

**Calendar No. 715**

114TH CONGRESS }  
2d Session }

SENATE

{ REPORT  
{ 114-428

FEDERAL AVIATION ADMINISTRATION  
REAUTHORIZATION ACT OF 2016

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R E P O R T

OF THE

COMMITTEE ON COMMERCE, SCIENCE, AND  
TRANSPORTATION

ON

S. 2658

together with

ADDITIONAL VIEWS



DECEMBER 20, 2016.—Ordered to be printed

Filed, under authority of the order of the Senate of December 10  
(legislative day, December 9), 2016

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SENATE COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

ONE HUNDRED FOURTEENTH CONGRESS

SECOND SESSION

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### FEDERAL AVIATION ADMINISTRATION REAUTHORIZATION ACT OF 2016

DECEMBER 20, 2016.—Ordered to be printed

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December 9), 2016

Mr. THUNE, from the Committee on Commerce, Science, and  
Transportation, submitted the following

### R E P O R T

[To accompany S. 2658]

The Committee on Commerce, Science, and Transportation, to which was referred the bill (S. 2658) to amend title 49, United States Code, to authorize appropriations for the Federal Aviation Administration for fiscal years 2016 through 2017 and for other purposes, having considered the same, reports favorably thereon with an amendment (in the nature of a substitute) and recommends that the bill (as amended) do pass.

#### PURPOSE OF THE BILL

The purpose of S. 2658, as reported, is to authorize various Federal aviation programs and policies, including funding for the Federal Aviation Administration (FAA). The bill also seeks to address important issues related to infrastructure development, air traffic control operations, aviation safety, airline consumer protections, unmanned aircraft systems (UAS), aircraft certification, and small community air service.

#### BACKGROUND AND NEEDS

Civil aviation accounts for more than five percent of U.S. gross domestic product and supports nearly 12 million American jobs.<sup>1</sup>

<sup>1</sup> FAA, *The Economic Impact of Civil Aviation on the U.S. Economy*, June 2014, p. 5.

The aviation industry encompasses several different sectors, including commercial aviation, airports, general aviation, and manufacturing. The success of these sectors is dependent upon a safe, efficient, and modern air traffic control (ATC) system; a well-maintained and vast airport network; an innovative and robust manufacturing sector; and efficient and effective regulatory processes.

The United States has roughly 19,453 airports providing services to our aviation system, and, in many communities, they are key economic drivers.<sup>2</sup> The 485 commercial airports in the United States support about 9.6 million jobs and produce an annual output of \$1.1 trillion.<sup>3</sup> General aviation (GA) in the United States is reported to have a total economic output of \$219 billion and support roughly 1.1 million jobs.<sup>4</sup> GA represents a broad range of aviation activities, including business, recreation, agriculture, law enforcement, air ambulance operations, and disaster relief.<sup>5</sup> In 2012, civil aircraft manufacturing was a top net exporter, with a positive trade balance of \$54.3 billion.<sup>6</sup> Between the end of the 2008 recession and 2014, real U.S. economic growth averaged 2.4 percent per year, but in the same time frame, the real primary output of civil aviation grew an average of 3.9 percent a year.<sup>7</sup>

### Aviation funding

The FAA's total enacted budget for fiscal year (FY) 2016 is roughly \$16.5 billion. Within that budget are four different accounts: Operations and Maintenance (\$9.90 billion)<sup>8</sup>; Facilities and Equipment (\$2.85 billion);<sup>9</sup> Research, Engineering, and Development (\$166 million);<sup>10</sup> and Grants-In-Aid for Airports (\$3.60 billion).<sup>11</sup> These four accounts are funded through two different sources: the Airport and Airway Trust Fund (Trust Fund) and the General Fund of the Treasury. The Trust Fund was created in 1970 and is directly supported through revenues collected from a series of excise taxes paid by users of the national airspace system as follows:<sup>12</sup>

- 7.5 percent passenger ticket tax.

<sup>2</sup>Department of Transportation, *Bureau of Transportation Statistics*, at [http://www.rita.dot.gov/bts/sites/rita.dot.gov/bts/files/publications/national\\_transportation\\_statistics/html/table\\_01\\_03.html](http://www.rita.dot.gov/bts/sites/rita.dot.gov/bts/files/publications/national_transportation_statistics/html/table_01_03.html).

<sup>3</sup>CDM Smith, *The Economic Impact of Commercial Airports*, September 2014, p. 1, at <http://airportsforthefuture.org/files/2014/09/Economic-Impact-of-Commercial-Aviation-2014.pdf>.

<sup>4</sup>General Aviation Manufacturers Association, *2015 General Aviation Statistical Databook & 2016 Industry Outlook*, 2016, p. 2, at [https://www.gama.aero/files/GAMA\\_2015\\_Databook\\_LoRes%20updated%203-29-2016.pdf](https://www.gama.aero/files/GAMA_2015_Databook_LoRes%20updated%203-29-2016.pdf).

<sup>5</sup>General aviation does not include scheduled commercial flights or military flights.

<sup>6</sup>Federal Aviation Administration, *The Economic Impact of Civil Aviation on the U.S. Economy*, June 2014, p. 5.

<sup>7</sup>Id.

<sup>8</sup>Operations and Maintenance (O&M) is the only FAA account that is funded, in part, by General Fund contributions. The O&M account principally funds air traffic operations and aviation safety programs.

<sup>9</sup>The Facilities and Equipment (F&E) account provides funding for the acquisition and maintenance of air traffic facilities and equipment, and for engineering, development, testing, and evaluation of technologies related to the federal air traffic system.

<sup>10</sup>The Research, Engineering, and Development (RE&D) account finances research on improving aviation safety and operational efficiency and reducing environmental impacts of aviation operations.

<sup>11</sup>This account funds the Airport Improvement Program (AIP), which provides federal grants-in-aid for projects such as new runways and taxiways; runway lengthening, rehabilitation, and repair; and noise mitigation near airports.

<sup>12</sup>This list includes only those taxes that are deposited into the Trust Fund, not other fees such as the \$5.60 one-way security fee on airline passengers.

- \$4.00 passenger flight segment fee.<sup>13</sup>
- 6.25 percent freight waybill tax.
- \$17.70 international departure and arrival taxes.
- \$8.90 Alaska and Hawaii international air facilities tax.
- 7.5 percent frequent flyer award tax.
- Aviation fuel taxes as follows:
  - 4.3 cents/gallon on commercial jet fuel.
  - 19.3 cents/gallon on GA gasoline.
  - 21.8 cents/gallon on GA jet fuel.
  - 14.1 cents/gallon Fractional Ownership Surtax on GA jet fuel.

According to the Treasury, these taxes raised about \$14.5 billion in FY 2015, including the following amounts:

- \$9.8 billion from the passenger ticket taxes.
- \$3.3 billion from the international departure and arrival taxes.
- \$496 million from the freight waybill tax.
- \$410 million from the commercial aviation fuel taxes.
- \$209 million from GA fuel taxes.

The Trust Fund continues to earn interest on its cash balance; interest contributed roughly \$273 million in FY 2015.

### **Airport Grants and Financing**

To finance daily operations, airports generate and rely on both aeronautical and non-aeronautical revenue. The primary source of aeronautical (or airside) revenue is derived from fees that airlines pay for the use and maintenance of the airport facilities, including terminal rents, landing fees, and other airport services (e.g., use of a jet bridge). Non-aeronautical (or terminal and landside) revenue includes those funds generated through things such as concessions, parking and airport access, rental car operations, and land rent. To finance capital needs, airports use a combination of Federal grant funding (through the FAA's Airport Improvement Program (AIP)), passenger facility charges (PFCs), airport revenues, tax-exempt bonds (often secured by airport revenue or PFCs), and State or local grants.

*Airport Improvement Program* – AIP grant funding is usually limited to capital improvements related to aircraft operations and tied to improvements related to safety, capacity, and environmental concerns. Commercial revenue-producing portions of airports and airport terminals are generally not eligible for AIP funding. There were 3,345 public-use airports (3,331 existing and 14 proposed) identified in FY 2015 in the National Plan of Integrated Airport Systems (NPIAS) as eligible for AIP grants.

*Passenger Facility Charge* – PFCs are a federally-authorized local charge, subject to FAA approval, collected from passengers by the airlines per flight segment and paid directly to the airport without going through the Federal Treasury. They are intended to complement AIP by providing funds for projects that are not AIP-eligible, in addition to providing supplemental funds for runways, taxiways, and other airport improvements.<sup>14</sup> PFCs can also be used

<sup>13</sup> Flight Segment Fees do not apply to flight segments to or from a rural airport, defined as those that have fewer than 100,000 passengers per year.

<sup>14</sup> CRS Report R43858, *Issues in the Reauthorization of the Federal Aviation Administration (FAA)*, by Bart Elias and Rachel Tang.

to finance debt to enable airports to undertake terminal construction projects to increase competition and capacity that are not eligible for AIP funds. Currently, the statute authorizing the PFC stipulates that no airport may charge a PFC of more than \$4.50 per passenger and, to limit the impact of multiple connections on travelers, PFCs may only be charged on two segments of a one-way trip, effectively capping total PFCs at \$18 for any round trip. Currently, 357 airports are approved by the FAA to collect PFC revenues for specific projects. In calendar year (CY) 2015, \$3.02 billion was collected and \$3.13 billion is expected to be collected in CY 2016.

### **FAA Safety, Management, and Organizational Issues**

*Safety* – The U.S. commercial aviation system has an impressive safety record. In September 2014, the Government Accountability Office (GAO) reported that, of the 76 industry and labor stakeholders interviewed about challenges associated with the Nation’s ATC system, 71 characterized the system as “very” to “extremely” safe.<sup>15</sup> The FAA Modernization and Reform Act of 2012 (FMRA; P.L. 112–95) contained a number of provisions to improve aviation safety, including provisions addressing aviation worker training, FAA facility staffing, and expeditious certification of new safety-enhancing technologies. Additionally, in 2010, Congress passed the Airline Safety and Federal Aviation Administration Extension Act of 2010 (P.L. 111–216), which contained a number of provisions to address safety concerns raised in the wake of the accident of Colgan flight 3407 near Buffalo in 2009. That law, among other things, directed the FAA to finalize regulations to reduce pilot fatigue and to improve airline pilot training and minimum qualifications. The FAA has implemented many of these provisions, but has yet to complete work on the requirement for a centralized database of pilot records, among other things.

*Certification and Regulatory Reform* – The FAA is responsible for issuing design and manufacturing approvals for manufacturers’ applications related to aircraft, aircraft engines and propellers, as well as other aircraft parts and appliances (aircraft and aircraft components). To ensure the safety of aircraft and aircraft components, the agency has developed a set of safety standards for them. The FAA also sets the standards for certification and oversight of airmen, air operators, air agencies, and designees. The agency further conducts inspections, surveillance, investigations, enforcement actions, and manages the system for registration of civil aircraft and all airmen records.

In response to stakeholder concerns related to certification delays and inconsistent regulatory interpretation of certification standards and processes, the FMRA contains two provisions. Section 312 of the FMRA (49 U.S.C. 44704 note) requires the FAA to develop a plan to streamline certification processes. Section 313 of the FMRA (49 U.S.C. 44701 note) directs the FAA to develop and implement a plan to address inconsistencies in regulatory interpretation in certification. In response to Aviation Rulemaking Committee recommendations, the FAA issued the first version of its implementa-

<sup>15</sup> Government Accountability Office, *Air Traffic Control System: Selected Stakeholders’ Perspectives on Operations, Modernization, and Structure*, September 12, 2014, p. 38.



tion plans for section 312 in January 2013. The FAA has since released periodic updates of this plan. Section 313's implementation plan was released on January 20, 2015.

Even with recent actions, stakeholders have expressed lingering concerns about various aspects of the certification process and are urging additional improvements. Under the Organization Designation Authorization (ODA) program, the FAA may delegate authority (to a qualified private person or company) related to issuing certificates or the examination, testing, and inspection necessary to issue a certificate. Many manufacturers believe that the ODA program needs more consistency, particularly as it relates to full utilization of the ODA authority. There are also concerns about recurrent training, knowledge transfers, and e-learning opportunities to ensure the relevant FAA workforce possesses technical expertise in new and evolving technologies, and the extent to which the FAA supports U.S. manufacturers seeking approval for products internationally that have been certified by the FAA.

*NextGen and ATC Reform* – Beginning in the early 1980s, the FAA started its effort to modernize the ATC system. While this effort has morphed over the years through a number of programs, in 2004, Congress first authorized the current iteration of the Next Generation Air Transportation System (NextGen), which is a significant, large-scale effort to modernize our Nation's ATC system. NextGen is a \$40 billion program initially slated to be completed by 2025 to transition the Nation's airspace from a 1950s radar-based system to advanced-technology air-traffic management.<sup>16</sup> NextGen is a fundamental reengineering of our Nation's airspace to increase capacity and reduce congestion and delays, while further improving safety and reducing aviation's environmental footprint. NextGen currently comprises several major programs, including EnRoute Automation Modernization (ERAM), Data Communications (DataComm), Automatic Dependent Surveillance-Broadcast (ADS-B), and Terminal Automation Modernization and Replacement (TAMR).<sup>17</sup> These programs, along with other NextGen programs, are intended to improve the safety and efficiency of the Nation's airspace by permitting aircraft to avoid congestion-related delays, fly more direct routes, and ultimately fly more closely together by virtue of improved ATC surveillance technology. Reduced fuel consumption has led to a reduction in carbon dioxide emissions and environmental benefits that will continue to accrue as more NextGen programs are put in place.

However, as with previous ATC modernization efforts, concerns have been raised regarding the FAA's implementation of NextGen technology and procedures. In 2014, the Department of Transportation's Inspector General (DOT IG) found that "[l]ongstanding programmatic and organization challenges . . . further undermine NextGen's progress."<sup>18</sup> In addition, the DOT IG stated that the

<sup>16</sup>Testimony of Assistant Inspector General for Aviation Audits Matthew E. Hampton, in U.S. Congress, Senate Committee on Commerce, Science, and Transportation, Subcommittee on Aviation Operations, Safety, and Security, *NextGen: A Review of Progress, Challenges, and Opportunities for Improving Aviation Safety and Efficiency*, hearings, 113th Cong., 2nd sess., June 25, 2014, S.Hrg. 113-669 (Washington, DC: GPO, 2014).

<sup>17</sup>Federal Aviation Administration. "NextGen Implementation Plan," August 2014, at [http://www.faa.gov/nextgen/library/media/nextgen\\_implementation\\_plan\\_2014.pdf](http://www.faa.gov/nextgen/library/media/nextgen_implementation_plan_2014.pdf).

<sup>18</sup>U.S. Department of Transportation, Office of Inspector General Audit Report, *Addressing Underlying Causes for NextGen Delays Will Require Sustained FAA Leadership and Action*, Feb-

FAA's NextGen plans were "overly ambitious", and that the agency has "yet to develop an executable implementation plan that addresses costs and technology development and integration."<sup>19</sup> In September 2014, the GAO reported that, when interviewing stakeholders regarding the FAA's capability in overall NextGen implementation, three times as many stakeholders said implementation "was not going well" compared to those who said it was.<sup>20</sup>

There have recently been proposals to move the Air Traffic Organization outside of the FAA. On February 3, 2016, Representative Bill Shuster, Chairman of the Transportation and Infrastructure (T&I) Committee of the House of Representatives, introduced an FAA reauthorization proposal, H.R. 4441, the Aviation Innovation, Reform, and Reauthorization Act of 2016, which would create a not-for-profit, non-governmental corporation to handle day-to-day air traffic control in the United States. On February 11, 2016, the T&I Committee marked up and reported out H.R. 4441 by a vote of 34-25.

The Committee on Commerce, Science, and Transportation of the Senate held a hearing on the issue and, though such a proposal was not included in the Committee reported version, debate on the air traffic control reform is expected to continue.

UAS – FMRA defined UAS as unmanned aircraft and associated elements that are required for the pilot in command to operate safely and efficiently in the national air system (NAS), including communication links and the components that control the unmanned aircraft. UAS can be operated by remote or ground control station and vary greatly in size, from a wingspan as large as a Boeing 737 to smaller than a radio-controlled model airplane. They are typically classified by weight, and described in terms of endurance, purpose of use, and altitude of operation. As the FAA moves forward with UAS integration, new markets and new opportunities for unmanned aviation are likely to continue to emerge.

While the military had for years been the primary user of UAS and, to some degree, had driven public perception of unmanned aircraft, civil unmanned aircraft systems use is on the rise. In particular, there has been a growing interest in developing public, civil, and commercial opportunities to employ UAS to conduct a wide variety of functions more efficiently, and at a lower cost and safety risk, than manned aircraft. These non-military UAS applications could serve a variety of purposes, including agricultural surveys, pipeline inspections, forest fire monitoring, and law enforcement, and could support nearly \$91 billion in UAS worldwide market growth over the next decade.<sup>22</sup> UAS present a new set of technical safety considerations for regulators at the FAA, such as "sense and avoid" considerations, and command and control link reliability. And, given their size and unique characteristics, certification requirements for small unmanned aircraft in the NAS may

ruary 25, 2014, p. 2, at <https://www.oig.dot.gov/sites/default/files/FAA%20Underlying%20Causes%20for%20NextGen%20Delays%5E2-25-14.pdf>.

<sup>19</sup> *Ibid.*

<sup>20</sup> *Id.* at 39.

<sup>21</sup> Teal Group Corporation, "Teal Group Predicts Worldwide UAV Market Will Total \$91 Billion in Its 2014 UAV Market Profile and Forecast", press release, July 17, 2014, at <http://www.tealgroup.com/index.php/about-teal-group-corporation/press-releases/118-2014-uav-press-release>.

be considered differently from other aircraft. FAA actions in the last 2 years on UAS include:

- On February 15, 2015, the FAA announced a Notice of Proposed Rulemaking regarding “small” UAS that would allow routine use of UAS weighing up to 55 pounds in the NAS.
- By September 2014, six test sites selected by the FAA in December 2013 (more than a year after the FMRA deadline of August 2012) for non-Federal entities to test UAS became operational.
- On June 21, 2016, the FAA finalized the new rules for small UAS (FMRA had contemplated the final rulemaking by August 14, 2014).

As the FAA works on the safe integration of UAS, which primarily deals with concerns about the safety risk of UAS interfering with manned aircraft in the national airspace and the uninformed public, the debate regarding privacy considerations and related protections continues. These issues range from potential warrantless surveillance by law enforcement to invasion of privacy and data collection by private parties.

#### **Aviation Programs under DOT Purview**

Several important aviation programs are managed within the Office of the Secretary of Transportation.

*Essential Air Service (EAS)* – The Airline Deregulation Act of 1978 (ADA; P.L. 95–504) gave airlines freedom to determine which markets to serve domestically and what fares to charge for that service. The EAS program was put into place to guarantee that small communities regularly served by airlines before deregulation maintained a minimal level of scheduled air service after deregulation. To fulfill the mandate to provide EAS communities with access to the national air transportation system, the DOT generally subsidizes two to four round trips per day to a major hub airport. The DOT currently subsidizes air service to approximately 155 smaller and rural communities across the country that otherwise would not receive any scheduled air service.

The EAS has been funded at the following levels since the enactment of the FMRA: \$232 million in FY 2013; \$246 million in FY 2014; \$261 million in FY 2015; and about \$275 million in FY 2016. The majority of funding is derived from appropriations (e.g., \$175 million in FY 2016) with the remainder coming from revenues generated by the FAA from overflight fees (i.e., ATC fees charged to aircraft that fly through U.S. airspace without taking off or landing in the United States).

*Small Community Air Service Development Program (SCASDP)* – This relatively small grant program, established in 2000, was designed to help small communities address air service and airfare issues. Candidate communities for program participation are limited to those where the airport is not larger than a primary small hub (based on calendar year 1997 data), the service is insufficient, and the air fares to the community are unreasonably high. FMRA authorized SCASDP funding of \$6 million per year through FY 2015; however, \$5 million was appropriated (off the top of the AIP account) for FY 2016.

*Aviation Consumer Protection* – Deregulation of the airline industry in 1978 eliminated the Federal Government’s control over many airline business practices, including pricing and domestic route se-

lection. However, the Federal Government continues to legislate and enforce certain consumer protections for airline passengers. Most of DOT's consumer rules are based on section 41712 of title 49, United States Code, which directs it to "protect consumers from unfair or deceptive practices." Some are based on DOT's authority to require air carriers in interstate transportation to provide "safe and adequate service" (49 U.S.C. 41702). In specific cases, DOT may take enforcement actions against air carriers that violate consumer protection rules. Further, the Air Carrier Access Act of 1986 (P.L. 99-435; 100 Stat. 1080) dictates protections, enforced by the DOT, for passengers with disabilities at airports and on airlines.

In the last 6 years, there have been several significant developments in the area of consumer protection. In December 2009, and again in April 2011, the DOT issued final rules that expanded regulatory protections to aviation consumers. The rules also required consumer access to accurate and adequate information when selecting flights, including full-fare advertising, and improvements in agency responsiveness to customer complaints. A proposal for a third rule was issued in May 2014, but has not been finalized.

#### SUMMARY OF PROVISIONS

##### **Airports**

- Supports job creation and improves safety with increased infrastructure investment by authorizing funding for the Airport Improvement Program at \$3.75 billion, a \$400 million increase.
- Streamlines the Passenger Facility Charge application process to eliminate unnecessary paperwork.

##### **Unmanned Aircraft Systems (UAS or "drones")**

- Directs the development of consensus safety standards for UAS, to be coordinated by the National Institute of Standards and Technology (NIST) and the FAA in consultation with industry, to enhance the safety features built into drones and parameters for operators.
- Enhances privacy by directing the development of standards to remotely identify UAS (to improve identification of illicit operators), declaring as national policy that UAS should be operated in a manner that protects personal privacy, encouraging commercial UAS users to adopt written privacy policies, and increasing transparency and accountability for government and commercial use of UAS.
- Promotes safety by requiring UAS users to pass an FAA-approved online aeronautical safety test before flying. This ensures users understand the national airspace system and avoid manned aircraft. Operators of UAS weighing less than 0.55 pounds could be exempted from the testing requirement.
  - Authorizes FAA initiatives to better enforce applicable laws and reduce UAS risks.
  - Authorizes FAA pilot programs to intercept drones near airports and critical infrastructure.
  - Fosters innovation by authorizing expanded case-by-case exemptions for beyond visual-line-of sight and nighttime operations, as well as for research and development and commercial purposes.

- Directs the FAA to coordinate with the National Aeronautics and Space Administration (NASA) to carry out a pilot program to test UAS traffic management, known as “UTM.”
- Improves UAS test sites, first authorized in 2012, by more clearly directing research priorities, improving coordination with the FAA, and enhancing protections for proprietary information to encourage engagement with the private sector.
- Requires the DOT to establish a UAS delivery air carrier certificate that would allow for package deliveries by UAS.
- Directs the FAA to establish operating rules specific to “micro” UAS, which weigh 4.4 lbs. or less.
- Streamlines the approval process for the safe operation of UAS at institutions of higher education.
- Establishes a process for the FAA to designate areas where UAS may not fly, for example around critical infrastructure, chemical facilities, or amusement parks.
- Directs the FAA to coordinate development of consensus UAS industry manufacturing standards to enhance safety, including to sense and avoid, lost link, identification, detectability, and other safety technology.

#### **Aircraft Certification Reform**

- Streamlines certification processes by establishing an advisory committee to recommend improvements and ensure consistency, requiring the FAA to better utilize its existing delegation authorities, and measuring how the FAA and industry are performing their respective certification responsibilities to ensure accountability.
- Requires the FAA to focus on international engagement and leadership related to U.S.-developed standards to facilitate approvals of U.S. aerospace products and services abroad.
- Maintains the quality of the FAA safety workforce by assessing relevant FAA employee training needs, reviewing the current hiring and training requirements, analyzing the skills and qualifications of aviation safety inspectors and engineers, and developing knowledge-sharing opportunities.

#### **Consumer Protection and Aviation Access**

- Reauthorizes the DOT’s Advisory Committee for Aviation Consumer Protection.
- Provides for an update, by notice and comment rule, of onboard emergency medical kit contents.
- Directs the DOT to review circumstances that may impact travelers to and from small communities, including canceled flights, involuntary changes to itineraries, and pilot supply.
- Maintains support for small community air service through the reauthorization of the Essential Air Service Program and the Small Community Air Service Development Program.
- Requires airlines, after appropriate rulemaking by the DOT, to provide refunds for delayed baggage, provide notice to families with children regarding seat assignments, standardize the disclosure of ancillary fees to passengers, and provide automatic refunds for services paid for, but not received.
- Strengthens consumer complaint information notification at airlines and improves the DOT’s online communications tools for the traveling public.

- Takes steps to improve air travel for persons with disabilities by requiring a review of training and best practices by airports and airlines and creating an ongoing advisory committee.
- Authorizes the DOT to ban cell phone calls during airline flights.

### **Airline Safety Improvements**

- Directs the DOT to implement internationally-approved safety standards on bulk transport of lithium batteries and review existing regulations and potential improvements to battery safety.
- Improves a voluntarily safety reporting program for pilots.
- Enhances requirements related to mental health screening for commercial pilots.
- Directs airlines to bolster employee training to identify and report incidents of human trafficking.
- Sets a statutory deadline for the FAA's pilot record database, required under the 2010 Safety Act, to ensure airlines, when hiring, have information regarding pilots' training, testing, and employment history.
- Improves preparedness for communicable disease outbreaks, following through on GAO recommendations after the 2015 Ebola outbreak, by directing the DOT and the Department of Health and Human Services to establish a comprehensive, aviation-specific preparedness plan to address the risks associated with global connectivity of aviation.
- Directs the FAA to update guidance regarding flight deck automation and monitoring, a key factor in recent fatal accidents, and to review airline cabin evacuation procedures used during emergencies.

### **General Aviation Safety and Protections**

- Reforms the Third Class Medical Certificate process and an enhanced appeals process, including de novo review, for pilots facing FAA enforcement. (Pilot's Bill of Rights 2)
- Enhances safety for low-altitude GA, like agricultural-applicators, by requiring marking of small towers.
- Requires the FAA to clearly identify alternatives to traditional aviation gasoline and adopt a process to ensure the safety of modifications to existing aircraft prior to a transition to unleaded aviation fuel.
- Requires the FAA to implement a risk-based policy that expedites the installation of safety enhancing technologies for small GA aircraft.

