportation and Infrastructure
2165 Rayburn House Office Building
Washington, DC 20515

Dear Chairman Oberstar:

Thank you for working with me to address concerns in H.R. 2881, a bill to authorize appropriations for the Federal Aviation Administration for fiscal year 2008. Like you, I strongly believe that providing for the authorization of adequate appropriations for the Federal Aviation Administration is vital.

H.R. 2881 contains provisions that fall within the jurisdiction of the Committee on Homeland Security. I recognize and appreciate your desire to bring this bill to the full House expeditiously. As a condition to our agreement to forgo a mark-up of this legislation, you have agreed to remedy our jurisdictional and substantive concerns during consideration of H.R. 2881 or similar legislation by the full House. The Committee on Homeland Security's decision to waive consideration of H.R. 2881, or similar legislation, should not be construed as waiving, altering, or diminishing the Committee's prerogatives with respect to this legislation.

Additionally, the Committee on Homeland Security reserves the right to seek the appointment of conferees during any House-Senate conference convened on this legislation or on provisions of this or a similar bill that are within the jurisdiction of the Committee on Homeland Security. I ask for your commitment to support any such request by the Committee on Homeland Security for the appointment of conferees on H.R. 2881 or similar legislation.

Finally, I respectfully ask that you place a copy of your letter and this response in the Committee Report to accompany H.R. 2881, or similar legislation, and in the *Congressional Record* during floor consideration of H.R. 2881.

Thank you for your cooperation in this matter. I look forward to working with you as we prepare to pass this important legislation.

Sincerely,

Bennie G. Thompson
Chairman

cc: The Honorable Nancy Pelosi, Speaker
The Honorable Peter T. King, Ranking Member
The Honorable John Sullivan, Parliamentarian

U.S. House of Representatives
Committee on Transportation and Infrastructure

James L. Oberstar
Chairman

David Heymsfeld, Chief of Staff
Ward W. McCarragher, Chief Counsel

Washington, DC 20515

John L. Mica
Ranking Republican Member

James W. Coon II, Republican Chief of Staff

September 14, 2007

The Honorable Bennie G. Thompson
Chairman
Committee on Homeland Security
U.S. House of Representatives
H2-176 Ford House Office Building
Washington, D.C. 20515

Dear Chairman Thompson:

Thank you for your September 14, 2007 letter regarding H.R. 2881, the "FAA Reauthorization Act of 2007". Your support for this legislation and your assistance in ensuring its timely consideration are greatly appreciated.

I agree that provisions in the bill are of jurisdictional interest to the Committee on Homeland Security. I acknowledge that by forgoing a sequential referral, your Committee is not relinquishing its jurisdiction and I will fully support your request to be represented in a House-Senate conference on those provisions over which the Committee on Homeland Security has jurisdiction in H.R. 2881.

I value your cooperation and look forward to working with you as we move ahead with this important aviation legislation.

Sincerely,

Jim Oberstar

James L. Oberstar, M.C.
Chairman

cc: The Honorable Nancy Pelosi, Speaker
The Honorable John L. Mica, Ranking Member
The Honorable Peter T. King, Ranking Member, Committee on Homeland Security
The Honorable John Sullivan, Parliamentarian

BART GORDON, TENNESSEE
CHAIRMAN

RALPH M. HALL, TEXAS
RANKING MEMBER

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September 17, 2007

The Honorable James L. Oberstar
Chairman
Committee on Transportation and Infrastructure
U.S. House of Representatives
2165 Rayburn House Office Building
Washington, D.C. 20515

Dear Chairman Oberstar:

I write to you regarding H.R. 2881, the "FAA Reauthorization Act of 2007." This legislation authorizes the Federal Aviation Administration's (FAA) programs, including research and development programs.

H.R. 2881 contains provisions that fall within the jurisdiction of the Committee on Science and Technology. I recognize and appreciate your desire to bring this legislation before the House in an expeditious manner and, accordingly, I will not seek a sequential referral of the bill. However, agreeing to waive consideration of this bill should not be construed as the Committee on Science and Technology waiving its jurisdiction over H.R. 2881.

Further, I request your support for the appointment of Science and Technology Committee conferees during any House-Senate conference convened on this legislation on provisions of the bill that are within the Committee's jurisdiction.

I look forward to working with you as we prepare to pass this important legislation.

Sincerely,

BART GORDON
Chairman

cc: The Honorable Nancy Pelosi, Speaker
The Honorable John L. Mica, Ranking Member
The Honorable Ralph M. Hall, Ranking Member, Committee on Science and Technology
The Honorable John Sullivan, Parliamentarian

U.S. House of Representatives
Committee on Transportation and Infrastructure

James L. Oberstar
Chairman

David Heymsfeld, Chief of Staff
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Washington, DC 20515

John L. Mica
Ranking Republican Member

James W. Coon II, Republican Chief of Staff

September 17, 2007

The Honorable Bart Gordon
Chairman
Committee on Science and Technology
U.S. House of Representatives
2320 Rayburn House Office Building
Washington, D.C. 20515

Dear Chairman Gordon:

Thank you for your September 14, 2007 letter regarding H.R. 2881, the "FAA Reauthorization Act of 2007". Your support for this legislation and your assistance in ensuring its timely consideration are greatly appreciated.

I agree that provisions in the bill are of jurisdictional interest to the Committee on Science and Technology. I acknowledge that by forgoing a sequential referral, your Committee is not relinquishing its jurisdiction and I will fully support your request to be represented in a House-Senate conference on those provisions over which the Committee on Science and Technology has jurisdiction in H.R. 2881.

I value your cooperation and look forward to working with you as we move ahead with this important aviation legislation.

Sincerely,

James L. Oberstar, M.C.
Chairman

cc: The Honorable Nancy Pelosi, Speaker
The Honorable John L. Mica, Ranking Member
The Honorable Ralph M. Hall, Ranking Member, Committee on Science and Technology
The Honorable John Sullivan, Parliamentarian

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

TITLE 49, UNITED STATES CODE

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SUBTITLE I—DEPARTMENT OF TRANSPORTATION

* * * * * * *

CHAPTER 1—ORGANIZATION

* * * * * * *

§ 106. Federal Aviation Administration

(a) * * *

* * * * * * *

(k) AUTHORIZATION OF APPROPRIATIONS FOR OPERATIONS.—

(1) SALARIES, OPERATIONS, AND MAINTENANCE.—There is authorized to be appropriated to the Secretary of Transportation for salaries, operations, and maintenance of the Administration—

[(A) $7,591,000,000 for fiscal year 2004;
[(B) $7,732,000,000 for fiscal year 2005;
[(C) $7,889,000,000 for fiscal year 2006; and
[(D) $8,064,000,000 for fiscal year 2007.]
(A) $8,726,000,000 for fiscal year 2008;
(B) $8,978,000,000 for fiscal year 2009;
(C) $9,305,000,000 for fiscal year 2010; and
(D) $9,590,000,000 for fiscal year 2011.

(2) AUTHORIZED EXPENDITURES.—Out of amounts appropriated under paragraph (1), the following expenditures are authorized:

[(A) Such sums as may be necessary for fiscal years 2004 through 2007 to support infrastructure systems development for both general aviation and the vertical flight industry.

[(B) Such sums as may be necessary for fiscal years 2004 through 2007 to establish helicopter approach procedures using current technologies (such as the Global Positioning System) to support all-weather, emergency medical service for trauma patients.

[(C) Such sums as may be necessary for fiscal years 2004 through 2007 to revise existing terminal and en route procedures and instrument flight rules to facilitate the takeoff, flight, and landing of tiltrotor aircraft and to improve the national airspace system by separating such aircraft from congested flight paths of fixed-wing aircraft.

[(D) Such sums as may be necessary for fiscal years 2004 through 2007 for the Center for Management Development of the Federal Aviation Administration to operate training courses and to support associated student travel for both residential and field courses.]

[(E)] *(A)* Such sums as may be necessary for fiscal years [2004 through 2007] *2008 through 2011* to carry out and expand the Air Traffic Control Collegiate Training Initiative.

[(F) Such sums as may be necessary for fiscal years 2004 through 2007 for the completion of the Alaska aviation safety project with respect to the 3 dimensional mapping of Alaska's main aviation corridors.]

[(G)] *(B)* Such sums as may be necessary for fiscal years [2004 through 2007] *2008 through 2011* to carry out the Aviation Safety Reporting System.

* * * * * * *

(m) COOPERATION BY ADMINISTRATOR.—With the consent of appropriate officials, the Administrator may, with or without reimbursement, use or accept the services, equipment, personnel, and facilities of any other Federal agency (as such term is defined in section 551(1) of title 5) and any other public or private entity. The Administrator may also cooperate with appropriate officials of other public and private agencies and instrumentalities concerning the use of services, equipment, personnel, and facilities. The head of each Federal agency shall cooperate with the Administrator in making the services, equipment, personnel, and facilities of the Federal agency available to the Administrator. The head of a Federal agency is authorized, notwithstanding any other provision of law, to transfer to or to receive from the Administration, *with or* without reimbursement, supplies, personnel, services, and equipment other than administrative supplies or equipment.

* * * * * * *

Subtitle II—OTHER GOVERNMENT AGENCIES

* * * * * * *

CHAPTER 11—NATIONAL TRANSPORTATION SAFETY BOARD

* * * * * * *

SUBCHAPTER IV—ENFORCEMENT AND PENALTIES

* * * * * * *

§ 1153. Judicial review

(a) * * *

* * * * * * *

(c) ADMINISTRATOR SEEKING JUDICIAL REVIEW OF AVIATION MATTERS.—When the Administrator of the Federal Aviation Adminis-

tration decides that an order of the Board under [section 44709 or] *section 44703(d), 44709, or* 46301(d)(5) of this title will have a significant adverse impact on carrying out this chapter related to an aviation matter, the Administrator may obtain judicial review of the order under section 46110 of this title. The Administrator shall be made a party to the judicial review proceedings. Findings of fact of the Board are conclusive if supported by substantial evidence.

* * * * * * *

Subtitle VII—AVIATION PROGRAMS

PART A—AIR COMMERCE AND SAFETY

PART A—AIR COMMERCE AND SAFETY

* * * * * * *

SUBPART I—GENERAL

CHAPTER 401—GENERAL PROVISIONS

§ 40102. Definitions

(a) GENERAL DEFINITIONS.—In this part—

(1) * * *

* * * * * * *

(4) "air navigation facility" means a facility used, available for use, or designed for use, in aid of air navigation, including—

(A) * * *

[(B) a light;

[(C) apparatus or equipment for distributing weather information, signaling, radio-directional finding, or radio or other electromagnetic communication; and]

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

(C) aeronautical and meteorological information to air traffic control facilities or aircraft;

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

[(D)**]** *(E)* **[**another structure**]** *any structure, equipment,* or mechanism for guiding or controlling flight in the air or the landing and takeoff of aircraft**[**.**]***; and*

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

* * * * * * *

(15) "citizen of the United States" means—

(A) * * *

* * * * * * *

For purposes of subparagraph (C), an air carrier shall not be deemed to be under the actual control of citizens of the United States unless citizens of the United States control all matters pertaining to the business and structure of the air carrier, including operational matters such as marketing, branding, fleet composition, route selection, pricing, and labor relations.

* * * * * * *

§ 40110. General procurement authority

(a) GENERAL.—In carrying out this part, the Administrator of the Federal Aviation Administration—

(1) * * *

(2) may dispose of an interest in property for adequate **[**compensation**]** *compensation, and the amount received shall be credited as an offsetting collection to the account from which the amount was expended and shall remain available until expended*; and

* * * * * * *

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

(1) * * *

* * * * * * *

(3) construct, or acquire an interest in, a public building (as defined in section 3301(a) of title 40) only under a delegation of authority from the Administrator of General Services**[**;**]***; and*

[(4) use procedures other than competitive procedures only when the property or services needed by the Administrator of the Federal Aviation Administration are available from only one responsible source or only from a limited number of responsible sources and no other type of property or services will satisfy the needs of the Administrator; and**]**

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

* * * * * * *

§ 40113. Administrative

(a) * * *

* * * * * * *

(e) ASSISTANCE TO FOREIGN AVIATION AUTHORITIES.—

(1) SAFETY-RELATED TRAINING AND OPERATIONAL SERVICES.—The Administrator may provide safety-related training and operational services to *public and private* foreign aviation authorities with or without reimbursement, if the Administrator determines that providing such services promotes aviation safety**[**.**]** *or efficiency. The Administrator may participate in, and submit offers in response to, competitions to provide such services and may contract with foreign aviation authorities to provide such services consistent with section 106(l)(6). Notwithstanding any other provision of law or policy, the Administrator may accept payments received under this subsection in arrears.* To the extent practicable, air travel reimbursed under this subsection shall be conducted on United States air carriers.

* * * * * * *

(3) CREDITING APPROPRIATIONS.—Funds received by the Administrator pursuant to this section shall be **[**credited to the appropriation from which the expenses were incurred in providing such services.**]** *credited as an offsetting collection to the account from which the expenses were incurred in providing such services and shall remain available until expended.*

* * * * * * *

§ 40117. Passenger facility [fees] *charges*

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

(1) * * *

* * * * * * *

(3) ELIGIBLE AIRPORT-RELATED PROJECT.—The term "eligible airport-related project" means any of the following projects:

(A) * * *

(B) A project for terminal development described in section **[**47110(d)**]** *47119(a)*.

* * * * * * *

(H) A project to construct secure bicycle storage facilities that are to be used by passengers at the airport and that are in compliance with applicable security standards.

* * * * * * *

[(5) PASSENGER FACILITY FEE.—The term "passenger facility fee" means a fee imposed under this section.**]**

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

(6) PASSENGER FACILITY REVENUE.—The term "passenger facility revenue" means revenue derived from a passenger facility **[**fee**]** *charge*.

(b) GENERAL AUTHORITY.—(1) The Secretary of Transportation may authorize under this section an eligible agency to impose a passenger facility **[**fee**]** *charge* of $1, $2, or $3 on each paying pas-

senger of an air carrier or foreign air carrier boarding an aircraft at an airport the agency controls to finance an eligible airport-related project, including making payments for debt service on indebtedness incurred to carry out the project, to be carried out in connection with the airport or any other airport the agency controls.

(2) A State, political subdivision of a State, or authority of a State or political subdivision that is not the eligible agency may not regulate or prohibit the imposition or collection of a passenger facility [fee] *charge* or the use of the passenger facility revenue.

(3) A passenger facility [fee] *charge* may be imposed on a passenger of an air carrier or foreign air carrier originating or connecting at the commercial service airport that the agency controls.

(4) In lieu of authorizing a [fee] *charge* under paragraph (1), the Secretary may authorize under this section an eligible agency to impose a passenger facility [fee] *charge* of [$4.00 or $4.50] *$4.00, $4.50, $5.00, $6.00, or $7.00* on each paying passenger of an air carrier or foreign air carrier boarding an aircraft at an airport the agency controls to finance an eligible airport-related project, including making payments for debt service on indebtedness incurred to carry out the project, if the Secretary finds—

(A) * * *

* * * * * * *

(5) MAXIMUM COST FOR CERTAIN LOW-EMISSION TECHNOLOGY PROJECTS.—The maximum cost that may be financed by imposition of a passenger facility [fee] *charge* under this section for a project described in subsection (a)(3)(G) with respect to a vehicle or ground support equipment may not exceed the incremental amount of the project cost that is greater than the cost of acquiring a vehicle or equipment that is not low-emission and would be used for the same purpose, or the cost of low-emission retrofitting, as determined by the Secretary.

(6) DEBT SERVICE FOR CERTAIN PROJECTS.—In addition to the uses specified in paragraphs (1) and (4), the Secretary may authorize a passenger facility [fee] *charge* imposed under paragraph (1) or (4) to be used for making payments for debt service on indebtedness incurred to carry out at the airport a project that is not an eligible airport-related project if the Secretary determines that such use is necessary due to the financial need of the airport.

(7) NOISE MITIGATION FOR CERTAIN SCHOOLS.—

(A) IN GENERAL.—In addition to the uses specified in paragraphs (1), (4), and (6), the Secretary may authorize a passenger facility charge imposed under paragraph (1) or (4) at a large hub airport that is the subject of an amended judgment and final order in condemnation filed on January 7, 1980, by the Superior Court of the State of California for the county of Los Angeles, to be used for a project to carry out noise mitigation for a building, or for the replacement of a relocatable building with a permanent building, in the noise impacted area surrounding the airport at which such building is used primarily for educational purposes, notwithstanding the air easement granted or any terms to the contrary in such judgment and final order, if—

(i) the Secretary determines that the building is adversely affected by airport noise;

(ii) the building is owned or chartered by the school district that was the plaintiff in case number 986,442 or 986,446, which was resolved by such judgment and final order;

(iii) the project is for a school identified in one of the settlement agreements effective February 16, 2005, between the airport and each of the school districts;

(iv) in the case of a project to replace a relocatable building with a permanent building, the eligible project costs are limited to the actual structural construction costs necessary to mitigate aircraft noise in instructional classrooms to an interior noise level meeting current standards of the Federal Aviation Administration; and

(v) the project otherwise meets the requirements of this section for authorization of a passenger facility charge.

