To amend title 49, United States Code, to provide for improvements in the quality of airline services, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JUNE 24, 2008

Mr. Oberstar (for himself and Mr. Costello) introduced the following bill; which was referred to the Committee on Transportation and Infrastructure

A BILL

To amend title 49, United States Code, to provide for improvements in the quality of airline services, and for other purposes.

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) Short Title.—This Act may be cited as the “Air Service Improvement Act of 2008”.

(b) Table of Contents.—

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

TITLE I—AIR SERVICE IMPROVEMENTS

Sec. 101. Monthly air carrier reports.
Sec. 102. Air passenger service improvements.
Sec. 103. Review of air carrier flight delays, cancellations, and associated causes.
Sec. 104. European Union rules for passenger rights.
Sec. 105. Establishment of advisory committee for aviation consumer protection.
Sec. 106. Denied boarding compensation.
Sec. 107. Expansion of DOT airline consumer complaint investigations.

TITLE II—FAA EMPLOYEES

Sec. 201. Federal Aviation Administration personnel management system.

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.

TITLE I—AIR SERVICE IMPROVEMENTS

SEC. 101. 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. 102. 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 that meets the standards of the Safe Drinking Water Act (42 U.S.C. 300f et seq.), 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;

“(B) allow passengers to deplane following excessive delays; and

“(C) 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 deplanement of passengers following excessive delays and 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.—

“(1) IN GENERAL.—Not later than 9 months after the date of enactment of this section, the Secretary shall review and approve or require modifications to 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.

“(2) CIVIL PENALTIES.—The Secretary may as-
assess a civil penalty under section 46301 against an
air carrier or airport that does not adhere to an
emergency contingency plan approved under this
subsection.

“(g) MINIMUM STANDARDS.—The Secretary may es-
establish, as necessary or desirable, minimum standards for
elements in an emergency contingency plan required to be
submitted under this section.

“(h) PUBLIC ACCESS.—An air carrier or airport re-
quired to submit emergency contingency plans under this
section shall ensure public access to such plan after its
approval under this section on the Internet Web site of
the carrier or airport or by such other means as deter-
mined by the Secretary.

“§ 42302. Consumer complaints

“(a) CONSUMER COMPLAINTS HOTLINE TELEPHONE
NUMBER.—The Secretary of Transportation shall estab-
lish 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 sub-
section (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 has been applied in the aircraft within the last 60 days or 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 application, application, or 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
SEC. 103. REVIEW OF AIR CARRIER FLIGHT DELAYS, CANCELLATIONS, AND ASSOCIATED CAUSES.

(a) REVIEW.—The Inspector General of the Department of Transportation shall conduct a review regarding air carrier flight delays, cancellations, and associated causes to update its 2000 report numbered CR–2000–112 and entitled “Audit of Air Carrier Flight Delays and Cancellations”.

(b) ASSESSMENTS.—In conducting the review under subsection (a), the Inspector General shall assess—

(1) the need for an update on delay and cancellation statistics, such as number of chronically delayed flights and taxi-in and taxi-out times;

(2) air carriers’ scheduling practices;

(3) the need for a re-examination of capacity benchmarks at the Nation’s busiest airports; and

(4) the impact of flight delays and cancellations on air travelers, including recommendations for programs that could be implemented to address the impact of flight delays on air travelers.

(e) 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...
ture 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. 104. EUROPEAN UNION RULES FOR PASSENGER
RIGHTS.

(a) IN GENERAL.—The Comptroller General shall
conduct a study to evaluate and compare the regulations
of the European Union and the United States on com-
pensation and other consideration offered to passengers
who are denied boarding or whose flights are cancelled or
delayed.

(b) SPECIFIC STUDY REQUIREMENTS.—The study
shall include an evaluation and comparison of the regula-
tions based on costs to the air carriers, preferences of pas-
sengers for compensation or other consideration, and
forms of compensation. In conducting the study, the
Comptroller General shall also take into account the dif-
ferences in structure and size of the aviation systems of
the European Union and the United States.

(c) REPORT.—Not later than one year after the date
of enactment of this Act, the Comptroller General shall
submit a report to Congress on the results of the study.
SEC. 105. ESTABLISHMENT OF ADVISORY COMMITTEE FOR AVIATION CONSUMER PROTECTION.

(a) In General.—The Secretary of Transportation shall establish an advisory committee for aviation consumer protection (in this section referred to as the “advisory committee”) to advise the Secretary in carrying out air passenger service improvements, including those required by chapter 423 of title 49, United States Code.