### **Air Traffic Control, NextGen, and FAA Management**

- Reduces barriers to the contract tower program through reforms to the FAA's cost-benefit analysis.
- Responds to concerns with the FAA's air traffic controller hiring process by opening up the hiring pipeline to additional qualified candidates, including veterans, and by requiring all controllers to receive an in-person interview before being hired and beginning training.
- Follows-up on recommendations made by the DOT IG and GAO to improve safety and efficiency in the NAS, including recommendations to improve NextGen transition management, miti-

gate risks to NextGen interoperability with foreign countries, and assess NextGen acquisitions.

- Requires FAA to update contingency plans to better address potential air traffic facility outages.
- Implements National Research Council recommendations directing FAA to incorporate cybersecurity measures and human factors throughout the development and rollout of NextGen programs, and attracting an even more qualified workforce to manage these programs.
- Requires the FAA to assess each NextGen program and provide a report to Congress on how each program improves safety and efficiency in the NAS and an estimate on the date that each program will have a positive return on investment for aviation users and the government.
- Requires the FAA to develop a comprehensive framework of principles and policies to reduce cybersecurity risks to the NAS, civil aircraft, and agency information systems.

#### LEGISLATIVE HISTORY

Chairman John Thune introduced S. 2658, the Federal Aviation Administration Reauthorization Act of 2016, on March 9, 2016. Ranking Member Nelson, Subcommittee Chair Ayotte, and Subcommittee Ranking Member Cantwell are original cosponsors. The bill was referred to the Committee.

The Committee held the following six hearings examining key issues addressed in the legislation:

- Unmanned Aircraft Systems: Key Considerations Regarding Safety, Innovation, Economic Impact, And Privacy (March 24, 2015).
- Federal Aviation Administration Reauthorization (April 14, 2015).
- FAA Reauthorization: Certification and U.S. Aviation Manufacturing Competitiveness (April 21, 2015).
- FAA Reauthorization: Airport Issues and Infrastructure Financing (April 23, 2015).
- FAA Reauthorization: Aviation Safety and General Aviation (April 28, 2015).
- FAA Reauthorization: Air Traffic Control Modernization and Reform (May 19, 2015).

S. 2658 includes the Senate-passed text of S. 571, the Pilot's Bill of Rights 2. That bill was introduced on February 25, 2015, by Senator Inhofe, along with 12 original co-sponsors, and referred to the Committee. On December 9, 2015, the Committee ordered an amended version of the bill to be reported to the Senate favorably by voice vote (S. Rept. 114–198). On December 15, 2016, the Senate passed S. 571 by unanimous consent.

On March 16, 2016, the Committee met in open Executive Session to consider S. 2658. Senators Thune and Nelson offered an amendment in the nature of a substitute, making several changes to the bill. The substitute was approved by the Committee by voice vote to serve as the underlying text for consideration. The Committee then approved 53 amendments (en bloc) to the substitute by voice vote. Six additional first degree amendments were considered. Senator Markey offered one related to the use of personally identifiable information collected by any public UAS that was adopted by

a roll call vote of 13 yeas and 10 nays. Senators Heller and Cantwell offered one directing DOT to issue a rule authorizing the carriage of property by small UAS for compensation or hire that was adopted by a roll call vote of 20 yeas and 4 nays. Senator Markey offered an amendment to prohibit air carriers from imposing fees that are not reasonable and proportional to the costs incurred by the air carriers that failed to be adopted on a roll call vote of 12 yeas and 12 nays. Senator Markey offered an amendment related to cyberattacks on aircraft that failed to be adopted on a roll call vote of 8 yeas to 16 nays. Senator Thune then offered an amendment to add cybersecurity provisions and FAA employee identity management protections that was adopted by voice vote. Senator Moran offered an amendment to require the Transportation Security Administration (TSA) to conduct security screening at certain small airports that was adopted by voice vote.

The bill, as amended, was ordered to be reported to the Senate favorably by voice vote with an amendment (in nature of a substitute).

*Related Legislation* – After a series of hearings on FAA reauthorization and ATC reform, on February 3, 2016, Chairman Bill Shuster (R-PA) introduced the Aviation Innovation, Reform, and Reauthorization (AIRR) Act of 2016 (H.R. 4441), which is a bill to reauthorize Federal aviation programs and for other purposes. That bill was referred to the T&I Committee, which, on February 11, 2016, marked up and reported out the bill by a vote of 34-25. The Ways and Means Committee of the House of Representatives has not yet marked up a tax title for that legislation, and the bill has not been considered by the full House of Representatives.

#### ESTIMATED COSTS

In accordance with paragraph 11(a) of rule XXVI of the Standing Rules of the Senate and section 403 of the Congressional Budget Act of 1974, the Committee provides the following cost estimate, prepared by the Congressional Budget Office:

#### *S. 2658—Federal Aviation Administration Reauthorization Act of 2016*

Summary: S. 2658 would authorize appropriations, through 2017, for activities of the Federal Aviation Administration (FAA) and other federal programs related to civil aviation. The bill also would increase contract authority for the Airport Improvement Program (AIP) and reduce direct spending for federal retirement benefits for certain air traffic controllers. Over the 2017–2026 period CBO estimates that implementing S. 2658 would:

- Result in discretionary outlays totaling \$16.7 billion, subject to the appropriation of the authorized amounts;
- Reduce direct spending by \$8 million; and
- Increase revenues from civil penalties by less than \$500,000.

Pay-as-you-go procedures apply because enacting the legislation would affect direct spending and revenues. CBO estimates that enacting the legislation would not increase net direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2027.



S. 2658 would impose intergovernmental and private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) on operators of unmanned aircraft systems (UAS) and providers of helicopter air ambulance services. The bill also would preempt state and local authority to regulate such systems. Based on information from the FAA, public airport operators, and state aviation agencies, CBO estimates that the cost of the mandates on public entities would fall below the annual threshold established in UMRA for intergovernmental mandates (\$77 million in 2016, adjusted annually for inflation). The bill would impose additional private-sector mandates on air carriers, owners of certain towers in rural areas, and others. Primarily because some of the mandates would depend on future actions by the FAA and the Transportation Security Administration (TSA), CBO cannot determine whether the aggregate cost of the mandates on private entities would exceed the annual threshold established in UMRA for private-sector mandates (\$154 million in 2016, adjusted annually for inflation).

**Estimated cost to the Federal Government:** The estimated budgetary effect of S. 2658 is shown in Table 1. The costs of this legislation fall within budget function 400 (transportation).

TABLE 1—ESTIMATED BUDGETARY EFFECT OF S. 2658

	By fiscal year, in millions of dollars—												
	2017	2018	2019	2020	2021	2022	2023	2024	2025	2026	2017– 2021	2017– 2026	
INCREASES IN SPENDING SUBJECT TO APPROPRIATION													
Estimated Authorization Level ...	13,234	0	0	0	0	0	0	0	0	0	13,234	13,234	
Estimated Outlays .....	10,478	1,814	999	709	510	486	458	400	400	400	14,510	16,654	
INCREASES OR DECREASES (–) IN DIRECT SPENDING													
Estimated Budget Authority .....	397	392	387	393	399	405	405	405	405	405	1,967	3,992	
Estimated Outlays .....	–3	–8	–13	–7	–1	5	5	5	5	5	–33	–8	

Note: Components may not sum to totals because of rounding.

**Basis of estimate:** For this estimate CBO assumes that S. 2658 will be enacted early in fiscal year 2017 and that appropriations will be provided as specified by the bill. Estimates of outlays are based on historical spending patterns for the FAA and related activities.

Over the next 10 years, CBO estimates that implementing S. 2658 would result in discretionary outlays totaling \$16.7 billion, reduce direct spending by \$8 million, and increase revenues by less than \$500,000.

#### *Spending subject to appropriation*

S. 2658 would authorize appropriations for FAA programs and related activities totaling \$13.2 billion in 2017. (The bill also would authorize appropriations totaling \$13.1 billion for 2016; the Congress has already provided funding in amounts that equal or exceed authorization levels specified for that year.) The bill also would provide contract authority (a mandatory form of budget authority) for the ADP; outlays of that contract authority are controlled by limits specified in annual appropriation acts and are therefore considered discretionary. Assuming appropriation of amounts specifically authorized and estimated to be necessary (as well as the enactment of obligation limitations for ADP that are

consistent with levels of contract authority under the bill), CBO estimates that resulting discretionary outlays would total \$16.7 billion over the next 10 years (see Table 2).

TABLE 2—CHANGES IN SPENDING SUBJECT TO APPROPRIATION UNDER S. 2658

	By fiscal year, in millions of dollars—											2017– 2021	2017– 2026		
	2017	2018	2019	2020	2021	2022	2023	2024	2025	2026					
INCREASES IN SPENDING SUBJECT TO APPROPRIATION															
FAA Operations															
Authorization Level .....	10,025	0	0	0	0	0	0	0	0	0	0	0	10,025	10,025	
Estimated Outlays .....	8,922	802	201	100	0	0	0	0	0	0	0	0	10,025	10,025	
Air Navigation Facilities and Equipment															
Authorization Level .....	2,862	0	0	0	0	0	0	0	0	0	0	0	2,862	2,862	
Estimated Outlays .....	1,288	658	429	229	114	86	58	0	0	0	0	0	2,718	2,862	
Airport Improvement Program <sup>a</sup>															
Authorization Level .....	0	0	0	0	0	0	0	0	0	0	0	0	0	0	
Estimated Outlays .....	76	244	332	372	396	400	400	400	400	400	400	1,420	3,420		
Research, Engineering and Development															
Authorization Level .....	169	0	0	0	0	0	0	0	0	0	0	0	169	169	
Estimated Outlays .....	85	57	19	8	0	0	0	0	0	0	0	0	169	169	
Essential Air Service															
Authorization Level .....	155	0	0	0	0	0	0	0	0	0	0	0	155	155	
Estimated Outlays .....	93	47	16	0	0	0	0	0	0	0	0	0	155	155	
Other Activities															
Estimated Authorization Level .....	23	0	0	0	0	0	0	0	0	0	0	0	23	23	
Estimated Outlays .....	14	6	3	0	0	0	0	0	0	0	0	0	23	23	
Total Changes															
Estimated Authorization Level .....	13,234	0	0	0	0	0	0	0	0	0	0	0	13,234	13,234	
Estimated Outlays .....	10,478	1,814	999	709	510	486	458	400	400	400	400	14,510	16,654		

Notes: FAA = Federal Aviation Administration; components may not sum to totals because of rounding.

<sup>a</sup> Budget authority for the Airport Improvement Program is provided as contract authority, a mandatory form of budget authority; however, outlays from that contract authority are subject to limitations on obligations specified in annual appropriation acts and are therefore considered discretionary.

**FAA Operations.** S. 2658 would authorize the appropriation of \$10 billion in 2017 for FAA operations, primarily for salaries and expenses related to operating the air traffic control system and carrying out regulatory and safety-related activities. (Funding for FAA Operations in 2016 totals \$9.9 billion.) Assuming appropriation of the authorized amount, CBO estimates that resulting outlays would occur over the next four years and total \$10 billion.

**Air Navigation Facilities and Equipment.** S. 2658 would authorize the appropriation of nearly \$2.9 billion for programs to maintain and modernize infrastructure and systems for communication, navigation, and surveillance related to air travel. (Funding for those activities in 2016 totals about \$2.9 billion.) Assuming appropriation of the authorized amount, CBO estimates that outlays would occur over seven years and total \$2.9 billion.

**Airport Improvement Program.** Through the AIP, the FAA provides grants to public-use airports for projects to enhance safety and increase airports' capacity for passengers and aircraft. Funding for the program is provided as contract authority (a mandatory form of budget authority), but outlays of contract authority are subject to limits specified in annual appropriation acts and are therefore considered discretionary.

S. 2658 would provide \$3.75 billion in contract authority for the AIP in 2017. Consistent with provisions of law that govern CBO's baseline projections and cost estimates for legislation, we estimate that the projected amount of contract authority for AIP under the bill would total \$37.5 billion over the 2017–2026 period, \$4 billion more than the amounts projected in CBO's baseline. (See the discussion of AIP under "Direct Spending," below, for more details on the budgetary treatment of this program.) Assuming that obligation limitations on AIP spending, as set forth in annual appropriation acts, are equal to the amounts of contract authority projected for each year, CBO estimates that incremental increases in outlays (relative to baseline levels) would total \$3.4 billion over the 2017–2026 period (and \$580 million in later years) bringing total spending for AIP to \$32.1 billion over the next ten years.

Research, Engineering and Development. S. 2658 would authorize the appropriation of \$169 million in 2017 for the FAA's research activities aimed at developing technologies to enhance the safety, economic competitiveness, and environmental performance of aviation-related infrastructure and systems that comprise the U.S. national airspace. (Funding for those activities in 2016 totals \$166 million.) Assuming appropriation of the authorized amount, CBO estimates that spending would occur over four years and total \$169 million.

Essential Air Service. S. 2658 would authorize the appropriation of \$155 million in 2017 for the Essential Air Service program, through which the Department of Transportation (DOT) makes payments to air carriers that provide service to certain rural communities. (Funding for such payments in 2016 totals \$175 million.) Assuming appropriation of the specified amount, CBO estimates that resulting outlays would occur over three years and total \$155 million.

Other Activities. CBO estimates that implementing other provisions of S. 2658 would cost \$23 million over the 2017–2026 period, assuming the appropriation of necessary amounts. That amount includes:

- \$10 million specifically authorized for grants to help small communities enhance air service;
- \$6 million specifically authorized for a pilot program to develop technologies to mitigate the risk that unmanned aircraft systems pose to airports and infrastructure related to air navigation;
- \$5 million specifically authorized for the FAA to enforce safety-related requirements on operators of unmanned aircraft systems;
- \$1.5 million in estimated authorizations for DOT and the Government Accountability Office to complete a variety of administrative activities, studies, and reports; and
- \$500,000 specifically authorized for applied research related to advanced materials used in aircraft.

In addition, the bill would authorize the FAA to collect and spend fees charged to offset the administrative costs of certain regulatory activities. The FAA already has broad general authority to collect and spend fees for a variety of such activities, which are credited as offsetting collections and spent soon thereafter, resulting in no significant net budgetary effect. Based on information

from the agency, CBO expects that any increase in fees collected and spent under S. 2658 would be small, and that resulting changes in net federal spending would be negligible in any given year.

### *Direct spending*

S. 2658 would provide contract authority for AIP and modify the basis for calculating retirement benefits for certain air traffic controllers. CBO estimates that enacting the bill would reduce net direct spending by \$8 million over the next 10 years (see Table 3).

TABLE 3—EFFECTS ON DIRECT SPENDING AND REVENUES UNDER S. 2658

	By fiscal year, in millions of dollars—												
	2017	2018	2019	2020	2021	2022	2023	2024	2025	2026	2017– 2021	2017– 2026	
INCREASES OR DECREASES (–) IN DIRECT SPENDING													
Airport Improvement Program <sup>a</sup>													
Estimated Budget Authority .....	400	400	400	400	400	400	400	400	400	400	2,000	4,000	
Estimated Outlays .....	0	0	0	0	0	0	0	0	0	0	0	0	
Retirement Benefits for Certain FAA Employees													
Estimated Budget Authority .....	–3	–8	–13	–7	–1	5	5	5	5	5	–33	–8	
Estimated Outlays .....	–3	–8	–13	–7	–1	5	5	5	5	5	–33	–8	
Total Changes													
Estimated Budget Authority .....	397	392	387	393	399	405	405	405	405	405	1,967	3,992	
Estimated Outlays .....	–3	–8	–13	–7	–1	5	5	5	5	5	–33	–8	

Notes: FAA = Federal Aviation Administration; components may not sum to totals because of rounding.

<sup>a</sup> Budget authority for the Airport Improvement Program is provided as contract authority, a mandatory form of budget authority; however outlays from that contract authority are subject to limitations on obligations specified in annual appropriation acts and are therefore considered discretionary.

**Airport Improvement Program.** S. 2658 would provide contract authority for the AIP through fiscal year 2017. The Airport and Airway Extension Act of 2016 (Public Law 114–141) provided \$2.65 billion in AIP contract authority through July 15, 2016—or \$3.35 billion on an annualized basis. Pursuant to provisions of law that govern CBO’s baseline projections, funding for certain expiring programs—such as contract authority for AIP—is assumed to continue beyond the scheduled expiration date for budget projection purposes. Consistent with that practice, CBO’s baseline incorporates the assumption that AIP contract authority over the 2017–2026 period will remain at the annualized 2016 level of \$3.35 billion per year.

S. 2658 would provide \$3.75 billion in contract authority for 2017—\$400 million more than the amount currently projected for that year. Consistent with CBO’s methodology for projecting contract authority under proposed legislation, we assume that contract authority for AIP would continue to be provided after 2017 and would remain at \$3.75 billion annually.

Under that assumption, CBO estimates that contract authority under S. 2658 would exceed the levels of contract authority already projected in the CBO baseline by \$4 billion over the 2017–2026 period. (Because spending from contract authority is controlled by ob-

ligation limitations specified in annual appropriation acts, outlays of the AIP are considered discretionary.)

Changes in Retirement Benefits for Certain FAA Employees. S. 2658 would modify the basis for calculating retirement benefits for certain FAA employees. Relative to current law, CBO expects that the proposed change would increase benefits for some existing retirees and increase benefits (and delay retirement) for some future retirees, resulting in an overall net reduction in direct spending of \$8 million over the 2017–2026 period.

*Recalculated Retirement Benefits for Certain Existing FAA Retirees.* Under current law, the Office of Personnel Management (OPM) has instructed FAA to recalculate the retirement benefits of approximately 185 current annuitants who retired from the FAA under MRA+30.<sup>1</sup> Under the retirement provisions of MRA+30, those annuitants received enhanced credit (1.7 percent of average salary per year of service) at retirement for certain years of supervisory service. According to OPM’s current interpretation of the relevant statutes, those years of supervisory service should have been credited at the standard rate (1.0 percent of average salary per year of service) in annuity calculations. Based on information from the FAA, CBO estimates that the difference between the original annuity (using the enhanced rate of 1.7 percent) and the recalculated annuity (using the standard rate of 1.0 percent) is about \$9,000 per year, per person. S. 2658 would reinstate the enhanced credit for eligible years of supervisory service, returning annuities to their full amounts (previous to OPM’s instructed recalculation). As a result, CBO estimates that enacting that provision would increase direct spending over the 2017–2026 period by about \$17 million.

OPM also has stated that they intend to seek recovery of any overpayments those 185 annuitants have already received. CBO estimates that the total outstanding amount available for collection is about \$9 million. The process of recovering any overpayments is likely to be long and will possibly result in collections of less than the full outstanding amount. In addition, the FAA plans to pursue options with OPM to forgive the debt created by the overpayments. Because of the uncertainty surrounding the timing and amount of eventual recoveries, CBO assumes that under current law OPM would collect about \$5 million, or 50 percent of the total. S. 2658 would provide for the repayment of any such recoveries to the affected annuitants, increasing estimated direct spending by about that amount over the 2017–2026 period.

*Increased Retirement Benefits for Future FAA Retirees.* For current air traffic controllers with qualifying supervisory experience who choose to retire under the MRA+30 enhanced retirement option in the future, S. 2658 would allow them to collect the enhanced level of credit (1.7 percent of average salary per year of service versus 1.0 percent under current law) at retirement for years of service at certain supervisory levels. Based on information from the FAA, CBO estimates that, as a result of the higher annuity available under the enhanced credit provided by S. 2658, about 250 employees (who are currently eligible for MRA+30 retirement)

<sup>1</sup> Under the Federal Employees Retirement System, an MRA+30 retirement allows for an un-reduced annuity once an employee reaches minimum retirement age, or MRA, (depending on year of birth, MRA ranges from 55 to 57 years of age) and completes 30 years of federal service.

would choose to delay retirement, by an average of about 3 years, and remain in service longer in order to accrue the higher benefit. Because of those delayed retirements, CBO estimates that S. 2658 would initially reduce direct spending by the amount of annuity payments that would have been made under current law. Those savings would be partially offset over the 2017–2026 period because these employees would eventually receive a higher annuity. (After 2026, the costs of the higher annuities would more than offset the savings from delayed retirement.) In total, CBO estimates that such changes in retirement behavior would decrease net direct spending by \$29 million over the 2017–2026 period.

The FAA has also indicated that under current law OPM’s reinterpretation of how supervisory service should be accounted for in certain annuity calculations could also hasten the retirement of a significant number of other air traffic controllers who are at or approaching retirement eligibility over the next several years. Enacting S. 2658 could delay those anticipated departures, which would further reduce direct spending, as described above for the MRA+30 retirees. However, CBO does not have sufficient information at this time to estimate the budgetary impact of those changes.

*Revenues*

S. 2658 would establish new civil penalties and modify existing ones for various violations of aviation-related laws and regulations. As a result, enacting the bill could increase revenues from such penalties. Based on information about the FAA about the limited number of cases likely to be involved, CBO estimates that any increases in revenues under S. 2658 would not exceed \$500,000 in any year.

Pay-As-You-Go considerations: The Statutory Pay-As-You-Go Act of 2010 establishes budget-reporting and enforcement procedures for legislation affecting direct spending or revenues. The net changes in outlays and revenues that are subject to those pay-as-you-go procedures are shown in the following table.

CBO ESTIMATE OF PAY-AS-YOU-GO EFFECTS FOR S. 2658, AS ORDERED REPORTED BY THE SENATE COMMITTEE COMMERCE, SCIENCE, AND TRANSPORTATION ON MARCH 16, 2016

	By fiscal year, in millions of dollars—												2016–2021	2016–2026	
	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025	2026				
NET INCREASE OR DECREASE (-) IN THE DEFICIT															
Statutory Pay-As-You-Go-Impact:															
Changes in Outlays .....	0	-3	-8	-13	-7	-1	5	5	5	5	5	5	-33	-8	

Increase in long-term direct spending and deficits: CBO estimates that enacting the legislation would not increase net direct spending or on-budget deficits by more than \$5 billion in any of the four consecutive 10-year periods beginning in 2027.

Intergovernmental and private-sector impact: S. 2658 would impose intergovernmental and private-sector mandates as defined in UMRA. Based on information from the FAA, public airport operators, and state aviation agencies, CBO estimates that the cost of the mandates on public entities would fall below the annual threshold established in UMRA for intergovernmental mandates (\$77 mil-

lion in 2016, adjusted annually for inflation). Primarily because some of the mandates would depend on future actions by FAA and the TSA, CBO cannot determine whether the aggregate cost of the mandates on private entities would exceed the annual threshold established in UMRA for private-sector mandates (\$154 million in 2016, adjusted annually for inflation).

*Mandates that apply to both public and private entities*

The bill would require public and private operators of unmanned aircraft systems (UAS) to maintain records of the name and contact information for each person on whose behalf the UAS has been operated. The bill also would require public and private providers of helicopter air ambulance services to report additional information to FAA. CBO expects that the cost of maintaining records and reporting information would be small.

*Mandates and other effects on public entities only*

The bill includes a mandate that would affect only state and local governments, and it also includes provisions that would provide significant benefits to public entities.

**Preemption of State and Local Regulation of UAS.** The bill would preempt state and local authority to regulate unmanned aircraft systems with respect to their design, manufacture, registration, and operation, among other areas. Because state and local governments would be unable to generate revenue, such as permit fees, from regulation in those areas, the bill would result in a small amount of foregone revenue for public entities. Based on information from the FAA and state aviation agencies about the number of UAS operated by public entities and the amount of revenue generated from permit fees, CBO estimates that the cost of the mandate on public entities would fall below the annual threshold established in UMRA for intergovernmental mandates (\$77 million in 2016, adjusted annually for inflation).

**Other Effects on Public Entities.** The bill would provide benefits to public and private airports by authorizing grants for planning, development, noise mitigation, and other initiatives. Specifically, the bill would expand from 10 to 15 the number of states that may participate in the State Block Grant Program. Under this program, states assume responsibility for administering the Airport Improvement Program (AIP), which provides grants to airports classified as “other than primary” airports—that is, nonprimary commercial service, reliever, and general aviation airports. Each state is responsible for determining which airports will receive funds for improvement projects. This expansion would make more federal funds available to help smaller airports. Any costs those entities incur to meet grant requirements would result from complying with conditions of federal assistance. The bill also would provide the FAA with greater flexibility to allow airports to charge higher Passenger Facility Charges (PFC fees), which fund airport development projects.

*Mandates that apply to private entities only*

The bill also contains private-sector mandates on air carriers, operators and manufacturers of unmanned aircraft systems, and

other entities such as owners of certain towers located in rural or agricultural areas.

*Requirements for air carriers*

The bill would impose several mandates on air carriers. Specifically, the bill would require that air carriers:

- Refund baggage fees for delayed baggage and fees for unused services;
- Establish training, rest requirements, and a fatigue risk management plan for flight attendants;
- Disclose information about ancillary fees in a standardized format, provide information about seat selection, and provide phone numbers and links for consumers to make complaints;
- Ensure that medical kits contain supplies for treating children in emergencies, if determined to be appropriate by the FAA;
- Comply with a ban on the transport of bulk shipments of lithium ion batteries on passenger planes; and
- Report more information related to accidents to the FAA.

On the basis of information from the Department of Transportation about revenues from baggage fees and reports of mishandled baggage, CBO estimates that the cost of the mandate to refund baggage fees for delayed baggage could total about \$10 million annually. The mandate to refund fees for unused services may have similar costs, but CBO has no basis to estimate that cost. On the basis of information about existing training programs and current industry practices, CBO estimates that the cost of most of the other mandates would be small and that none would impose significant additional costs on air carriers relative to UMRA's threshold.

The bill also would direct FAA to assess standards for flight data recovery and to revise those standards as appropriate. The standards would impose a mandate if they were revised to establish new requirements for flight data recorders. The cost of this mandate would depend on future regulations.

*Requirements for unmanned aircraft systems*

The bill would impose a mandate on owners and operators of unmanned aircraft systems by authorizing FAA to assess fees to recover the costs of regulatory and administrative activities related to the authorization of unmanned aircraft systems. CBO estimates that any increase in fees collected by FAA under the bill would be small.