(B) ELIGIBLE PROJECT COSTS.—In subparagraph (A)(iv), the term "eligible project costs" means the difference between the cost of standard school construction and the cost of construction necessary to mitigate classroom noise to the standards of the Federal Aviation Administration.

(c) APPLICATIONS.—(1) An eligible agency must submit to the Secretary an application for authority to impose a passenger facility **[**fee**]** *charge*. The application shall contain information and be in the form that the Secretary may require by regulation.

(2) Before submitting an application, the eligible agency must provide reasonable notice to, and an opportunity for consultation with, air carriers and foreign air carriers operating at the airport. The Secretary shall prescribe regulations that define reasonable notice and contain at least the following requirements:

(A) The agency must provide written notice of individual projects being considered for financing by a passenger facility **[**fee**]** *charge* and the date and location of a meeting to present the projects to air carriers and foreign air carriers operating at the airport.

* * * * * * *

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

(A) A requirement that the eligible agency provide public notice of intent to collect a passenger facility **[**fee**]** *charge* so as to inform those interested persons and agencies that may be affected. The public notice may include—

(i) * * *

* * * * * * *

(d) LIMITATIONS ON APPROVING APPLICATIONS.—The Secretary may approve an application that an eligible agency has submitted under subsection (c) of this section to finance a specific project only if the Secretary finds, based on the application, that—

(1) the amount and duration of the proposed passenger facility [fee] *charge* will result in revenue (including interest and other returns on the revenue) that is not more than the amount necessary to finance the specific project;

* * * * * * *

(4) in the case of an application to impose a [fee] *charge* of more than $3.00 for an eligible surface transportation or terminal project, the agency has made adequate provision for financing the airside needs of the airport, including runways, taxiways, aprons, and aircraft gates.

(e) LIMITATIONS ON IMPOSING [FEES] *CHARGES*.—(1) An eligible agency may impose a passenger facility [fee] *charge* only—

(A) * * *

* * * * * * *

(2) A passenger facility [fee] *charge* may not be collected from a passenger—

(A) * * *

* * * * * * *

(f) LIMITATIONS ON CONTRACTS, LEASES, AND USE AGREEMENTS.—(1) A contract between an air carrier or foreign air carrier and an eligible agency made at any time may not impair the authority of the agency to impose a passenger facility [fee] *charge* or to use the passenger facility revenue as provided in this section.

(2) A project financed with a passenger facility [fee] *charge* may not be subject to an exclusive long-term lease or use agreement of an air carrier or foreign air carrier, as defined by regulations of the Secretary.

(3) A lease or use agreement of an air carrier or foreign air carrier related to a project whose construction or expansion was financed with a passenger facility [fee] *charge* may not restrict the eligible agency from financing, developing, or assigning new capacity at the airport with passenger facility revenue.

(g) TREATMENT OF REVENUE.—(1) * * *

* * * * * * *

(4) Passenger facility revenues that are held by an air carrier or an agent of the carrier after collection of a passenger facility [fee] *charge* constitute a trust fund that is held by the air carrier or agent for the beneficial interest of the eligible agency imposing the [fee] *charge*. Such carrier or agent holds neither legal nor equitable interest in the passenger facility revenues except for any handling fee or retention of interest collected on unremitted proceeds as may be allowed by the Secretary.

(h) COMPLIANCE.—(1) As necessary to ensure compliance with this section, the Secretary shall prescribe regulations requiring recordkeeping and auditing of accounts maintained by an air carrier or foreign air carrier and its agent collecting a passenger facility [fee] *charge* and by the eligible agency imposing the [fee] *charge*.

(2) The Secretary periodically shall audit and review the use by an eligible agency of passenger facility revenue. After review and a public hearing, the Secretary may end any part of the authority of the agency to impose a passenger facility [fee] *charge* to the ex-

tent the Secretary decides that the revenue is not being used as provided in this section.

(3) The Secretary may set off amounts necessary to ensure compliance with this section against amounts otherwise payable to an eligible agency under subchapter I of chapter 471 of this title if the Secretary decides a passenger facility [fee] *charge* is excessive or that passenger facility revenue is not being used as provided in this section.

(i) REGULATIONS.—The Secretary shall prescribe regulations necessary to carry out this section. The regulations—

(1) may prescribe the time and form by which a passenger facility [fee] *charge* takes effect;

(2) shall—

(A) require an air carrier or foreign air carrier and its agent to collect a passenger facility [fee] *charge* that an eligible agency imposes under this section;

(B) establish procedures for handling and remitting money collected;

(C) ensure that the money, less a uniform amount the Secretary determines reflects the average necessary and reasonable expenses (net of interest accruing to the carrier and agent after collection and before remittance) incurred in collecting and handling the [fee] *charge*, is paid promptly to the eligible agency for which they are collected; and

(D) require that the amount collected for any air transportation be noted on the ticket for that air transportation; and

(3) may permit an eligible agency to request that collection of a passenger facility [fee] *charge* be waived for—

(A) passengers enplaned by any class of air carrier or foreign air carrier if the number of passengers enplaned by the carriers in the class constitutes not more than one percent of the total number of passengers enplaned annually at the airport at which the [fee] *charge* is imposed; or

* * * * * * *

(j) LIMITATION ON CERTAIN ACTIONS.—A State, political subdivision of a State, or authority of a State or political subdivision that is not the eligible agency may not tax, regulate, or prohibit or otherwise attempt to control in any manner, the imposition or collection of a passenger facility [fee] *charge* or the use of the revenue from the passenger facility [fee] *charge*.

(k) COMPETITION PLANS.—

(1) IN GENERAL.—Beginning in fiscal year 2001, no eligible agency may impose a passenger facility [fee] *charge* under this section with respect to a covered airport (as such term is defined in section 47106(f)) unless the agency has submitted to the Secretary a written competition plan in accordance with such section. This subsection does not apply to passenger facility [fees] *charges* in effect before the date of the enactment of this subsection.

* * * * * * *

(l) PILOT PROGRAM FOR PASSENGER FACILITY [FEE] *CHARGE* AUTHORIZATIONS AT NONHUB AIRPORTS.—

(1) IN GENERAL.—The Secretary shall establish a pilot program to test alternative procedures for authorizing eligible agencies for nonhub airports to impose passenger facility [fees] *charges*. An eligible agency may impose in accordance with the provisions of this subsection a passenger facility [fee] *charge* under this section. For purposes of the pilot program, the procedures in this subsection shall apply instead of the procedures otherwise provided in this section.

* * * * * * *

(3) NOTICE OF INTENTION.—The eligible agency must submit to the Secretary a notice of intention to impose a passenger facility [fee] *charge* under this subsection. The notice shall include—

(A) information that the Secretary may require by regulation on each project for which authority to impose a passenger facility [fee] *charge* is sought;

(B) the amount of revenue from passenger facility [fees] *charges* that is proposed to be collected for each project; and

(C) the level of the passenger facility [fee] *charge* that is proposed.

(4) ACKNOWLEDGEMENT OF RECEIPT AND INDICATION OF OBJECTION.—The Secretary shall acknowledge receipt of the notice and indicate any objection to the imposition of a passenger facility [fee] *charge* under this subsection for any project identified in the notice within 30 days after receipt of the eligible agency's notice.

(5) AUTHORITY TO IMPOSE [FEE] *CHARGE*.—Unless the Secretary objects within 30 days after receipt of the eligible agency's notice, the eligible agency is authorized to impose a passenger facility [fee] *charge* in accordance with the terms of its notice under this subsection.

* * * * * * *

[(7) SUNSET.—This subsection shall cease to be effective beginning on the date that is 3 years after the date of issuance of regulations to carry out this subsection.]

[(8)] *(7)* ACKNOWLEDGEMENT NOT AN ORDER.—An acknowledgement issued under paragraph (4) shall not be considered an order issued by the Secretary for purposes of section 46110.

(m) FINANCIAL MANAGEMENT OF [FEES] *CHARGES*.—

(1) HANDLING OF [FEES] *CHARGES*.—A covered air carrier shall segregate in a separate account passenger facility revenue equal to the average monthly liability for [fees] *charges* collected under this section by such carrier or any of its agents for the benefit of the eligible agencies entitled to such revenue.

* * * * * * *

(5) INTEREST ON AMOUNTS.—A covered air carrier that collects passenger facility [fees] *charges* is entitled to receive the interest on passenger facility [fee] *charge* accounts if the ac-

counts are established and maintained in compliance with this subsection.

(6) EXISTING REGULATIONS.—The provisions of section 158.49 of title 14, Code of Federal Regulations, that permit the commingling of passenger facility [fees] *charges* with other air carrier revenue shall not apply to a covered air carrier.

* * * * * * *

(n) PILOT PROGRAM FOR PFC ELIGIBILITY FOR INTERMODAL GROUND ACCESS PROJECTS.—

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

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

(3) ELIGIBLE COSTS.—

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

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

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

(B) DETERMINATIONS REGARDING PROJECTED PROJECT USE.—

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

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

* * * * * * *

§ 40119. Security and research and development activities

(a) * * *

(b) DISCLOSURE.—(1) * * *

* * * * * * *

(3) LIMITATION ON APPLICABILITY OF FREEDOM OF INFORMATION ACT.—Section 552 of title 5, United States Code, shall not apply to disclosures that the Administrator of the Federal Aviation Administration may make from the systems of records of the Administration to any Federal law enforcement, intelligence, protective service, immigration, or national security official in order to assist the official receiving the information in the performance of official duties.

* * * * * * *

§ 40122. Federal Aviation Administration personnel management system

(a) IN GENERAL.—

(1) * * *

[(2) MEDIATION.—If the Administrator does not reach an agreement under paragraph (1) with the exclusive bargaining representatives, the services of the Federal Mediation and Conciliation Service shall be used to attempt to reach such agreement. If the services of the Federal Mediation and Conciliation Service do not lead to an agreement, the Administrator's proposed change to the personnel management system shall not take effect until 60 days have elapsed after the Administrator has transmitted the proposed change, along with the objections of the exclusive bargaining representatives to the change, and the reasons for such objections, to Congress. The 60-day period shall not include any period during which Congress has adjourned sine die.]

(2) DISPUTE RESOLUTION.—

(A) MEDIATION.—If the Administrator does not reach an agreement under paragraph (1) or the provisions referred to in subsection (g)(2)(C) with the exclusive bargaining representative of the employees, the Administrator and the bargaining representative—

(i) shall use the services of the Federal Mediation and Conciliation Service to attempt to reach such agreement in accordance with part 1425 of title 29, Code of Federal Regulations (as in effect on the date of enactment of the FAA Reauthorization Act of 2007); or

(ii) may by mutual agreement adopt alternative procedures for the resolution of disputes or impasses arising in the negotiation of the collective-bargaining agreement.

(B) BINDING ARBITRATION.—

(i) ASSISTANCE FROM FEDERAL SERVICE IMPASSES PANEL.—If the services of the Federal Mediation and Conciliation Service under subparagraph (A)(i) do not lead to an agreement, the Administrator and the exclusive bargaining representative of the employees (in this subparagraph referred to as the "parties") shall submit their issues in controversy to the Federal Service Impasses Panel. The Panel shall assist the parties in resolving the impasse by asserting jurisdiction and or-

dering binding arbitration by a private arbitration board consisting of 3 members.

(ii) APPOINTMENT OF ARBITRATION BOARD.—The Executive Director of the Panel shall provide for the appointment of the 3 members of a private arbitration board under clause (i) by requesting the Director of the Federal Mediation and Conciliation Service to prepare a list of not less than 15 names of arbitrators with Federal sector experience and by providing the list to the parties. Within 10 days of receiving the list, the parties shall each select one person from the list. The 2 arbitrators selected by the parties shall then select a third person from the list within 7 days. If either of the parties fails to select a person or if the 2 arbitrators are unable to agree on the third person within 7 days, the parties shall make the selection by alternately striking names on the list until one arbitrator remains.

(iii) FRAMING ISSUES IN CONTROVERSY.—If the parties do not agree on the framing of the issues to be submitted for arbitration, the arbitration board shall frame the issues.

(iv) HEARINGS.—The arbitration board shall give the parties a full and fair hearing, including an opportunity to present evidence in support of their claims and an opportunity to present their case in person, by counsel, or by other representative as they may elect.

(v) DECISIONS.—The arbitration board shall render its decision within 90 days after the date of its appointment. Decisions of the arbitration board shall be conclusive and binding upon the parties.

(vi) COSTS.—The parties shall share costs of the arbitration equally.

(3) RATIFICATION OF AGREEMENTS.—Upon reaching a voluntary agreement or at the conclusion of the binding arbitration under paragraph (2)(B), the final agreement, except for those matters decided by an arbitration board, shall be subject to ratification by the exclusive bargaining representative of the employees, if so requested by the bargaining representative, and approval by the head of the agency in accordance with the provisions referred to in subsection (g)(2)(C).

(4) ENFORCEMENT.—

(A) ENFORCEMENT ACTIONS IN UNITED STATES COURTS.—Each United States district court and each United States court of a place subject to the jurisdiction of the United States shall have jurisdiction of enforcement actions brought under this section. Such an action may be brought in any judicial district in the State in which the violation of this section is alleged to have been committed, the judicial district in which the Federal Aviation Administration has its principal office, or the District of Columbia.

(B) ATTORNEY FEES.—The court may assess against the Federal Aviation Administration reasonable attorney fees and other litigation costs reasonably incurred in any case

under this section in which the complainant has substantially prevailed.

[(3)] *(5)* COST SAVINGS AND PRODUCTIVITY GOALS.—The Administration and the exclusive bargaining representatives of the employees shall use every reasonable effort to find cost savings and to increase productivity within each of the affected bargaining units.

[(4)] *(6)* ANNUAL BUDGET DISCUSSIONS.—The Administration and the exclusive bargaining representatives of the employees shall meet annually for the purpose of finding additional cost savings within the Administration's annual budget as it applies to each of the affected bargaining units and throughout the agency.

* * * * * * *

(g) PERSONNEL MANAGEMENT SYSTEM.—

(1) * * *

* * * * * * *

(3) APPEALS TO MERIT SYSTEMS PROTECTION BOARD.—Under the new personnel management system developed and implemented under paragraph (1), an employee of the Administration may submit an appeal to the Merit Systems Protection Board and may seek judicial review of any resulting final orders or decisions of the Board from any action that was appealable to the Board under any law, rule, or regulation as of March 31, 1996. *Notwithstanding any other provision of law, retroactive to April 1, 1996, the Board shall have the same remedial authority over such employee appeals that it had as of March 31, 1996.*

* * * * * * *

§ 40128. Overflights of national parks

(a) IN GENERAL.—

(1) GENERAL REQUIREMENTS.—A commercial air tour operator may not conduct commercial air tour operations over a national park or tribal lands, as defined by this section, except—

(A) * * *

* * * * * * *

(C) in accordance with any applicable air tour management plan *or voluntary agreement under subsection (b)(7)* for the park or tribal lands.

* * * * * * *

(5) EXEMPTION.—

(A) IN GENERAL.—Notwithstanding paragraph (1), a national park that has 50 or fewer commercial air tour flights a year shall be exempt from the requirements of this section, except as provided in subparagraph (B).

(B) WITHDRAWAL OF EXEMPTION.—If the Director determines that an air tour management plan or voluntary agreement is necessary to protect park resources and values or park visitor use and enjoyment, the Director shall withdraw the exemption of a park under subparagraph (A).

(C) LIST OF PARKS.—The Director shall inform the Administrator, in writing, of each determination under subparagraph (B). The Director and Administrator shall publish an annual list of national parks that are covered by the exemption provided by this paragraph.

(D) ANNUAL REPORT.—A commercial air tour operator conducting commercial air tours in a national park that is exempt from the requirements of this section shall submit to the Administrator and the Director an annual report regarding the number of commercial air tour flights it conducts each year in such park.

(b) AIR TOUR MANAGEMENT PLANS.—

(1) * * *

* * * * * * *

(7) VOLUNTARY AGREEMENTS.—

(A) IN GENERAL.—As an alternative to an air tour management plan, the Director and the Administrator may enter into a voluntary agreement with a commercial air tour operator (including a new entrant applicant and an operator that has interim operating authority) that has applied to conduct air tour operations over a national park to manage commercial air tour operations over such national park.

(B) PARK PROTECTION.—A voluntary agreement under this paragraph with respect to commercial air tour operations over a national park shall address the management issues necessary to protect the resources of such park and visitor use of such park without compromising aviation safety or the air traffic control system and may—

(i) include provisions such as those described in subparagraphs (B) through (E) of paragraph (3);

(ii) include provisions to ensure the stability of, and compliance with, the voluntary agreement; and

(iii) provide for fees for such operations.

(C) PUBLIC.—The Director and the Administrator shall provide an opportunity for public review of a proposed voluntary agreement under this paragraph and shall consult with any Indian tribe whose tribal lands are, or may be, flown over by a commercial air tour operator under a voluntary agreement under this paragraph. After such opportunity for public review and consultation, the voluntary agreement may be implemented without further administrative or environmental process beyond that described in this subsection.