(b) Membership.—The Secretary shall appoint 8 members to the advisory committee as follows:

(1) Two representatives of air carriers required to submit emergency contingency plans pursuant to section 42301 of title 49, United States Code.

(2) Two representatives of the airport operators required to submit emergency contingency plans pursuant to section 42301 of such title.

(3) Two representatives of State and local governments who have expertise in aviation consumer protection matters.

(4) Two representatives of nonprofit public interest groups who have expertise in aviation consumer protection matters.

(c) Vacancies.—A vacancy in the advisory committee shall be filled in the manner in which the original appointment was made.
(d) Travel Expenses.—Members of the advisory committee shall serve without pay but shall receive travel expenses, including per diem in lieu of subsistence, in accordance with subchapter I of chapter 57 of title 5, United States Code.

(e) Chairperson.—The Secretary shall designate, from among the individuals appointed under subsection (b), an individual to serve as chairperson of the advisory committee.

(f) Duties.—The duties of the advisory committee shall include the following:

(1) Evaluating existing aviation consumer protection programs and providing recommendations for the improvement of such programs, if needed.

(2) Providing recommendations to establish additional aviation consumer protection programs, if needed.

(g) Report.—Not later than February 1 of each of the first 2 calendar years beginning after the date of enactment of this Act, the Secretary shall transmit to Congress a report containing—

(1) each recommendation made by the advisory committee during the preceding calendar year; and

(2) an explanation of how the Secretary has implemented each recommendation and, for each rec-
ommendation not implemented, the Secretary’s reason for not implementing the recommendation.

SEC. 106. DENIED BOARDING COMPENSATION.

(a) IN GENERAL.—Not later than one year after the date of enactment of this Act, the Secretary of Transportation shall issue a final regulation to modify section 250 of title 14, Code of Federal Regulations, regarding denied boarding compensation, to appropriately adjust the amount of such compensation for an aircraft with 30 or more seats.

(b) EVALUATION.—Not later than 2 years after the date of issuance of the final regulation under this section and every 2 years thereafter, the Secretary shall evaluate the amount provided for denied boarding compensation and issue a regulation to adjust such compensation as necessary.

SEC. 107. EXPANSION OF DOT AIRLINE CONSUMER COMPLAINT INVESTIGATIONS.

(a) IN GENERAL.—Subject to the availability of appropriations, the Secretary of Transportation shall investigate consumer complaints regarding—

(1) flight cancellations;

(2) compliance with Federal regulations concerning overbooking seats flights;
(3) lost, damaged, or delayed baggage, and difficulties with related airline claims procedures;

(4) problems in obtaining refunds for unused or lost tickets or fare adjustments;

(5) incorrect or incomplete information about fares, discount fare conditions and availability, overcharges, and fare increases;

(6) the rights of passengers who hold frequent flier miles or equivalent redeemable awards earned through customer-loyalty programs; and

(7) deceptive or misleading advertising.

(b) BUDGET NEEDS REPORT.—The Secretary shall provide, as an annex to its annual budget request, an estimate of resources which would have been sufficient to investigate all such claims the Department of Transportation received in the previous fiscal year. The annex shall be transmitted to Congress when the President submits the budget of the United States to the Congress under section 1105 of title 31, United States Code.

TITLE II—FAA EMPLOYEES

SEC. 201. FEDERAL AVIATION ADMINISTRATION PERSONNEL MANAGEMENT SYSTEM.

(a) DISPUTE RESOLUTION.—Section 40122(a) is amended—
1 (1) by redesignating paragraphs (3) and (4) as
2 paragraphs (5) and (6), respectively; and
3
4 (2) by striking paragraph (2) and inserting the
5 following:
6
7 “(2) Dispute resolution.—
8 “(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 rep-
resentative of the employees, the Administrator
and the bargaining representative—

9 “(i) shall use the services of the Fed-
eral Mediation and Conciliation Service to
attempt to reach such agreement in ac-
cordance with part 1425 of title 29, Code
of Federal Regulations (as in effect on the
date of enactment of this clause); or

10 “(ii) may by mutual agreement adopt
alternative procedures for the resolution of
disputes or impasses arising in the negotia-
tion of the collective-bargaining agreement.

11 “(B) Binding arbitration.—

12 “(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 litiga-
tion 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 (e), 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 ap-
propriated 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.