The bill also would prohibit any person from selling an unmanned aircraft system that does not comply with the standards on airworthiness to be adopted by FAA. If the FAA were to apply those requirements to unmanned aircraft systems that may be operated under current law (such as model aircraft), sellers of those aircraft would have to comply with a new mandate. The cost of the mandate would depend on the nature and scope of regulations to be issued by FAA, but could be substantial considering that industry sources project sales of 100,000 or more such units annually. Additionally, the bill would prohibit any person from selling an unmanned aircraft system unless a safety statement is attached to the unmanned aircraft or is included in its packaging. The bill also would establish a test on aeronautical knowledge and safety for op-



erators of some unmanned aircraft systems. CBO expects that the cost per unit to include a safety statement and the cost per operator to complete a test would be small.

*Requirements for other entities*

The bill would impose a mandate on owners of certain towers (such as meteorological towers) located in rural or agricultural areas by requiring those towers to be marked so that they are visible to operators of airplanes distributing pesticides and other chemicals. The bill would direct the FAA to require those towers to be marked in a manner consistent with FAA's current voluntary guidance. In addition, some states require towers to have markings visible to aircraft. For those reasons CBO expects that the cost of the mandate would not be substantial relative to UMRA's threshold.

The bill would exempt air carriers and their employees from liability for voluntary disclosures of any suspected illegal activities related to human trafficking. That exemption from liability constitutes a mandate on private entities as it would limit their ability to file a claim against the air carrier or its employees for damages in such cases. The cost of the mandate would be the forgone net value of settlements and damages that would have been awarded. CBO expects few cases would be filed and that the cost of the mandate would be small.

The bill could impose a mandate on aircraft manufacturers if the Administrator of the Transportation Safety Administration requires a secondary cockpit barrier or other equipment on aircraft to be installed. The cost of the mandate would depend on future action by TSA, but based on information from industry sources, CBO estimates that the cost of installing a secondary barrier would total no more than about \$15 million annually for passenger aircraft delivered in the United States.

The bill also could require owners and operators of general aviation aircraft to report additional information to the FAA following an accident. CBO expects that the cost of that mandate would be small.

Previous CBO estimates: CBO has completed two other estimates for legislation that would reauthorize certain activities of the FAA:

- On February 23, 2016, CBO transmitted a cost estimate for H.R. 4489, the FLIGHT R&D Act, as ordered reported by the House Committee on Science, Space, and Technology on February 11, 2016.
- On March 9, 2016, CBO transmitted a cost estimate for H.R. 4441, the Aviation Innovation, Reform, and Reauthorization Act of 2016, as ordered reported by the House Committee on Transportation and Infrastructure on February 11, 2016.

Differences in our estimates of spending subject to appropriation under S. 2658, H.R. 4489 and H.R. 4441 reflect differences in the periods of time covered by each bill and the scope of activities for which they would authorize appropriations.

Estimate prepared by: Federal Costs: Megan Carroll and Amber Marcellino (retirement benefits); Impact on State, Local, and Tribal Governments: Jon Sperl; Impact on the Private Sector: Amy Petz.

Estimate approved by: H. Samuel Papenfuss, Deputy Assistant Director for Budget Analysis.

## REGULATORY IMPACT

In accordance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee provides the following evaluation of the regulatory impact of the legislation, as reported:

## NUMBER OF PERSONS COVERED

S. 2658 would affect a wide range of individuals and entities, most of whom are already regulated in one form or another, such as airlines, airports, aircraft manufacturers, pilots, flight attendants, UAS operators, and public agencies. Manufacturers and operators of UAS would be a new group subject to aviation safety laws and regulations as a result of this bill.

## ECONOMIC IMPACT

S. 2658 would authorize funds for the FAA's programs. These programs are intended to sustain and promote aviation safety, efficiency, and infrastructure development. Adequate levels of safety and efficiency, as well as the promotion of the free flow of people and products, are essential to air commerce. This legislation would work toward ensuring an environment conducive to economic opportunity. Other sections of the bill are intended to improve the Nation's airport capacity needs and should have a beneficial impact on the economy of the United States. Also, sections of the bill reforming the FAA's safety certification processes would have a positive impact on aerospace manufacturing and U.S. global leadership.

Provisions of the bill related to UAS would help lay the foundation for appropriate regulation of a burgeoning industry while ensuring the safety of the national airspace. UAS and the innovative ways in which they can be used are likely to have a positive impact on the U.S. economy on the order of billions of dollars annually when fully realized. The use of UAS in the agricultural sector alone could lead to more efficient use of water, fertilizer, and pesticides, and better detection of crop pests and disease, thereby increasing yields and potentially reducing negative environmental impacts.

Subtitle F of title II of the bill (Pilot's Bill of Rights 2) would primarily affect the FAA, the National Transportation Safety Board (NTSB), Federal courts, and persons already subject to FAA regulations, all of which are currently covered under relevant laws amended in this bill. Therefore, the number of persons covered should be consistent with the current levels of persons impacted under the provisions that are addressed in the bill.

## PRIVACY

S. 2658 would have a beneficial impact on the personal privacy of U.S. citizens. As UAS become a more common part of the airspace, concerns have arisen with regard to the data that may be collected by various UAS operators, including businesses, government agencies, and private individuals. The bill contains several provisions that would enhance or reinforce existing privacy protections at local, State, and Federal levels, including the Constitution. Specifically, the bill would enhance privacy by directing the development of standards to remotely identify UAS (to improve the identification of illicit operators), declaring as national policy that UAS

should be operated in a manner that protects personal privacy, encouraging commercial UAS users to adopt written privacy policies, and increasing transparency and accountability for government and commercial use of UAS.

#### PAPERWORK

The Committee does not anticipate a major increase in paperwork burdens resulting from the passage of this legislation. In those areas where the bill does require additional paperwork, it is aimed at improving aviation safety, protecting personal privacy, or assisting air travel consumers, and is otherwise part of the normal duties of the affected agencies. The Secretary of Transportation, the FAA, the GAO, the DOT IG, the Transportation Research Board, the National Telecommunications and Information Administration, NIST, the Federal Communications Commission (FCC), the National Oceanic and Atmospheric Administration (NOAA), a FAA-established expert review panel, and a FAA-established task force would be required to prepare a variety of reports and studies for Congress. These reports will provide the legislative branch and public with critical information, assessments, reviews and recommendations that will enhance the ability of the Committee to carry out its oversight responsibilities with regard to Federal aviation policy and programs.

The DOT and FAA would be required to issue a number of rules to enhance consumer protections or improve safety, and there would be associated paperwork for those agencies and any members of the public who choose to provide comments.

In order to ensure the safety of the national airspace system, manufacturers of small UAS would encounter paperwork in complying with any new consensus industry airworthiness standards, as well as providing UAS safety information in consumer packaging, which most, if not all, manufacturers already do.

The Pilot's Bill of Rights 2 portion of the bill would not significantly increase paperwork requirements for private individuals or businesses. It would require the FAA to revise rules related to medical certification requirements and operational regulations for certain recreational pilots, and therefore, the Agency would be required to publish a rulemaking in the Federal Register. That section would require the FAA to develop a form containing a checklist to be used during comprehensive medical examinations of pilots every 4 years. Current FAA regulations require medical examinations every 2 years for pilots over the age of 40, so there would be a reduction in paperwork related to pilot medical status due to the decreased frequency in medical examinations. That section would also require the development of an online medical education course and requires pilots to submit a series of forms to the FAA upon completion of that course, which would replace regular medical examinations. Pilots must also keep various records related to the online medical education course and comprehensive physical medical examinations, but these are not substantially greater than existing paperwork requirements related to medical certifications and logbooks. The bill would require the FAA to produce a report to Congress on the impact of the changes to medical certification requirements. It would also require the FAA to promulgate regulations or guidance to ensure compliance with new requirements of

that section, but the extent and nature of such action should not be great considering the relatively limited scope of the provision.

#### CONGRESSIONALLY DIRECTED SPENDING

In compliance with paragraph 4(b) of rule XLIV of the Standing Rules of the Senate, the Committee provides that no provisions contained in the bill, as reported, meet the definition of congressionally directed spending items under the rule.

#### SECTION-BY-SECTION ANALYSIS

##### *Section 1. Short title; table of contents.*

This section would provide the short title of this bill as the “Federal Aviation Administration Reauthorization Act of 2016.” This section would also provide a table of contents for the bill.

##### *Section 2. References to title 49, United States Code.*

This section would provide that, unless otherwise expressly provided, the amendments to the law in this bill shall be considered to be made to a section or other provision of title 49, United States Code.

##### *Section 3. Definition of appropriate committees of Congress.*

For this Act, this section would define “the appropriate committees of Congress” to be the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

##### *Section 4. Effective date.*

This section would set the effective date of the bill’s provisions as the date of enactment of the Act, except as otherwise expressly provided.

#### *Title I—Authorizations*

##### *Subtitle A – Funding of FAA Programs*

##### *Section 1001. Airport planning and development and noise compatibility planning and programs.*

This section would provide funding levels for the AIP for FYs 2016 through 2017. In FY 2016, the level would be \$3.35 billion. FY 2017 would see a rise to \$3.75 billion, a \$400 million (or 12 percent) increase.

##### *Section 1002. Air navigation facilities and equipment.*

This section would provide authorization of appropriations for the FAA Facilities and Equipment account of \$2,855,241,025 for FY 2016 and \$2,862,020,524 for FY 2017.

##### *Section 1003. FAA operations.*

This section would provide authorization of appropriations for the FAA’s operations account of \$9,910,009,314 for FY 2016 and \$10,025,361,111 for FY 2017.

*Section 1004. FAA research and development.*

This section would provide authorization of appropriations for the FAA's research and development account of \$166,000,000 for FY 2016 and \$169,000,000 for FY 2017.

*Section 1005. Funding for aviation programs.*

This section would extend the formula that determines the amount made available from the Trust Fund each year to fund the FAA. Trust Fund support for aviation programs would be equal to the sum of 90 percent of estimated Trust Fund revenues (taxes plus interest) plus the difference between actual revenues and the Trust Fund appropriation in the second preceding FY.

*Section 1006. Extension of expiring authorities.*

This section would extend the following: AIP discretionary grant eligibility for the Marshall Islands, Micronesia, and Palau; eligibility of States and local governments for AIP grants for compatible land use planning; an annual report by the DOT IG on the level and extent of participation in FAA-funded programs by Disadvantaged and Small Business Enterprise concerns; and a pilot program allowing AIP funds to be spent on certain airport property redevelopment projects.

*Subtitle B—Airport Improvement Program Modifications*

*Section 1201. Small airport regulation relief.*

This section would direct the FAA, for FY 2016 and FY 2017, to apportion AIP entitlement funds to certain small airports based on the number of passenger boardings during calendar year 2012 if the airport had scheduled air service and meets certain requirements.

*Section 1202. Priority review of construction projects in cold weather States.*

This section would require the FAA to schedule its review of construction projects so that projects in States where the weather during a typical calendar year prevents major construction projects from being carried out before May 1 are reviewed as early as possible.

*Section 1203. State block grants updates.*

This section would increase the cap on the number of States allowed to participate in the State Block Grant Program from 10 to 15. Qualifying States that participate in the State Block Grant Program assume responsibility for administering AIP grants at non-primary commercial service, reliever, and GA airports. Each State in the program is responsible for determining which locations will receive funds for ongoing project administration.

*Section 1204. Contract Tower Program updates.*

This section would authorize appropriations for the Contract Air Traffic Control Tower Cost-Share Program and increase the cap on the Federal share of contract tower construction projects. This section would also revise the methodology for determining benefit-to-cost ratios for contract tower airports. For contract towers at non-

cost-share airports, there would not be an annual benefit-to-cost ratio unless the traffic at the airport decreases by a certain amount. The FAA would establish procedures for participants in the Contract Tower Program to review and appeal determinations related to a benefit-to-cost ratio.

*Section 1205. Approval of certain applications for the contract tower program.*

This section would require the FAA to advance pending requests for admission into the program from new entrants, as well as cost share participants seeking full Federal participation based on their eligibility under existing Benefit Cost Analysis criteria, if the FAA has not implemented a revised cost-benefit methodology for determining eligibility for the Contract Tower Program 30 days after the date of enactment of this Act. The section would apply to airports for which an application has been submitted prior to January 1, 2016, but that the FAA has not processed in the intervening years while the agency has been developing new Benefit Cost Analysis criteria.

*Section 1206. Remote towers.*

This section would establish a pilot program for the construction and operation of remote towers. The FAA would be required to clearly define the research agenda for the pilot program and airports would have to submit competing proposals to the FAA outlining how they would further the FAA's research agenda if they are selected to participate in the pilot program. In choosing which airports become part of the pilot program, the FAA would consider specific factors, and must select at least one airport currently in the Contract Tower Program and at least one airport that does not currently have an air traffic control tower. If the FAA certifies such systems, the section would make them AIP eligible.

*Section 1207. Midway Island airport.*

This section would extend the authorization for Midway Island's airport to receive AIP funds through FY 2017.

*Section 1208. Airport road funding.*

This section would allow for the use of airport revenue to repair and improve roads on airport property, but only as much of the proportional cost of the repairs or improvements that would match the proportion of airport-only traffic on that road.

*Section 1209. Repeal of inherently low-emission airport vehicle pilot program.*

This section would repeal the Inherently Low-Emission Airport Vehicle Pilot Program because the pilot program has been successfully completed.

*Section 1210. Modification of zero-emission airport vehicles and infrastructure pilot program.*

This section would modify the Zero-Emission Airport Vehicles and Infrastructure Pilot Program to be used exclusively for transporting passengers on-airport or for employee shuttle buses within the airport. By limiting the program to on-airport passenger and

employee transport vehicles, this section would follow existing statutory guidance, which allows terminal projects for the movement of passengers and baggage in air commerce.

*Section 1211. Repeal of airport ground support equipment emissions retrofit pilot program.*

This section would repeal the Airport Ground Support Equipment Emissions Retrofit Pilot Program because it has been successfully completed.

*Section 1212. Funding eligibility for airport energy efficiency assessments.*

This section would revise the statutory mandate that the FAA establish a program to encourage public-use airports to assess their energy requirements and which allows the FAA to make grants to airports that have completed the assessment to acquire or construct equipment that will increase the airport's energy efficiency. This section would make a revision requiring the FAA to reimburse airport sponsors for the costs they incur in conducting this assessment. Additionally, in applying for the equipment grants, airports would now certify that no safety projects would be deferred by prioritizing one of these grants.

*Section 1213. Recycling plans; safety projects at unclassified airports.*

This section would make a technical correction to clarify that airports preparing a master plan project must include recycling plans in that project. The section would also clarify the eligibility of certain projects for AIP funding at low-activity airports that are currently in the "unclassified" category.

*Section 1214. Transfers of instrument landing systems.*

This section would allow an airport to transfer to the FAA an instrument landing system consisting of a glide slope and localizer that conforms to performance specifications of the FAA if specific criteria are met. In order to be eligible, the system must have been purchased with the assistance of an AIP grant and the FAA must have determined that a satellite navigation system cannot provide a suitable approach at the airport.

*Section 1215. Non-movement area surveillance pilot program.*

This section would allow the FAA to carry out a pilot program to support the non-Federal acquisition and installation of qualifying non-movement area surveillance systems and sensors if certain factors are met. Non-movement area is defined as the areas that are not under tower control. Installation of non-movement area surveillance allows uninterrupted tracking of aircraft from gate to gate, with the expectation that safety would be enhanced by having comprehensive data available of all aircraft movement on the airfield. This would provide an additional benefit to the airports because they will be able to track snow removal vehicles or other vehicles that are in the non-movement area.

*Section 1216. Amendments to definitions.*

This section would provide clarification and technical adjustments to specific statutory definitions related to aviation.

*Section 1217. Clarification of noise exposure map updates.*

This section would clarify an existing statutory provision that deals with the submission of noise exposure maps from airport operators to the FAA. The Vision 100—Century of Aviation Reauthorization Act (P. L. 108–176) required the FAA to “make noise exposure and land use information from noise exposure maps [prepared under Part 150 of title 14, Code of Federal Regulations] available to the public via the Internet on its website in an appropriate format.” This section would clarify when airports must supply certain revisions to the FAA.

*Section 1218. Provision of facilities.*

This section would detail how the FAA may not require airport owners or sponsors to provide the FAA, without cost, any equipment or space for services related to air traffic control, air navigation, or weather reporting.

*Section 1219. Contract weather observers.*

This section would mandate that the FAA issue a report outlining the safety risks, hazard effects, and operational effects that could result from the loss of the Contract Weather Observer service at airports with this service that are currently under review by the FAA. The FAA oversees 136 airports that utilize contract weather observers. In 2015, the FAA developed a plan to transition the duties of up to 57 Contract Weather Observer locations to Limited Aviation Weather Reporting Systems (LAWRS) Controllers. Under this provision, the FAA would be prohibited from finalizing determinations under this plan until this report is issued. This section would also require NOAA and the FAA to issue a report on NOAA’s Golden Triangle Initiative.

*Section 1220. Federal share adjustment.*

This section would adjust the Federal share of certain AIP projects. In order to be eligible for this increase, the FAA must determine that the project is a successive phase of a multi-phased construction project for which the sponsor received a grant in FY 2011 or earlier.

*Section 1221. Miscellaneous technical amendments.*

This section would provide miscellaneous technical amendments to current law to ensure clarity in statutory aviation provisions.

*Section 1222. Mothers’ rooms at airports.*

This section would allow the DOT to approve project grants for projects at medium or large hub airports to maintain a lactation area in each passenger terminal building of the airport within the secured area of the airport terminal. Additionally, this section would allow the DOT to approve projects for terminal development for the construction or installation of a lactation area at a commercial service airport.



*Section 1223. Eligibility for airport development grants of airports that enter into certain leases with components of the Armed Forces.*

This section would forbid the DOT from disapproving an AIP project grant solely because the airport renews a lease for the use, at a nominal rate, of airport property by a regular or reserve component of the Armed Forces, including the National Guard.

*Section 1224. Clarification of definition of aviation-related activity for hangar use purposes of airport improvement grants.*

This section would clarify that the construction of a covered aircraft shall be treated as an aeronautical activity for purposes of determining an airport's compliance with a grant assurance or for the receipt of Federal financial assistance for airport development. Additionally, this section would define the term "covered aircraft" as an aircraft used or intended to be used exclusively for recreational purposes and constructed by a private individual at a GA airport, for the purposes of this section.

*Section 1225. Use of airport improvement program funds for runway safety repairs.*

This section would allow DOT to approve the use of AIP funds at certain airports to repair the runway safety area of such airports damaged as a result of a natural disaster in order to maintain compliance with FAA regulations, if certain conditions are met.

*Subtitle C—Passenger Facility Charges*

*Section 1301. PFC streamlining.*

This section would expand the current pilot program for passenger facility charge (PFC) authorizations at certain non-hub airports to include small, medium, and large hub airports.

*Section 1302. Intermodal access projects.*

This section would allow the FAA to approve the use of PFCs to finance eligible capital costs of an intermodal ground access project. Intermodal ground access projects would include projects for constructing a local facility owned or operated by an eligible agency that is located on airport property and is directly and substantially related to the movement of passengers or property traveling in air transportation.

*Section 1303. Use of revenue at a previously associated airport.*

This section would allow the FAA to authorize a PFC to finance eligible airport related projects if the eligible airport meets certain requirements related to previous association and project agreements.

*Section 1304. Future aviation infrastructure and financing study.*

This section would require the DOT to engage the Transportation Research Board to conduct a study and make recommendations on actions needed to upgrade and restore the national aviation infrastructure system, including airport infrastructure needs to meet growing demand and existing financial resources for commercial service airports.

*Title II—Safety**Subtitle A—Unmanned Aircraft Systems Reform**Section 2001. Definitions.*

This section would define certain terms used in this subtitle.

*Part I—Privacy and transparency**Section 2101. Unmanned aircraft systems privacy policy.*

This section would state that it is the policy of the United States that the operation of any UAS shall be carried out in a manner that respects and protects personal privacy consistent with Federal, State, and local law.

*Section 2102. Sense of Congress.*

This section would express the sense of Congress that commercial users of UAS, except news gathering entities, should have a written privacy policy regarding the collection, use, retention, and dissemination of any data collected during the operation of a UAS.

*Section 2103. Federal Trade Commission authority.*

This section would make explicit the authority of the Federal Trade Commission (FTC) to enforce violations of the privacy policies of commercial operators.

The Committee is mindful that a robust privacy protection and enforcement framework already exists. The Committee seeks to avoid regulation and requirements duplicative of those currently enforced by State and Federal agencies. Therefore, this section is intended to restate existing law and is not intended to expand the FTC's jurisdiction. The FTC shall enforce this provision with the same jurisdiction, powers, and duties as though applicable terms and provisions of the Federal Trade Commission Act (15 U.S.C. 41 et seq.) were incorporated into and made a part of this Act.

*Section 2104. National Telecommunications and Information Administration multi-stakeholder process.*

This section would require the National Telecommunications and Information Administration to report to Congress no later than July 31, 2016, on the ongoing multi-stakeholder process related to privacy best practices and UAS use. This report would include legislative and regulatory policy recommendations.

*Section 2105. Identification standards.*

This section would direct the NIST, in collaboration with the FAA and others, to convene industry stakeholders to facilitate the development of consensus standards for remote identification of UAS and report to Congress. Not later than 1 year after the report has been submitted, the FAA would issue regulatory guidance implementing these standards.

*Section 2106. Commercial and governmental operators.*

This section would require the FAA to make available to the public, through a database, information regarding government and commercial operators authorized to operate UAS in the national

airspace. In addition, this section would require that the database include information about the collection, retention, use of and access to personally identifiable information, if applicable. This section would also require public aircraft operators to disclose additional information about the location, timing, and purpose of flight as well as technical capabilities of the aircraft flown.

*Section 2107. Analysis of current remedies under Federal, State, local jurisdictions.*

This section would direct a GAO study on current legal remedies at the Federal, State, and local level that exist to address concerns associated with UAS operations, and identify any remaining gaps for further consideration by Congress.

*Part II—Unmanned Aircraft Systems*

*Section 2121. Definitions.*

This section would codify definitions related to UAS.

*Section 2122. Utilization of unmanned aircraft system test sites.*

This section would reauthorize and enhance the utilization of the existing six UAS test sites until September 30, 2017. This section would update the FAA's authority with respect to the test sites, first authorized in 2012, by more clearly directing research priorities, improving coordination with the FAA, and enhancing protections for proprietary information to encourage more fruitful engagement with the private sector. This section would also expand opportunities for any public entity authorized by the FAA as a UAS flight test center before January 1, 2009.

*Section 2123. Additional research, development, and testing.*

This section would require the FAA to work jointly with the UAS Executive Committee (including representatives from other relevant departments and agencies) to develop a research plan on the broad range of technical, procedural, and policy issues related to UAS integration.

This section would also provide the FAA the authority to use other transaction authority and enter into collaborative research and development agreements as a mechanism to direct research related to UAS, including at any UAS test site.

*Section 2124. Safety standards.*

This section would direct NIST and the FAA, in consultation with other stakeholders, to develop risk-based, consensus industry standards on UAS aircraft safety. The FAA would also be required to establish a process for the airworthiness approval of small UAS based on the consensus standards, in lieu of the more cumbersome certification process used for the approval of other aircraft. These standards, developed and approved in collaboration with the FAA, would ultimately improve safety by prescribing which safety technologies and other capabilities would be built into unmanned aircraft systems sold in the United States.

*Section 2125. Unmanned aircraft systems in the Arctic.*

This section would codify a provision enacted in section of 331 the FMRA (49 U.S.C. 40101 note) governing UAS operations in the Arctic.

*Section 2126. Special authority for certain unmanned aircraft systems.*

This section would reauthorize and expand exemption authority, presently known as “section 333 exemptions,” for the FAA to authorize certain safe UAS operations in the national airspace system. This section would also make explicit the authority for the FAA to approve nighttime and beyond-line-of-sight operations. As provided under section 2156 of this bill, UAS operations authorized under “section 333 exemptions” prior to enactment of this bill would not be affected, and would remain authorized in accordance with their terms, notwithstanding the repeal and replacement of section 333 of the FMRA (49 U.S.C. 40101 note) by this section.

*Section 2127. Additional rulemaking authority.*

This section would direct further risk-based UAS integration regulatory efforts after completion of the ongoing small UAS rule, including a new rulemaking related to micro UAS (4.4 lbs. or less), and the FAA would be expected to take into consideration advancements in beyond-line-of-sight and other technologies for safe integration of UAS.

*Section 2128. Governmental unmanned aircraft systems.*

This section would codify existing authority to authorize public (i.e., governmental) aircraft operations and would require Federal agencies to maintain a data minimization policy for data collected by UAS to protect privacy, civil rights, and civil liberties. This section would codify requirements for agencies to develop policies intended to ensure that agencies only collect data for authorized purposes and appropriately limit the retention and dissemination of such data.

*Section 2129. Special rules for model aircraft.*

This section would codify and amend the definition of “model aircraft,” which are excluded from certain FAA rules. Under the amended law, the Administrator of the FAA would be able to review operational parameters and modify, in collaboration with relevant stakeholders, as necessary to improve safety.

*Section 2130. Unmanned aircraft systems aeronautical knowledge and safety.*

This section would establish a requirement for the development and implementation of an aeronautical knowledge and safety exam. The FAA would be able to waive the exam requirement for operators of aircraft weighing less than 0.55 pounds or for UAS operators under the age of 13 who are under the supervision of an adult. To maintain safety in the national airspace, this section would also require that all UAS users demonstrate completion of this aeronautical knowledge test.

*Section 2131. Safety statements.*

This section would require UAS manufacturers to provide safety information in UAS product packaging. These statements would include information on laws and regulations applicable to UAS as well as UAS safety best practices.

*Section 2132. Treatment of unmanned aircraft operating underground.*

This section would make explicit that UAS operations underground are not subject to FAA regulation. This is consistent with existing regulations.

*Section 2133. Enforcement.*

This section would require the FAA to establish a program to utilize available technologies for the remote detection and identification of UAS in order to significantly enhance the ability of the FAA and other Federal agencies to pursue appropriate enforcement actions against UAS operators who violate applicable laws and regulations.

*Section 2134. Aviation emergency safety public services disruption.*

This section would prohibit UAS users from interfering with emergency response activities and would raise civil penalties to not more than \$20,000 for those found in violation.