(D) TERMINATION.—A voluntary agreement under this paragraph may be terminated at any time at the discretion of the Director or the Administrator if the Director determines that the agreement is not adequately protecting park resources or visitor experiences or the Administrator determines that the agreement is adversely affecting aviation safety or the national aviation system. If a voluntary agreement for a national park is terminated, the operators shall conform to the requirements for interim operating authority

under subsection (c) until an air tour management plan for the park is in effect.

(c) INTERIM OPERATING AUTHORITY.—

(1) * * *

(2) REQUIREMENTS AND LIMITATIONS.—Interim operating authority granted under this subsection—

(A) * * *

* * * * * * *

[(I) shall allow for modifications of the interim operating authority based on experience if the modification improves protection of national park resources and values and of tribal lands.**]**

(I) may allow for modifications of the interim operating authority without further environmental review beyond that described in this section if—

(i) adequate information regarding the operator's existing and proposed operations under the interim operating authority is provided to the Administrator and the Director;

(ii) the Administrator determines that there would be no adverse impact on aviation safety or the air traffic control system; and

(iii) the Director agrees with the modification, based on the Director's professional expertise regarding the protection of the park resources and values and visitor use and enjoyment.

(3) NEW ENTRANT AIR TOUR OPERATORS.—

(A) IN GENERAL.—The Administrator, in cooperation with the Director, may grant interim operating authority under this paragraph to an air tour operator for a national park or tribal lands for which that operator is a new entrant air tour operator **[**if the Administrator determines the authority is necessary to ensure competition in the provision of commercial air tour operations over the park or tribal lands.**]** *without further environmental process beyond that described in this paragraph if—*

(i) adequate information on the operator's proposed operations is provided to the Administrator and the Director by the operator making the request;

(ii) the Administrator agrees that there would be no adverse impact on aviation safety or the air traffic control system; and

(iii) the Director agrees, based on the Director's professional expertise regarding the protection of park resources and values and visitor use and enjoyment.

* * * * * * *

(d) COMMERCIAL AIR TOUR OPERATOR REPORTS.—

(1) REPORT.—Each commercial air tour operator providing a commercial air tour over a national park under interim operating authority granted under subsection (c) or in accordance with an air tour management plan under subsection (b) shall submit a report to the Administrator and Director regarding the number of its commercial air tour operations over each na-

tional park and such other information as the Administrator and Director may request in order to facilitate administering the provisions of this section.

(2) REPORT SUBMISSION.—Not later than 3 months after the date of enactment of the FAA Reauthorization Act of 2007, the Administrator and Director shall jointly issue an initial request for reports under this subsection. The reports shall be submitted to the Administrator and Director on a frequency and in a format prescribed by the Administrator and Director.

[(d)] *(e)* EXEMPTIONS.—This section shall not apply to—

(1) * * *

* * * * * * *

[(e)] *(f)* LAKE MEAD.—This section shall not apply to any air tour operator while flying over or near the Lake Mead National Recreation Area, solely as a transportation route, to conduct an air tour over the Grand Canyon National Park. For purposes of this subsection, an air tour operator flying over the Hoover Dam in the Lake Mead National Recreation Area en route to the Grand Canyon National Park shall be deemed to be flying solely as a transportation route.

[(f)] *(g)* DEFINITIONS.—In this section, the following definitions apply:

(1) * * *

* * * * * * *

§ 40130. FAA access to criminal history records or databases systems

(a) ACCESS TO RECORDS OR DATABASES SYSTEMS.—

(1) ACCESS TO INFORMATION.—Notwithstanding section 534 of title 28, and regulations issued to implement such section, the Administrator of the Federal Aviation Administration may access a system of documented criminal justice information maintained by the Department of Justice or by a State but may do so only for the purpose of carrying out civil and administrative responsibilities of the Administration to protect the safety and security of the national airspace system or to support the missions of the Department of Justice, the Department of Homeland Security, and other law enforcement agencies.

(2) RELEASE OF INFORMATION.— In accessing a system referred to in paragraph (1), the Administrator shall be subject to the same conditions and procedures established by the Department of Justice or the State for other governmental agencies with access to the system.

(3) LIMITATION.—The Administrator may not use the access authorized under paragraph (1) to conduct criminal investigations.

(b) DESIGNATED EMPLOYEES.—The Administrator shall designate, by order, employees of the Administration who shall carry out the authority described in subsection (a). The designated employees may—

(1) have access to and receive criminal history, driver, vehicle, and other law enforcement information contained in the law enforcement databases of the Department of Justice, or any juris-

diction of a State, in the same manner as a police officer employed by a State or local authority of that State who is certified or commissioned under the laws of that State;

(2) use any radio, data link, or warning system of the Federal Government, and of any jurisdiction in a State, that provides information about wanted persons, be-on-the-lookout notices, warrant status, or other officer safety information to which a police officer employed by a State or local authority in that State who is certified or commission under the laws of that State has access and in the same manner as such police officer; or

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

(c) SYSTEM OF DOCUMENTED CRIMINAL JUSTICE INFORMATION DEFINED.—In this section, the term "system of documented criminal justice information" means any law enforcement database, system, or communication containing information concerning identification, criminal history, arrests, convictions, arrest warrants, wanted or missing persons, including the National Crime Information Center and its incorporated criminal history databases and the National Law Enforcement Telecommunications System.

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SUBPART II—ECONOMIC REGULATION

* * * * * * *

CHAPTER 417—OPERATIONS OF CARRIERS

SUBCHAPTER I—REQUIREMENTS

* * * * * * *

§ 41708. Reports

(a) * * *

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(c) DIVERTED AND CANCELLED FLIGHTS.—

(1) MONTHLY REPORTS.—The Secretary shall require an air carrier referred to in paragraph (2) to file with the Secretary a monthly report on each flight of the air carrier that is diverted from its scheduled destination to another airport and each flight of the air carrier that departs the gate at the airport at which the flight originates but is cancelled before wheels-off time.

(2) APPLICABILITY.—An air carrier that is required to file a monthly airline service quality performance report under subsection (b) shall be subject to the requirement of paragraph (1).

(3) CONTENTS.—A monthly report filed by an air carrier under paragraph (1) shall include, at a minimum, the following information:

(A) For a diverted flight—

(i) the flight number of the diverted flight;
(ii) the scheduled destination of the flight;
(iii) the date and time of the flight;
(iv) the airport to which the flight was diverted;
(v) wheels-on time at the diverted airport;
(vi) the time, if any, passengers deplaned the aircraft at the diverted airport; and
(vii) if the flight arrives at the scheduled destination airport—
(I) the gate-departure time at the diverted airport;
(II) the wheels-off time at the diverted airport;
(III) the wheels-on time at the scheduled arrival airport; and
(IV) the gate arrival time at the scheduled arrival airport.
(B) For flights cancelled after gate departure—
(i) the flight number of the cancelled flight;
(ii) the scheduled origin and destination airports of the cancelled flight;
(iii) the date and time of the cancelled flight;
(iv) the gate-departure time of the cancelled flight; and
(v) the time the aircraft returned to the gate.

(4) PUBLICATION.—The Secretary shall compile the information provided in the monthly reports filed pursuant to paragraph (1) in a single monthly report and publish such report on the Web site of the Department of Transportation.

* * * * * * *

§ 41718. Special rules for Ronald Reagan Washington National Airport

(a) BEYOND-PERIMETER EXEMPTIONS.—The Secretary shall grant, by order, **[**24**]** *34* exemptions from the application of sections 49104(a)(5), 49109, 49111(e), and 41714 of this title to air carriers to operate limited frequencies and aircraft on select routes between Ronald Reagan Washington National Airport and domestic hub airports and exemptions from the requirements of subparts K and S of part 93, Code of Federal Regulations, if the Secretary finds that the exemptions will—

(1) * * *

* * * * * * *

(c) LIMITATIONS.—

(1) * * *

(2) GENERAL EXEMPTIONS.—The exemptions granted under subsections (a) and (b) may not be for operations between the hours of 10:00 p.m. and 7:00 a.m. and may not increase the number of operations at Ronald Reagan Washington National Airport in any 1-hour period during the hours between 7:00 a.m. and 9:59 p.m. by more than **[**3 operations**]** *5 operations*.

(3) SLOTS.—The Administrator of the Federal Aviation Administration shall reduce the hourly air carrier slot quota for Ronald Reagan Washington National Airport in section

93.123(a) of title 14, Code of Federal Regulations, by a total of 10 slots that are available for allocation. Such reductions shall be taken in the 6:00 a.m., 10:00 p.m., or 11:00 p.m. hours, as determined by the Administrator, in order to grant exemptions under subsection (a).

[(3)**]** *(4)* ALLOCATION OF WITHIN-PERIMETER EXEMPTIONS.—Of the exemptions granted under subsection (b)—

(A) * * *

* * * * * * *

[(4)**]** *(5)* APPLICABILITY TO EXEMPTION NO. 5133.—Nothing in this section affects Exemption No. 5133, as from time-to-time amended and extended.

* * * * * * *

(e) SCHEDULING PRIORITY.—Operations conducted by new entrant air carriers and limited incumbent air carriers shall be afforded a scheduling priority over operations conducted by other air carriers granted exemptions pursuant to this section, with the highest scheduling priority to be afforded to beyond-perimeter operations conducted by new entrant air carriers and limited incumbent air carriers.

[(e)**]** *(f)* APPLICABILITY OF CERTAIN LAWS.—Neither the request for, nor the granting of an exemption, under this section shall be considered for purposes of any Federal law a major Federal action significantly affecting the quality of the human environment.

[(f)**]** *(g)* COMMUTERS DEFINED.—For purposes of aircraft operations at Ronald Reagan Washington National Airport under subpart K of part 93 of title 14, Code of Federal Regulations, the term 'commuters' means aircraft operations using aircraft having a certificated maximum seating capacity of 76 or less.

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SUBCHAPTER II—SMALL COMMUNITY AIR SERVICE

* * * * * * *

§ 41737. Compensation guidelines, limitations, and claims

(a) COMPENSATION GUIDELINES.—(1) The Secretary of Transportation shall prescribe guidelines governing the rate of compensation payable under this subchapter. The guidelines shall be used to determine the reasonable amount of compensation required to ensure the continuation of air service or air transportation under this subchapter. The guidelines shall—

(A) * * *

(B) consider amounts needed by an air carrier to promote public use of the service or transportation for which compensation is being paid; **[**and**]**

(C) include expense elements based on representative costs of air carriers providing scheduled air transportation of passengers, property, and mail on aircraft of the type the Secretary decides is appropriate for providing the service or transportation for which compensation is being **[**provided.**]** *provided;*

(D) include provisions under which the Secretary may encourage an air carrier to improve air service for which compensation is being paid under this subchapter by incorporating financial incentives in an essential air service contract based on specified performance goals; and

(E) include provisions under which the Secretary may execute a long-term essential air service contract to encourage an air carrier to provide air service to an eligible place if it would be in the public interest to do so.

* * * * * * *

§ 41742. Essential air service authorization

(a) IN GENERAL.—

(1) * * *

(2) ADDITIONAL FUNDS.—In addition to amounts authorized under paragraph (1), there is authorized to be appropriated **[**$77,000,000**]** *$83,000,000* for each fiscal year to carry out the essential air service program under this subchapter of which not more than $12,000,000 per fiscal year may be used for the marketing incentive program for communities and for State marketing assistance.

* * * * * * *

(4) DISTRIBUTION OF EXCESS FUNDS.—Of the funds, if any, credited to the account established under section 45303 in a fiscal year that exceed the $50,000,000 made available for such fiscal year under paragraph (1)—

(A) one-half shall be made available immediately for obligation and expenditure to carry out section 41743; and

(B) one-half shall be made available immediately for obligation and expenditure to carry out subsection (b).

(b) FUNDING FOR SMALL COMMUNITY AIR SERVICE.—Notwithstanding any other provision of law, **[**moneys credited to the account established under section 45303(a) of this title, including the funds derived from fees imposed under the authority contained in section 45301(a) of this title,**]** *amounts made available under subsection (a)(4)(B)* shall be used to carry out the essential air service program under this subchapter. Notwithstanding section 47114(g) of this title, **[**any amounts from those fees**]** *any of such amounts* that are not obligated or expended at the end of the fiscal year for the purpose of funding the essential air service program under this subchapter shall be made available to the Administration for use in improving rural air safety under subchapter I of chapter 471 of this title and shall be used exclusively for projects at rural airports under this subchapter.

§ 41743. Airports not receiving sufficient service

(a) * * *

* * * * * * *

(c) CRITERIA FOR PARTICIPATION.—In selecting communities, or consortia of communities, for participation in the program established under subsection (a), the Secretary shall apply the following criteria:

(1) * * *

* * * * * * *

(5) PRIORITIES.—The Secretary shall give priority to communities or consortia of communities where—

(A) * * *

* * * * * * *

(D) the assistance will provide material benefits to a broad segment of the travelling public, including business, educational institutions, and other enterprises, whose access to the national air transportation system is limited; [and]

(E) the assistance will be used in a timely [fashion.] *fashion; and*

(F) multiple communities cooperate to submit a regional or multistate application to improve air service.

* * * * * * *

(e) AUTHORITY TO MAKE AGREEMENTS.—

(1) * * *

(2) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary $20,000,000 for fiscal year 2001, $27,500,000 for each of fiscal years 2002 and 2003, and $35,000,000 for each of fiscal years 2004 through [2008] *2011* to carry out this section. Such sums shall remain available until expended.

* * * * * * *

CHAPTER 423—AIR PASSENGER SERVICE IMPROVEMENTS

Sec.
42301. Emergency contingency plans.
42302. Consumer complaints.
42303. Use of insecticides in passenger aircraft.

§ 42301. Emergency contingency plans

(a) SUBMISSION OF AIR CARRIER AND AIRPORT PLANS.—Not later than 90 days after the date of enactment of this section, each air carrier providing covered air transportation at a large hub airport or medium hub airport and each operator of a large hub airport or medium hub airport shall submit to the Secretary of Transportation for review and approval an emergency contingency plan in accordance with the requirements of this section.

(b) COVERED AIR TRANSPORTATION DEFINED.—In this section, the term "covered air transportation" means scheduled passenger air transportation provided by an air carrier using aircraft with more than 60 seats.

(c) AIR CARRIER PLANS.—

(1) PLANS FOR INDIVIDUAL AIRPORTS.—An air carrier shall submit an emergency contingency plan under subsection (a) for—

(A) each large hub airport and medium hub airport at which the carrier provides covered air transportation; and

(B) each large hub airport and medium hub airport at which the carrier has flights for which it has primary responsibility for inventory control.

(2) CONTENTS.—An emergency contingency plan submitted by an air carrier for an airport under subsection (a) shall contain a description of how the air carrier will—

(A) provide food, water, restroom facilities, cabin ventilation, and access to medical treatment for passengers onboard an aircraft at the airport that is on the ground for an extended period of time without access to the terminal; and

(B) share facilities and make gates available at the airport in an emergency.

(d) AIRPORT PLANS.—An emergency contingency plan submitted by an airport operator under subsection (a) shall contain a description of how the airport operator, to the maximum extent practicable, will provide for the sharing of facilities and make gates available at the airport in an emergency.

(e) UPDATES.—

(1) AIR CARRIERS.—An air carrier shall update the emergency contingency plan submitted by the air carrier under subsection (a) every 3 years and submit the update to the Secretary for review and approval.

(2) AIRPORTS.—An airport operator shall update the emergency contingency plan submitted by the airport operator under subsection (a) every 5 years and submit the update to the Secretary for review and approval.

(f) APPROVAL.—The Secretary shall review and approve emergency contingency plans submitted under subsection (a) and updates submitted under subsection (e) to ensure that the plans and updates will effectively address emergencies and provide for the health and safety of passengers.

§ 42302. Consumer complaints

(a) CONSUMER COMPLAINTS HOTLINE TELEPHONE NUMBER.—The Secretary of Transportation shall establish a consumer complaints hotline telephone number for the use of passengers in air transportation.

(b) PUBLIC NOTICE.—The Secretary shall notify the public of the telephone number established under subsection (a).

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this section. Such sums shall remain available until expended.

§ 42303. Use of insecticides in passenger aircraft

No air carrier, foreign air carrier, or ticket agent may sell in the United States a ticket for air transportation for a flight on which an insecticide is planned to be used in the aircraft while passengers are on board the aircraft unless the air carrier, foreign air carrier, or ticket agent selling the ticket first informs the person purchasing the ticket of the planned use of the insecticide, including the name of the insecticide.

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SUBPART III—SAFETY

* * * * * * *

CHAPTER 443—INSURANCE

* * * * * * *

§ 44302. General authority

(a) * * *

* * * * * * *

(f) EXTENSION OF POLICIES.—

(1) IN GENERAL.—The Secretary shall extend through [August 31, 2006] *September 30, 2011*, and may extend through [December 31, 2006] *September 30, 2017*, the termination date of any insurance policy that the Department of Transportation issued to an air carrier under subsection (a) and that is in effect on the date of enactment of this subsection on no less favorable terms to the air carrier than existed on June 19, 2002; except that the Secretary shall amend the insurance policy, subject to such terms and conditions as the Secretary may prescribe, to add coverage for losses or injuries to aircraft hulls, passengers, and crew at the limits carried by air carriers for such losses and injuries as of such date of enactment and at an additional premium comparable to the premium charged for third-party casualty coverage under such policy.