*Section 2135. Pilot project for airport safety and airspace hazard mitigation.*

This section would establish a pilot project for UAS hazard mitigation at public use airports and for critical infrastructure.

*Section 2136. Contribution to financing of regulatory functions.*

This section would authorize the FAA to assess and collect regulatory and administrative fees to recover the costs of these activities from commercial operators, subject to a rulemaking. As part of that rulemaking, the FAA would need to ensure such fees would be cost-based relative to the regulatory activity, and would not be discriminatory or deter compliance.

*Section 2137. Sense of Congress regarding small UAS rulemaking.*

This section would express the sense of the Senate that the small UAS rulemaking should be completed expeditiously.

*Section 2138. Unmanned aircraft system traffic management.*

This section would authorize the FAA, in coordination with NASA, to develop a research plan and implement a pilot program for UAS traffic management (UTM). After completion of the pilot program, the FAA in coordination with NASA and in consultation with other relevant Federal agencies would be directed to develop a comprehensive plan for deployment of UTM in the NAS.

*Section 2139. Emergency exemption process.*

This section would require the FAA to set forth an exemption process for public and civil operators to utilize for special authorization in emergency response efforts.

The Committee recognizes both the importance of rapid response to emergency situations, with all useful assets at the responders' disposal, including UAS, and the need to maintain the safety of all aircraft operating in the national airspace system. It is the belief of the Committee that an emergency exemption process for UAS can effectively address both of these critical concerns. The Committee also believes that rapid response to a broad range of emergency situations is in the interest of the public and expects that the emergency exemption process shall not require the formal declaration (Federal, State, or local) of an emergency or disaster.

For the emergency exemption process to be useful, it must be truly expeditious while still being effective at maintaining safety. Accordingly, the Committee anticipates that the process could include FAA review of certain elements in advance of an emergency, such as evaluation of the operator and aircraft. This would enable the FAA to focus on location and operation specific review at the outset of the emergency situation.

The Committee further recognizes that emergency response situations, by their nature, demand and justify actions and the use of tools that present levels of risk beyond that which would be reasonable in the absence of the emergency. Accordingly, the scope of operations that would be permitted under the emergency exemption process should necessarily be more expansive than those which would be permitted under non-emergency approval processes.

*Section 2140. Public UAS Operations by tribal governments.*

This section would amend the definition of "public aircraft" to include UAS that are owned and operated or leased by an Indian tribal government.

*Section 2141. Carriage of property by small unmanned aircraft systems for compensation or hire.*

This section would require the DOT to issue a final rule authorizing the carriage of property by operators of small UAS for compensation or hire within the United States not later than 2 years after the date of enactment. This section would also require the creation of a small UAS air carrier certificate for persons that directly undertake the operation of small UAS to carry property in air transportation and the development of a classification system for persons issued small UAS air carrier certificates. It is believed that the logical first step is to identify the ways that this type of certificate would differ from the existing air carrier certificate. In the certification process, though, it is expected that the safety of the NAS and the public are considered foremost.

*Section 2142. Collegiate Training Initiative program for unmanned aircraft systems.*

This section would require the FAA to establish a Collegiate Training Initiative program to help prepare college students for careers involving UAS.

*Part III – Transition and savings provision*

*Section 2151. Senior advisor for unmanned aircraft systems integration.*

This section would authorize a specific leadership position for the UAS integration office, consistent with current practice.

*Section 2152. Effect on other laws.*

This section would affirm a Federal preemption for State and local laws relating to the design, manufacture, testing, licensing, registration, certification, operation, or maintenance of a UAS, including airspace, altitude, flight paths, equipment or technology requirements, purpose of operations, and pilot, operator, and observer qualifications, training, and certification. Laws of general applicability, including those relating to nuisance, voyeurism, harassment, reckless endangerment, wrongful death, personal injury, property damage, or other illegal acts arising from the use of UAS, would not be preempted if they are not specifically related to the use of a UAS. However, this section does not preempt State or Federal common law and explicitly preserves all causes of action for personal injury, wrongful death, property damage or other injury based on negligence or any other theory of liability.

*Section 2153. Spectrum.*

This section would allow UAS, if permitted by and under the rules of the FCC, to operate with wireless control and communication, including on licensed spectrum with consent of the licensee. The section also would require an interagency report that addresses possible UAS use of aviation spectrum and operational barriers.

*Section 2154. Applications for designation.*

This section would establish a process for the FAA to designate areas where UAS operations would be restricted or limited, including critical infrastructure, oil refineries, chemical facilities, amusement parks, and other locations that may benefit from such restrictions.

The Committee recognizes the important safety benefits that will be achieved by creating a convenient mechanism whereby owners or operators of certain fixed infrastructure can petition the FAA to prohibit or otherwise limit the operation of aircraft over or near such facilities. At the same time, the Committee recognizes that aircraft can be an important tool employed by the owners and operators of fixed infrastructure assets for inspections, maintenance, security, and other purposes and that the owners and operators of such assets have a vested interest in the safety and protection of their facilities. Accordingly, the Applications for Designation process required to be established by this section is intended to be one whereby the operation of aircraft by third-parties (i.e., non-owners/operators), but not the owners/operators or their agents, would be prohibited or limited.

In addition, the Committee understands that certain infrastructure that could become the subject of an Application for Designation may be “sensitive” in nature. It is the intent of the Committee, therefore, that the information to be made publicly available in connection with any designation shall be the minimum information

necessary to give the public notice of the existence and boundaries of the designation.

*Section 2155. Use of unmanned aircraft systems at institutions of higher education.*

This section would streamline the approval process for the safe operation of UAS at institutions of higher education in an academic setting.

*Section 2156. Transition language.*

This section would address technical legal issues associated with the codification of UAS-related provisions from the 2012 FAA reauthorization bill.

*Subtitle B—FAA Safety Certification Reform*

*Part I—General provisions*

*Section 2211. Definitions.*

This section would set forth definitions applicable to this subtitle.

*Section 2212. Safety oversight and certification advisory committee.*

This section would establish the Safety Oversight and Certification Advisory Committee (SOCAC), comprised of industry stakeholders and the FAA. The SOCAC would be responsible for providing advice to the Secretary of Transportation on policy-level issues related to FAA safety oversight and certification programs and activities, and recommending consensus national goals, strategic objectives and priorities to achieve the most efficient, streamlined, and cost-effective safety oversight and certification processes.

*Part II—Aircraft Certification Reform*

*Section 2221. Aircraft certification performance objectives and metrics.*

This section would direct the FAA, in collaboration with the SOCAC, to establish performance objectives and to apply and track performance metrics for both the FAA and the aviation industry related to aircraft certification. The performance objective for aircraft certification would ensure that progress is being made in eliminating delays, increasing accountability, and achieving full utilization of delegation authority while maintaining leadership of the United States in international aviation.

*Section 2222. Organization designation authorizations.*

This section would amend existing law by requiring that, when overseeing an Organization Designation Authorization (ODA) holder, the FAA must require a procedures manual that addresses all procedures and limitations regarding the ODA's functions and ensure that such functions are delegated fully to the ODA, unless the FAA determines there is a safety or public interest reason not to delegate functions. This section would also establish a centralized ODA policy office within the FAA's Office of Aviation Safety to oversee and ensure the consistency of audit functions under the ODA program across the FAA.



*Section 2223. ODA review.*

This section would establish a multi disciplinary expert review panel consisting of members appointed by the FAA to conduct both a survey of ODA holders and applicants and an assessment of the FAA's processes and procedures to obtain feedback on the FAA's efforts involving the ODA program and make recommendations to improve the FAA's ODA-related activities. Within 6 months of the panel convening, the panel would submit a report to the FAA and appropriate committees of Congress on the assessment and recommendations.

*Section 2224. Type certification resolution process.*

This section would amend existing law by requiring the FAA to establish a type certification resolution process, in which the certificate applicant and the FAA would establish for each project specific certification milestones and timeframes for those milestones. If the milestones are not met within the specific timeframe, the relevant milestone(s) would be automatically escalated to the appropriate management levels of both the applicant and the FAA and be resolved within a specific period of time.

*Section 2225. Safety enhancing technologies for small general aviation airplanes.*

This section would require, within 180 days, the FAA to establish and begin implementation of a risk-based policy that expedites the installation of safety enhancing technologies for small GA aircraft, and establish a more streamlined process so that the safety benefits of such technologies for small GA aircraft can be realized.

*Section 2226. Streamlining certification of small general aviation airplanes.*

This section would require the FAA to issue a final rule required by section 3 of the Small Airplane Revitalization Act of 2013 (49 U.S.C. 44704 note) by December 31, 2016.

*Part III—Flight standards reform**Section 2231. Flight standards performance objectives and metrics.*

This section would direct the FAA, in collaboration with the SOCAC established in section 2212, to establish performance objectives and to apply and track metrics for both the FAA and aviation industry relating to flight standards activities.

*Section 2232. FAA task force on flight standards reform.*

This section would direct the FAA to establish an FAA Task Force on Flight Standards Reform (Task Force). The Task Force would be composed of 20 industry experts and stakeholders, and be responsible for identifying best practices and providing recommendations for simplifying and streamlining flight standards processes for training opportunities for aviation safety inspectors, and for achieving consistency in FAA regulatory interpretations and oversight.

*Section 2233. Centralized safety guidance database.*

This section would direct the FAA to establish a centralized safety guidance database that would include all regulatory guidance documents of the FAA Office of Aviation Safety.

*Section 2234. Regulatory Consistency Communications Board.*

This section would require the FAA, within 6 months of enactment, to establish a Regulatory Consistency Communications Board that would be composed of FAA representatives from the Flight Standards Service, Aircraft Certification Service, and the Office of the Chief Counsel in consultation with the FAA, labor organizations, and aviation stakeholders. The Board would be responsible for recommending a process by which FAA personnel and regulated entities may submit regulatory interpretation questions without fear of retaliation from the agency. The SOCAC would recommend performance objectives and performance metrics for both the FAA and the aviation industry to track the progress of actions of the Board.

*Section 2235. Flight standards service realignment feasibility report.*

This section would require the FAA, in consultation with the relevant industry stakeholders, to determine the feasibility of realigning flight standards service regional field offices into specialized areas of aviation safety oversight and technical expertise.

*Section 2236. Additional certification resources.*

This section would allow the FAA to enter into a reimbursable agreement with an applicant or certificate holder for reasonable travel expenses that are associated with expediting the acceptance or validation by a foreign authority of an FAA certificate or design approval.

*Part IV—Safety workforce*

*Section 2241. Safety workforce training strategy.*

This section would direct the FAA to review and revise its safety workforce training. The review and revision would include fostering an inspector and engineer workforce with the necessary skills and training, allowing employees participating in organization management teams or ODA program audits to complete appropriate training, and seeking knowledge-sharing opportunities between the FAA and aviation industry.

*Section 2242. Workforce study.*

This section would direct the GAO to conduct a study to assess the workforce and training needs of the FAA's Office of Aviation Safety. This study would look at current hiring and training requirements for inspectors and engineers, and analyze knowledge sharing opportunities between the FAA and the aviation industry to improve the safety of the regulatory system.

*Part V—International aviation*

*Section 2251. Promotion of United States aerospace standards, products, and services abroad.*

This section would amend existing law by directing the FAA to take appropriate actions to promote U.S. aerospace standards abroad, defend approvals of U.S. aerospace products and services abroad, and utilize bilateral safety agreements to improve validation of U.S. certified products.

*Section 2252. Bilateral exchanges of safety oversight responsibilities.*

This section would amend existing law by giving the FAA the ability to accept an airworthiness directive issued by the aeronautical authority of a foreign country and leverage the country's regulatory process, if that process fits within defined parameters.

*Section 2253. FAA leadership abroad.*

This section would direct the FAA to promote U.S. aerospace safety standards abroad and to work with foreign governments to facilitate the acceptance of FAA approvals and standards internationally. The FAA would be directed to further assist American companies who have experienced significantly long foreign validation wait times, and to work with foreign governments to improve the timeliness of their acceptance of FAA validations and approvals. The FAA would also be required to track the amount of time it takes foreign authorities to validate U.S. type certificated aeronautical products and establish benchmarks and metrics to reduce the validation times. This would require the FAA to submit a report after 1 year describing the FAA's strategic plan for international agreement, including recommendations if appropriate.

*Section 2254. Registration, certification, and related fees.*

This section would amend existing law by allowing the FAA to establish and collect a fee from a foreign government or entity for certification services if the fee is consistent with aviation safety agreements and does not exceed the cost of the services.

*Subtitle C—Airline Passenger Safety and Protections*

*Section 2301. Pilot records database deadline.*

This section would require the FAA to establish and make available a pilots records database by April 30, 2017. During the investigation of the 2009 Colgan Air crash in New York, the NTSB noted that the carrier was unaware of the captain's previous flight check failures because they were not included in the standard pilot record review process. As a result, the Airline Safety and FAA Extension Act of 2010 (P. L. 111–216) mandated that the FAA create a pilot records database to ensure FAA and air carrier pilot records are retained for the life of the pilot and that air carriers review those records when making hiring decisions.

*Section 2302. Access to air carrier flight decks.*

This section would require the FAA to collaborate with other aviation authorities to advance a global standard for access to air carrier flight decks and redundancy requirements consistent with

the flight deck access and redundancy requirements in the United States. The Germanwings tragedy highlighted the fact that some countries do not require, as the United States does, two authorized persons to be on the flight deck of a large passenger aircraft at all times during a flight.

*Section 2303. Aircraft tracking and flight data.*

This section would require the FAA to assess the current standards for near-term and long-term aircraft tracking and flight data recovery and to conduct a rulemaking to improve such standards, if necessary. In revising these performance standards, the FAA may consider various methods for improving detection and retrieval of flight data, including low frequency and extended battery life for underwater locating devices, automatic deployable flight recorders, satellite-based solutions, distress-mode tracking, and protections against disabling flight recorder systems. The FAA is also instructed to coordinate with international regulatory authorities and the International Civil Aviation Organization (ICAO) in an effort to ensure that any new international standard for aircraft tracking and flight data recovery is consistent with a performance-based approach and is implemented in a globally harmonized manner.

*Section 2304. Automation reliance improvements.*

This section would require the FAA to review and update, as necessary, recent guidance regarding pilot flight deck monitoring that an air carrier can use to train and evaluate its pilots to ensure that air carrier pilots are trained to use, and monitor, automation systems while also maintaining proficiency in manual flight operations. As part of reviewing and updating this guidance, the FAA would be required to consider certain factors and convene an expert panel to assist in updating the guidance. This section would also require the DOT IG to review the air carriers' implementation of the guidance and the ongoing work of the expert panel.

*Section 2305. Enhanced mental health screening for pilots.*

This section would require the FAA to implement additional screening for mental health conditions as part of a comprehensive medical certification process for pilots with a first or second class medical certificate. Additionally, the FAA would be required to assess treatment that would address any risk associated with such mental health conditions.

*Section 2306. Flight attendant duty period limitations and rest requirements.*

This section would require the FAA to conduct a rulemaking to increase the scheduled rest period for flight attendants from 9 to 10 hours, with reasonable flexibility to be considered as part of the rulemaking on the minimum hours. Airlines would be required to develop fatigue risk management plans for flight attendants.

*Section 2307. Training to combat human trafficking for certain air carrier employees.*

This section would revise the training requirements that air carriers must provide to their flight attendants by adding a requirement that flight attendants must be trained in identifying and re-

porting to appropriate governmental personnel or a law enforcement officer regarding a potential victim or incidence of human trafficking.

*Section 2308. Report on obsolete test equipment.*

This section would require the FAA to submit a report to Congress on the National Test Equipment Program. This report would contain a list of all known outstanding requests for test equipment and the FAA's recommendations for increasing multi-functionality in future test equipment to be developed.

*Section 2309. Plan for systems to provide direct warnings of potential runway incursions.*

This section would require the FAA to assess available technologies to determine where it is feasible, cost-effective, and appropriate to install and deploy systems to provide a direct warning capability to flight crews and air traffic controllers of potential runways incursions at an airport and to report to Congress on the results of the assessment, once completed. The assessment would be required to consider relevant NTSB findings and aviation stakeholder views.

*Section 2310. Laser pointer incidents.*

This section would require the FAA, in coordination with the Federal Bureau of Investigation (FBI), to begin providing quarterly updates to Congress regarding the number of incidents involving the beam from a laser pointer being aimed at, or in the flight path of, an aircraft, the number of civil or criminal enforcement actions taken by the FAA or the FBI with regard to these incidents, the resolution of any incidents that did not result in an enforcement or criminal action, and any action the FAA or the FBI have taken on their own or in conjunction with other Federal agencies.

*Section 2311. Helicopter air ambulance operations data and reports.*

This section would require the FAA, in collaboration with helicopter air ambulance industry stakeholders, to assess the availability of information related to the location of heliports and helipads used by helicopters providing air ambulance services. Based on the assessment, the FAA would, as appropriate or necessary, update forms related to heliports and helipads and develop a new database related to such helicopter landing areas for air ambulance services. This section would also make various changes to safety data that operators of helicopter air ambulance services must provide to the FAA for more risk-based, data driven safety oversight.

*Section 2312. Part 135 accident and incident data.*

This section would require the FAA to determine, in collaboration with the NTSB and Part 135 industry stakeholders, what, if any, additional data should be reported as part of an accident or incident notice. The FAA would then submit a report to Congress on its findings in an effort to more accurately measure the safety of on-demand Part 135 aircraft activity, to pinpoint safety problems, and to form the basis for critical research and analysis of GA issues for more risk-based, data driven safety oversight.

*Section 2313. Definition of human factors.*

This section would create a statutory definition of “human factors” to ensure consistent use of the term by the FAA.

*Section 2314. Sense of Congress; pilot in command authority.*

This section would express the sense of Congress that the pilot in command of an aircraft is directly responsible for, and is the final authority as to, the operation of that aircraft.

*Section 2315. Enhancing ASIAs.*

This section would direct the FAA to work with relevant aviation industry stakeholders to assess what, if any, improvements are needed to develop the predictive capability of the Aviation Safety Innovation Analysis and Sharing (ASIAs) system with regard to identifying precursors to accidents. The FAA would be required to report to Congress on the assessment.

*Section 2316. Improving runway safety.*

This section would require the FAA to expedite the development of metrics to allow the FAA to determine whether runway incursions are increasing and to assess the effectiveness of implemented runway safety initiatives. The FAA would also be required to submit a report to Congress describing the progress being made in developing these metrics not later than 1 year after the date of enactment of this Act.

*Section 2317. Safe air transportation of lithium cells and batteries.*

This section would require the FAA to update its rules to implement the revised standards issued by ICAO on February 22, 2016, prohibiting the bulk air transport of lithium ion batteries on passenger aircraft and cargo shipment of lithium batteries with an internal charge above 30 percent. The DOT would be encouraged to work with ICAO, pilots, and industry stakeholders to facilitate continued shipments of medical device batteries consistent with high standards of safety. The DOT would be allowed to review existing rules regarding the air transportation, including passenger-carrying and cargo aircraft, of lithium batteries and cells.

This section would also establish a lithium battery safety working group to research additional ways to decrease the risk of fires and explosions from lithium batteries and cells during bulk air transport; additional ways to ensure uniform transportation requirements for both bulk and individual batteries; and new or existing technologies and practices that could reduce the fire and explosion risk of lithium batteries and cells. One year after it is established, the working group would report to Congress on its research.

*Section 2318. Prohibition on implementation of policy change to permit small, non-locking knives on aircraft.*

This section would prohibit the Secretary of Homeland Security from implementing any change to the prohibited items list of the TSA that would permit passengers to carry small, non-locking knives beyond passenger screening checkpoints at airports or on a passenger aircraft.

*Section 2319. Aircraft cabin evacuation procedures.*

This section would require the FAA to review the evacuation certification of transport-category aircraft with regard to emergency conditions, crew procedures used for evacuations under actual emergency conditions, any relevant changes to passenger demographics and legal requirements, and any relevant changes to passenger seating configurations, as well as review recent accidents and incidents in which passengers evacuated such aircraft. In conducting this review, the FAA would be required to consult with the NTSB, relevant aircraft manufacturers, air carriers, and other relevant experts and Federal agencies, and would be required to review relevant data with respect to evacuation certification. In addition, this section would require the FAA to submit a report to Congress on the results of the review and any related recommendations not later than 1 year after the date of enactment of this Act.

*Subtitle D—General Aviation Safety*

*Section 2401. Automated weather observing systems policy.*

This section would require the FAA to update automated weather observing systems (AWOS) standards to maximize the use of new technologies that promote the reduction of equipment or maintenance cost for non-Federal AWOS, and to review and update, as necessary, any existing policies in accordance with the new standards. The FAA would also be required to establish a process under which appropriate onsite airport personnel or aviation officials may be permitted to conduct the minimum tri-annual preventative maintenance checks for non-Federal AWOS, as long as they have the appropriate training. In updating these standards, the FAA would be required to ensure that the standards are performance-based, to use risk analysis to determine the accuracy of the AWOS outputs required for pilots to perform safe aircraft operations, and to provide a cost benefit analysis demonstrating the benefits outweigh the cost for any requirement not directly related to safety.

*Section 2402. Tower marking.*

This section would require the FAA to issue regulations to require the marking of certain towers that are between 50 and 200 feet tall (“covered towers”) to promote safety for low-flying aircraft, particularly those involved in agricultural operations. Additionally, this section would require the FAA to develop a database, with appropriate protections of proprietary information, that contains the location and height of each covered tower.

*Section 2403. Crash-resistant fuel systems.*

This section would require the FAA to evaluate and update, as necessary, the standards for crash-resistant fuel standards for civilian rotorcraft.

*Section 2404. Requirement to consult with stakeholders in defining scope and requirements for Future Flight Service Program.*

This section would require the FAA to consult with GA stakeholders in defining the scope and requirements for any new Future Flight Service Program to be used in a competitive source selection

for the next flight service contract with the FAA not later than 180 days after the enactment of this Act.

*Subtitle E—General Provisions*

*Section 2501. Designated agency safety and health officer.*

This section would create a new position within the FAA called the Designated Agency Safety and Health Officer (DASHO). This position would be a full-time, senior executive position, reporting directly to the Assistant Administrator for Human Resource Management. The duties of the DASHO would include responsibility and accountability for auditing occupational safety and health issues across the FAA, overseeing FAA-wide compliance with relevant Federal occupational safety and health statutes and regulations, national industry and consensus standards, and FAA policies, and encouraging a culture of occupational safety and health to complement the FAA's existing safety culture.

*Section 2502. Repair stations located outside United States.*

This section would require the FAA to take measures to ensure that the safety assessment system established for foreign repair stations places particular consideration on inspections of those stations that conduct scheduled heavy maintenance work on Part 121 air carrier aircraft, and accounts for the frequency and seriousness of any corrective actions that Part 121 air carriers must implement to aircraft following such work at such repair stations. Those measures would be taken in accordance with U.S. obligations under applicable international agreements, and in a manner consistent with the applicable laws of the country in which a repair station is located.

The FAA would also be required to conduct a rulemaking regarding alcohol and drug testing for foreign repair station employees. This section would also require the FAA to ensure that each employee of a foreign repair station who performs a safety-sensitive function on an air carrier aircraft has undergone a pre-employment background investigation sufficient to determine whether the individual presents a threat to aviation safety, in a manner that is acceptable by the FAA, consistent with the applicable laws of the country in which the repair station is located, and consistent with U.S. obligations under international agreements.

*Section 2503. FAA technical training.*

This section would require the FAA, in collaboration with the exclusive bargaining representatives of covered FAA personnel, to establish an e-learning training pilot program in accordance with specific requirements. The pilot program would terminate 1 year after its creation, and upon its termination, the FAA would be required to assess and establish or update an e-learning training program that incorporates lessons learned from the pilot program.

*Section 2504. Safety critical staffing.*

This section would instruct the DOT IG to conduct and complete an audit of the staffing model used by the FAA to determine the number of aviation safety inspectors that are needed to fulfill the mission of the FAA and adequately ensure aviation safety. At a



minimum, the audit would include a review of the current staffing model and an analysis of how consistently the staffing model is applied throughout the FAA, a review of the assumptions and methods used in devising and implementing the staffing model, and a determination as to whether the current staffing model considers the FAA’s authority to fully utilize designees. Upon the completion of this audit, the DOT IG would be required to report to Congress with the results.

*Section 2505. Approach control radar in all air traffic control towers.*

This section would require the FAA to identify airports that are currently served by FAA towers with non-radar approach and departure control and to develop an implementation plan, including budgetary considerations, to provide those identified facilities with approach control radar.

*Subtitle F—Third Class Medical Reform and General Aviation Pilot Protections*

*Section 2601. Short title.*

This section would designate the short title of this subtitle as the “Pilot’s Bill of Rights 2.” This subtitle reflects the version of S. 571 as agreed to by the Senate on December 17, 2015.

*Section 2602. Medical certification of certain small aircraft pilots.*

This section would create an exemption, under specified circumstances, to the FAA’s current third-class airman medical certification requirements for GA pilots.<sup>23</sup> This section would direct the FAA to issue or revise regulations to ensure that an individual may operate as a pilot of a “covered aircraft”, if certain conditions are met. In particular, the flight must be operated at an altitude of 18,000 feet or below and at an indicated airspeed of not more than 250 knots, and the individual must possess a valid State driver’s license, comply with applicable medical requirements associated with that license, comply with applicable health requirements described below, be transporting five or fewer passengers (not including the pilot), and be operating under visual or instrument flight rules. A pilot may not operate a flight under this exemption for compensation or hire.

A “covered aircraft” would be one that is authorized under Federal law to carry not more than 6 occupants, and has a maximum certificated takeoff weight of no more than 6,000 pounds.

A pilot seeking to operate a covered aircraft under the revised medical requirements would be required to have had “one-touch” with the FAA. Specifically, an individual would be required to have held an FAA medical certificate in the 10 years before enactment of the section or at some point thereafter. A pilot who obtained such a certificate would not be required to return to the FAA to renew or otherwise obtain a medical certificate except as otherwise set forth in this section.

<sup>23</sup>There are three classes of pilot medical certifications: the third-class airman medical certificate, needed for a private pilot license; the second-class airman medical certificate, needed for a commercial pilot license; and the first-class airman medical certificate, needed for an Airline Transport Pilot license.