* * * * * * *

(3) SUCCESSOR PROGRAM.—

(A) IN GENERAL.—After December 31, 2017, coverage for the risks specified in a policy that has been extended under paragraph (1) shall be provided in an airline industry sponsored risk retention or other risk-sharing arrangement approved by the Secretary.

(B) TRANSFER OF PREMIUMS.—

(i) IN GENERAL.—On December 31, 2017, and except as provided in clause (ii), premiums that are collected by the Secretary from the airline industry after September 22, 2001, for any policy under this subsection, and interest earned thereon, as determined by the Secretary, shall be transferred to an airline industry sponsored risk retention or other risk-sharing arrangement approved by the Secretary.

(ii) DETERMINATION OF AMOUNT TRANSFERRED.—The amount transferred pursuant to clause (i) shall be less—

(I) the amount of any claims paid out on such policies from September 22, 2001, through December 31, 2017;

(II) the amount of any claims pending under such policies as of December 31, 2017; and

(III) the cost, as determined by the Secretary, of administering the provision of insurance policies

under this chapter from September 22, 2001, through December 31, 2017.

* * * * * * *

§ 44303. Coverage

(a) * * *

(b) AIR CARRIER LIABILITY FOR THIRD PARTY CLAIMS ARISING OUT OF ACTS OF TERRORISM.—For acts of terrorism committed on or to an air carrier during the period beginning on September 22, 2001, and ending on **[**December 31, 2006**]** *December 31, 2012*, the Secretary may certify that the air carrier was a victim of an act of terrorism and in the Secretary's judgment, based on the Secretary's analysis and conclusions regarding the facts and circumstances of each case, shall not be responsible for losses suffered by third parties (as referred to in section 205.5(b)(1) of title 14, Code of Federal Regulations) that exceed $100,000,000, in the aggregate, for all claims by such parties arising out of such act. If the Secretary so certifies, the air carrier shall not be liable for an amount that exceeds $100,000,000, in the aggregate, for all claims by such parties arising out of such act, and the Government shall be responsible for any liability above such amount. No punitive damages may be awarded against an air carrier (or the Government taking responsibility for an air carrier under this subsection) under a cause of action arising out of such act. The Secretary may extend the provisions of this subsection to an aircraft manufacturer (as defined in section 44301) of the aircraft of the air carrier involved.

§ 44304. Reinsurance

To the extent the Secretary of Transportation is authorized to provide insurance under this chapter, the Secretary may reinsure any part of the insurance provided by an insurance carrier. The Secretary may reinsure with, transfer to, or transfer back to, **[**the carrier**]** *any insurance carrier* any insurance or reinsurance provided by the Secretary under this chapter.

* * * * * * *

§ 44308. Administrative

(a) * * *

* * * * * * *

(c) UNDERWRITING AGENT.—(1) The Secretary may, and when practical shall, employ an insurance carrier or group of insurance carriers to act as an underwriting agent. The Secretary may use the **[**agent**]** *agent, or a claims adjuster who is independent of the underwriting agent,* to adjust claims under this chapter, but claims may be paid only when approved by the Secretary.

* * * * * * *

§ 44310. Ending effective date

The authority of the Secretary of Transportation to provide insurance and reinsurance under this chapter is not effective after [March 30, 2008] *September 30, 2017*.

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CHAPTER 447—SAFETY REGULATION

§ 44703. Airman certificates

(a) * * *

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(d) APPEALS.—(1) * * *

* * * * * * *

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

* * * * * * *

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

(a) TYPE CERTIFICATES.—
(1) * * *

* * * * * * *

(5) RELEASE OF DATA.—

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

(i) the certificate containing the requested data has been inactive for 3 or more years;

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

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

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

* * * * * * *

(e) DESIGN ORGANIZATION CERTIFICATES.—

(1) ISSUANCE.—[Beginning 7 years after the date of enactment of this subsection,] *Beginning January 1, 2013,* the Administrator may issue a design organization certificate to a design organization to authorize the organization to certify compliance with the requirements and minimum standards prescribed under section 44701(a) for the type certification of aircraft, aircraft engines, propellers, or appliances.

* * * * * * *

§ 44729. Age standards for pilots

(a) IN GENERAL.—Subject to the limitation in subsection (c), a pilot may serve in multicrew covered operations until attaining 65 years of age.

(b) COVERED OPERATIONS DEFINED.—In this section, the term "covered operations" means operations under part 121 of title 14, Code of Federal Regulations.

(c) LIMITATION FOR INTERNATIONAL FLIGHTS.—

(1) APPLICABILITY OF ICAO STANDARD.—A pilot who has attained 60 years of age may serve as pilot-in-command in covered operations between the United States and another country only if there is another pilot in the flight deck crew who has not yet attained 60 years of age.

(2) SUNSET OF LIMITATION.—Paragraph (1) shall cease to be effective on such date as the Convention on International Civil Aviation provides that a pilot who has attained 60 years of age may serve as pilot-in-command in international commercial operations without regard to whether there is another pilot in the flight deck crew who has not attained age 60.

(d) SUNSET OF AGE-60 RETIREMENT RULE.—On and after the date of enactment of this section, section 121.383(c) of title 14, Code of Federal Regulations, shall cease to be effective.

(e) APPLICABILITY.—

(1) NONRETROACTIVITY.—No person who has attained 60 years of age before the date of enactment of this section may serve as a pilot for an air carrier engaged in covered operations unless—

(A) such person is in the employment of that air carrier in such operations on such date of enactment as a required flight deck crew member; or

(B) such person is newly hired by an air carrier as a pilot on or after such date of enactment without credit for prior seniority or prior longevity for benefits or other terms related to length of service prior to the date of rehire under any labor agreement or employment policies of the air carrier.

(2) PROTECTION FOR COMPLIANCE.—An action taken in conformance with this section, taken in conformance with a regulation issued to carry out this section, or taken prior to the date of enactment of this section in conformance with section 121.383(c) of title 14, Code of Federal Regulations (as in effect before such date of enactment), may not serve as a basis for liability or relief in a proceeding before any court or agency of the United States or of any State or locality.

(f) AMENDMENTS TO LABOR AGREEMENTS AND BENEFIT PLANS.—Any amendment to a labor agreement or benefit plan of an air carrier that is required to conform with the requirements of this section or a regulation issued to carry out this section, and is applicable to pilots represented for collective bargaining, shall be made by agreement of the air carrier and the designated bargaining representative of the pilots of the air carrier.

(g) MEDICAL STANDARDS AND RECORDS.—

(1) MEDICAL EXAMINATIONS AND STANDARDS.—Except as provided by paragraph (2), a person serving as a pilot for an air carrier engaged in covered operations shall not be subject to different medical standards, or different, greater, or more frequent medical examinations, on account of age unless the Secretary determines (based on data received or studies published after the date of enactment of this section) that different medical standards, or different, greater, or more frequent medical examinations, are needed to ensure an adequate level of safety in flight.

(2) DURATION OF FIRST-CLASS MEDICAL CERTIFICATE.—No person who has attained 60 years of age may serve as a pilot of an air carrier engaged in covered operations unless the person has a first-class medical certificate. Such a certificate shall expire on the last day of the 6-month period following the date of examination shown on the certificate.

(h) SAFETY.—

(1) TRAINING.—Each air carrier engaged in covered operations shall continue to use pilot training and qualification programs approved by the Federal Aviation Administration, with specific emphasis on initial and recurrent training and qualification of pilots who have attained 60 years of age, to ensure continued acceptable levels of pilot skill and judgment.

(2) LINE EVALUATIONS.—Not later than 6 months after the date of enactment of this section, and every 6 months thereafter, an air carrier engaged in covered operations shall evaluate the performance of each pilot of the air carrier who has attained 60 years of age through a line check of such pilot. Notwithstanding the preceding sentence, an air carrier shall not be required to conduct for a 6-month period a line check under this paragraph of a pilot serving as second in command if the pilot has under-

gone a regularly scheduled simulator evaluation during that period.

(3) GAO REPORT.—Not later than 24 months after the date of enactment of this section, the Comptroller General shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report concerning the effect, if any, on aviation safety of the modification to pilot age standards made by subsection (a).

§ 44730. Inspection of foreign repair stations

Not later than one year after the date of enactment of this section, and annually thereafter, the Administrator of the Federal Aviation Administration shall submit to Congress a certification that each foreign repair station that is certified by the Administrator under part 145 of title 14, Code of Federal Regulations, and performs work on air carrier aircraft or components has been inspected by safety inspectors of the Administration not fewer than 2 times in the preceding calendar year.

* * * * * * *

CHAPTER 453—FEES

Sec.
45301. General provisions.

* * * * * * *

45305. Registration, certification, and related fees.

§ 45301. General provisions

(a) * * *

[(b) LIMITATIONS.—

[(1) AUTHORIZATION AND IMPACT CONSIDERATIONS.—In establishing fees under subsection (a), the Administrator—

[(A) is authorized to recover in fiscal year 1997 $100,000,000; and

[(B) shall ensure that each of the fees required by subsection (a) is reasonably related to the Administration's costs, as determined by the Administrator, of providing the service rendered. Services for which costs may be recovered include the costs of air traffic control, navigation, weather services, training and emergency services which are available to facilitate safe transportation over the United States, and other services provided by the Administrator or by programs financed by the Administrator to flights that neither take off nor land in the United States. The Determination of such costs by the Administrator is not subject to judicial review.

[(2) PUBLICATION; COMMENT.—The Administrator shall publish in the Federal Register an initial fee schedule and associated collection process as an interim final rule, pursuant to which public comment will be sought and a final rule issued.]

(b) ESTABLISHMENT AND ADJUSTMENT OF FEES.—

(1) IN GENERAL.—In establishing and adjusting fees under subsection (a), the Administrator shall ensure that the fees are

reasonably related to the Administration's costs, as determined by the Administrator, of providing the services rendered. Services for which costs may be recovered include the costs of air traffic control, navigation, weather services, training, and emergency services which are available to facilitate safe transportation over the United States and the costs of other services provided by the Administrator, or by programs financed by the Administrator, to flights that neither take off nor land in the United States. The determination of such costs by the Administrator, and the allocation of such costs by the Administrator to services provided, are not subject to judicial review.

(2) ADJUSTMENT OF FEES.—The Administrator shall adjust the overflight fees established by subsection (a)(1) by expedited rulemaking and begin collections under the adjusted fees by October 1, 2008. In developing the adjusted overflight fees, the Administrator may seek and consider the recommendations offered by an aviation rulemaking committee for overflight fees that are provided to the Administrator by June 1, 2008, and are intended to ensure that overflight fees are reasonably related to the Administrator's costs of providing air traffic control and related services to overflights.

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

(4) COSTS DEFINED.—In this subsection, the term "costs" includes those costs associated with the operation, maintenance, leasing costs, and overhead expenses of the services provided and the facilities and equipment used in such services, including the projected costs for the period during which the services will be provided.

(5) PUBLICATION; COMMENT.—The Administrator shall publish in the Federal Register any fee schedule under this section, including any adjusted overflight fee schedule, and the associated collection process as an interim final rule, pursuant to which public comment will be sought and a final rule issued.

* * * * * * *

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

§ 45302. Fees involving aircraft not providing air transportation

(a) * * *

* * * * * * *

(e) EFFECTIVE DATE.—**[**A fee**]**

(1) IN GENERAL.—A fee may not be imposed under this section before the date on which the regulations prescribed under sections 44111(d), 44703(f)(2), and 44713(d)(2) of this title take effect.

(2) EFFECT OF IMPOSITION OF OTHER FEES.—A fee may not be imposed for a service or activity under this section during any

period in which a fee for the same service or activity is imposed under section 45305.

* * * * * * *

§ 45305. Registration, certification, and related fees

(a) GENERAL AUTHORITY AND FEES.—The Administrator of the Federal Aviation Administration shall establish the following fees for services and activities of the Administration:

(1) $130 for registering an aircraft.

(2) $45 for replacing an aircraft registration.

(3) $130 for issuing an original dealer's aircraft certificate.

(4) $105 for issuing an aircraft certificate (other than an original dealer's aircraft certificate).

(5) $80 for issuing a special registration number.

(6) $50 for issuing a renewal of a special registration number.

(7) $130 for recording a security interest in an aircraft or aircraft part.

(8) $50 for issuing an airman certificate.

(9) $25 for issuing a replacement airman certificate.

(10) $42 for issuing an airman medical certificate.

(11) $100 for providing a legal opinion pertaining to aircraft registration or recordation.

(b) FEES CREDITED AS OFFSETTING COLLECTIONS.—

(1) IN GENERAL.—Notwithstanding section 3302 of title 31, any fee authorized to be collected under this section shall, subject to appropriation made in advance—

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

(B) be available for expenditure only to pay the costs of activities and services for which the fee is imposed; and

(C) remain available until expended.

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

(3) ADJUSTMENTS.—The Administrator shall periodically adjust the fees established by subsection (a) when cost data from the cost accounting system developed pursuant to section 45303(e) reveal that the cost of providing the service is higher or lower than the cost data that were used to establish the fee then in effect.

* * * * * * *

SUBPART IV—ENFORCEMENT AND PENALTIES

* * * * * * *

CHAPTER 463—PENALTIES

§ 46301. Civil penalties

(a) GENERAL PENALTY.—(1) A person is liable to the United States Government for a civil penalty of not more than $25,000 (or $1,100 if the person is an individual or small business concern) for violating—

(A) chapter 401 (except sections 40103(a) and (d), 40105, 40116, and 40117), chapter 411, chapter 413 (except sections 41307 and 41310(b)–(f)), chapter 415 (except sections 41502, 41505, and 41507–41509), chapter 417 (except sections 41703, 41704, 41710, 41713, and 41714), chapter 419, subchapter II or III of chapter 421, *chapter 423,* chapter 441 (except section 44109), section 44502(b) or (c), chapter 447 (except sections 44717 and 44719–44723), chapter 449 (except sections 44902, 44903(d), 44904, 44907(a)–(d)(1)(A) and (d)(1)(C)–(f), and 44908), section 47107(b) (including any assurance made under such section), or section 47133 of this title;

* * * * * * *

(c) PROCEDURAL REQUIREMENTS.—(1) The Secretary of Transportation may impose a civil penalty for the following violations only after notice and an opportunity for a hearing:

(A) a violation of subsection (b) of this section or chapter 411, chapter 413 (except sections 41307 and 41310(b)–(f)), chapter 415 (except sections 41502, 41505, and 41507–41509), chapter 417 (except sections 41703, 41704, 41710, 41713, and 41714), chapter 419, subchapter II of chapter 421, *chapter 423,* or section 44909 of this title.

* * * * * * *

(d) ADMINISTRATIVE IMPOSITION OF PENALTIES.—(1) * * *

(2) The Administrator of the Federal Aviation Administration may impose a civil penalty for a violation of chapter 401 (except sections 40103(a) and (d), 40105, 40106(b), 40116, and 40117), chapter 441 (except section 44109), section 44502(b) or (c), chapter 447 (except sections 44717 and 44719–44723) or section 46301(b), 46302 (for a violation relating to section 46504), 46318, *46319,* or 47107(b) (as further defined by the Secretary under section 47107(l) and including any assurance made under section 47107(b)) of this title or a regulation prescribed or order issued under any of those provisions. The Secretary of Homeland Security may impose a civil penalty for a violation of chapter 449 (except sections 44902, 44903(d), 44907(a)–(d)(1)(A), 44907(d)(1)(C)–(f), 44908, and 44909), 46302 (except for a violation relating to section 46504), 46303, or a regulation prescribed or order issued under such chapter 449. The Secretary of Homeland Security or Administrator shall give written notice of the finding of a violation and the penalty.

* * * * * * *

PART B—AIRPORT DEVELOPMENT AND NOISE

* * * * * * *

CHAPTER 471—AIRPORT DEVELOPMENT

SUBCHAPTER I—AIRPORT IMPROVEMENT

SUBCHAPTER I—AIRPORT IMPROVEMENT

* * * * * * *

§ 47102. Definitions

In this subchapter—

(1) * * *

* * * * * * *

(3) "airport development" means the following activities, if undertaken by the sponsor, owner, or operator of a public-use airport:

(A) * * *

(B) acquiring for, or installing at, a public-use airport—

(i) * * *

* * * * * * *

(iv) firefighting and rescue equipment at an airport that serves scheduled passenger operations of air carrier aircraft designed for more than [20] *9* passenger seats;

* * * * * * *

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

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

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

* * * * * * *

(5) "airport planning" means planning as defined by regulations the Secretary prescribes and includes integrated airport system planning *and developing an environmental management system*.

* * * * * * *

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

(A) does not have scheduled service; or

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

[(8)] *(9)* "integrated airport system planning" means developing for planning purposes information and guidance to decide the extent, kind, location, and timing of airport development needed in a specific area to establish a viable, balanced, and integrated system of public-use airports, including—

(A) * * *

* * * * * * *

[(9)] *(10)* "landed weight" means the weight of aircraft transporting only cargo in intrastate, interstate, and foreign air transportation, as the Secretary determines under regulations the Secretary prescribes.