Every 2 years, an individual would be required to complete an online airman medical education course that meets the following requirements: available on the Internet free of charge; developed and periodically updated in coordination with representatives of relevant GA stakeholder groups; educates pilots on conducting medical self-assessments; advises pilots on how to identify warning signs of potential serious medical conditions; outlines risk mitigation strategies for medical conditions; increases awareness of potentially impairing medications; encourages regular medical exams and consultations with primary care physicians; and informs pilots of the regulations pertaining to the prohibition on flying during a medical deficiency.

The medical education course may be developed by the FAA, or the agency could utilize a suitable one developed by a nonprofit or not-for-profit GA organization. The FAA would be required to coordinate with GA stakeholder groups promptly to ensure that the online course is provided in a timely manner through the FAA website or other means. If any entity other than the FAA creates an online medical course intended to satisfy the requirements of this legislation, that entity would be required to coordinate with the FAA to ensure that it meets all FAA standards.

This section would provide that an individual may not qualify for the exemption if the most recent application for airman medical certification the individual submitted to the FAA was completed and the FAA denied the application. In some instances, when an individual is referred to the FAA to be considered for an Authorization for Special Issuance, the individual or the individual's physician does not provide all of the information or documentation required under that process and the application is closed for inactivity or failure to provide information. In such instances, the applications would not be considered complete for the purposes of this section. While individuals who are ultimately denied issuance of an airman medical certificate would not qualify for the exemption, nothing should be construed as precluding an individual from attempting to obtain a medical certification in the future, and thereafter qualifying for the exemption once the initial medical certification requirement is met, as well as all other relevant requirements under this section.

At the conclusion of the medical education course, a series of forms would be generated for the pilot to complete and submit to the FAA. One of the forms that would be provided to the pilot is the medical examination checklist described below.

A pilot would also be required to have a comprehensive medical examination every 4 years. The examination must include a review of a checklist of medical items and conditions, as specified in the bill, similar to one currently used by aviation medical examiners (AMEs).<sup>24</sup> The FAA would be required to develop this checklist within 180 days of the date of enactment of the bill, and the Committee fully expects the agency to comply with this stringent deadline.

The pilot also would be required to provide a comprehensive medical history and a list of drugs (prescription and non-prescrip-

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<sup>24</sup> An aviation medical examiner (AME) is a private physician who has been designated by the FAA and given the authority to perform flight physical examinations and issue aviation medical certificates.

tion) he or she takes, which the physician would be required to review with the pilot during the examination. The physician performing the examination would be required to also follow the checklist of items to be evaluated, aimed at identifying conditions that could interfere with the safe operation of an aircraft. The physician would be instructed to address, as medically appropriate, any medical conditions identified and any drugs the pilot is taking. In some instances, a simple discussion of the condition or drugs may be adequate. In other cases, a referral to a specialist or further tests may be required. The pilot's physician would be required to certify that all items on the checklist were discussed during the exam, including any drugs the pilot is taking, and that the examination included all items on that checklist.

Pilots would be required to retain certificates and forms demonstrating an understanding of applicable medical requirements and compliance with the new requirements in the bill. Among other things, all pilots would be required to certify that they understand that they may not fly during a period of medical deficiency.

If diagnosed with any medical condition that may impact the ability to fly, an individual would be required to be under the care and treatment of a physician in order to fly. Individuals who are diagnosed with certain mental health and neurological disorders would be required to have or obtain an Authorization for Special Issuance of a Medical Certificate, which is the current standard process.<sup>25</sup> Individuals diagnosed with certain cardiovascular conditions would be required to go through the Special Issuance process (as modified by the bill) one time for each diagnosed condition. For such individuals, the requirements for obtaining a Special Issuance may be satisfied with the successful completion of an appropriate clinical evaluation without an FAA-imposed mandatory wait period, during which a pilot may not fly. Other than the foregoing specified mental, neurological, or cardiovascular conditions or disorders, the bill would not require a pilot operating under the exemption in this section to go through the Special Issuance process for any other medical conditions or disorders.

The medical certificate exemption established in this section would not be available for individuals with clinically diagnosed mental health or neurological conditions if the individual's medical specialist determines such conditions render the individual unable (or reasonably expected to make him or her unable) to fly under the operational flight parameters in this section.

The FAA would be required to identify medical conditions that could be added to an existing agency program, known as CACI, that allows AMEs to issue medical certificates for individuals with certain conditions that are known to be treatable (reducing the aviation safety risk) without requiring the individuals to go through the Authorization for Special Issuance of a Medical Certificate process. The FAA would be required to consult with aviation, medical, and union stakeholders to identify conditions that should be reviewed by aviation medical experts, using the best available

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<sup>25</sup> The FAA may issue an Authorization for Special Issuance of a Medical Certificate, with a specified validity period, to an applicant who does not meet the established medical standards (i.e., has a disqualifying medical condition). The applicant must demonstrate to the FAA that the duties authorized by the class of medical certificate applied for can be performed without endangering public safety.

scientific evidence, to determine whether they can be added to the CACI process.

The FAA also would be required to implement procedures to streamline the process for obtaining an Authorization for Special Issuance of a Medical Certificate and similar consultations would be required.

Five years after the date of enactment, the FAA, in coordination with the NTSB, would be required to report to Congress on the effects of the changes made by this section.

This section would prohibit the FAA from taking enforcement action against a pilot of a covered aircraft for not holding a valid third-class airman medical certificate if the pilot and the flight meet the requirements, through a good faith effort, under subsection (a) of this section (except for the medical education course required under subsection (a)(5)), unless the FAA has published final regulations implementing the requirements of this section. The exception for subsection (a)(5) is to ensure that the FAA cannot circumvent the enforcement prohibition if the development of the medical course is delayed. The limitation on enforcement would come into effect 1 year after enactment of the provision.

*Section 2603. Expansion of pilot's bill of rights.*

This section would make several amendments to the Pilot's Bill of Rights, which allows individuals denied an airman certificate to appeal that denial to U.S. District Court after it has been upheld under the normal NTSB appeals process. This section would expand the scope of that provision to allow individuals who have had their airman certificates suspended or revoked to avail themselves of the same appeals process, and would modify the standard of review for appeals in U.S. District Court.

A key change to current law, under this bill, would be the availability of a U.S. District Court review on a de novo basis once the current administrative remedies have been exhausted (including an appeal to the full NTSB). Under a de novo review, the District Court would try the matter. In such a court case, any element of the record of administrative review could be presented as evidence, but the court would not be compelled to give deference to administrative decisions. Also in such court cases, the FAA would bear the burden of proof under any appeal related to suspended or revoked certificates while the airman would bear the burden for the appeal of a denied certificate. The intent is that the FAA would bear the burden of proof in instances where the agency is accusing a pilot of an infraction against rules, however the pilot would bear the burden of proof when he or she is required to demonstrate proficiency or sufficient qualifications.

This section would impose new requirements for notifications with respect to FAA investigations relating to airman certificates.

This section would set out requirements for the FAA to provide a copy of the releasable portion of the investigative report to the holder of an airman certificate who is the subject of certain enforcement actions. If the FAA fails to adhere to the requirements of this section, the certificate holder may move to dismiss the complaint before an administrative law judge (ALJ). The ALJ may order appropriate relief if the FAA fails to establish good cause for failure

to comply with this section. This section would also define the portions of an investigative report considered releasable.

*Section 2604. Limitations on reexamination of certificate holders.*

This section would only apply to reexaminations that are ordered due to the fault of the FAA. It would prohibit the FAA from reexamining a GA pilot holding a student, sport, recreational, or private pilot airman certificate unless the agency has reasonable grounds to: (1) establish a lack of qualification on the part of the pilot; or (2) demonstrate that the certificate was obtained through fraud or an exam that was inadequate. Before taking action to reexamine a pilot, the FAA would be required to provide a GA pilot the reasonable basis for the reexamination and relevant information that formed that basis.

This section would prohibit the FAA from ordering certain certificate actions against a GA pilot, after a reexamination, unless the FAA determines that the pilot lacks the technical skills and competency, or care, judgment, and responsibility, necessary to hold and safely exercise the privileges of the certificate, or fraudulently obtained it. This section also would set forth the standard of review for any such certificate actions.

*Section 2605. Expediting updates to notam program.*

This section would amend the Pilot's Bill of Rights to require the NOTAM Improvement Program to be maintained in a public repository that is accessible on the Internet, machine readable, and searchable. It also would require the FAA to include temporary flight restrictions within the NOTAM Improvement Program; direct the FAA to consider the repository of NOTAMs created to be the sole source location for pilots to check for NOTAMs; determine that NOTAMs are announced and published when included in the repository; and, after the FAA completes the NOTAM Improvement Program, prohibit the enforcement of a NOTAM violation if the NOTAM was not included in the repository before the flight commenced. The FAA also would be prohibited from enforcing NOTAM violations, within 180 days after the date of enactment of this bill, until the FAA certifies to Congress that it has implemented the changes to the NOTAM system required by this section; however, an exception for national security is provided.

*Section 2606. Accessibility of certain flight data.*

This section would impose requirements on the FAA with regard to certain records related to certificate actions. Specifically, when the FAA receives a written request for a flight record (as defined in the Pilot's Bill of Rights) from an individual who is the subject of an investigation initiated by the FAA, and the covered flight record is not in the possession of the FAA, the FAA would be required to request the relevant record from the contract tower or other contractor of the FAA that possesses such flight record. These records would be required to be provided to the FAA by such entities.

If the Administrator has issued, or subsequently issues, a Notice of Proposed Certificate Action relying on evidence contained in a flight record, and the individual who is the subject of an investigation has requested the record, the FAA would be required to

promptly produce the record and extend the time the individual has to respond to the Notice of Proposed Certificate Action until the covered flight record is provided.

The FAA would have 180 days after the date of enactment to promulgate regulations or guidance to ensure compliance with this section.

Any contract or agreement entered into or renewed after enactment of the bill, between the FAA and a covered entity, would be required to contain material terms to ensure compliance with the requirements of this section relevant contracts that are in effect on the date of enactment need not have such material terms unless the contract or agreement is renegotiated, renewed, or modified after that date.

*Section 2607. Authority for legal counsel to issue certain notices.*

This section would require the FAA to revise its regulations to authorize legal counsel to close certain enforcement actions with a warning notice, letter of corrections, or other administrative action.

*Title III—Air service improvements*

*Section 3001. Definitions.*

This section would define terms used in this title.

*Subtitle A—Passenger Air Service Improvements*

*Section 3101. Causes of airline delays or cancellations.*

This section would require the DOT to review the categorization of delays and cancellations with respect to air carriers that are required to report such data. This section would also allow for the DOT to use the Advisory Committee for Aviation Consumer Protection to assist in conducting the review and providing recommendations. Upon the conclusion of the review, this section would require the DOT to submit a report to Congress on the outcome, including describing any recommendations that were made. It is important to note that nothing in this section shall be construed as affecting the decision of an air carrier to maximize its system capacity during weather related events to accommodate the greatest number of passengers.

*Section 3102. Involuntary changes to itineraries.*

This section would instruct the DOT to review whether it is an unfair or deceptive practice for an air carrier to change the itinerary of a passenger, more than 24 hours before departure, if the new itinerary involves additional stops or departs 3 hours earlier, or later, and compensation or other more suitable air transportation is not offered.

*Section 3103. Additional consumer protections.*

This section would require the DOT to issue a supplemental notice of proposed rulemaking to its notice of proposed rulemaking published on May 23, 2014, relating to the transparency of airline ancillary fees and other consumer protection issues. This supplemental notice of proposed rulemaking would consider requiring an air carrier to provide notification and refunds, or other consider-

ation, to a consumer who is impacted by (1) delays or cancellations when an air carrier has a choice as to which flights to cancel or delay during a weather event, or (2) involuntary itinerary changes. This supplemental rulemaking is not intended to delay the May 23, 2014, open notice of proposed rulemaking.

*Section 3104. Addressing the needs of families of passengers involved in aircraft accidents.*

This section would slightly expand the type of aircraft accidents for which U.S. and foreign air carriers must provide certain services to passengers and their families, as already required by law. The statutory threshold is changed from “major loss of life” to “any loss of life.” This section would also include technical and conforming changes to the law related to the assistance that the NTSB that must provide to families in such circumstances.

*Section 3105. Emergency medical kits.*

This section would require the FAA to evaluate and revise, as appropriate, the regulations regarding the onboard emergency medical equipment requirements, including the contents of the first-aid kit. In conducting this evaluation, the FAA would be instructed to consider whether the minimum contents of approved emergency medical kits include appropriate medications and equipment to meet the emergency medical needs of children, including the consideration of an epinephrine auto-injector, as appropriate.

*Section 3106. Travelers with disabilities.*

This section would instruct the GAO to conduct a study of airport accessibility best practices for individuals with disabilities beyond those recommended under previous acts including to improve infrastructure and communications, such as way findings, amenities, and passenger care. The GAO would then be required to submit a report to Congress on its findings, conclusions, and recommendations.

*Section 3107. Extension of Advisory Committee for Aviation Consumer Protection.*

This section would extend the Advisory Committee for Aviation Consumer Protection through the last fiscal year of this Act. This section would also require each member of the advisory committee who is not a government employee to annually disclose any potential conflicts of interest to the DOT.

*Section 3108. Extension of competitive access reports.*

This section would extend for the term of the bill the statutory requirement for medium and large hub airports to file with the DOT competitive access reports.

*Section 3109. Refunds for delayed baggage.*

This section would instruct the DOT to promulgate regulations to require an airline to promptly provide an automatic refund to a passenger if the air carrier has charged the passenger an ancillary fee for checked baggage but the air carrier fails to deliver the checked baggage to the passenger within a specific timeframe, not

to exceed 12 hours after the arrival of a domestic flight or 24 hours after an international flight.

*Section 3110. Refunds for other fees that are not honored by a covered air carrier.*

This section would instruct the DOT to promulgate regulations that require each air carrier to promptly provide an automatic refund of any ancillary fees paid for services that the passenger did not receive on a passenger's scheduled flight, on a subsequent replacement itinerary, or on a flight canceled by the passenger.

*Section 3111. Disclosure of fees to consumers.*

This section would instruct the DOT to promulgate regulations requiring each air carrier and ticket agent to disclose in a standardized format the baggage fee, cancellation fee, change fee, ticketing fee, and seat selection fee of that air carrier. The regulations developed would ensure that each disclosure be prominently displayed to a consumer prior to the point of purchase in clear and plain language and in an easily readable font size. This section would not prescribe that carriers be required to provide any information to travel intermediaries outside of contractual arrangements.

*Section 3112. Seat assignments.*

This section would call for the DOT to require each air carrier and ticket agent to disclose to consumers that the selection of preferred seating for a flight and any associated fees are optional and that, if a consumer does not pay for a preferred seat, a seat will be assigned to the consumer from available inventory prior to departure. This section would also outline how this information should be disclosed to the consumer if a ticket is bought online versus how it should be disclosed if the ticket is purchased over the telephone.

*Section 3113. Child seating.*

This section would require DOT to require each air carrier and ticket agent to disclose whether adjoining seats are available at no additional cost at the time of purchase or, if such seats are not available, to disclose what the air carrier's policy is for accommodating adjoining seat requests prior to departure. This requirement would apply if a reservation includes a child under the age of 13 traveling with an accompanying passenger who is age 13 or older. This section would also outline how this information should be disclosed to the consumer if a ticket is bought online versus how it should be disclosed if the ticket is purchased over the telephone.

*Section 3114. Consumer complaint process improvement.*

This section would require each commercial air carrier and ticket agent to inform each consumer of an airline carrier service, at the point of sale, that the consumer can file a complaint about air carrier service with the air carrier and with the Aviation Consumer Protection Division of the DOT. Also included in this section is a requirement for each air carrier to include specific consumer complaint process information on its website.



*Section 3115. Online access to aviation consumer protection information.*

This section would require the DOT to complete an evaluation of the aviation consumer protection portion of its public website to determine whether there are any changes to the user interface that will improve usability, accessibility, consumer satisfaction, and Website performance. The DOT would be instructed to consider the best practices of other Federal agencies with effective Websites, to consult with the Federal Web Managers Council, and to develop a plan, including an implementation timeline, in completing this evaluation. The DOT would then be required to submit the evaluation and plan to Congress.

Additionally, this section would require the DOT to implement a program to develop application software for wireless devices that will enable a user to access information and perform activities related to aviation consumer protection. Once developed, this application software would be required to be made available to the public at no cost.

*Section 3116. Study on in cabin wheelchair restraint systems.*

This section would require the Architectural and Transportation Barriers Compliance Board, in consultation with the DOT, to conduct a study to determine the ways in which particular individuals with significant disabilities who use wheelchairs, including power wheelchairs, can be accommodated through in-cabin wheelchair restraint systems.

*Section 3117. Training policies regarding assistance for persons with disabilities.*

This section would require the GAO to prepare a report for Congress on air carrier training policies related to assistance for persons with disabilities. The DOT would be required to develop and disseminate to air carriers any best practices that stem from the report.

*Section 3118. Advisory committee on the air travel needs of passengers with disabilities.*

This section would establish an advisory committee for the air travel needs of passengers with disabilities.

*Section 3119. Report on covered air carrier change, cancellation, and baggage fees.*

This section would require the GAO to conduct a study of existing airline industry change, cancellation, and bag fees and the current industry practice for handling changes to or cancellation of ticketed travel on covered air carriers.

*Section 3120. Enforcement of aviation consumer protection rules.*

This section would require the GAO to conduct a study to consider and evaluate DOT enforcement of aviation consumer protection rules.

*Section 3121. Dimensions for passenger seats.*

This section would require the FAA to review the minimum seat pitch for airline passengers' seats, taking safety into consideration.

*Section 3122. Cell phone voice communication ban.*

This section would allow DOT to issue regulations to prohibit an individual on an aircraft from engaging in voice communication using a mobile communications device during a flight of that aircraft. Any member of the flight crew on duty on an aircraft, any flight attendant on duty on an aircraft, and any Federal law enforcement officer acting in an official capacity would be exempt from this prohibition.

*Section 3123. Availability of slots for new entrant air carriers at Newark Liberty International Airport.*

This section would direct the DOT to annually make not less than eight slots at Newark Liberty International Airport available to enable new entrant air carriers to provide air transportation. This statutory requirement would not apply in any year that new entrant air carriers operate five percent or more of the total number of slots at Newark Liberty International Airport or if DOT makes a determination that making slots available to new entrants at that airport is not in the public interest and would significantly increase operational delays. Additionally, this section would require the DOT to notify the appropriate committees of Congress not later than 14 calendar days after the date a determination is made that making slots available to new entrants is not in the interest of the public.

*Subtitle B—Essential Air Service*

*Section 3201. Essential air service.*

This section would reauthorize the EAS program at current authorized funding levels of \$155 million for each of FY 2016 and FY 2017. This section would also adjust the Federal share of certain costs related to community eligibility for subsidized air service. The DOT would be required to consider the flexibility of current operational dates and airport accessibility to meet local community needs when issuing requests for proposal for EAS service at seasonal airports.

*Section 3202. Small community air service development program.*

This section would reauthorize the Small Community Air Service Development Program at \$10 million for each of FY 2016 and FY 2017, an increase over the \$6 million currently authorized.

*Section 3203. Small community program amendments.*

This section would allow the Secretary of Transportation to waive the limitation related to projects that are the same, if the community or consortium spent little or no money on its previous project or encountered industry or environmental challenges, due to circumstances that were reasonably beyond the control of the community or consortium.

*Section 3204. Waivers.*

This section would allow the DOT to waive certain statutory requirements related to EAS service if requested by the community receiving subsidized air service.

*Section 3205. Working Group on improving air service to small communities.*

This section would require the DOT and the FAA to establish a working group that identifies obstacles to attracting and maintaining air transportation service to and from small communities and to develop recommendations for maintaining and improving air transportation service to and from small communities.

*Title IV—NextGen and FAA organization*

*Section 4001. Definitions.*

This section would define terms used in this title.

*Subtitle A—Next Generation Air Transportation System*

*Section 4101. Return on investment assessment.*

This section would require the FAA to submit a report to Congress which assesses the overall NextGen portfolio. As part of this report, the FAA would be required to delineate how each NextGen program directly contributes to a more safe and efficient air traffic control system, what the expectations and priorities of NextGen are in a manner that clearly articulates the current status of NextGen programs, and the return on investment dates and projected impacts of these programs for both the Federal Government and the users of the national airspace system.

Additionally, this section would require the FAA, in consultation with the NextGen Advisory Committee, to use the assessment described above to develop a priority list of all NextGen programs and activities. This priority list should be included in the aforementioned report to Congress. Finally, the FAA would be required to modify the agency's budget submissions to reflect the current status of NextGen programs and the projected returns on investment for each program.

*Section 4102. Ensuring FAA readiness to use new technology.*

This section would require the FAA to take the necessary steps before 2018 to ensure that the agency has the capability to receive space-based ADS-B data and that this data can be used to provide positive air traffic control, including separation of aircraft over the oceans and other specific regions not covered by radar, with the same reduced minimum separation capability as neighboring foreign air navigation services are providing.

This section would also require the FAA to begin submitting a biannual report to Congress 6 months after the date of enactment detailing the actions the FAA has taken to ensure 2018 readiness and usage, what actions remain to be taken, an updated timeline for expected completion of each outstanding action, and a detailed description of the FAA's investment decisions and requests for funding consistent with FAA's existing terrestrial ADS-B implementation to ensure a sustained program beyond 2018. This report would be required until the capability of the FAA to receive space-based ADS-B data is complete.

*Section 4103. NextGen annual performance goals.*

This section would direct the FAA to establish annual NextGen performance goals in order to meet previously established performance metrics baselines and would add a requirement for the DOT to include, in a statutorily-required report to Congress, a description of the progress made on NextGen performance goals relative to the performance metrics established under section 214 of the FMRA (49 U.S.C. 40101 note). Additionally, this section would require the FAA to consider the progress made toward meeting the NextGen performance goals when evaluating the performance of the Chief NextGen Officer for the purpose of awarding a bonus. Finally, this section would require the annual performance agreement made between the Administrator of the FAA and the Chief NextGen Officer to include quantifiable NextGen airspace performance objectives established by the NextGen Advisory Committee.

*Section 4104. Facility outage contingency plans.*

This section would require the FAA to update the agency's comprehensive contingency plan to address potential air traffic facility outages that could have a major impact on operation of the national airspace system. This section is in response to the September 26, 2014, incident in which an FAA contract employee deliberately started a fire that destroyed critical equipment at the FAA's Chicago Air Route Traffic Control Center in Aurora, Illinois.

Additionally, not later than 60 days after the date the comprehensive contingency plan is updated, the FAA would be required to submit a report to Congress on the update, including any recommendations for ensuring that air traffic facility outages do not have a major impact on operation of the national airspace system.

*Section 4105. ADS-B mandate assessment.*

This section would require the DOT IG to assess both the FAA's and industry's readiness to meet the ADS-B mandate, changes made to the ADS-B program since May 2010, and additional options to comply with the mandate and consequences for both individual system users and for the overall safety and efficiency of the national airspace system for noncompliance. The DOT IG would then be required to submit a report to Congress on this assessment, including and recommendations regarding the effective delivery and performance of the ADS-B mandate.

The FAA's ADS-B program is expected to be the centerpiece of the NextGen effort at the FAA, but the satellite-based system faces uncertainty and controversy. In May 2010, the agency published a final rule that mandated airspace users be equipped with ADS-B Out avionics by January 1, 2020. Subsequently, in April 2015, the FAA announced completion of the ADS-B ground-based radio infrastructure. However, the ADS-B program faces considerable doubt and unanswered questions about whether or not the 2020 mandate is still meaningful.

In 2014, the DOT IG found that while ADS-B is providing benefits where radar is limited or nonexistent in places such as the Gulf of Mexico, the system is providing only limited initial services to pilots and air traffic controllers in domestic airspace. The DOT IG also found, in 2014, that all elements of the system, such as avionics, the ground infrastructure, and controller automation sys-

tems, had not yet been tested in combination to determine if the overall system can be used in congested airspace and perform as well as existing radar, much less allow aircraft to fly closer together. This is referred to as “end-to-end testing.” When this report was issued, commercial and GA stakeholders voiced serious concerns that equipping with new avionics for the 2020 mandate will be difficult due to the cost and limited availability of avionics, and capacity of certified repair stations to install avionics.

*Section 4106. NextGen interoperability.*

This section would require the FAA to conduct a gap analysis to identify potential risks to NextGen interoperability with other Air Navigation Service Providers and to establish a timeframe for periodically reevaluating these risks. The FAA would also be required to develop a plan that identifies and documents the actions to mitigate these risks and report to Congress on these actions.

*Section 4107. NextGen transition management.*

This section would require the FAA to identify and analyze any technical and operational maturity gaps in current NextGen transition and implementation plans. The FAA would then be required to develop a plan to mitigate those gaps identified, and to report to Congress on these actions.

*Section 4108. Implementation of NextGen operational improvements.*

This section would require the FAA to work with the airlines, and other users of the national airspace system, to develop and implement a system to systematically track the use of existing performance based navigation (PBN) procedures and to require consideration of other key operational improvements in planning for NextGen improvements, including identifying additional metroplexes for PBN projects, non-metroplex PBN procedures, as well as the identification of unused flight routes for decommissioning.

Additionally, the FAA would be required to develop and implement guidelines for ensuring timely inclusion of appropriate stakeholders, including airport representatives, in the planning and implementation of NextGen improvement efforts and to assure that NextGen planning documents provide stakeholders information on how and when operational improvements are expected to achieve NextGen goals and targets. Finally, the FAA would be required to report to Congress on the progress made toward implementing these requirements and on the timeline and process that will be used to implement PBN at additional airports, including information on how the FAA will partner and coordinate with private industry to ensure expeditious implementation of PBN.

*Section 4109. Cybersecurity.*

This section would instruct the FAA to identify and implement ways to better incorporate cybersecurity as a systems characteristic at all levels and phases of the architecture and design of air traffic control programs, including NextGen programs. The FAA would also be required: to develop a threat model that will identify vulnerabilities to better focus resources to mitigate cybersecurity

risks; to develop an appropriate plan to mitigate cybersecurity risk, respond to an attack or intrusion and to adapt to evolving cybersecurity threats; and to foster a cybersecurity culture throughout the DOT, including in air traffic control programs and relevant contractors. The FAA would also be required to submit a report to Congress on the progress made toward implementing these requirements not later than 1 year after the date of enactment of this Act.