[(10)] *(11)* "large hub airport" means a commercial service airport that has at least 1.0 percent of the passenger boardings.

[(11)] *(12)* "low-emission technology" means technology for vehicles and equipment whose emission performance is the best achievable under emission standards established by the Environmental Protection Agency and that relies exclusively on alternative fuels that are substantially nonpetroleum based, as defined by the Department of Energy, but not excluding hybrid systems or natural gas powered vehicles.

[(12)] *(13)* "medium hub airport" means a commercial service airport that has at least 0.25 percent but less than 1.0 percent of the passenger boardings.

[(13)] *(14)* "nonhub airport" means a commercial service airport that has less than 0.05 percent of the passenger boardings.

[(14)] *(15)* "passenger boardings"—

(A) * * *

* * * * * * *

[(15)] *(16)* "primary airport" means a commercial service airport the Secretary determines to have more than 10,000 passenger boardings each year.

[(16)] *(17)* "project" means a project, separate projects included in one project grant application, or all projects to be undertaken at an airport in a fiscal year, to achieve airport development or airport planning.

[(17)] *(18)* "project cost" means a cost involved in carrying out a project.

[(18)] *(19)* "project grant" means a grant of money the Secretary makes to a sponsor to carry out at least one project.

[(19)] *(20)* "public agency" means—

(A) * * *

* * * * * * *

[(20)] *(21)* "public airport" means an airport used or intended to be used for public purposes—

(A) * * *

* * * * * * *

[(21)] *(22)* "public-use airport" means—

(A) * * *

* * * * * * *

[(22)] *(23)* "reliever airport" means an airport the Secretary designates to relieve congestion at a commercial service airport and to provide more general aviation access to the overall community.

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

[(23)] *(25)* "small hub airport" means a commercial service airport that has at least 0.05 percent but less than 0.25 percent of the passenger boardings.

[(24)] *(26)* "sponsor" means—

(A) * * *

* * * * * * *

[(25)] *(27)* "State" means a State of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, American Samoa, the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and Guam.

(28) "terminal development" means—

(A) development of—

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

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

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

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

§ 47103. National plan of integrated airport systems

(a) GENERAL REQUIREMENTS AND CONSIDERATIONS.—The Secretary of Transportation shall maintain the plan for developing public-use airports in the United States, named "the national plan of integrated airport systems". The plan shall include the kind and estimated cost of eligible airport development the Secretary of Transportation considers necessary to provide a safe, efficient, and integrated system of public-use airports adequate to anticipate and meet the needs of civil aeronautics, to meet the national defense requirements of the Secretary of Defense, and to meet identified needs of the United States Postal Service. Airport development included in the plan may not be limited to meeting the needs of any particular classes or categories of public-use airports. In maintaining the plan, the Secretary of Transportation shall consider the needs of each segment of civil aviation and the relationship of [each airport to] *the airport system to*—

(1) the rest of the transportation [system in the particular area;] *system, including connection to the surface transportation network; and*

(2) forecasted technological developments in aeronautics[; and].

[(3) forecasted developments in other modes of intercity transportation.]

(b) SPECIFIC REQUIREMENTS.—In maintaining the plan, the Secretary of Transportation shall—

(1) to the extent possible and as appropriate, consult with departments, agencies, and instrumentalities of the United States Government, with public agencies, and with the aviation community[;]*; and*

[(2) consider tall structures that reduce safety or airport capacity; and]

[(3)] *(2)* make every reasonable effort to address the needs of air cargo operations[, Short Takeoff and Landing/Very Short Takeoff and Landing aircraft operations,] and rotary wing aircraft operations.

* * * * * * *

(d) PUBLICATION.—The Secretary of Transportation shall publish the [status of the] plan every 2 years.

§ 47104. Project grant authority

(a) * * *

* * * * * * *

(c) EXPIRATION OF AUTHORITY.—After [September 30, 2007] *September 30, 2011*, the Secretary may not incur obligations under subsection (b) of this section, except for obligations of amounts—

(1) * * *

* * * * * * *

§ 47106. Project grant application approval conditioned on satisfaction of project requirements

(a) * * *

* * * * * * *

(f) COMPETITION PLANS.—

(1) PROHIBITION.—Beginning in fiscal year 2001, no passenger facility [fee] *charge* may be approved for a covered airport under section 40117 and no grant may be made under this subchapter for a covered airport unless the airport has submitted to the Secretary a written competition plan in accordance with this subsection.

(2) CONTENTS.—A competition plan under this subsection shall include information on the availability of airport gates and related facilities, leasing and sub-leasing arrangements, gate-use requirements, [patterns of air service,] gate-assignment policy, financial constraints, airport controls over air- and ground-side capacity, *and* whether the airport intends to build or acquire gates that would be used as common facilities[, and airfare levels (as compiled by the Department of Transportation) compared to other large airports].

* * * * * * *

§ 47107. Project grant application approval conditioned on assurances about airport operations

(a) GENERAL WRITTEN ASSURANCES.—The Secretary of Transportation may approve a project grant application under this subchapter for an airport development project only if the Secretary receives written assurances, satisfactory to the Secretary, that—

(1) * * *

* * * * * * *

(16) the airport owner or operator will maintain a current layout plan of the airport that meets the following requirements:

(A) * * *

* * * * * * *

(D) when an alteration in the airport or its facility is made that does not conform to the approved plan and that the Secretary decides adversely affects the safety, utility, or efficiency of any property on or off the airport that is owned, leased, or financed by the Government, the owner or operator, if requested by the Secretary, will—

(i) * * *

(ii) bear all cost of relocating the property or its replacement to a site acceptable to the Secretary and of restoring the property or its replacement to the level of safety, utility, efficiency, and cost of operation that existed before the alteration was made*, except in the case of a relocation or replacement of an existing airport facility that meets the conditions of section 47110(d)*;

* * * * * * *

(c) WRITTEN ASSURANCES ON ACQUIRING LAND.—(1) * * *

(2) The Secretary of Transportation may approve an application under this subchapter for an airport development project grant only if the Secretary receives written assurances, satisfactory to the Secretary, that if an airport owner or operator has received or will receive a grant for acquiring land and—

(A) if the land was or will be acquired for a noise compatibility purpose—

(i) * * *

* * * * * * *

(iii) the part of the proceeds from disposing of the land that is proportional to the Government's share of the cost of acquiring the land will be **[**paid to the Secretary for deposit in the Airport and Airway Trust Fund established under section 9502 of the Internal Revenue Code of 1986 (26 U.S.C. 9502) or, as the Secretary prescribes, reinvested in an approved noise compatibility project, including the purchase of nonresidential buildings or property in the vicinity of residential buildings or property previously purchased by the airport as part of a noise compatibility program**]** *reinvested in another project at the airport or trans-*

ferred to another airport as the Secretary prescribes under paragraph (4); or

(B) if the land was or will be acquired for an airport purpose (except a noise compatibility purpose)—

(i) * * *

* * * * * * *

(iii) the part of the proceeds from disposing of the land that is proportional to the Government's share of the cost of acquiring the land will be reinvested, on application to the Secretary, in another eligible airport development project the Secretary approves under this subchapter or paid to the Secretary for deposit in **[**the Fund**]** *the Airport and Airway Trust Fund established under section 9502 of the Internal Revenue Code of 1986 (26 U.S.C. 9502)* if another eligible project does not exist.

* * * * * * *

(4) PRIORITIES FOR REINVESTMENT.—In approving the reinvestment or transfer of proceeds under subsection (c)(2)(A)(iii), the Secretary shall give preference, in descending order, to the following actions:

(A) Reinvestment in an approved noise compatibility project.

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

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

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

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

* * * * * * *

(e) WRITTEN ASSURANCES OF OPPORTUNITIES FOR SMALL BUSINESS CONCERNS.—(1) * * *

* * * * * * *

(8) MANDATORY TRAINING PROGRAM FOR AIRPORT CONCESSIONS.—

(A) IN GENERAL.—Not later than one year after the date of enactment of the FAA Reauthorization Act of 2007, the Secretary shall establish a mandatory training program for persons described in subparagraph (C) on the certification of whether a small business concern in airport concessions qualifies as a small business concern owned and controlled by a socially and economically disadvantaged individual for purposes of paragraph (1).

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

(C) PARTICIPANTS.—A person referred to in paragraph (1) is an official or agent of an airport owner or operator who is required to provide a written assurance under paragraph

(1) that the airport owner or operator will meet the percentage goal of paragraph (1) or who is responsible for determining whether or not a small business concern in airport concessions qualifies as a small business concern owned and controlled by a socially and economically disadvantaged individual for purposes of paragraph (1).

(D) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this paragraph.

[(8)**]** *(9)* Not later than April 29, 1993, the Secretary of Transportation shall prescribe regulations to carry out this subsection.

* * * * * * *

(s) COMPETITION DISCLOSURE REQUIREMENT.—

(1) * * *

* * * * * * *

(3) SUNSET PROVISION.—This subsection shall cease to be effective beginning October 1, **[**2008**]** *2012*.

§ 47108. Project grant agreements

(a) * * *

* * * * * * *

(e) CHANGE IN AIRPORT STATUS.—

(1) * * *

* * * * * * *

(3) CHANGES TO NONHUB PRIMARY STATUS.—If the status of a nonhub primary airport changes to a small hub primary airport at a time when the airport has received discretionary funds under this chapter for a terminal development project in accordance with section **[**47110(d)**]** *47119(a)*(2), and the project is not yet completed, the project shall remain eligible for funding from the discretionary fund and the small airport fund to pay costs allowable under section **[**47110(d)**]** *47119(a)*. Such project shall remain eligible for such funds for three fiscal years after the start of construction of the project, or if the Secretary determines that a further extension of eligibility is justified, until the project is completed.

§ 47109. United States Government's share of project costs

(a) GENERAL.—Except as **[**provided in subsection (b) or subsection (c) of this section**]** *otherwise specifically provided in this section*, the United States Government's share of allowable project costs is—

(1) * * *

* * * * * * *

(3) 90 percent for a project at any other airport**[**;**]***; and*

[(4) 70 percent for a project funded by the Administrator from the discretionary fund under section 47115 at an airport receiving an exemption under section 47134; and**]**

[(5)**]** *(4)* for fiscal year 2002, 100 percent for a project described in section 47102(3)(J), 47102(3)(K), or 47102(3)(L).

* * * * * * *

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

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

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

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

§ 47110. Allowable project costs

(a) * * *

(b) ALLOWABLE COST STANDARDS.—A project cost is allowable—

(1) * * *

(2)(A) * * *

* * * * * * *

(C) if the Government's share is paid only with amounts apportioned under paragraphs (1) and (2) of section 47114(c) or section 47114(d)(3)(A) and if the cost is incurred—

(i) after September 30, 1996;

(ii) before a grant agreement is executed for the project; and

(iii) in accordance with an airport layout plan approved by the Secretary and with all statutory and administrative requirements that would have been applicable to the project if the project had been carried out after the grant agreement had been executed; **[**or**]**

(D) if the cost is incurred after September 11, 2001, for a project described in section 47102(3)(J), 47102(3)(K), or 47102(3)(L) and shall not depend upon the date of execution of a grant agreement made under this subchapter**[**;**]***; or*

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

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

(ii) the cost is in accordance with an airport layout plan approved by the Secretary and with all statutory and administrative requirements that would have been applicable to the project if the project had been carried out after execution of the grant agreement;

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

(iv) the sponsor's decision to proceed with the project in advance of execution of the grant agreement does not affect

the priority assigned to the project by the Secretary for the allocation of discretionary funds;

* * * * * * *

[(d) TERMINAL DEVELOPMENT COSTS.—(1) The Secretary may decide that the cost of terminal development (including multi-modal terminal development) in a nonrevenue-producing public-use area of a commercial service airport is allowable for an airport development project at the airport—

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

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

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

[(iii) provided for access, to the area of the airport for passengers for boarding or exiting aircraft, to those passengers boarding or exiting aircraft, except air carrier aircraft;

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

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

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

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

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

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

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

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

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

(e) LETTERS OF INTENT.—(1) * * *

* * * * * * *

(5) LETTERS OF INTENT.—The Secretary may not require an eligible agency to impose a passenger facility [fee] *charge* under section 40117 in order to obtain a letter of intent under this section.

* * * * * * *

(h) NONPRIMARY AIRPORTS.—The Secretary may decide that the costs of *construction of* revenue producing aeronautical support facilities[, including fuel farms and hangars,] are allowable for an airport development project at a nonprimary airport if the Government's share of such costs is paid only with funds apportioned to the airport sponsor under section 47114(d)(3)(A) and if the Secretary determines that the sponsor has made adequate provision for financing airside needs of the airport.

* * * * * * *

§ 47112. Carrying out airport development projects

(a) * * *

* * * * * * *

(c) VETERANS' PREFERENCE.—(1) In this subsection—

(A) * * *

(B) "Vietnam-era veteran" means an individual who served on active duty (as defined in section 101 of title 38) in the armed forces for more than 180 consecutive days, any part of which occurred after August 4, 1964, and before May 8, 1975, and who was [separated from] *discharged or released from active duty in* the armed forces under honorable conditions.

(C) "Afghanistan-Iraq war veteran" means an individual who served on active duty (as defined by section 101 of title 38) in the armed forces for a period of more than 180 consecutive days, any part of which occurred during the period beginning on September 11, 2001, and ending on the date prescribed by presidential proclamation or by law as the last date of Operation Iraqi Freedom, and who was separated from the armed forces under honorable conditions.

(2) A contract involving labor for carrying out an airport development project under a grant agreement under this subchapter must require that preference in the employment of labor (except in executive, administrative, and supervisory positions) be given to Vietnam-era [veterans and] *veterans, Afghanistan-Iraq war veterans, and* disabled veterans when they are available and qualified for the employment.

(3) A contract involving labor for carrying out an airport development project under a grant agreement under this subchapter must require that a preference be given to the use of small business concerns (as defined in section 3 of the Small Business Act (15 U.S.C. 1632)) owned and controlled by disabled veterans.

* * * * * * *

§ 47114. Apportionments

(a) * * *

* * * * * * *

(d) AMOUNTS APPORTIONED FOR GENERAL AVIATION AIRPORTS.—

(1) * * *

(2) APPORTIONMENT.—[Except as provided in paragraph (3), the Secretary] *The Secretary* shall apportion to the States [18.5 percent] *10 percent* of the amount subject to apportionment for each fiscal year as follows:

(A) * * *

* * * * * * *

[(3) SPECIAL RULE.—In any fiscal year in which the total amount made available under section 48103 is $3,200,000,000 or more, rather than making an apportionment under paragraph (2), the Secretary shall apportion 20 percent of the amount subject to apportionment for each fiscal year as follows:

[(A) To each airport, excluding primary airports but including reliever and nonprimary commercial service airports, in States the lesser of—

[(i) $150,000; or

[(ii) 1/5 of the most recently published estimate of the 5-year costs for airport improvement for the airport, as listed in the national plan of integrated airport systems developed by the Federal Aviation Administration under section 47103.

[(B) Any remaining amount to States as follows:

[(i) 0.62 percent of the remaining amount to Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Virgin Islands.

[(ii) Except as provided in paragraph (4), 49.69 percent of the remaining amount for airports, excluding primary airports but including reliever and nonprimary commercial service airports, in States not named in clause (i) in the proportion that the population of each of those States bears to the total population of all of those States.

[(iii) Except as provided in paragraph (4), 49.69 percent of the remaining amount for airports, excluding primary airports but including reliever and nonprimary commercial service airports, in States not named in clause (i) in the proportion that the area of each of those States bears to the total area of all of those States.]

(3) ADDITIONAL AMOUNT.—

(A) IN GENERAL.—In addition to amounts apportioned under paragraph (2) and subject to subparagraph (B), the Secretary shall apportion to each airport, excluding primary airports but including reliever and nonprimary commercial service airports, in States the lesser of—

(i) $150,000; or

(ii) 1/5 of the most recently published estimate of the 5-year costs for airport improvement for the airport, as listed in the national plan of integrated airport systems developed by the Federal Aviation Administration under section 47103.

(B) REDUCTION.—In any fiscal year in which the total amount made available for apportionment under para-

graph (2) is less than $300,000,000, the Secretary shall reduce, on a prorated basis, the amount to be apportioned under subparagraph (A) and make such reduction available to be apportioned under paragraph (2), so as to apportion under paragraph (2) a minimum of $300,000,000.

* * * * * * *

(f) REDUCING APPORTIONMENTS.—

(1) IN GENERAL.—Subject to paragraph (3), an amount that would be apportioned under this section (except subsection (c)(2) in a fiscal year to the sponsor of an airport having at least .25 percent of the total number of boardings each year in the United States and for which a [fee] *charge* is imposed in the fiscal year under section 40117 of this title shall be reduced by an amount equal to—

(A) in the case of a [fee] *charge* of $3.00 or less, 50 percent of the projected revenues from the [fee] *charge* in the fiscal year but not by more than 50 percent of the amount that otherwise would be apportioned under this section; [and]

(B) *except as provided by subparagraph (C),* in the case of a [fee] *charge* of more than $3.00, 75 percent of the projected revenues from the [fee] *charge* in the fiscal year but not by more than 75 percent of the amount that otherwise would be apportioned under this section[.]*; and*

(C) in the case of a charge of more than $4.50 imposed by the sponsor of an airport enplaning at least one percent of the total number of boardings each year in the United States, 100 percent of the projected revenues from the charge in the fiscal year but not more than 100 percent of the amount that otherwise would be apportioned under this section.

(2) EFFECTIVE DATE OF REDUCTION.—A reduction in an apportionment required by paragraph (1) shall not take effect until the first fiscal year following the year in which the collection of the [fee] *charge* imposed under section 40117 is begun.

(3) SPECIAL RULE FOR TRANSITIONING AIRPORTS.—

(A) IN GENERAL.—Beginning with the fiscal year following the first calendar year in which the sponsor of an airport has more than .25 percent of the total number of boardings in the United States, the sum of the amount that would be apportioned under this section after application of paragraph (1) in a fiscal year to such sponsor and the projected revenues to be derived from the [fee] *charge* in such fiscal year shall not be less than the sum of the apportionment to such airport for the preceding fiscal year and the revenues derived from such [fee] *charge* in the preceding fiscal year.

(B) EFFECTIVE PERIOD.—Subparagraph (A) shall be in effect for fiscal year 2004.

§ 47115. Discretionary fund

(a) * * *

* * * * * * *

(g) MINIMUM AMOUNT TO BE CREDITED.—

(1) GENERAL RULE.—In a fiscal year, there shall be credited to the fund, out of amounts made available under section 48103 of this title, an amount that is at least equal to the [sum of—

[(A) $148,000,000; plus

[(B) the total amount required from the fund to carry out in the fiscal year letters of intent issued before January 1, 1996, under section 47110(e) of this title or the Airport and Airway Improvement Act of 1982.] *sum of $520,000,000.*

* * * * * * *

(j) MARSHALL ISLANDS, MICRONESIA, AND PALAU.—For [fiscal years 2004 through 2007] *fiscal years 2008 through 2011*, the sponsors of airports located in the Republic of the Marshall Islands, Federated States of Micronesia, and Republic of Palau shall be eligible for grants under this section and section 47116.

* * * * * * *

§ 47117. Use of apportioned amounts

(a) * * *

* * * * * * *

(e) SPECIAL APPORTIONMENT CATEGORIES.—(1) The Secretary shall use amounts available to the discretionary fund under section 47115 of this title for each fiscal year as follows:

(A) At least [35 percent] *$300,000,000* for grants for airport noise compatibility planning under section 47505(a)(2), for carrying out noise compatibility programs under section 47504(c), for noise mitigation projects approved in an environmental record of decision for an airport development project under this title, for compatible land use planning and projects carried out by State and local governments under section 47141, [and] for airport development described in section 47102(3)(F), 47102(3)(K), or 47102(3)(L) to comply with the Clean Air Act (42 U.S.C. 7401 et seq.)*, and for water quality mitigation projects to comply with the Federal Water Pollution Control Act (33 U.S.C. 1251 et. seq.) as approved in an environmental record of decision for an airport development project under this title*. The Secretary may count the amount of grants made for such planning and programs with funds apportioned under section 47114 in that fiscal year in determining whether or not [such 35 percent requirement is] *the requirements of the preceding sentence are* being met in that fiscal year.

* * * * * * *

§ 47119. Terminal development costs

(a) TERMINAL DEVELOPMENT PROJECTS.—

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

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

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

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

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

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

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

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

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

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

[(a)**]** *(b)* REPAYING BORROWED MONEY.—

(1) * * *

* * * * * * *

(3) TERMINAL DEVELOPMENT COSTS AT PRIMARY AIRPORTS.—An amount apportioned under section 47114 or available under subsection (b)(3) to a primary airport—

(A) * * *

* * * * * * *

is available to repay immediately money borrowed and used to pay the costs for such terminal development if those costs would be allowable project costs under **[**section 47110(d)**]** *subsection (a)*.

(4) CONDITIONS FOR GRANT.—An amount is available for a grant under this subsection only if—

(A) the sponsor submits the certification required under **[**section 47110(d)**]** *subsection (a)*;

* * * * * * *

(5) APPLICABILITY OF CERTAIN LIMITATIONS.—A grant under this subsection shall be subject to the limitations in **[**subsection (b)(1) and (2)**]** *subsections (c)(1) and (c)(2)*.

[(b)**]** *(c)* AVAILABILITY OF AMOUNTS.—In a fiscal year, the Secretary may make available—

(1) * * *

(2) on approval of the Secretary, not more than $200,000 of the amount that may be distributed for the fiscal year from the

discretionary fund established under section 47115 of this title—

(A) to a sponsor of a nonprimary commercial service airport to pay project costs allowable under [section 47110(d) of this title] *subsection (a)*; and

(B) to a sponsor of a reliever airport for the types of project costs allowable under [section 47110(d)] *subsection (a)*, including project costs allowable for a commercial service airport that each year does not have more than .05 percent of the total boardings in the United States;

(3) for use by a primary airport that each year does not have more than .05 percent of the total boardings in the United States, any part of amounts that may be distributed for the fiscal year from the discretionary fund and small airport fund to pay project costs allowable under [section 47110(d) of this title] *subsection (a)*;

(4) not more than $25,000,000 to pay project costs allowable for the fiscal year under [section 47110(d) of this title] *subsection (a)* for projects at commercial service airports that were not eligible for assistance for terminal development during the fiscal year ending September 30, 1980, under section 20(b) of the Airport and Airway Development Act of 1970; or

(5) to a sponsor of a nonprimary airport, any part of amounts apportioned to the sponsor for the fiscal year under section 47114(d)(3)(A) for project costs allowable under [section 47110(d)] *subsection (a)*.

[(c)] *(d)* NONHUB AIRPORTS.—With respect to a project at a commercial service airport which annually has less than 0.05 percent of the total enplanements in the United States, the Secretary may approve the use of the amounts described in subsection (a) notwithstanding the requirements of sections 47107(a)(17), 47112, and 47113.

[(d)] *(e)* DETERMINATION OF PASSENGER BOARDING AT COMMERCIAL SERVICE AIRPORTS.—For the purpose of determining whether an amount may be distributed for a fiscal year from the discretionary fund in accordance with subsection (b)(2)(A) to a commercial service airport, the Secretary shall make the determination of whether or not a public airport is a commercial service airport on the basis of the number of passenger boardings and type of air service at the public airport in the calendar year that includes the first day of such fiscal year or the preceding calendar year, whichever is more beneficial to the airport.

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

* * * * * * *

§ 47124. Agreements for State and local operation of airport facilities

(a) * * *

(b) AIR TRAFFIC CONTROL CONTRACT PROGRAM.—[(1) The Secretary]

(1) CONTRACT TOWER PROGRAM.—

(A) CONTINUATION AND EXTENSION.—The Secretary shall continue the low activity (Visual Flight Rules) level I air traffic control tower contract program established under subsection (a) of this section for towers existing on December 30, 1987, and extend the program to other towers as practicable.

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

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

[(2) The Secretary]

(2) GENERAL AUTHORITY.—The Secretary may make a contract with a qualified entity (as determined by the Secretary) or, on a sole source basis, with a State or a political subdivision of a State to allow the entity, State, or subdivision to operate an airport traffic control tower classified as a level I (Visual Flight Rules) tower if the Secretary decides that the entity, State, or subdivision has the capability to comply with the requirements of this paragraph. The contract shall require that the entity, State, or subdivision comply with applicable safety regulations in operating the facility and with applicable competition requirements in making a subcontract to perform work to carry out the contract.

(3) CONTRACT AIR TRAFFIC CONTROL TOWER PROGRAM.—

(A) * * *

* * * * * * *

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

[(E)] *(F)* FUNDING.—Of the amounts appropriated pursuant to section 106(k), not more than $6,500,000 for fiscal 2004, $7,000,000 for fiscal year 2005, $7,500,000 for fiscal year 2006, [and] $8,000,000 for fiscal year 2007*, $8,500,000 for fiscal year 2008, $9,000,000 for fiscal year 2009, $9,500,000 for fiscal year 2010, and $10,000,000 for fiscal year 2011* may be used to carry out this paragraph.

(4) CONSTRUCTION OF AIR TRAFFIC CONTROL TOWERS.—

(A) * * *

* * * * * * *

(C) LIMITATION ON FEDERAL SHARE.—The Federal share of the cost of construction of a nonapproach control tower under this paragraph may not exceed [$1,500,000] *$2,000,000*.

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

* * * * * * *

§ 47128. State block grant program

(a) GENERAL REQUIREMENTS.—The Secretary of Transportation shall [prescribe regulations] *issue guidance* to carry out a State block grant program. The [regulations] *guidance* shall provide that the Secretary may designate not more than 9 qualified States for fiscal years 2000 and 2001 and 10 qualified States for each fiscal year thereafter to assume administrative responsibility for all airport grant amounts available under this subchapter, except for amounts designated for use at primary airports.

(b) APPLICATIONS AND SELECTION.—A State wishing to participate in the program must submit an application to the Secretary. The Secretary shall select a State on the basis of its application only after—

(1) * * *

* * * * * * *

(4) finding that the State has agreed to comply with United States Government standard requirements for administering the block grant*, including the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), State and local environmental policy acts, Executive Orders, agency regulations and guidance, and other Federal environmental requirements*; and

* * * * * * *

(d) ENVIRONMENTAL ANALYSIS AND COORDINATION REQUIREMENTS.—A Federal agency, other than the Federal Aviation Administration, that is responsible for issuing an approval, license, or permit to ensure compliance with a Federal environmental requirement applicable to a project or activity to be carried out by a State using amounts from a block grant made under this section shall—

(1) coordinate and consult with the State;

(2) use the environmental analysis prepared by the State for the project or activity if such analysis is adequate; and

(3) supplement such analysis, as necessary, to meet applicable Federal requirements.

§ 47129. Resolution of airport-[air carrier] *carrier* disputes concerning airport fees

(a) AUTHORITY TO REQUEST SECRETARY'S DETERMINATION.—

(1) IN GENERAL.—The Secretary of Transportation shall issue a determination as to whether a fee imposed upon one or more [air carriers (as defined in section 40102 of this title)] *air car-*

riers or foreign air carriers (as such terms are defined in section 40102) by the owner or operator of an airport is reasonable if—

(A) a written request for such determination is filed with the Secretary by such owner or operator; or

(B) a written complaint requesting such determination is filed with the Secretary by an affected [air carrier] *air carrier or foreign air carrier* within 60 days after such carrier receives written notice of the establishment or increase of such fee.

* * * * * * *

(c) DECISIONS BY SECRETARY.—The final regulations, policy statements, or guidelines required in subsection (b) shall provide the following:

(1) Not more than 120 days after an [air carrier] *air carrier or foreign air carrier* files with the Secretary a written complaint relating to an airport fee, the Secretary shall issue a final order determining whether such fee is reasonable.

* * * * * * *

(d) PAYMENT UNDER PROTEST; GUARANTEE OF [AIR CARRIER] *AIR CARRIER AND FOREIGN AIR CARRIER* ACCESS.—

(1) PAYMENT UNDER PROTEST.—

(A) IN GENERAL.—Any fee increase or newly established fee which is the subject of a complaint that is not dismissed by the Secretary shall be paid by the complainant [air carrier] *air carrier or foreign air carrier* to the airport under protest.

(B) REFERRAL OR CREDIT.—Any amounts paid under this subsection by a complainant [air carrier] *air carrier or foreign air carrier* to the airport under protest shall be subject to refund or credit to the [air carrier] *air carrier or foreign air carrier* in accordance with directions in the final order of the Secretary within 30 days of such order.

(C) ASSURANCE OF TIMELY REPAYMENT.—In order to assure the timely repayment, with interest, of amounts in dispute determined not to be reasonable by the Secretary, the airport shall obtain a letter of credit, or surety bond, or other suitable credit facility, equal to the amount in dispute that is due during the 120-day period established by this section, plus interest, unless the airport and the complainant [air carrier] *air carrier or foreign air carrier* agree otherwise.

(D) DEADLINE.—The letter of credit, or surety bond, or other suitable credit facility shall be provided to the Secretary within 20 days of the filing of the complaint and shall remain in effect for 30 days after the earlier of 120 days or the issuance of a timely final order by the Secretary determining whether such fee is reasonable.

(2) GUARANTEE OF [AIR CARRIER] *AIR CARRIER AND FOREIGN AIR CARRIER* ACCESS.—Contingent upon an [air carrier's] *air carrier's or foreign air carrier's* compliance with the requirements of paragraph (1) and pending the issuance of a final order by the Secretary determining the reasonableness of a fee that is the subject of a complaint filed under subsection

(a)(1)(B), an owner or operator of an airport may not deny an [air carrier] *air carrier or foreign air carrier* currently providing air service at the airport reasonable access to airport facilities or service, or otherwise interfere with an [air carrier's] *air carrier's or foreign air carrier's* prices, routes, or services, as a means of enforcing the fee.

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

(1) a fee imposed pursuant to a written agreement with [air carriers] *air carriers or foreign air carriers* using the facilities of an airport;

* * * * * * *

(f) EFFECT ON EXISTING AGREEMENTS.—Nothing in this section shall adversely affect—

(1) the rights of any party under any existing written agreement between an [air carrier] *air carrier or foreign air carrier* and the owner or operator of an airport; or

(2) the ability of an airport to meet its obligations under a financing agreement, or covenant, that is in force as of August 23, 1994.

* * * * * * *

§ 47131. Annual report

(a) GENERAL RULE.—Not later than [April 1] *June 1* of each year, the Secretary of Transportation shall submit to Congress a report on activities carried out under this subchapter during the prior fiscal year. The report shall include—

[(1) a detailed statement of airport development completed;

[(2) the status of each project undertaken;

[(3) the allocation of appropriations;

[(4) an itemized statement of expenditures and receipts; and]

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

(2) a summary of individual grants issued;

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

(4) the allocation of appropriations; and

* * * * * * *

§ 47133. Restriction on use of revenues

(a) * * *

(b) EXCEPTIONS.—[Subsection (a) shall not apply if]

(1) PRIOR LAWS AND AGREEMENTS.—Subsection (a) shall not apply if a provision enacted not later than September 2, 1982, in a law controlling financing by the airport owner or operator, or a covenant or assurance in a debt obligation issued not later than September 2, 1982, by the owner or operator, provides that the revenues, including local taxes on aviation fuel at public airports, from any of the facilities of the owner or operator, including the airport, be used to support not only the airport but also the general debt obligations or other facilities of the owner or operator.

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

(A) the sale is approved by the Secretary;

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

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

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

* * * * * * *

§ 47134. Pilot program on private ownership of airports

(a) * * *

(b) APPROVAL OF APPLICATIONS.—The Secretary may approve, with respect to not more than 5 airports, applications submitted under subsection (a) granting exemptions from the following provisions:

(1) USE OF REVENUES.—

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

(i) in the case of a primary airport, by at least **[**65 percent**]** *75 percent* of the scheduled air carriers serving the airport and by scheduled and nonscheduled air carriers whose aircraft landing at the airport during the preceding calendar year, had a total landed weight during the preceding calendar year of at least **[**65 percent**]** *75 percent* of the total landed weight of all aircraft landing at the airport during such year; or

(ii) in the case of a nonprimary airport, by the Secretary after the airport has consulted with at least **[**65 percent**]** *75 percent* of the owners of aircraft based at that airport, as determined by the Secretary;

* * * * * * *

(c) TERMS AND CONDITIONS.—The Secretary may approve an application under subsection (b) only if the Secretary finds that the sale or lease agreement includes provisions satisfactory to the Secretary to ensure the following:

(1) * * *

* * * * * * *

(4) Every fee of the airport imposed on an air carrier on the day before the date of the lease of the airport will not increase faster than the rate of inflation unless a higher amount is approved—

(A) by at least [65 percent] *75 percent* of the air carriers serving the airport; and

(B) by air carriers whose aircraft landing at the airport during the preceding calendar year had a total landed weight during the preceding calendar year of at least [65 percent] *75 percent* of the total landed weight of all aircraft landing at the airport during such year.

* * * * * * *

(g) PASSENGER FACILITY FEES; [APPORTIONMENTS;] SERVICE CHARGES.—Notwithstanding that the sponsor of an airport receiving an exemption under subsection (b) is not a public agency, the sponsor shall not be prohibited from—

(1) imposing a passenger facility [fee] *charge* under section 40117 of this title[;]*; or*

[(2) receiving apportionments under section 47114 of this title; or]

[(3)] *(2)* collecting reasonable rental charges, landing fees, and other service charges from aircraft operators under section 40116(e)(2) of this title.

* * * * * * *

(n) PROHIBITION ON RECEIPT OF CERTAIN FUNDS.—An airport receiving an exemption under subsection (b) shall be prohibited from receiving apportionments under section 47114 or discretionary funds under section 47115.