*Section 4110. Defining NextGen.*

This section would require the GAO to assess how the line items included in the FAA's NextGen budget request directly relate to the goals and expected outcomes of NextGen and to report to Congress on the results of this assessment.

*Section 4111. Human factors.*

This section would require the FAA to recognize and incorporate, in early design phases of all relevant NextGen programs, the human factors and procedural and airspace implications of stated goals and associated technical changes and to ensure that a human factors specialist, separate from the research and certification groups, is directly involved with the NextGen approval process. The FAA would also be required to submit a report to Congress on the progress made toward implementing these requirements not later than 1 year after the date of enactment of this Act.

*Section 4112. Major acquisition reports.*

This section would instruct the FAA to evaluate the agency's current acquisition practices to ensure that they appropriately identify the current estimated costs for each acquisition system, including all segments, separately identify cumulative amounts for acquisition costs, technical refresh, and other enhancements in order to identify the total baselined and re-baselined costs for each system, and account for the way funds are being used when reporting to managers, Congress, and other stakeholders. Not later than 1 year after the date of enactment of this Act, the FAA would also be required to submit a report to Congress on the progress made toward implementing these requirements.

*Section 4113. Equipage mandates.*

This section would require the FAA to provide a statement of estimated costs and benefits that is based upon mature and stable technical specifications and to create a timeline for FAA deliverables and investments by both users and the FAA before any NextGen-related equipage mandates are imposed on users of the national airspace system.

*Section 4114. Workforce.*

This section would require the FAA, within 1 year of the date of enactment of this Act, to identify and assess barriers to attracting, developing, training, and retaining a talented workforce in the areas of systems engineering, architecture, systems integration, digital communications, and cybersecurity. The FAA would then also be required to develop a comprehensive plan to attract, develop, train, and retain talented individuals, and identify the resources needed to attract develop and retain this talent. Addition-

ally, the FAA would be required to submit a report to Congress on the progress made toward implementing these requirements.

*Section 4115. Architectural leadership.*

This section would require the FAA to develop a plan which utilizes an architecture leadership community and an effective governance approach, enables effective management and communication, provides flexibility and the ability to evolve to ensure accommodation of future needs, and communicates changing circumstances in order to align agency and airspace user expectations.

This section would also authorize the FAA to determine the feasibility of conducting a small number of experiments among the FAA's system integration partners to prototype candidate solutions for establishing and managing an architectural community and to develop a method to initiate, grow, and engage a capable architecture community, from both within and outside of the FAA, that will expand the breadth and depth of expertise that is steering architectural changes.

Additionally, the FAA would be required to submit a report to Congress on the progress made toward implementing these requirements no later than 1 year after this Act is enacted.

*Section 4116. Programmatic risk management.*

This section would require the FAA to solicit input from specialists in probability and statistics to identify and prioritize the programmatic and implementation risks to NextGen and to develop a method to manage and mitigate these risks. The FAA would also be required to report to Congress on the progress made toward implementing these requirements not later than 1 year after the date of enactment of this Act.

*Section 4117. NextGen prioritization.*

Under this section the FAA would be required to consider expediting NextGen modernization implementation projects at public use airports that share airspace with active military training ranges and do not have radar coverage where such implementation would improve safety of aviation operations.

*Subtitle B—Administration Organization and Employees*

*Section 4121. Cost-saving initiatives.*

This section would instruct the FAA to identify and implement agency-wide cost-savings initiatives and to develop appropriate timelines and metrics to measure whether the initiatives are successful in reducing costs. The FAA would also be required to report to Congress on the progress made toward implementing these requirements not later than 1 year after the date of enactment of this Act.

*Section 4122. Treatment of essential employees during furloughs.*

This section would define the term "essential employee" and allow the FAA to keep essential employees by transferring budgetary resources within the agency in the event of a furlough of one or more employees.

*Section 4123. Controller candidate interviews.*

This section would instruct the FAA to require that an in-person interview be conducted with each individual applying for an air traffic control specialist position before that individual may be hired to fill that position and would mandate that this be done not later than 60 days after this bill is enacted. Additionally, this section would mandate that, not later than 30 days after the date of enactment of this Act, the FAA must establish guidelines regarding this in-person interview process.

*Section 4124. Hiring of air traffic controllers.*

This section would modify the FAA's hiring process for air traffic controllers by creating a new hiring track that would ensure opportunities for Collegiate Training Initiative (CTI) graduates while maintaining an "experienced" track for candidates with prior air traffic control experience and the "open source" track in which all U.S. citizens could apply for the job.

This section would remove the Biographical Questionnaire (BQ) requirement for various types of candidates, including CTI graduates and certain veterans. It would also allow candidates who were disqualified by the BQ utilized for candidates in 2014 to re-apply. This section also would increase the maximum entry age for experienced controllers with a minimum of 52 weeks of experience as a civilian or military air traffic controller from age 31 to 35.

*Section 4125. Computation of basic annuity for certain air traffic controllers.*

This section would direct the Director of the Office of Personnel Management to recalculate and adjust applicable annuity payments for certain air traffic controllers that were excluded due to having supervisory status.

*Section 4126. Air traffic services at aviation events.*

This section would require the FAA to provide air traffic services and aviation safety support for aviation events, including airshows and fly-ins, without the imposition or collection of any fee, tax, or other charge for that purpose. In determining the services and support to be provided for an aviation event, this section would require the FAA to consider the services and support required to meet levels of activity at prior, similar events and the anticipated need for services and support.

*Section 4127. Full annuity supplement for certain air traffic controllers.*

This section would allow former air traffic controllers who are now employed as full-time air traffic control instructors under contract with the FAA to receive their full annuity supplement.

*Section 4128. Inclusion of disabled veteran leave in Federal Aviation Administration personnel management system.*

This section would include disabled veteran leave in the FAA's personnel management system. This section also would require the FAA to publish a report not later than 1 year after the date of enactment and annually thereafter for 5 years highlighting the effect



of carrying out this section on the workforce and the number of veterans benefiting from the implementation of this section.

*Title V—Miscellaneous*

*Section 5001. National Transportation Safety Board investigative officers.*

This section would remove a statutory staffing requirement that the NTSB has determined to be burdensome and unnecessary for it to fulfill its duties.

*Section 5002. Performance-based navigation.*

This section would require the FAA to consult with affected airports before taking certain actions related to airspace redesign. The FAA would also be required, if requested by the affected community, to review certain new airspace procedures to determine if implementation of the procedures had a significant effect on the human environment in the community in which the airport is located. If it is determined that there was such an impact, the FAA would be required to consider the use of alternative flight paths that do not substantially degrade the efficiencies achieved by the implementation of the procedure being reviewed.

*Section 5003. Overflights of national parks.*

This section would amend current law to ensure the continued availability of air routes used by air tour operators transiting over Lake Mead on their way to and from the Grand Canyon.

*Section 5004. Navigable airspace analysis for commercial space launch site runways.*

This section would amend existing law to give the Secretary of Transportation the ability to decide if constructing or altering a structure may result in an interference with space navigation facilities and equipment. While conducting an aeronautical study, the Secretary should also consider the impact on launch and reentry for launch and reentry vehicles arriving or departing from a launch site or reentry site licensed by the Secretary as relevant to the effective use of the national airspace. It would require a rulemaking to implement the amendments to existing law.

*Section 5005. Survey and report on spaceport development.*

This section would require a GAO report to Congress on the existing system of FAA licensed spaceports. It also would ask for recommendations on how the Federal Government could participate in the construction, improvement, development, or maintenance of FAA licensed spaceports in the United States, including identifying potential funding sources.

*Section 5006. Aviation fuel.*

This section would direct the FAA to allow the use of an unleaded aviation gasoline in an aircraft as a replacement for a leaded gasoline if the FAA determines that an unleaded gasoline qualifies as a replacement, identifies the aircraft and engines that are eligible to use the qualified replacement, and adopts a process for them to operate using the qualified replacement in a safe manner.

*Section 5007. Comprehensive Aviation Preparedness Plan.*

This section would require the Secretary of Transportation and Secretary of Health and Human Services, in coordination with the Secretaries of Homeland Security, Labor, State, and Defense, and representatives of other Federal departments and agencies, as necessary, to develop a comprehensive national aviation communicable disease preparedness plan.

*Section 5008. Advanced Materials Center of Excellence.*

This section would codify the authorization for the Advanced Materials Center of Excellence, which focuses on applied research and training on the durability and maintainability of advanced materials in transport airframe structures.

*Section 5009. Interference with airline employees.*

This section would require the GAO to complete a study of crimes and violence against airline customer service representatives while they are performing their duties and on airport property, including a gap analysis of laws and resources to deter and address crimes of violence and then submit a report to Congress, including recommendations to address any gaps identified.

*Section 5010. Secondary cockpit barriers.*

This section would direct the TSA, in collaboration with the FAA, to conduct a detailed risk assessment of the need for physical secondary barriers on passenger aircraft and, if needed, promulgate regulations for risk-based equipment of such aircraft.

*Section 5011. GAO evaluation and audit.*

This section would change the frequency of a mandated GAO evaluation and audit regarding the National Mediation Board to once every 4 years instead of once every 2 years.

*Section 5012. Federal Aviation Administration performance measures and targets.*

This section would require the establishment of FAA performance measures and targets, including measures to assess reductions of delays in completing projects and the effectiveness of projects.

*Section 5013. Staffing of certain air traffic control towers.*

This section would ensure appropriate staffing at “Core 30” facilities. The appropriate staffing levels could not be below the average number of air traffic controllers between the “high” and “low” staffing ranges specified by the FAA document entitled, “A Plan for the Future: 10-Year Strategy for Air Traffic Control Workforce 2015-2024.” This section would also require a review of strategies to improve retention of experienced controllers.

*Section 5014. Critical airfield markings.*

This section would require the FAA to study the durability of glass beads for reflectivity on airfield markings. The glass beads would specifically be Type III and Type I and applied to critical markings at no fewer than two primary airports in varying weather conditions over a 12-month period. An additional study of 6

months would be done at two other airports, testing Type III and Type I beads on opposite sides of the centerline of the runway, and would seek input from pilots through surveys.

*Section 5015. Research and deployment of certain airfield pavement technologies.*

This section would require the FAA to conduct research and development for airfield pavement technologies through grants and cooperative agreements with institutions of higher education and nonprofit organizations. The program would be required to do the following: research concrete and asphalt airfield pavement technologies that extend the life of airfield pavements; develop and conduct training; provide for demonstration projects; and promote airfield pavement technologies to aid in the development of safer, more cost effective, and more durable airfield pavements.

*Section 5016. Report on general aviation flight sharing.*

This section would require the FAA to report on GA flight sharing feasibility. The report would include an assessment of regulations that may need to be updated to allow for safe and efficient flight sharing and regulations imposing limitations on the forms of communication that a private pilot may use.

*Section 5017. Increase in duration of general aviation aircraft registration.*

This section would require the FAA to initiate a rulemaking to extend the timeframe for GA aircraft registration to 5 years.

*Section 5018. Modification of limitation of liability relating to aircraft.*

This section would clarify current law regarding the liability of aircraft lessors or owners under certain circumstances.

*Section 5019. Government Accountability Office study of illegal drugs seized at international airports in the United States.*

This section would require the GAO to conduct a study and report to Congress on illegal drugs seized at international airports. The study should include the types and quantities of drugs seized, origin of the drugs seized, airport at which the drugs were seized, the manner in which the drugs were seized, and the manner in which the drugs were transported. This section would also direct the GAO to use all available data to fully understand the extent to which illegal drugs enter the United States through international airports.

*Section 5020. Sense of Congress on preventing the transportation of disease-carrying mosquitoes and other insects on commercial aircraft.*

This section would require the Secretary of Transportation and the Secretary of Agriculture to work with the World Health Organization to develop a framework and guidance for preventing the transportation of disease-carrying mosquitoes and other insects on commercial aircraft in a safe, effective, and nontoxic manner.

*Section 5021. Work plan for the New York/New Jersey/Philadelphia metroplex program.*

This section would require the FAA to develop and publish a work plan for the NY/NJ/PA metroplex program.

*Section 5022. Report on plans for air traffic control facilities in the New York City and Newark region.*

This section would require the FAA to report on staffing and scheduling for NY/Newark control facilities for a period of 1 year.

*Section 5023. GAO study of international airline alliances.*

This section would require the GAO to conduct a study on international airline alliances between U.S. air carriers and non-U.S. air carriers. This study would assess the consequences of alliances including reduced competition, stifling new entrants, increasing prices in markets, and other adverse consequences. The study would also assess representations made by carriers for the necessity of antitrust exemptions, DOT expectations of public benefits from alliances, the adequacy of DOT approval and monitoring of alliances, the sufficiency of transparency in the approval of alliances, competition among antitrust partners, and the effect on jobs in the United States.

*Section 5024. Treatment of multi-year lessees of large and turbine-powered multiengine aircraft.*

This section would require the DOT to revise regulations to ensure that multi-year lessees and owners of large and turbine powered multi-engine aircraft are treated equally by the FAA for joint ownership policies.

*Section 5025. Evaluation of emerging technologies.*

This section would require the FAA to conduct a study on potential impacts of emerging technologies on aircraft design, operations, maintenance and licensing. Emerging technologies would include but not be limited to electric propulsion and autonomous control, current State of aircraft design, operations, maintenance, and licensing.

*Section 5026. Student outreach report.*

This section would require the FAA to report on outreach efforts to inspire students interested in aeronautical careers. The report would describe the FAA's existing outreach efforts that cater to elementary and secondary students who are interested in careers in science, technology, engineering, and mathematics.

*Section 5027. Right to privacy when using air traffic control system.*

This section would require, upon request of an aircraft owner or operator, the FAA to block the registration number of an aircraft from any public dissemination or display, except in data made available to a government agency, for the noncommercial flights of the owner or operator.

*Section 5028. Conduct of security screening by the Transportation Security Administration at certain airports.*

The amendment would require the TSA to provide security screening services at any airport that lost commercial air service after January 1, 2013, if the airport submits a written confirmation of a commercial air carrier commitment to resume service at that airport.

*Section 5029. Aviation cybersecurity.*

The section would require the FAA to facilitate and support the development of a comprehensive framework of principles and policies to reduce cybersecurity risks. It would also require the Aircraft Systems Information Security Protection Working Group to periodically review rulemaking, policy, and guidance for certification of avionics software and hardware and continued airworthiness in order to reduce cybersecurity risks to aircraft systems. It would also require DOT to implement an open recommendation by GAO to assess the potential cost and timetable of developing and maintaining an agency-wide threat model, and to implement open recommendations related to personal identity verification (PIV) cards. The section would also require FAA to report to Congress on actions to improve information security management.

*Section 5030. Technical and conforming amendments.*

This section would make technical and conforming amendments to various parts of the title 49 of the United States Code that contain typographical and other errors.

## VOTES IN COMMITTEE

Senator Markey offered an amendment, to the amendment (in the nature of a substitute) offered by Senators Thune and Nelson, related to the use of personally identifiable information collected by any public UAS. By rollcall vote of 13 yeas and 10 nays as follows, the amendment was adopted:<sup>26</sup>

YEAS—13	NAYS—10
Ms. Ayotte	Mr. Wicker
Mr. Heller	Mr. Blunt
Mr. Nelson	Mr. Rubio <sup>1</sup>
Ms. Cantwell	Mr. Cruz <sup>1</sup>
Ms. McCaskill	Ms. Fischer
Ms. Klobuchar	Mr. Moran
Mr. Blumenthal <sup>1</sup>	Mr. Sullivan <sup>1</sup>
Mr. Schatz	Mr. Johnson
Mr. Markey	Mr. Daines
Mr. Booker <sup>1</sup>	Mr. Thune
Mr. Udall	
Mr. Manchin	
Mr. Peters	

<sup>1</sup>By proxy

Senator Markey offered an amendment, to the amendment (in the nature of a substitute) offered by Senators Thune and Nelson, related to cyberattacks on commercial aircraft. By rollcall vote of 8 yeas and 16 nays as follows, the amendment was defeated:

YEAS—8	NAYS—16
Mr. Nelson	Mr. Wicker <sup>1</sup>
Ms. Cantwell	Ms. Blunt <sup>1</sup>
Ms. Klobuchar <sup>1</sup>	Ms. Rubio <sup>1</sup>
Mr. Blumenthal <sup>1</sup>	Mr. Ayotte
Mr. Schatz	Mr. Cruz <sup>1</sup>
Mr. Markey	Mr. Fischer
Mr. Booker <sup>1</sup>	Mr. Moran
Mr. Udall <sup>1</sup>	Mr. Sullivan <sup>1</sup>
	Mr. Johnson
	Mr. Heller
	Mr. Gardner
	Mr. Daines
	Ms. McCaskill
	Mr. Manchin
	Mr. Peters
	Mr. Thune

<sup>1</sup>By proxy

<sup>26</sup>Senator Gardner was recorded as a “present”.

Senators Heller and Cantwell offered an amendment, to the amendment (in the nature of a substitute) offered by Senators Thune and Nelson, to direct DOT to issue a rule authorizing the carriage of property by small UAS for compensation or hire. By rollcall vote of 20 yeas and 4 nays as follows, the amendment was adopted:

YEAS—20	NAYS—4
Mr. Wicker	Mr. Nelson
Mr. Blunt	Mr. Blumenthal
Mr. Rubio <sup>1</sup>	Mr. Markey
Ms. Ayotte	Mr. Manchin
Mr. Cruz <sup>1</sup>	
Ms. Fischer <sup>1</sup>	
Mr. Moran <sup>1</sup>	
Mr. Sullivan <sup>1</sup>	
Mr. Johnson	
Mr. Heller	
Mr. Gardner	
Mr. Daines	
Ms. Cantwell	
Ms. McCaskill	
Ms. Klobuchar <sup>1</sup>	
Mr. Schatz	
Mr. Booker <sup>1</sup>	
Mr. Udall <sup>1</sup>	
Mr. Peters	
Mr. Thune	

<sup>1</sup>By proxy

Senator Markey offered an amendment, to the amendment (in the nature of a substitute) offered by Senators Thune and Nelson, to prohibit air carriers from imposing fees that are not reasonable and proportional to the costs incurred by the air carriers. By rollcall vote of 12 yeas and 12 nays as follows, the amendment was defeated:

YEAS—12	NAYS—12
Mr. Wicker	Mr. Blunt <sup>1</sup>
Mr. Nelson	Ms. Rubio <sup>1</sup>
Ms. Cantwell	Ms. Ayotte
Ms. McCaskill	Mr. Cruz <sup>1</sup>
Mr. Klobuchar <sup>1</sup>	Mr. Fischer <sup>1</sup>
Mr. Blumenthal <sup>1</sup>	Mr. Moran
Mr. Schatz	Mr. Sullivan <sup>1</sup>
Mr. Markey	Mr. Johnson
Mr. Booker <sup>1</sup>	Mr. Heller
Mr. Udall <sup>1</sup>	Mr. Gardner
Mr. Manchin	Mr. Daines
Mr. Peters	Mr. Thune

<sup>1</sup>By proxy

## ADDITIONAL VIEWS OF SENATOR NELSON

I appreciate the opportunity to have worked with Chairman Thune on this bipartisan and comprehensive FAA reauthorization bill. However, I write separately to express my view on certain provisions with which I have some reservations and disagreement.

**Section 2103. Federal Trade Commission authority.**

I do not believe this section of the report accurately reflects the views of the Committee, insofar that I and other Members disagree with the section's normative assertions. Specifically, section 2103 of the report states:

The Committee is mindful that a robust privacy protection and enforcement framework already exists. The Committee seeks to avoid regulation and requirements duplicative of those currently enforced by State and Federal agencies. Therefore, this section is intended to restate existing laws and is not intended to expand the FTC's jurisdiction, powers, and duties as though applicable terms and provisions of the Federal Trade Commission Act (15 U.S.C. 41 et seq.) were incorporated into and made a part of this act.

I disagree "that a robust privacy protection and enforcement framework exists." State and Federal law provide limited protection from UAS commercial operators that would collect and use large amounts of consumers' personal information. To be sure, certain state and local criminal statutes, such as "peeping tom" and harassment laws, as well as a patchwork of common law doctrines, protect consumers from drone operators engaging in criminal or tortious behavior that violates an individual's personal space - particularly within the home. But these laws do little (if anything) to address UAS operators that record, collect, store, and use personal information about consumers who are in the public space. As commercial UAS operations become more common and drones fill our skies, it will be increasingly possible to capture snap shots of where consumers are at any particular moment and to track their activities over time.

Furthermore, federal law provides consumers with inadequate protection from these practices. As is the case in the wider commercial marketplace, the Federal Trade Commission (FTC) may bring enforcement actions (pursuant to section 5 of the FTC Act and its broad prohibition against deceptive practices) against commercial UAS operators that violate their own stated, company-driven privacy policies. However, nothing in current law, nor in the bill, requires such operators to adopt privacy policies in the first place. Furthermore, there is nothing in current law or in the bill that would set baseline standards for such privacy policies. Thus, those commercial operators that choose to adopt privacy policies - which can be obscure and written in legalese - are largely free to collect and use consumers' personal information however they choose, as long as those policies state such practices.

As such, section 2103 of the bill simply restates current law: the FTC already may bring an enforcement action against UAS opera-



tors that violate the terms of their privacy policies. The bill re-codifies what the FTC is currently authorized to do under section 5 of the FTC Act and provides no additional protections for consumers.

### **Subtitle F-Third Class Medical Reform and General Aviation Pilot Protections**

I appreciate the work that Senators Manchin, Inhofe, and Thune have done to address safety concerns with the original Pilot's Bill of Rights 2 bill. That progress is reflected in the substitute amendment offered by Senator Manchin and adopted at the Committee's Executive Session on December 9, 2015.

The public, both in the air and on the ground, relies on the safety of our aviation system. As I noted in my remarks at the Executive Session of this Committee on November 18, 2015, we have the safest aviation system in the world, and we must ensure our ability to uphold that standard. That is the trust the public has put in us.

Senator Manchin's December 9, 2015, substitute amendment included several important improvements based on the amendments that I filed to this bill for the Executive Session of this Committee on November 18, 2015. Though my amendments were not adopted at that time, the bill that was passed by this Committee on December 9, 2015, as amended by Senator Manchin's substitute, reflects their intent, to preserve safety in the context of this bill wherever possible.

One area of improvement in the December 9, 2015, substitute amendment is the removal of a provision that would have insulated roughly 7,000 individuals operating in the aviation safety area from liability if they failed to carry out their duties responsibly. This liability exemption would have included Aviation Medical Examiners, Pilot Examiners, and Designated Airworthiness Representatives who conduct the testing and inspections for aviation manufacturing and maintenance. Designing and maintaining passenger aircraft, and certifying the commercial pilots who fly those aircraft, are safety critical responsibilities, and should not be shielded from accountability. That section of the bill has been removed.

Several other sections have been modified, including provisions addressing the FAA reexamination of pilots, notam, and the process for appeals from FAA certificate actions. We have endeavored to strike the appropriate balance with procedural rights for airmen that facilitate transparency and allow access to U.S. District Court, while not limiting the FAA's ability to take action when there is evidence that a pilot is not safe or competent to fly.

Perhaps the most important safety measure that has been adopted in the revised bill is the inclusion of a comprehensive checklist for medical examinations. If we are going to move from a system that involves Aviation Medical Examiners to a system that allows pilots to self-certify and see their own personal physicians, we must set standards for pilots and doctors to follow. The legislation now requires the FAA to develop a checklist for pilots to complete and for physicians to follow during the comprehensive medical examination that a pilot must certify to every 4 years. Pilots must also confirm that they do not know of any medical condition that would render them unsafe to fly. That requires ongoing monitoring on their part. Taken together, these provisions will help to ensure that

pilots are medically fit to fly when they enter the national airspace and that the safety of our system is preserved.

While I believe the bill has been improved, I continue to have reservations about the legislation. The two dozen amendments that I filed for the Executive Session on November 18, 2015, contain many additional improvements to the bill that I hope my colleagues will consider adopting as this bill moves forward.

On the operational side, this includes reducing the maximum altitude of the medical exemption in this bill to 10,000 feet, where pressurized cabins are not required and well below the cruising altitude of commercial aircraft, and limiting the number of passengers to one instead of five. I also filed an amendment to ensure an FAA-certified Aviation Medical Examiner has cleared pilots who wish to fly under this medical exemption within the past 5 years, not within the last decade.

Furthermore, while I appreciate the inclusion of a checklist for pilots' medical exams and the additional attestation required for pilots with serious mental or neurological conditions, additional amendments I proposed to strengthen the medical standards were not adopted. These include amendments to require physicians to certify that they had treated medical conditions that might impact a pilot's ability to fly, to expand the list of medical conditions that would require additional review beyond those listed in this bill to include any condition that could interfere with the ability to operate an aircraft, to allow physicians to alert the FAA if a pilot has a mental or neurological condition that may render them unable to safely fly, and to permit FAA physicians to review a pilot's cardiovascular condition and treatment before allowing them to get back in the cockpit.

Furthermore, I proposed that this exemption sunset in 5 years, just after the release of a NTSB study of the safety effects of this medical exemption required under this bill, so that Congress can evaluate any adverse impacts and determine whether to extend the exemption. It is our responsibility to understand the safety implications of decisions regarding the national airspace system and the airmen and aircraft operating in that system.

I appreciate the willingness of Chairman Thune and the bill's lead sponsors, Senators Inhofe and Manchin, to engage in an ongoing dialogue and meaningful negotiations that led to these improvements. I look forward to continue working with them to perfect the legislation, and we must continue working together in a bipartisan fashion to ensure that all issues related to aviation safety are addressed in a comprehensive, long-term authorization bill.

#### CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, 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 material is printed in *italic*, existing law in which no change is proposed is shown in *roman*):

## TITLE 5. GOVERNMENT ORGANIZATION AND EMPLOYEES

## PART III. EMPLOYEES

## SUBPART G. INSURANCE AND ANNUITIES

## CHAPTER 84. FEDERAL EMPLOYEES' RETIREMENT SYSTEM

## SUBCHAPTER II. BASIC ANNUITY

**§ 8415. Computation of basic annuity**

\* \* \* \* \*

[(f) The annuity of an air traffic controller or former air traffic controller retiring under section 8412(a) is computed under subsection (a), except that if the individual has had at least 5 years of service as an air traffic controller as defined by section 2109(1)(A)(i), so much of the annuity as is computed with respect to such type of service shall be computed by multiplying 1 7/10 percent of the individual's average pay by the years of such service.]

*(f) The annuity of an air traffic controller or former air traffic controller retiring under section 8412(a) is computed under subsection (a), except that if the individual has at least 5 years of service in any combination as:*

- (1) an air traffic controller as defined by section 2109(1)(A)(i);*
- (2) a first level supervisor of an air traffic controller as defined by section 2109(1)(A)(i); or*
- (3) a second level supervisor of an air traffic controller as defined by section 2109(1)(A)(i);*

*so much of the annuity as is computed with respect to such type of service shall be computed by multiplying 1 7/10 percent of the individual's average pay by the years of such service.<sup>1</sup>*

\* \* \* \* \*

**§ 8421a. Reductions on account of earnings from work performed while entitled to annuity supplement**

(a) [The amount] *Except as provided in subsection (c), the amount of the annuity supplement to which an individual is entitled under section 8421 for any month (determined without regard to subsection (c) of such section) shall be reduced by the amount of any excess earnings of such individual which are required to be charged to such supplement for such month, as determined under subsection (b).*

(b) The amount of an individual's excess earnings shall be charged to months as follows:

- (1)(A) There shall be charged to each month of a year under subsection (a) an amount equal to the individual's excess earnings (as determined under paragraph (2) with respect to such year), divided by the number of the individual's supplement entitlement months for such year (as determined under paragraph (3)).

(B) Notwithstanding subparagraph (A), the amount charged to a month under subsection (a) may not exceed the amount of the annuity supplement to which the indi-

<sup>1</sup> The amendment to section 8415(f) of title 5, United States Code, shall be deemed to be effective on December 12, 2003.

vidual is entitled under section 8421 for such month (determined without regard to subsection (c) of such section).

(2) The excess earnings based on which reductions under subsection (a) shall be made with respect to an individual in a year—

(A) shall be equal to 50 percent of so much of such individual's earnings for the immediately preceding year as exceeds the applicable exempt amount for such preceding year; but

(B) may not exceed the total amount of the annuity supplement payments to which such individual was entitled for such preceding year under section 8421 (determined without regard to subsection (c) of such section, and without regard to this section).

(3)(A) Subject to subparagraph (B), the number of an individual's supplement entitlement months for a year shall be 12.

(B) The number determined under subparagraph (A) shall be reduced so as not to include any month after which such individual ceases to be entitled to an annuity supplement by reason of section 8421(a)(3)(B), relating to cessation of entitlement upon attaining age 62.

(4)(A) For purposes of this section, and except as provided in subparagraph (B), the "earnings" and the "applicable exempt amount" of an individual shall be determined in a manner consistent with applicable provisions of section 203 of the Social Security Act.

(B) For purposes of this section—

(i) in determining the excess earnings of any individual, only earnings attributable to periods during which such individual was entitled to an annuity supplement under section 8421 shall be considered; and

(ii) any earnings attributable to a period before attaining the applicable retirement age under section 8412(h) shall not be considered in determining the excess earnings of an individual who retires under section 8412(d) or (e), or section 8414(c).

(5) Notwithstanding paragraphs (1) through (4), the reduction required by subsection (a) shall be effective with respect to the annuity supplement payable for each month in the 12-month period beginning on the first day of the seventh month after the end of the calendar year in which the excess earnings were earned.

*(c) This section shall not apply to an individual described in section 8412(e) during any period in which the individual, after separating from the service as described in that section, is employed full-time as an air traffic control instructor under contract with the Federal Aviation Administration, including an instructor working at an on-site facility (such as an airport).*

[(c)](d)The Office shall prescribe regulations under which this section shall be applied in the case of a reemployed annuitant.

## TITLE 49. TRANSPORTATION

## SUBTITLE I. DEPARTMENT OF TRANSPORTATION

## CHAPTER 1. ORGANIZATION

**§ 106. Federal Aviation Administration**

\* \* \* \* \*

## (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) \$9,653,000,000 for fiscal year 2012;

[(B) \$9,539,000,000 for fiscal year 2013;

[(C) \$9,596,000,000 for fiscal year 2014;

[(D) \$9,653,000,000 for fiscal year 2015; and

[(E) \$4,870,350,000 for the period beginning on October 1, 2015, and ending on March 31, 2016.]

(A) \$9,910,009,314 for fiscal year 2016; and

(B) \$10,025,361,111 for fiscal year 2017.

Such sums shall remain available until expended.

(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 2012 through 2015] for fiscal years 2016 through 2017 to carry out and expand the Air Traffic Control Collegiate Training Initiative.

(B) Such sums as may be necessary [for fiscal years 2012 through 2015] for fiscal years 2016 through 2017 for the completion of the Alaska aviation safety project with respect to the 3 dimensional mapping of Alaska's main aviation corridors.

(C) Such sums as may be necessary [for fiscal years 2012 through 2015] for fiscal years 2016 through 2017 to carry out the Aviation Safety Reporting System and the development and maintenance of helicopter approach procedures.

(3) ADMINISTERING PROGRAM WITHIN AVAILABLE FUNDING.—Notwithstanding any other provision of law, in each of fiscal years [2012 through 2015 and for the period beginning on October 1, 2015, and ending on July 15, 2016] 2016 through 2017, if the Secretary determines that the funds appropriated under paragraph (1) are insufficient to meet the salary, operations, and maintenance expenses of the Federal Aviation Administration, as authorized by this section, the Secretary shall reduce nonsafety-related activities of the Administration as necessary to reduce such expenses to a level that can be met by the funding available under paragraph (1).

\* \* \* \* \*

## (s) CHIEF NEXTGEN OFFICER.—

(1) IN GENERAL.—

(A) APPOINTMENT.—There shall be a Chief NextGen Officer appointed by the Administrator, with the approval of

the Secretary. The Chief NextGen Officer shall report directly to the Administrator and shall be subject to the authority of the Administrator.

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

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

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

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

(2) COMPENSATION.—

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

(B) BONUS.—In addition to the annual rate of basic pay authorized by subparagraph (A), the Chief NextGen Officer may receive a bonus for any calendar year not to exceed 30 percent of the annual rate of basic pay, based upon the Administrator's evaluation of the Chief NextGen Officer's performance in relation to the performance goals set forth in the performance agreement described in paragraph (3). *In evaluating the performance of the Chief NextGen Officer for the purpose of awarding a bonus under this subparagraph, the Administrator shall consider the progress toward meeting the NextGen performance goals established pursuant to section 214(d) of the FAA Modernization and Reform Act of 2012 (Public Law 112-95; 49 U.S.C. 40101 note).*

(3) ANNUAL PERFORMANCE AGREEMENT.—The Administrator and the Chief NextGen Officer, in consultation with the Federal Aviation Management Advisory Council, shall enter into an annual performance agreement that sets forth measurable organization and individual goals for the Chief NextGen Officer in key operational areas. The agreement shall be subject to review and renegotiation on an annual basis. *The annual performance goals set forth in the agreement shall include quantifiable NextGen airspace performance objectives regarding efficiency, productivity, capacity, and safety, which shall be established by the senior policy committee (commonly known as the "NextGen Advisory Committee") established under section 710 of the Vision 100—Century of Aviation Reauthorization Act (Public Law 108-176; 49 U.S.C. 40101 note).*

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

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

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

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

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

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

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

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

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

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

(F) Developing an annual NextGen implementation plan.

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

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

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

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

\* \* \* \* \*

(u) DESIGNATED AGENCY SAFETY AND HEALTH OFFICER.—

(1) APPOINTMENT.—There shall be a Designated Agency Safety and Health Officer appointed by the Administrator who shall exclusively fulfill the duties prescribed in this subsection.

(2) RESPONSIBILITIES.—The Designated Agency Safety and Health Officer shall have responsibility and accountability for—

(A) auditing occupational safety and health issues across the Administration;

(B) overseeing Administration-wide compliance with relevant Federal occupational safety and health statutes and regulations, national industry and consensus standards, and Administration policies; and

(C) encouraging a culture of occupational safety and health to complement the Administration's existing safety culture.

(3) **REPORTING STRUCTURE.**—The Designated Agency Safety and Health Officer shall occupy a full-time, senior executive position and shall report directly to the Assistant Administrator for Human Resource Management.

(4) **QUALIFICATIONS AND REMOVAL.**—

(A) **QUALIFICATIONS.**—The Designated Agency Safety and Health Officer shall have demonstrated ability and experience in the establishment and administration of comprehensive occupational safety and health programs and knowledge of relevant Federal occupational safety and health statutes and regulations, national industry and consensus standards, and Administration policies.

(B) **REMOVAL.**—The Designated Agency Safety and Health Officer shall serve at the pleasure of the Administrator.

SUBTITLE II. OTHER GOVERNMENT AGENCIES

CHAPTER 11. NATIONAL TRANSPORTATION SAFETY BOARD

SUBCHAPTER II. ORGANIZATION AND ADMINISTRATIVE

**§ 1113. Administrative**

\* \* \* \* \*

[(h) **INVESTIGATIVE OFFICERS.**—The Board shall maintain at least 1 full-time employee in each State located more than 1,000 miles from the nearest Board regional office to provide initial investigative response to accidents the Board is empowered to investigate under this chapter that occur in that State.]

SUBCHAPTER III. AUTHORITY

**§ 1136. Assistance to families of passengers involved in aircraft accidents**

(a) **IN GENERAL.**—As soon as practicable after being notified of an [aircraft accident within the United States involving an air carrier or foreign air carrier and resulting in a major loss of life] *aircraft accident involving an air carrier or foreign air carrier, resulting in any loss of life, and for which the National Transportation Safety Board will serve as the lead investigative agency*, the Chairman of the National Transportation Safety Board shall—

(1) designate and publicize the name and phone number of a director of family support services who shall be an employee of the Board and shall be responsible for acting as a point of contact within the Federal Government for the families of passengers involved in the accident and a liaison between the air carrier or foreign air carrier and the families; and



(2) designate an independent nonprofit organization, with experience in disasters and posttrauma communication with families, which shall have primary responsibility for coordinating the emotional care and support of the families of passengers involved in the accident.

\* \* \* \* \*

SUBTITLE VII. AVIATION PROGRAMS

PART A. AIR COMMERCE AND SAFETY

SUBPART I. GENERAL

CHAPTER 401. GENERAL PROVISIONS

**§ 40102. Definitions**

(a) GENERAL DEFINITIONS.—In this part:

(1) “aeronautics” means the science and art of flight.

(2) “air carrier” means a citizen of the United States undertaking by any means, directly or indirectly, to provide air transportation.

(3) “air commerce” means foreign air commerce, interstate air commerce, the transportation of mail by aircraft, the operation of aircraft within the limits of a Federal airway, or the operation of aircraft that directly affects, or may endanger safety in, foreign or interstate air commerce.

(4) “air navigation facility” means a facility used, available for use, or designed for use, in aid of air navigation, including—

(A) a landing area;

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

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

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

(E) any structure, equipment, or mechanism for guiding or controlling flight in the air or the landing and takeoff of aircraft; and

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

(5) “air transportation” means foreign air transportation, interstate air transportation, or the transportation of mail by aircraft.

(6) “aircraft” means any contrivance invented, used, or designed to navigate, or fly in, the air.

(7) “aircraft engine” means an engine used, or intended to be used, to propel an aircraft, including a part, appurtenance, and accessory of the engine, except a propeller.

(8) “airman” means an individual—

(A) in command, or as pilot, mechanic, or member of the crew, who navigates aircraft when under way;

(B) except to the extent the Administrator of the Federal Aviation Administration may provide otherwise for individuals employed outside the United States, who is directly in

charge of inspecting, maintaining, overhauling, or repairing aircraft, aircraft engines, propellers, or appliances; or  
 (C) who serves as an aircraft dispatcher or air traffic control-tower operator.

(9) “airport” means a landing area used regularly by aircraft for receiving or discharging passengers or cargo.

(10) “all-cargo air transportation” means the transportation by aircraft in interstate air transportation of only property or only mail, or both.

(11) “appliance” means an instrument, equipment, apparatus, a part, an appurtenance, or an accessory used, capable of being used, or intended to be used, in operating or controlling aircraft in flight, including a parachute, communication equipment, and another mechanism installed in or attached to aircraft during flight, and not a part of an aircraft, aircraft engine, or propeller.

(12) “cargo” means property, mail, or both.

(13) “charter air carrier” means an air carrier holding a certificate of public convenience and necessity that authorizes it to provide charter air transportation.

(14) “charter air transportation” means charter trips in air transportation authorized under this part.

(15) “citizen of the United States” means—

(A) an individual who is a citizen of the United States;

(B) a partnership each of whose partners is an individual who is a citizen of the United States; or

(C) a corporation or association organized under the laws of the United States or a State, the District of Columbia, or a territory or possession of the United States, of which the president and at least two-thirds of the board of directors and other managing officers are citizens of the United States, which is under the actual control of citizens of the United States, and in which at least 75 percent of the voting interest is owned or controlled by persons that are citizens of the United States.

(16) “civil aircraft” means an aircraft except a public aircraft.

(17) “civil aircraft of the United States” means an aircraft registered under chapter 441 of this title.

(18) “conditional sales contract” means a contract—

(A) for the sale of an aircraft, aircraft engine, propeller, appliance, or spare part, under which the buyer takes possession of the property but title to the property vests in the buyer at a later time on—

(i) paying any part of the purchase price;

(ii) performing another condition; or

(iii) the happening of a contingency; or

(B) to bail or lease an aircraft, aircraft engine, propeller, appliance, or spare part, under which the bailee or lessee—

(i) agrees to pay an amount substantially equal to the value of the property; and

(ii) is to become, or has the option of becoming, the owner of the property on complying with the contract.

(19) “conveyance” means an instrument, including a conditional sales contract, affecting title to, or an interest in, property.

(20) “Federal airway” means a part of the navigable airspace that the Administrator designates as a Federal airway.

(21) “foreign air carrier” means a person, not a citizen of the United States, undertaking by any means, directly or indirectly, to provide foreign air transportation.

(22) “foreign air commerce” means the transportation of passengers or property by aircraft for compensation, the transportation of mail by aircraft, or the operation of aircraft in furthering a business or vocation, between a place in the United States and a place outside the United States when any part of the transportation or operation is by aircraft.

(23) “foreign air transportation” means the transportation of passengers or property by aircraft as a common carrier for compensation, or the transportation of mail by aircraft, between a place in the United States and a place outside the United States when any part of the transportation is by aircraft.

(24) “human factors” means a multidisciplinary field that generates and compiles information about human capabilities and limitations and applies it to design, development, and evaluation of equipment, systems, facilities, procedures, jobs, environments, staffing, organizations, and personnel management for safe, efficient, and effective human performance, including people’s use of technology.

[(24)](25) “interstate air commerce” means the transportation of passengers or property by aircraft for compensation, the transportation of mail by aircraft, or the operation of aircraft in furthering a business or vocation—

(A) between a place in—

(i) a State, territory, or possession of the United States and a place in the District of Columbia or another State, territory, or possession of the United States;

(ii) a State and another place in the same State through the airspace over a place outside the State;

(iii) the District of Columbia and another place in the District of Columbia; or

(iv) a territory or possession of the United States and another place in the same territory or possession; and

(B) when any part of the transportation or operation is by aircraft.

[(25)](26) “interstate air transportation” means the transportation of passengers or property by aircraft as a common carrier for compensation, or the transportation of mail by aircraft—

(A) between a place in—

(i) a State, territory, or possession of the United States and a place in the District of Columbia or another State, territory, or possession of the United States;

(ii) Hawaii and another place in Hawaii through the airspace over a place outside Hawaii;

(iii) the District of Columbia and another place in the District of Columbia; or

(iv) a territory or possession of the United States and another place in the same territory or possession; and

(B) when any part of the transportation is by aircraft.

[(26)](27) “intrastate air carrier” means a citizen of the United States undertaking by any means to provide only intrastate air transportation.

[(27)](28) “intrastate air transportation” means the transportation by a common carrier of passengers or property for compensation, entirely in the same State, by turbojet-powered aircraft capable of carrying at least 30 passengers.

[(28)](29) “landing area” means a place on land or water, including an airport or intermediate landing field, used, or intended to be used, for the takeoff and landing of aircraft, even when facilities are not provided for sheltering, servicing, or repairing aircraft, or for receiving or discharging passengers or cargo.

[(29)](30) “large hub airport” means a commercial service airport (as defined in section 47102) that has at least 1.0 percent of the passenger boardings.

[(30)](31) “mail” means United States mail and foreign transit mail.

[(31)](32) “medium hub airport” means a commercial service airport (as defined in section 47102) that has at least 0.25 percent but less than 1.0 percent of the passenger boardings.

[(32)](33) “navigable airspace” means airspace above the minimum altitudes of flight prescribed by regulations under this subpart and subpart III of this part, including airspace needed to ensure safety in the takeoff and landing of aircraft.

[(33)](34) “navigate aircraft” and “navigation of aircraft” include piloting aircraft.

[(34)](35) “nonhub airport” means a commercial service airport (as defined in section 47102) that has less than 0.05 percent of the passenger boardings.

[(35)](36) “operate aircraft” and “operation of aircraft” mean using aircraft for the purposes of air navigation, including—

(A) the navigation of aircraft; and

(B) causing or authorizing the operation of aircraft with or without the right of legal control of the aircraft.

[(36)](37) “passenger boardings”—

(A) means, unless the context indicates otherwise, revenue passenger boardings in the United States in the prior calendar year on an aircraft in service in air commerce, as the Secretary determines under regulations the Secretary prescribes; and

(B) includes passengers who continue on an aircraft in international flight that stops at an airport in the 48 contiguous States, Alaska, or Hawaii for a nontraffic purpose.

[(37)](38) “person”, in addition to its meaning under section 1 of title 1, includes a governmental authority and a trustee, receiver, assignee, and other similar representative.

~~[(38)]~~(39) “predatory” means a practice that violates the antitrust laws as defined in the first section of the Clayton Act (15 U.S.C. 12).

~~[(39)]~~(40) “price” means a rate, fare, or charge.

~~[(40)]~~(41) “propeller” includes a part, appurtenance, and accessory of a propeller.

~~[(41)]~~(42) “public aircraft” means any of the following:

(A) Except with respect to an aircraft described in subparagraph (E), an aircraft used only for the United States Government, except as provided in section 40125(b).

(B) An aircraft owned by the Government and operated by any person for purposes related to crew training, equipment development, or demonstration, except as provided in section 40125(b).

(C) An aircraft owned and operated by the government of a State, the District of Columbia, or a territory or possession of the United States or a political subdivision of one of these governments, except as provided in section 40125(b).

(D) An aircraft exclusively leased for at least 90 continuous days by the government of a State, the District of Columbia, or a territory or possession of the United States or a political subdivision of one of these governments, except as provided in section 40125(b).

(E) An aircraft owned or operated by the armed forces or chartered to provide transportation or other commercial air service to the armed forces under the conditions specified by section 40125(c). In the preceding sentence, the term “other commercial air service” means an aircraft operation that (i) is within the United States territorial airspace; (ii) the Administrator of the Federal Aviation Administration determines is available for compensation or hire to the public, and (iii) must comply with all applicable civil aircraft rules under title 14, Code of Federal Regulations.

(F) *An unmanned aircraft that is owned and operated by or exclusively leased for at least 90 consecutive days by an Indian tribal government (as defined in section 102 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122)), except as provided in section 40125(b).*

~~[(42)]~~(43) “small hub airport” means a commercial service airport (as defined in section 47102) that has at least 0.05 percent but less than 0.25 percent of the passenger boardings.

~~[(43)]~~(44) “spare part” means an accessory, appurtenance, or part of an aircraft (except an aircraft engine or propeller), aircraft engine (except a propeller), propeller, or appliance, that is to be installed at a later time in an aircraft, aircraft engine, propeller, or appliance.

~~[(44)]~~(45) “State authority” means an authority of a State designated under State law—

(A) to receive notice required to be given a State authority under subpart II of this part; or

(B) as the representative of the State before the Secretary of Transportation in any matter about which the

Secretary is required to consult with or consider the views of a State authority under subpart II of this part.

[(45)](46) “ticket agent” means a person (except an air carrier, a foreign air carrier, or an employee of an air carrier or foreign air carrier) that as a principal or agent sells, offers for sale, negotiates for, or holds itself out as selling, providing, or arranging for, air transportation.

[(46)](47) “United States” means the States of the United States, the District of Columbia, and the territories and possessions of the United States, including the territorial sea and the overlying airspace.

[(47)](48) “air traffic control system” means the combination of elements used to safely and efficiently monitor, direct, control, and guide aircraft in the United States and United States-assigned airspace, including—

(A) allocated electromagnetic spectrum and physical, real, personal, and intellectual property assets making up facilities, equipment, and systems employed to detect, track, and guide aircraft movement;

(B) laws, regulations, orders, directives, agreements, and licenses;

(C) published procedures that explain required actions, activities, and techniques used to ensure adequate aircraft separation; and

(D) trained personnel with specific technical capabilities to satisfy the operational, engineering, management, and planning requirements for air traffic control.

(b) LIMITED DEFINITION.—In subpart II of this part, “control” means control by any means.

**§ 40104. Promotion of civil aeronautics and safety of air commerce**

(a) DEVELOPING CIVIL AERONAUTICS AND SAFETY OF AIR COMMERCE.—The Administrator of the Federal Aviation Administration shall encourage the development of civil aeronautics and safety of air commerce in and outside the United States. In carrying out this subsection, the Administrator shall take action that the Administrator considers necessary to establish, within available resources, a program to distribute civil aviation information in each region served by the Administration. The program shall provide, on request, informational material and expertise on civil aviation to State and local school administrators, college and university officials, and officers of other interested organizations.

(b) INTERNATIONAL ROLE OF THE FAA.—The Administrator shall promote and achieve global improvements in the safety, efficiency, and environmental effect of air travel by exercising leadership with the Administrator’s foreign counterparts, in the International Civil Aviation Organization and its subsidiary organizations, and other international organizations and fora, and with the private sector.

(c) AIRPORT CAPACITY ENHANCEMENT PROJECTS AT CONGESTED AIRPORTS.—In carrying out subsection (a), the Administrator shall take action to encourage the construction of airport capacity enhancement projects at congested airports as those terms are defined in section [47176] 47175.

(d) *PROMOTION OF UNITED STATES AEROSPACE STANDARDS, PRODUCTS, AND SERVICES ABROAD.*—*The Secretary shall take appropriate actions—*

(1) *to promote United States aerospace-related safety standards abroad;*

(2) *to facilitate and vigorously defend approvals of United States aerospace products and services abroad;*

(3) *with respect to bilateral partners, to use bilateral safety agreements and other mechanisms to improve validation of United States type certificated aeronautical products and services and enhance mutual acceptance in order to eliminate redundancies and unnecessary costs; and*

(4) *with respect to the aeronautical safety authorities of a foreign country, to streamline that country's validation of United States aerospace standards, products, and services.*

**§ 40117. Passenger facility charges**

\* \* \* \* \*

(b) GENERAL AUTHORITY.—

(1) The Secretary of Transportation may authorize under this section an eligible agency to impose a passenger facility charge of \$1, \$2, or \$3 on each paying passenger of an air carrier or foreign air carrier boarding an aircraft at an airport the agency controls to finance an eligible airport-related project, including making payments for debt service on indebtedness incurred to carry out the project, to be carried out in connection with the airport or any other airport the agency controls.

(2) A State, political subdivision of a State, or authority of a State or political subdivision that is not the eligible agency may not regulate or prohibit the imposition or collection of a passenger facility charge or the use of the passenger facility revenue.

(3) A passenger facility 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 charge under paragraph (1), the Secretary may authorize under this section an eligible agency to impose a passenger facility charge of \$4.00 or \$4.50 on each paying passenger of an air carrier or foreign air carrier boarding an aircraft at an airport the agency controls to finance an eligible airport-related project, including making payments for debt service on indebtedness incurred to carry out the project, if the Secretary finds—

[(A) in the case of an airport that has more than .25 percent of the total number of annual boardings in the United States, that the project will make a significant contribution to improving air safety and security, increasing competition among air carriers, reducing current or anticipated congestion, or reducing the impact of aviation noise on people living near the airport; and

[(B) that the project cannot be paid for from funds reasonably expected to be available for the programs referred to in section 48103.]

(5) **MAXIMUM COST FOR CERTAIN LOW-EMISSION TECHNOLOGY PROJECTS.**—The maximum cost that may be financed by imposition of a passenger facility 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 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 1 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.

\* \* \* \* \*

(1) PILOT PROGRAM FOR PASSENGER FACILITY CHARGE AUTHORIZATIONS AT **[NONHUB]** CERTAIN AIRPORTS.—

(1) IN GENERAL.—The Secretary shall establish a pilot program to test alternative procedures for authorizing eligible agencies for **[nonhub]** *nonhub, small hub, medium hub, and large hub* airports to impose passenger facility charges. An eligible agency may impose in accordance with the provisions of this subsection a passenger facility 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.

(2) NOTICE AND OPPORTUNITY FOR CONSULTATION.—The eligible agency must provide reasonable notice and an opportunity for consultation to air carriers and foreign air carriers in accordance with subsection (c)(2) and must provide reasonable notice and opportunity for public comment in accordance with subsection (c)(3).

(3) NOTICE OF INTENTION.—The eligible agency must submit to the Secretary a notice of intention to impose a passenger facility 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 charge is sought;

(B) the amount of revenue from passenger facility charges that is proposed to be collected for each project; and

(C) the level of the passenger facility 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 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 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 charge in accordance with the terms of its notice under this subsection.

(6) REGULATIONS.—Not later than 180 days after the date of enactment of this subsection, the Secretary shall propose such regulations as may be necessary to carry out this subsection.

(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 CHARGES.—

(1) HANDLING OF CHARGES.—A covered air carrier shall segregate in a separate account passenger facility revenue equal to the average monthly liability for charges collected under this section by such carrier or any of its agents for the benefit of the eligible agencies entitled to such revenue.