* * * * * * *

§ 47137. Airport security program

(a) * * *

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(g) AUTHORIZATION OF APPROPRIATIONS.—Of the amounts made available to the Secretary under section 47115 in a fiscal year, the Secretary shall make available not less than [$5,000,000] *$8,500,000* for the purpose of carrying out this section.

§ 47138. Pilot program for purchase of airport development rights

(a) * * *

* * * * * * *

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

§ 47139. Emission credits for air quality projects

(a) IN GENERAL.—The Administrator of the Environmental Protection Agency, in consultation with the Secretary of Transportation, shall issue guidance on how to ensure that airport sponsors receive appropriate emission reduction credits for carrying out projects described in sections 40117(a)(3)(G), [47102(3)(F),]

47102(3)(K), and 47102(3)(L). Such guidance shall include, at a minimum, the following conditions:

(1) * * *

* * * * * * *

(b) ASSURANCE OF RECEIPT OF CREDITS.—As a condition for making a grant for a project described in section [47102(3)(F),] 47102(3)(K), 47102(3)(L), or 47140 or as a condition for granting approval to collect or use a passenger facility [fee] *charge* for a project described in section 40117(a)(3)(G), [47103(3)(F),] 47102(3)(K), 47102(3)(L), or 47140, the Secretary must receive assurance from the State in which the project is located, or from the Administrator of the Environmental Protection Agency where there is a Federal implementation plan, that the airport sponsor will receive appropriate emission credits in accordance with the conditions of this section.

* * * * * * *

§ 47141. Compatible land use planning and projects by State and local governments

(a) * * *

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(f) SUNSET.—This section shall not be in effect after [September 30, 2007] *September 30, 2011*.

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SUBCHAPTER II—SURPLUS PROPERTY FOR PUBLIC AIRPORTS

§ 47151. Authority to transfer an interest in surplus property

(a) * * *

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(e) REQUESTS BY PUBLIC AGENCIES.—Except with respect to a request made by another department, agency, or instrumentality of the executive branch of the United States Government, such a department, agency, or instrumentality shall give priority consideration to a request made by a public agency (as defined in section 47102) for surplus property described in subsection (a) [(other than real property that is subject to section 2687 of title 10, section 201 of the Defense Authorization Amendments and Base Closure and Realignment Act (10 U.S.C. 2687 note), or section 2905 of the Defense Base Closure and Realignment Act of 1990 (10 U.S.C. 2687 note))] for use at a public airport.

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SUBCHAPTER III—AVIATION DEVELOPMENT STREAMLINING

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§ 47173. Airport funding of FAA staff

(a) ACCEPTANCE OF SPONSOR-PROVIDED FUNDS.—Notwithstanding any other provision of law, the Administrator of the Fed-

eral Aviation Administration may accept funds from an airport sponsor, including funds provided to the sponsor under section 47114(c), to hire additional staff or obtain the [services of consultants in order to facilitate the timely processing, review, and completion of environmental activities associated with an airport development project.] *services of consultants—*

(1) to facilitate the timely processing, review, and completion of environmental activities associated with an airport development project;

(2) to conduct special environmental studies related to an airport project funded with Federal funds;

(3) to conduct special studies or reviews to support approved noise compatibility measures described in part 150 of title 14, Code of Federal Regulations; or

(4) to conduct special studies or reviews to support environmental mitigation in a record of decision or finding of no significant impact by the Federal Aviation Administration.

* * * * * * *

§ 47175. Definitions

In this subchapter, the following definitions apply:

(1) * * *

(2) CONGESTED AIRPORT.—The term "congested airport" means an airport that accounted for at least 1 percent of all delayed aircraft operations in the United States in the most recent year for which such data is available and an airport listed in table 1 of the Federal Aviation Administration's [Airport Capacity Benchmark Report 2001] *2001 and 2004 Airport Capacity Benchmark Reports or table 1 of the Federal Aviation Administration's most recent airport capacity benchmark report*.

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CHAPTER 475—NOISE

SUBCHAPTER I—NOISE ABATEMENT

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SUBCHAPTER I—NOISE ABATEMENT

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§ 47504. Noise compatibility programs

(a) * * *

* * * * * * *

(e) GRANTS FOR ASSESSMENT OF FLIGHT PROCEDURES.—

(1) IN GENERAL.—In accordance with subsection (c)(1), the Secretary may make a grant to an airport operator to assist in completing environmental review and assessment activities for proposals to implement flight procedures at such airport that have been approved as part of an airport noise compatibility program under subsection (b).

(2) ADDITIONAL STAFF.—The Administrator may accept funds from an airport operator, including funds provided to the operator under paragraph (1), to hire additional staff or obtain the services of consultants in order to facilitate the timely processing, review, and completion of environmental activities associated with proposals to implement flight procedures at such airport that have been approved as part of an airport noise compatibility program under subsection (b).

(3) RECEIPTS CREDITED AS OFFSETTING COLLECTIONS.—Notwithstanding section 3302 of title 31, any funds accepted under this section—

(A) shall be credited as offsetting collections to the account that finances the activities and services for which the funds are accepted;

(B) shall be available for expenditure only to pay the costs of activities and services for which the funds are accepted; and

(C) shall remain available until expended.

* * * * * * *

§ 47511. CLEEN engine and airframe technology partnership

(a) IN GENERAL.—The Administrator of the Federal Aviation Administration shall enter into a cooperative agreement, using a competitive process, with an institution, entity, or consortium to carry out a program for the development, maturing, and certification of CLEEN engine and airframe technology for aircraft over the next 10 years.

(b) CLEEN ENGINE AND AIRFRAME TECHNOLOGY DEFINED.—In this section, the term "CLEEN engine and airframe technology" means continuous lower energy, emissions, and noise engine and airframe technology.

(c) PERFORMANCE OBJECTIVE.—The Administrator shall establish the following performance objectives for the program, to be achieved by September 30, 2015:

(1) Development of certifiable aircraft technology that reduces greenhouse gas emissions by increasing aircraft fuel efficiency by 25 percent relative to 1997 subsonic jet aircraft technology.

(2) Development of certifiable engine technology that reduces landing and takeoff cycle nitrogen oxide emissions by 50 percent, without increasing other gaseous or particle emissions, over the International Civil Aviation Organization standard adopted in 2004.

(3) Development of certifiable aircraft technology that reduces noise levels by 10 decibels at each of the 3 certification points relative to 1997 subsonic jet aircraft technology.

(4) Determination of the feasibility of the use of alternative fuels in aircraft systems, including successful demonstration and quantification of the benefits of such fuels.

(5) Determination of the extent to which new engine and aircraft technologies may be used to retrofit or re-engine aircraft to increase the integration of retrofitted and re-engined aircraft into the commercial fleet.

(d) FUNDING.—Of amounts appropriated under section 48102(a), not more than the following amounts may be used to carry out this section:

(1) $6,000,000 for fiscal year 2008.

(2) $22,000,000 for fiscal year 2009.

(3) $33,000,000 for fiscal year 2010.

(4) $50,000,000 for fiscal year 2011.

(e) REPORT.—Beginning in fiscal year 2009, the Administrator shall publish an annual report on the program established under this section until completion of the program.

SUBCHAPTER II—NATIONAL AVIATION NOISE POLICY

* * * * * * *

§ 47524. Airport noise and access restriction review program

(a) * * *

* * * * * * *

(e) GRANT LIMITATIONS.—Beginning on the 91st day after the Secretary prescribes a regulation under subsection (a) of this section, a sponsor of a facility operating under an airport noise or access restriction on the operation of stage 3 aircraft that first became effective after October 1, 1990, is eligible for a grant under section 47104 of this title and is eligible to impose a passenger facility **[**fee**]** *charge* under section 40117 of this title only if the restriction has been—

(1) * * *

* * * * * * *

§ 47526. Limitations for noncomplying airport noise and access restrictions

Unless the Secretary of Transportation is satisfied that an airport is not imposing an airport noise or access restriction not in compliance with this subchapter, the airport may not—

(1) * * *

(2) impose a passenger facility **[**fee**]** *charge* under section 40117 of this title.

* * * * * * *

§ 47531. Penalties [for violating sections 47528–47530]

A person violating section 47528, **[**47529, or 47530**]** *47529, 47530, or 47534* of this title or a regulation prescribed under any

of those sections is subject to the same civil penalties and procedures under chapter 463 of this title as a person violating section 44701(a) or (b) or any of sections 44702-44716 of this title.

§ 47532. Judicial review

An action taken by the Secretary of Transportation under any of sections 47528–47531 *or 47534* of this title is subject to judicial review as provided under section 46110 of this title.

* * * * * * *

§ 47534. Prohibition on operating certain aircraft weighing 75,000 pounds or less not complying with stage 3 noise levels

(a) PROHIBITION.—Except as provided in subsection (b), (c), or (d), after December 31, 2012, a person may not operate a civil subsonic jet airplane with a maximum weight of 75,000 pounds or less, and for which an airworthiness certificate other than an experimental certificate has been issued, to or from an airport in the United States unless the Secretary of Transportation finds that the aircraft complies with stage 3 noise levels.

(b) EXCEPTION.—Subsection (a) shall not apply to aircraft operated only outside the 48 contiguous States.

(c) EXCEPTIONS.—The Secretary may allow temporary operation of an airplane otherwise prohibited from operation under subsection (a) to or from an airport in the contiguous United States by granting a special flight authorization for one or more of the following circumstances:

(1) To sell, lease, or use the aircraft outside the 48 contiguous States.

(2) To scrap the aircraft.

(3) To obtain modifications to the aircraft to meet stage 3 noise levels.

(4) To perform scheduled heavy maintenance or significant modifications on the aircraft at a maintenance facility located in the contiguous 48 States.

(5) To deliver the aircraft to an operator leasing the aircraft from the owner or return the aircraft to the lessor.

(6) To prepare, park, or store the aircraft in anticipation of any of the activities described in paragraphs (1) through (5).

(7) To provide transport of persons and goods in the relief of emergency situations.

(8) To divert the aircraft to an alternative air port in the 48 contiguous States on account of weather, mechanical, fuel, air traffic control, or other safety reasons while conducting a flight in order to perform any of the activities described in paragraphs (1) through (7).

(d) STATUTORY CONSTRUCTION.—Nothing in the section may be construed as interfering with, nullifying, or otherwise affecting determinations made by the Federal Aviation Administration, or to be made by the Administration, with respect to applications under part 161 of title 14, Code of Federal Regulations, that were pending on the date of enactment of this section.

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PART C—FINANCING

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CHAPTER 481—AIRPORT AND AIRWAY TRUST FUND AUTHORIZATIONS

§ 48101. Air navigation facilities and equipment

(a) GENERAL AUTHORIZATION OF APPROPRIATIONS.—Not more than a total of the following amounts may be appropriated to the Secretary of Transportation out of the Airport and Airway Trust Fund established under section 9502 of the Internal Revenue Code of 1986 (26 U.S.C. 9502) to acquire, establish, and improve air navigation facilities under section 44502(a)(1)(A) of this title:

[(1) $3,138,000,000 for fiscal year 2004;
[(2) $2,993,000,000 for fiscal year 2005;
[(3) $3,053,000,000 for fiscal year 2006; and
[(4) $3,110,000,000 for fiscal year 2007.]
(1) $3,120,000,000 for fiscal year 2008.
(2) $3,246,000,000 for fiscal year 2009.
(3) $3,259,000,000 for fiscal year 2010.
(4) $3,353,000,000 for fiscal year 2011.

* * * * * * *

[(c) ENHANCED SAFETY AND SECURITY FOR AIRCRAFT OPERATIONS IN THE GULF OF MEXICO.—Of amounts appropriated under subsection (a), such sums as may be necessary for fiscal years 2004 through 2007 may be used to expand and improve the safety, efficiency, and security of air traffic control, navigation, low altitude communications and surveillance, and weather services in the Gulf of Mexico.

[(d) OPERATIONAL BENEFITS OF WAKE VORTEX ADVISORY SYSTEM.—Of amounts appropriated under subsection (a), such sums as may be necessary for each of fiscal years 2004 through 2007 may be used for the development and analysis of wake vortex advisory systems.

[(e) GROUND-BASED PRECISION NAVIGATIONAL AIDS.—Of amounts appropriated under subsection (a), such sums as may be necessary for each of fiscal years 2004 to 2007 may be used to establish a program for the installation of a precision approach aid designed to improve aircraft accessibility at mountainous airports with limited land if the approach aid is able to provide curved and segmented approach guidance for noise abatement purposes and other such approach aids and is certified or approved by the Administrator.

[(f) AUTOMATED SURFACE OBSERVATION SYSTEM/AUTOMATED WEATHER OBSERVING SYSTEM UPGRADE.—Of the amounts appropriated under subsection (a), such sums as may be necessary may be used for the implementation and use of upgrades to the current automated surface observation system/automated weather observing system, if the upgrade is successfully demonstrated.

[(g) LIFE-CYCLE COST ESTIMATES.—The Administrator of the Federal Aviation Administration shall establish life-cycle cost estimates for any air traffic control modernization project the total life-cycle costs of which equal or exceed $50,000,000.

[(h) STANDBY POWER EFFICIENCY PROGRAM.—Of amounts appropriated under subsection (a), such sums as may be necessary for each of fiscal years 2004 through 2007 may be used by the Secretary of Transportation, in cooperation with the Secretary of Energy and, where applicable, the Secretary of Defense, to establish a program to improve the efficiency, cost effectiveness, and environmental performance of standby power systems at Federal Aviation Administration sites, including the implementation of fuel cell technology.

[(i) PILOT PROGRAM TO PROVIDE INCENTIVES FOR DEVELOPMENT OF NEW TECHNOLOGIES.—Of amounts appropriated under subsection (a), $500,000 for fiscal year 2004 may be used for the conduct of a pilot program to provide operating incentives to users of the airspace for the deployment of new technologies, including technologies to facilitate expedited flight routing and sequencing of takeoffs and landings.]

(c) WAKE VORTEX MITIGATION.—Of amounts appropriated under subsection (a), such sums as may be necessary for each of fiscal years 2008 through 2011 may be used for the development and analysis of wake vortex mitigation, including advisory systems.

(d) WEATHER HAZARDS.—

(1) IN GENERAL.—Of amounts appropriated under subsection (a), such sums as may be necessary for each of fiscal years 2008 through 2011 may be used for the development of in-flight and ground-based weather threat mitigation systems, including ground de-icing and anti-icing systems and other systems for predicting, detecting, and mitigating the effects of certain weather conditions on both airframes and engines.

(2) SPECIFIC HAZARDS.—Weather conditions referred to in paragraph (1) include—

(A) ground-based icing threats such as ice pellets and freezing drizzle;

(B) oceanic weather, including convective weather, and other hazards associated with oceanic operations (where commercial traffic is high and only rudimentary satellite sensing is available) to reduce the hazards presented to commercial aviation, including convective weather ice crystal ingestion threats; and

(C) en route turbulence prediction.

(e) SAFETY MANAGEMENT SYSTEMS.—Of amounts appropriated under subsection (a) and section 106(k)(1), such sums as may be necessary for each of fiscal years 2008 through 2011 may be used to advance the development and implementation of safety management systems.

(f) RUNWAY INCURSION REDUCTION PROGRAMS.—Of amounts appropriated under subsection (a), $8,000,000 for fiscal year 2008, $10,000,000 for fiscal year 2009, $12,000,000 for fiscal year 2010, and $12,000,000 for fiscal year 2011 may be used for the development and implementation of runway incursion reduction programs.

(g) RUNWAY STATUS LIGHTS.—Of amounts appropriated under subsection (a), $15,000,000 for fiscal year 2008, $27,000,000 for fiscal year 2009, $12,000,000 for fiscal year 2010, and $20,000,000 for

2011 may be used for the acquisition and installation of runway status lights.

* * * * * * *

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

The total amounts which shall be available after [September 30, 2003] *September 30, 2007*, to the Secretary of Transportation out of the Airport and Airway Trust Fund established under section 9502 of the Internal Revenue Code of 1986 (26 U.S.C. 9502) to make grants for airport planning and airport development under section 47104 of this title, airport noise compatibility planning under section 47505(a)(2) of this title, and carrying out noise compatibility programs under section 47504(c) of this title shall be—

[(1) $3,400,000,000 for fiscal year 2004;
[(2) $3,500,000,000 for fiscal year 2005;
[(3) $3,600,000,000 for fiscal year 2006; and
[(4) $3,700,000,000 for fiscal year 2007.]
(1) $3,800,000,000 for fiscal year 2008;
(2) $3,900,000,000 fiscal year 2009;
(3) $4,000,000,000 fiscal year 2010; and
(4) $4,100,000,000 fiscal year 2011.

Such sums shall remain available until expended.

* * * * * * *

§ 48114. Funding for aviation programs

(a) AUTHORIZATION OF APPROPRIATIONS.—

(1) AIRPORT AND AIRWAY TRUST FUND GUARANTEE.—

[(A) IN GENERAL.—The total budget resources made available from the Airport and Airway Trust Fund each fiscal year through fiscal year 2007 pursuant to sections 48101, 48102, 48103, and 106(k) of title 49, United States Code, shall be equal to the level of receipts plus interest credited to the Airport and Airway Trust Fund for that fiscal year. Such amounts may be used only for aviation investment programs listed in subsection (b).]

(A) IN GENERAL.—The total budget resources made available from the Airport and Airway Trust Fund each fiscal year through fiscal year 2011 pursuant to sections 48101, 48102, 48103, and 106(k) shall—

(i) in each of fiscal years 2008 and 2009, be equal to 95 percent of the estimated level of receipts plus interest credited to the Airport and Airway Trust Fund for that fiscal year; and

(ii) in each of fiscal years 2010 and 2011, be equal to the sum of—

(I) 95 percent of the estimated level of receipts plus interest credited to the Airport and Airway Trust Fund for that fiscal year; and

(II) the actual level of receipts plus interest credited to the Airport and Airway Trust Fund for the second preceding fiscal year minus the total

amount made available for obligation from the Airport and Airway Trust Fund for the second preceding fiscal year.

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

* * * * * * *

(2) ADDITIONAL AUTHORIZATIONS OF APPROPRIATIONS FROM THE GENERAL FUND.—In any fiscal year through fiscal year [2007] *2011*, if the amount described in paragraph (1) is appropriated, there is further authorized to be appropriated from the general fund of the Treasury such sums as may be necessary for the Federal Aviation Administration Operations account.

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

(1) * * *

(2) [LEVEL] *ESTIMATED LEVEL* OF RECEIPTS PLUS INTEREST.—The term "[level of receipts plus interest] *estimated level of receipts plus interest*" means the level of excise taxes and interest credited to the Airport and Airway Trust Fund under section 9502 of the Internal Revenue Code of 1986 for a fiscal year as set forth in the President's budget baseline projection as defined in section 257 of the Balanced Budget and Emergency Deficit Control Act of 1985 (Public Law 99-177) (Treasury identification code 20-8103-0-7-402) for that fiscal year submitted pursuant to section 1105 of title 31, United States Code.

(c) ENFORCEMENT OF GUARANTEES.—

(1) * * *

(2) CAPITAL PRIORITY.—It shall not be in order in the House of Representatives or the Senate to consider any bill, joint resolution, amendment, motion, or conference report that provides an appropriation (or any amendment thereto) for any fiscal year through fiscal year [2007] *2011* for Research and Development or Operations if the sum of the obligation limitation for Grants-in-Aid for Airports and the appropriation for Facilities and Equipment for such fiscal year is below the sum of the authorized levels for Grants-in-Aid for Airports and for Facilities and Equipment for such fiscal year.

* * * * * * *

PART D—PUBLIC AIRPORTS

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CHAPTER 491—METROPOLITAN WASHINGTON AIRPORTS

Sec.
49101. Findings.

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[49108. Limitations.]

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[§ 49108. Limitations

[After October 1, 2008, the Secretary of Transportation may not approve an application of the Metropolitan Washington Airports Authority—

[(1) for an airport development project grant under subchapter I of chapter 471 of this title; or

[(2) to impose a passenger facility fee under section 40117 of this title.]

* * * * * * *

VISION 100–CENTURY OF AVIATION REAUTHORIZATION ACT

* * * * * * *

TITLE I—AIRPORT AND AIRWAY IMPROVEMENTS

* * * * * * *

Subtitle D—Miscellaneous

* * * * * * *

SEC. 186. MIDWAY ISLAND AIRPORT.

(a) * * *

* * * * * * *

(d) FUNDING TO SECRETARY OF THE INTERIOR FOR MIDWAY ISLAND AIRPORT.—The Secretary of Transportation may enter into a reimbursable agreement with the Secretary of the Interior for the purpose of funding airport development, as defined in section 47102(3) of title 49, United States Code, at Midway Island Airport for fiscal years ending before October 1, [2007] *2011*, from amounts available in the discretionary fund established by section 47115 of such title. The maximum obligation under the agreement for any such fiscal year shall be $2,500,000.

* * * * * * *

TITLE VII—AVIATION RESEARCH

* * * * * * *

SEC. 709. AIR TRANSPORTATION SYSTEM JOINT PLANNING AND DEVELOPMENT OFFICE.

(a) ESTABLISHMENT.—(1) The Secretary of Transportation shall establish in the Federal Aviation Administration a joint planning and development office to manage work related to the Next Generation Air Transportation System. The office shall be known as the Next Generation Air Transportation System Joint Planning and Development Office (in this section referred to as the "Office").

(2) The director of the Office shall be the Associate Administrator for the Next Generation Air Transportation System, who shall be appointed by the Administrator of the Federal Aviation Administration. The Associate Administrator shall report to the Administrator.

[(2)**]** *(3)* The responsibilities of the office shall include—

(A) * * *

* * * * * * *

[(3)**]** *(4)(A)* The Office shall operate in conjunction with relevant programs in the Department of Defense, the National Aeronautics and Space Administration, the Department of Commerce and the Department of Homeland Security. The Secretary of Transportation may request assistance from staff from those Departments and other Federal agencies.

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

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

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

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

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

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

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

[(4)**]** *(5)* In developing and carrying out its plans, the Office shall consult with the public and ensure the participation of experts from the private sector including representatives of commercial aviation, general aviation, aviation labor groups, aviation research and development entities, aircraft and air traffic control suppliers, and the space industry.

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

(B) The Director, to the maximum extent practicable, shall—

(i) oversee the development of the integrated plan under subsection (a)(3)(A);

(ii) ensure that—

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

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

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

(7) The Associate Administrator of the Next Generation Air Transportation System shall be a voting member of the Joint Resources Council of the Federal Aviation Administration.

(b) INTEGRATED PLAN.—The integrated plan shall be designed to ensure that the Next Generation Air Transportation System meets air transportation safety, security, mobility, efficiency, and capacity needs **[**beyond those currently included in the Federal Aviation Administration's operational evolution plan**]** and accomplishes the goals under subsection (c). The integrated plan shall include—

(1) * * *

* * * * * * *

(3) A multiagency research and development roadmap for creating the next generation air transportation system with the characteristics outlined under clause (ii), including—

(A) * * *

* * * * * * *

(C) the technical milestones that will be used to evaluate the activities; **[**and**]**

(4) a description of the operational concepts to meet the system performance requirements for all system users and a timeline and anticipated expenditures needed to develop and deploy the system to meet the vision for 2025**[**.**]***; and*

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

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

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

(C) for each element of the Next Generation Air Transportation System, an outline, on a year-by-year basis, of what is to be accomplished in that year toward meeting the Next Generation Air Transportation System's end-state architec-

ture, as expressed in the concept of operations and enterprise architecture documents, as well as identifying each Federal agency or other entity that will be responsible for each component of any research, development, or implementation program;

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

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

* * * * * * *

[(d) REPORTS.— The Administrator of the Federal Aviation Administration shall transmit to the Committee on Commerce, Science, and Transportation in the Senate and the Committee on Transportation and Infrastructure and the Committee on Science in the House of Representatives—

[(1) not later than 1 year after the date of enactment of this Act, the integrated plan required in subsection (b); and

[(2) annually at the time of the President's budget request, a report describing the progress in carrying out the plan required under subsection (b) and any changes to that plan.]

(d) OPERATIONAL EVOLUTION PARTNERSHIP.—The Administrator of the Federal Aviation Administration shall develop and publish annually the document known as the "Operational Evolution Partnership", or any successor document, that provides a detailed description of how the agency is implementing the Next Generation Air Transportation System.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Office $50,000,000 for each of the fiscal years 2004 through [2010] *2011*.

SEC. 710. NEXT GENERATION AIR TRANSPORTATION SENIOR POLICY COMMITTEE.

(a) IN GENERAL.—The Secretary of Transportation shall establish a senior policy committee to work with the Next Generation Air Transportation System Joint Planning and Development Office. The senior policy committee shall be chaired by the Secretary *and shall meet at least twice each year*.

* * * * * * *

(e) ANNUAL REPORT.—

(1) SUBMISSION TO CONGRESS.—Not later than one year after the date of enactment of this subsection, and annually thereafter on the date of submission of the President's budget request to Congress under section 1105(a) of title 31, United States Code, the Secretary shall submit to the Committee on Transportation and Infrastructure and the Committee on Science of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report summarizing the progress made in carrying out the integrated work

plan required by section 709(b)(5) and any changes in that plan.

(2) CONTENTS.—The report shall include—

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

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

(C) a detailed description of—

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

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

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

* * * * * * *

RAILWAY LABOR ACT

TITLE I

DEFINITIONS

SECTION 1. When used in this Act and for the purposes of this Act—

First. The term "carrier" includes any railroad subject to the jurisdiction of the Surface Transportation Board[, any express company that would have been subject to subtitle IV of title 49, United States Code, as of December 31, 1995,,] and any company which is directly or indirectly owned or controlled by or under common control with any carrier by railroad and which operates any equipment or facilities or performs any service (other than trucking service) in connection with the transportation, receipt, delivery, elevation, transfer in transit, refrigeration or icing, storage, and handling of property transported by railroad, and any receiver, trustee, or other individual or body, judicial or otherwise, when in the possession of the business of any such "carrier": *Provided, however,* That the term "carrier" shall not include any street, interurban, or suburban electric railway unless such railway is operating as a part of a general steam-railroad system of transportation, but shall not exclude any part of the general steam-railroad system of transportation now or hereafter operated by any other motive power. The Surface Transportation Board is hereby authorized and directed upon request of the Mediation Board or upon complaint of any party interested to determine after hearing whether any line operated by electric power falls within the terms of this proviso. The term "carrier" shall not include any company by reason of its being engaged in the mining of coal, the supplying of coal to a carrier where delivery is not beyond the mine tipple, and the operation of equipment or facilities therefor, or in any of such activities.

* * * * * * *

TITLE II

SEC. 201. [All] *(a) In General.—All* of the provisions of title I of this Act, except the provisions of section 3 thereof, are extended to and shall cover every common carrier by air *and every express carrier* engaged in interstate or foreign commerce, and every carrier by air transporting mail for or under contract with the United States Government, and every air pilot or other person who performs any work as an employee or subordinate official of such carrier or carriers, subject to its or their continuing authority to supervise and direct the manner of rendition of his service.

(b) SPECIAL RULES FOR EXPRESS CARRIERS.—

(1) IN GENERAL.—An employee of an express carrier shall be covered by this Act only if that employee is in a position that is eligible for certification under part 61, 63, or 65 of title 14, Code of Federal Regulations, and only if that employee performs duties for the express carrier that are eligible for such certification. All other employees of an express carrier shall be covered by the provisions of the National Labor Relations Act (29 U.S.C. 151 et seq.).

(2) AIR CARRIER STATUS.—Any person that is an express carrier shall be governed by paragraph (1) notwithstanding any finding that the person is also a common carrier by air.

(3) EXPRESS CARRIER DEFINED.—In this section, the term "express carrier" means any person (or persons affiliated through common control or ownership) whose primary business is the express shipment of freight or packages through an integrated network of air and surface transportation.

* * * * * * *

MINORITY VIEWS

We acknowledge the important role the aviation sector plays in the Nation's economy and the need to ensure that critical capacity and safety needs of the system are met. We also recognize the need to properly lay the groundwork for the transformation to the Next Generation Air Traffic Control System. By reauthorizing Federal Aviation Administration (FAA) funding and safety oversight programs, H.R. 2881 takes an important step toward addressing the needs of the aviation system. We strongly support the air traffic control modernization, staffing, small community air service and environmental improvements that this bill would bring.

However, while H.R. 2881 has many important provisions, two amendments to the bill were accepted during the full committee mark-up that we believe are very problematic from both a policy and a procedural perspective. We strongly oppose the inclusion of these two provisions in H.R. 2881 for the following reasons.

The first provision accepted during full committee mark-up is the "NATCA provision." This provision would repeal the FAA impasse process contained in current law (the same rules that were in place in 1998 when NATCA negotiated a very favorable contract); require the FAA and National Air Traffic Controllers Association (NATCA) to negotiate for 45 days; and, if negotiations fail, require binding arbitration pursuant to an impasse process set up by the provision. The "NATCA provision" would also reach back and void all contracts that were in impasse since July 2005, reinstate both the air traffic controller and multi-unit NATCA contracts, and provide up to $20 million for lost pay and benetIts. Of equal concern, the impasse process set up by the provision is untested and leaves many issues unaddressed. Because of this uncertainty, we anticipate years of lengthy and costly litigation at the end of any binding arbitration process. At the very least, the $1.86 billion that the FAA and NATCA agreed would be saved by the 2006 contract will be lost because the NATCA provision reinstates the terms of the 1998 contract (and all the raises and premium pay) until a final resolution is achieved. We believe that the "NATCA provision" sets a terrible precedent. By legislatively altering the contract negotiation proceedings almost a year after the contract was implemented, Congress wrongly inserts itself into the middle of a labor dispute between the FAA and NATCA and puts the entire FAA Reauthorization process in jeopardy.

We believe that the right approach is to have the parties sit down together and settle the issues through one-on-one negotiations. Since January 2007, we have encouraged the parties to take this approach and were pleased over the last several months when efforts were taken by the parties to resolve their differences in this manner. We remain firmly committed to this approach to resolving the issues in dispute and will continue to apply pressure on both

the FAA and NATCA to meet, negotiate and reach a mutually agreeable and fiscally responsible settlement agreement.

We also support amending the FAA labor impasse process going forward and allowing binding arbitration. However, the point that must not be lost in the context of arbitration between the Federal Government and Federal employees is that if Congress does not appropriate funds to cover salaries, then the FAA will be forced to find that money somewhere else. This in turn will lead to less money for other FAA employees and programs. The budget pressures this provision imposes will also threaten important capacity and modernization projects. Therefore, any change to the FAA labor impasse process must be fair, transparent, and balanced, and must be considered in the context of the entire Federal budget while protecting the role of Congress in appropriating funding.

There is no question that air traffic controllers are hard working professionals who do an outstanding job each and every day. They are also very well compensated for their good work. According to FAA data, for FY 2006 the average controller base salary (includes locality pay) was $117,249, average cash compensation was $131,662 (includes base salary and premium pays), and $171,140 for total average cash compensation and benefits. The Department of Transportation Inspector General's Office (DOT OIG) reviewed FAA's methodology and tested the data used to compile those figures and has validated those numbers as accurately refecting average controllers' salaries and benefIts. Compare that to the salary of military air traffic controllers in combat zones (U.S. Air Force Staff Sergeant with 10 years service) who make $35,919. Between 1998 and 2006, air traffic controller compensation increased by an astounding 80%. In that same time period, the pay gap between FAA controllers and other FAA employees grew from 24% to almost 40%.

We are very concerned that the "NATCA provision" is not intended to address the needs of the Nation's air transportation system. Rather, by inserting itself into the labor negotiations, voiding the new contract and reinstating the terms of the 1998 contract, Congress is putting the cost of maintaining the controllers' salary increases on others. In order to cover the controller salaries and back pay, other FAA employee groups would suffer furloughs and budget cuts and the FAA would be unable to hire much needed new controllers in FY 2007 and FY2008. The FAA's efforts to modernize the air traffic control system would also be a victim of budget cuts. Delays and congestion in the system would go unaddressed and would be the unacceptable costs borne by the traveling public. If flying becomes unbearable, the entire aviation industry will be harmed and the one million jobs created by the industry will also be in jeopardy.

We believe that the "NATCA provision" is both unfair and extremely costly. The FAA has estimated that the cost of this provision would be several million over two years (FY 2007 and 2008) and over of several billion over the length of the reauthorization. The provision's impact on other FAA employees, the ongoing air traffic control modernization effort, and much needed safety and capacity projects would also be unacceptable. At the same time, however, we remain very much in favor of prospectively amending

the current FAA labor impasse process in a way that is fair, cost effective, and reasonable for everyone. We also encourage the FAA and NATCA to continue settlement discussions and believe that the Administration's proposal to bring in an independent auditor to review the most recent offers would assist the parties' efforts to reach a mutually acceptable settlement of the matters in dispute.

The second provision accepted during full committee mark-up is the "FedEx provision." This provision would change the labor laws that apply to FedEx Express—an express carrier. When FedEx Express was organized back in 1971, it began as an airline, and as such was covered under the Railway Labor Act—as are all rail and air companies. FedEx Express expanded its operations over the years and is now an integrated cargo operation with trucking operations dependent on its air carrier operations.

The Railway Labor Act (RLA) differs from the National Labor Relations Act (NLRA) in that coverage is national in scope, whereas under the NLRA workers can organize on a local basis. The RLA recognizes the national scope of certain transportation services and the national disruption that can occur if there were to be a strike by a local unit within the national organization. This is particularly true in light of the fact that with a National and now global aviation industry, a strike by a local unit within a national organization could have far reaching and very disruptive and detrimental impacts to the U.S. economy.

From a procedural perspective, we are very concerned that the "FedEx provision" ignores Congressional intent, targets one company; and has not been subject to public hearings, discussion or debate. The provision abandons Congress's balanced approach in labor organization matters and ignores the longstanding Congressional principles of hearings and appropriate procedure. Furthermore, it has potential unintended and adverse consequences that have never been considered or discussed in public hearings.

For these reasons, we oppose the inclusion of the "NATCA provision" and the "FedEx provision" in H.R. 2881 as reported out of Committee.

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