(2) TRUST FUND STATUS.—If a covered air carrier or its agent fails to segregate passenger facility revenue in violation of the subsection, the trust fund status of such revenue shall not be defeated by an inability of any party to identify and trace the precise funds in the accounts of the air carrier.

(3) PROHIBITION.—A covered air carrier and its agents may not grant to any third party any security or other interest in passenger facility revenue.

(4) COMPENSATION TO ELIGIBLE ENTITIES.—A covered air carrier that fails to comply with any requirement of this subsection, or otherwise unnecessarily causes an eligible entity to expend funds, through litigation or otherwise, to recover or retain payment of passenger facility revenue to which the eligible entity is otherwise entitled shall be required to compensate the eligible agency for the costs so incurred.

(5) INTEREST ON AMOUNTS.—A covered air carrier that collects passenger facility charges is entitled to receive the interest on passenger facility charge accounts if the accounts are established and maintained in compliance with this subsection.

(6) EXISTING REGULATIONS.—The provisions of section 158.49 of title 14, Code of Federal Regulations, that permit the commingling of passenger facility charges with other air carrier revenue shall not apply to a covered air carrier.

(7) COVERED AIR CARRIER DEFINED.— In this section, the term “covered air carrier” means an air carrier that files for chapter 7 or chapter 11 of title 11 bankruptcy protection, or has an involuntary chapter 7 of title 11 bankruptcy proceeding commenced against it, after the date of enactment of this subsection.

(n) *PFC ELIGIBILITY FOR INTERMODAL GROUND ACCESS PROJECTS.*—

(1) *IN GENERAL.*—*The Secretary may authorize a passenger facility charge imposed under subsection (b)(1) to be used to finance the eligible capital costs of an intermodal ground access project.*

(2) *DEFINITION OF INTERMODAL GROUND ACCESS PROJECT.*—*In this subsection, the term “intermodal ground access project” means a project for constructing a local facility owned or operated by an eligible agency that—*

*(A) is located on airport property; and*

*(B) is directly and substantially related to the movement of passengers or property traveling in air transportation.*

(3) *ELIGIBLE CAPITAL COSTS.*—*The eligible capital costs of an intermodal ground access project shall be the lesser of—*

*(A) the total capital cost of the project multiplied by the ratio that the number of individuals projected to use the project to gain access to or depart from the airport bears to the total number of individuals projected to use the local facility; or*

*(B) the total cost of the capital improvements that are located on airport property.*

(4) *DETERMINATIONS.*—*The Secretary shall determine the projected use and cost of a project for purposes of paragraph (3) at the time the project is approved under this subsection, except that, in the case of a project to be financed in part using funds*

administered by the Federal Transit Administration, the Secretary shall use the travel forecasting model for the project at the time the project is approved by the Federal Transit Administration to enter preliminary engineering to determine the projected use and cost of the project for purposes of paragraph (3).

(5) *NONATTAINMENT AREAS.*—For airport property, any area of which is located in a nonattainment area (as defined under section 171 of the Clean Air Act (42 U.S.C. 7501)) for 1 or more criteria pollutant, the airport emissions reductions from less airport surface transportation and parking as a direct result of the development of an intermodal project on the airport property would be eligible for air quality emissions credits.

(o) *USE OF REVENUES AT A PREVIOUSLY ASSOCIATED AIRPORT.*—Notwithstanding the requirements relating to airport control under subsection (b)(1), the Secretary may authorize use of a passenger facility charge under subsection (b) to finance an eligible airport-related project if—

(1) the eligible agency seeking to impose the new charge controls an airport where a \$2.00 passenger facility charge became effective on January 1, 2013; and

(2) the location of the project to be financed by the new charge is at an airport that was under the control of the same eligible agency that had controlled the airport described in paragraph (1).

#### **§ 40122. Federal Aviation Administration personnel management system**

\* \* \* \* \*

(g) *PERSONNEL MANAGEMENT SYSTEM.*—

(1) *IN GENERAL.*—In consultation with the employees of the Administration and such non-governmental experts in personnel management systems as he may employ, and notwithstanding the provisions of title 5 and other Federal personnel laws, the Administrator shall develop and implement, not later than January 1, 1996, a personnel management system for the Administration that addresses the unique demands on the agency's workforce. Such a new system shall, at a minimum, provide for greater flexibility in the hiring, training, compensation, and location of personnel.

(2) *APPLICABILITY OF TITLE 5.*—The provisions of title 5 shall not apply to the new personnel management system developed and implemented pursuant to paragraph (1), with the exception of—

(A) section 2302(b), relating to whistleblower protection, including the provisions for investigation and enforcement as provided in chapter 12 of title 5;

(B) sections 3308-3320, relating to veterans' preference;

(C) chapter 71, relating to labor-management relations;

(D) section 7204, relating to antidiscrimination;

(E) chapter 73, relating to suitability, security, and conduct;

(F) chapter 81, relating to compensation for work injury;

(G) chapters 83-85, 87, and 89, relating to retirement, unemployment compensation, and insurance coverage;

(H) sections 1204, 1211-1218, 1221, and 7701-7703, relating to the Merit Systems Protection Board[; and];

(I) subsections (b), (c), and (d) of section 4507 (relating to Meritorious Executive or Distinguished Executive rank awards) and subsections (b) and (c) of section 4507a (relating to Meritorious Senior Professional or Distinguished Senior Professional rank awards), except that—

(i) for purposes of applying such provisions to the personnel management system—

(I) the term “agency” means the Department of Transportation;

(II) the term “senior executive” means a Federal Aviation Administration executive;

(III) the term “career appointee” means a Federal Aviation Administration career executive; and

(IV) the term “senior career employee” means a Federal Aviation Administration career senior professional;

(ii) receipt by a career appointee or a senior career employee of the rank of Meritorious Executive or Meritorious Senior Professional entitles the individual to a lump-sum payment of an amount equal to 20 percent of annual basic pay, which shall be in addition to the basic pay paid under the Federal Aviation Administration Executive Compensation Plan; and

(iii) receipt by a career appointee or a senior career employee of the rank of Distinguished Executive or Distinguished Senior Professional entitles the individual to a lump-sum payment of an amount equal to 35 percent of annual basic pay, which shall be in addition to the basic pay paid under the Federal Aviation Administration Executive Compensation Plan[.]; and

(J) subject to paragraph (4), section 6329, relating to disabled veteran leave.

(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.

(4) CERTIFICATION OF DISABLED VETERAN LEAVE.—*In order to verify that leave credited to an employee pursuant to paragraph (2)(J) is used for treating a service-connected disability, that employee shall, notwithstanding section 6329(c) of title 5, submit to the Assistant Administrator for Human Resource Management of the Federal Aviation Administration certification, in such form and manner as the Administrator of the Federal Aviation Administration may prescribe, that the employee used that leave for purposes of being furnished treatment for that disability by a health care provider.*

**[(4)](5) EFFECTIVE DATE.**—This subsection shall take effect on April 1, 1996.<sup>2</sup>

\* \* \* \* \*

**§ 40125. Qualifications for public aircraft status**

(b) AIRCRAFT OWNED BY GOVERNMENTS.—An aircraft described in subparagraph (A), (B), (C), **[or (D)]** (D), or (F) of section 40102(a)(41) does not qualify as a public aircraft under such section when the aircraft is used for commercial purposes or to carry an individual other than a crewmember or a qualified non-crewmember.

\* \* \* \* \*

**§ 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) in accordance with this section;

(B) in accordance with conditions and limitations prescribed for that operator by the Administrator; and

(C) in accordance with any applicable air tour management plan or voluntary agreement under subsection (b)(7) for the park or tribal lands.

(2) APPLICATION FOR OPERATING AUTHORITY.—

(A) APPLICATION REQUIRED.—Before commencing commercial air tour operations over a national park or tribal lands, a commercial air tour operator shall apply to the Administrator for authority to conduct the operations over the park or tribal lands.

(B) COMPETITIVE BIDDING FOR LIMITED CAPACITY PARKS.—Whenever an air tour management plan limits the number of commercial air tour operations over a national park during a specified time frame, the Administrator, in cooperation with the Director, shall issue operation specifications to commercial air tour operators that conduct such operations. The operation specifications shall include such terms and conditions as the Administrator and the Director find necessary for management of commercial air tour operations over the park. The Administrator, in cooperation with the Director, shall develop an open competitive process for evaluating proposals from persons interested in providing commercial air tour operations over the park. In making a selection from among various proposals submitted, the Administrator, in cooperation with the Director, shall consider relevant factors, including—

(i) the safety record of the person submitting the proposal or pilots employed by the person;

(ii) any quiet aircraft technology proposed to be used by the person submitting the proposal;

<sup>2</sup> The amendments to section 40122(g) of title 49, United States Code, shall apply with respect to any employee of the Federal Aviation Administration hired on or after the date that is 1 year after the date of enactment of this Act.

(iii) the experience of the person submitting the proposal with commercial air tour operations over other national parks or scenic areas;

(iv) the financial capability of the person submitting the proposal;

(v) any training programs for pilots provided by the person submitting the proposal; and

(vi) responsiveness of the person submitting the proposal to any relevant criteria developed by the National Park Service for the affected park.

(C) NUMBER OF OPERATIONS AUTHORIZED.—In determining the number of authorizations to issue to provide commercial air tour operations over a national park, the Administrator, in cooperation with the Director, shall take into consideration the provisions of the air tour management plan, the number of existing commercial air tour operators and current level of service and equipment provided by any such operators, and the financial viability of each commercial air tour operation.

(D) COOPERATION WITH NPS.—Before granting an application under this paragraph, the Administrator, in cooperation with the Director, shall develop an air tour management plan in accordance with subsection (b) and implement such plan.

(E) TIME LIMIT ON RESPONSE TO ATMP APPLICATIONS.—The Administrator shall make every effort to act on any application under this paragraph and issue a decision on the application not later than 24 months after it is received or amended.

(F) PRIORITY.—In acting on applications under this paragraph to provide commercial air tour operations over a national park, the Administrator shall give priority to an application under this paragraph in any case in which a new entrant commercial air tour operator is seeking operating authority with respect to that national park.

(3) EXCEPTION.—Notwithstanding paragraph (1), commercial air tour operators may conduct commercial air tour operations over a national park under part 91 of [the] title 14, Code of Federal Regulations if—

(A) such activity is permitted under part 119 of such title;

(B) the operator secures a letter of agreement from the Administrator and the national park superintendent for that national park describing the conditions under which the operations will be conducted; and

(C) the total number of operations under this exception is limited to not more than five flights in any 30-day period over a particular park.

(4) SPECIAL RULE FOR SAFETY REQUIREMENTS.—Notwithstanding subsection (c), an existing commercial air tour operator shall apply, not later than 90 days after the date of the enactment of this section, for operating authority under part 119, 121, or 135 of title 14, Code of Federal Regulations. A new entrant commercial air tour operator shall apply for such authority before conducting commercial air tour operations over

a national park or tribal lands. The Administrator shall make every effort to act on any such application for a new entrant and issue a decision on the application not later than 24 months after it is received or amended.

(5) EXEMPTION FOR NATIONAL PARKS WITH 50 OR FEWER FLIGHTS EACH YEAR.—

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

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

(C) LIST OF PARKS.—

(i) IN GENERAL.—The Director and Administrator shall jointly publish a list each year of national parks that are covered by the exemption provided under this paragraph.

(ii) NOTIFICATION OF WITHDRAWAL OF EXEMPTION.—The Director shall inform the Administrator, in writing, of each determination to withdraw an exemption under subparagraph (B).

(D) ANNUAL REPORT.—A commercial air tour operator conducting commercial air tour operations over a national park that is exempt from the requirements of this section shall submit to the Administrator and the Director a report each year that includes the number of commercial air tour operations the operator conducted during the preceding 1-year period over such park.

\* \* \* \* \*

(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) TRANSPORTATION ROUTES.—

(1) IN GENERAL.—*This section shall not apply to any air tour operator while flying over or near any Federal land managed by the Director of the National Park Service, including Lake Mead National Recreation Area, solely as a transportation route, to conduct an air tour over the Grand Canyon National Park.*

(2) EN ROUTE.—*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.*

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## SUBPART II. ECONOMIC REGULATION

## CHAPTER 411. AIR CARRIER CERTIFICATES

**§ 41113. Plans to address needs of families of passengers involved in aircraft accidents**

(a) SUBMISSION OF PLANS.—Each air carrier holding a certificate of public convenience and necessity under section 41102 of this title shall submit to the Secretary and the Chairman of the National Transportation Safety Board a plan for addressing the needs of the families of passengers involved in any aircraft accident involving an aircraft of the air carrier and resulting in [a major] *any* loss of life.

(b) CONTENTS OF PLANS.—A plan to be submitted by an air carrier under subsection (a) shall include, at a minimum, the following:

(1) A plan for publicizing a reliable, toll-free telephone number, and for providing staff, to handle calls from the families of the passengers.

(2) A process for notifying the families of the passengers, before providing any public notice of the names of the passengers, either by utilizing the services of the organization designated for the accident under section 1136(a)(2) of this title or the services of other suitably trained individuals.

(3) An assurance that the notice described in paragraph (2) will be provided to the family of a passenger as soon as the air carrier has verified that the passenger was aboard the aircraft (whether or not the names of all of the passengers have been verified) and, to the extent practicable, in person.

(4) An assurance that the air carrier will provide to the director of family support services designated for the accident under section 1136(a)(1) of this title, and to the organization designated for the accident under section 1136(a)(2) of this title, immediately upon request, a list (which is based on the best available information at the time of the request) of the names of the passengers aboard the aircraft (whether or not such names have been verified), and will periodically update the list.

(5) An assurance that the family of each passenger will be consulted about the disposition of all remains and personal effects of the passenger within the control of the air carrier.

(6) An assurance that if requested by the family of a passenger, any possession of the passenger within the control of the air carrier (regardless of its condition) will be returned to the family unless the possession is needed for the accident investigation or any criminal investigation.

(7) An assurance that any unclaimed possession of a passenger within the control of the air carrier will be retained by the air carrier for at least 18 months.

(8) An assurance that the family of each passenger will be consulted about construction by the air carrier of any monument to the passengers, including any inscription on the monument.

(9) An assurance that the treatment of the families of non-revenue passengers [(and any other victim of the accident)]



*(and any other victim of the accident, including any victim on the ground)* will be the same as the treatment of the families of revenue passengers.

(10) An assurance that the air carrier will work with any organization designated under section 1136(a)(2) of this title on an ongoing basis to ensure that families of passengers receive an appropriate level of services and assistance following each accident.

(11) An assurance that the air carrier will provide reasonable compensation to any organization designated under section 1136(a)(2) of this title for services provided by the organization.

(12) An assurance that the air carrier will assist the family of a passenger in traveling to the location of the accident and provide for the physical care of the family while the family is staying at such location.

(13) An assurance that the air carrier will commit sufficient resources to carry out the plan.

(14) An assurance that, upon request of the family of a passenger, the air carrier will inform the family of whether the passenger's name appeared on a preliminary passenger manifest for the flight involved in the accident.

(15) An assurance that the air carrier will provide adequate training to the employees and agents of the carrier to meet the needs of survivors and family members following an accident.

(16) An assurance that the air carrier, in the event that the air carrier volunteers assistance to United States citizens within the United States with respect to an aircraft accident outside the United States involving **[major]** *any* loss of life, will consult with the Board and the Department of State on the provision of the assistance.

(17)(A) An assurance that, in the case of an accident that results in **[significant]** *any* damage to a manmade structure or other property on the ground that is not government-owned, the air carrier will promptly provide notice, in writing, to the extent practicable, directly to the owner of the structure or other property about liability for any property damage and means for obtaining compensation.

(B) At a minimum, the written notice shall advise an owner (i) to contact the insurer of the property as the authoritative source for information about coverage and compensation; (ii) to not rely on unofficial information offered by air carrier representatives about compensation by the air carrier for accident-site property damage; and (iii) to obtain photographic or other detailed evidence of property damage as soon as possible after the accident, consistent with restrictions on access to the accident site.

(18) An assurance that, in the case of an accident in which the National Transportation Safety Board conducts a public hearing or comparable proceeding at a location greater than 80 miles from the accident site, the air carrier will ensure that the proceeding is made available simultaneously by electronic means at a location open to the public at both the origin city and destination city of the air carrier's flight if that city is located in the United States.

(c) **CERTIFICATE REQUIREMENT.**—The Secretary may not approve an application for a certificate of public convenience and necessity under section 41102 of this title unless the applicant has included as part of such application a plan that meets the requirements of subsection (b).

(d) **LIMITATION ON LIABILITY.**—An air carrier shall not be liable for damages in any action brought in a Federal or State court arising out of the performance of the air carrier in preparing or providing a passenger list, or in providing information concerning a preliminary passenger manifest, pursuant to a plan submitted by the air carrier under subsection (b), unless such liability was caused by conduct of the air carrier which was grossly negligent or which constituted intentional misconduct.

[(e) **AIRCRAFT ACCIDENT AND PASSENGER DEFINED.**—In this section, the terms “aircraft accident” and “passenger” have the meanings such terms have in section 1136 of this title.]

(e) **DEFINITIONS.**—*In this section:*

(1) “Aircraft accident” means any aviation disaster, regardless of its cause or suspected cause, for which the National Transportation Safety Board is the lead investigative agency.

(2) “Passenger” has the meaning given the term in section 1136.

(f) **STATUTORY CONSTRUCTION.**—Nothing in this section may be construed as limiting the actions that an air carrier may take, or the obligations that an air carrier may have, in providing assistance to the families of passengers involved in an aircraft accident.

**§ 41114. Plans to address needs of families of passengers involved in foreign air carrier accidents**

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

(1) **AIRCRAFT ACCIDENT.**—The term “aircraft accident” means any aviation disaster, regardless of its cause or suspected cause, that occurs within the United States; and

(2) **PASSENGER.**—The term “passenger” has the meaning given such term by section 1136.

(b) **SUBMISSION OF PLANS.**—A foreign air carrier providing foreign air transportation under this chapter shall transmit to the Secretary of Transportation and the Chairman of the National Transportation Safety Board a plan for addressing the needs of the families of passengers involved in an aircraft accident that involves an aircraft under the control of the foreign air carrier and results in [a major] any loss of life.

(c) **CONTENTS OF PLANS.**—To the extent permitted by foreign law which was in effect on the date of the enactment of this section, a plan submitted by a foreign air carrier under subsection (b) shall include the following:

(1) **TELEPHONE NUMBER.**—A plan for publicizing a reliable, toll-free telephone number and staff to take calls to such number from families of passengers involved in an aircraft accident that involves an aircraft under the control of the foreign air carrier and results in [a significant] any loss of life.

(2) **NOTIFICATION OF FAMILIES.**—A process for notifying, in person to the extent practicable, the families of passengers involved in an aircraft accident that involves an aircraft under the control of the foreign air carrier and results in [a signifi-

cant] *any* loss of life before providing any public notice of the names of such passengers. Such notice shall be provided by using the services of—

(A) the organization designated for the accident under section 1136(a)(2); or

(B) other suitably trained individuals.

(3) NOTICE PROVIDED AS SOON AS POSSIBLE.—An assurance that the notice required by paragraph (2) shall be provided as soon as practicable after the foreign air carrier has verified the identity of a passenger on the foreign aircraft, whether or not the names of all of the passengers have been verified.

(4) LIST OF PASSENGERS.—An assurance that the foreign air carrier shall provide, immediately upon request, and update a list (based on the best available information at the time of the request) of the names of the passengers aboard the aircraft (whether or not such names have been verified), to—

(A) the director of family support services designated for the accident under section 1136(a)(1); and

(B) the organization designated for the accident under section 1136(a)(2).

(5) CONSULTATION REGARDING DISPOSITION OF REMAINS AND EFFECTS.—An assurance that the family of each passenger will be consulted about the disposition of any remains and personal effects of the passenger that are within the control of the foreign air carrier.

(6) RETURN OF POSSESSIONS.—An assurance that, if requested by the family of a passenger, any possession (regardless of its condition) of that passenger that is within the control of the foreign air carrier will be returned to the family unless the possession is needed for the accident investigation or a criminal investigation.

(7) UNCLAIMED POSSESSIONS RETAINED.—An assurance that any unclaimed possession of a passenger within the control of the foreign air carrier will be retained by the foreign air carrier for not less than 18 months after the date of the accident.

(8) MONUMENTS.—An assurance that the family of each passenger will be consulted about construction by the foreign air carrier of any monument to the passengers built in the United States, including any inscription on the monument.

(9) EQUAL TREATMENT OF PASSENGERS.—An assurance that the treatment of the families of nonrevenue passengers will be the same as the treatment of the families of revenue passengers.

(10) SERVICE AND ASSISTANCE TO FAMILIES OF PASSENGERS.—An assurance that the foreign air carrier will work with any organization designated under section 1136(a)(2) on an ongoing basis to ensure that families of passengers receive an appropriate level of services and assistance following an accident.

(11) COMPENSATION TO SERVICE ORGANIZATIONS.—An assurance that the foreign air carrier will provide reasonable compensation to any organization designated under section 1136(a)(2) for services and assistance provided by the organization.

(12) TRAVEL AND CARE EXPENSES.—An assurance that the foreign air carrier will assist the family of any passenger in

traveling to the location of the accident and provide for the physical care of the family while the family is staying at such location.

(13) RESOURCES FOR PLAN.—An assurance that the foreign air carrier will commit sufficient resources to carry out the plan.

(14) SUBSTITUTE MEASURES.—If a foreign air carrier does not wish to comply with paragraph (10), (11), or (12), a description of proposed adequate substitute measures for the requirements of each paragraph with which the foreign air carrier does not wish to comply.

(15) TRAINING OF EMPLOYEES AND AGENTS.—An assurance that the foreign air carrier will provide adequate training to the employees and agents of the carrier to meet the needs of survivors and family members following an accident.

(16) CONSULTATION ON CARRIER RESPONSE NOT COVERED BY PLAN.—An assurance that the foreign air carrier, in the event that the foreign air carrier volunteers assistance to United States citizens within the United States with respect to an aircraft accident outside the United States involving **[major]** *any* loss of life, the foreign air carrier will consult with the Board and the Department of State on the provision of the assistance.

(17) NOTICE CONCERNING LIABILITY FOR MANMADE STRUCTURES.—

(A) IN GENERAL.—An assurance that, in the case of an accident that results in **[significant]** *any* damage to a manmade structure or other property on the ground that is not government-owned, the foreign air carrier will promptly provide notice, in writing, to the extent practicable, directly to the owner of the structure or other property about liability for any property damage and means for obtaining compensation.

(B) MINIMUM CONTENTS.—At a minimum, the written notice shall advise an owner (i) to contact the insurer of the property as the authoritative source for information about coverage and compensation; (ii) to not rely on unofficial information offered by foreign air carrier representatives about compensation by the foreign air carrier for accident-site property damage; and (iii) to obtain photographic or other detailed evidence of property damage as soon as possible after the accident, consistent with restrictions on access to the accident site.

(18) SIMULTANEOUS ELECTRONIC TRANSMISSION OF NTSB HEARING.—An assurance that, in the case of an accident in which the National Transportation Safety Board conducts a public hearing or comparable proceeding at a location greater than 80 miles from the accident site, the foreign air carrier will ensure that the proceeding is made available simultaneously by electronic means at a location open to the public at both the origin city and destination city of the foreign air carrier's flight if that city is located in the United States.

(d) PERMIT AND EXEMPTION REQUIREMENT.—The Secretary shall not approve an application for a permit under section 41302 unless the applicant has included as part of the application or request for exemption a plan that meets the requirements of subsection (c).

(e) **LIMITATION ON LIABILITY.**—A foreign air carrier shall not be liable for damages in any action brought in a Federal or State court arising out of the performance of the foreign air carrier in preparing or providing a passenger list pursuant to a plan submitted by the foreign air carrier under subsection (c), unless the liability was caused by conduct of the foreign air carrier which was grossly negligent or which constituted intentional misconduct.

CHAPTER 413. FOREIGN AIR TRANSPORTATION

**§ 41313. Plans to address needs of families of passengers involved in foreign air carrier accidents**

(c)(16) **CONSULTATION ON CARRIER RESPONSE NOT COVERED BY PLAN.**—An assurance that the foreign air carrier, in the event that the foreign air carrier volunteers assistance to United States citizens within the United States with respect to an aircraft accident outside the United States involving major loss of life, [the foreign air carrier will consult] *will consult* with the Board and the Department of State on the provision of the assistance.

CHAPTER 417. OPERATIONS OF CARRIERS

SUBCHAPTER I. REQUIREMENTS

**§ 41725. Training to combat human trafficking**

(a) *IN GENERAL.*—*Each air carrier providing passenger air transportation shall provide flight attendants who are employees or contractors of the air carrier with training to combat human trafficking in the course of carrying out their duties as employees or contractors of the air carrier.*

(b) *ELEMENTS OF TRAINING.*—*The training an air carrier is required to provide under subsection (a) to flight attendants shall include training with respect to—*

(1) *common indicators of human trafficking; and*

(2) *best practices for reporting suspected human trafficking to law enforcement officers.*

(c) *MATERIALS.*—*An air carrier may provide the training required by subsection (a) using modules and materials developed by the Department of Transportation and the Department of Homeland Security, including the training module and associated materials of the Blue Lightning Initiative and modules and materials subsequently developed and recommended by such Departments with respect to combating human trafficking.*

(d) *INTERAGENCY COORDINATION.*—*The Administrator of the Federal Aviation Administration shall coordinate with the Secretary of Homeland Security to ensure that appropriate training modules and materials are available for air carriers to conduct the training required by subsection (a).*

(e) *HUMAN TRAFFICKING DEFINED.*—*In this section, the term “human trafficking” means 1 or more severe forms of trafficking in persons (as defined in section 103 of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7102)).*

**§41726. Prohibition on certain cell phone voice communications**

(a) *PROHIBITION.*—*The Secretary of Transportation may issue regulations—*

(1) *to prohibit an individual on an aircraft from engaging in voice communications using a mobile communications device during a flight of that aircraft in scheduled passenger interstate or intrastate air transportation; and*

(2) *that exempt from the prohibition described in paragraph (1)—*

(A) *any member of the flight crew on duty on an aircraft;*

(B) *any flight attendant on duty on an aircraft; and*

(C) *any Federal law enforcement officer acting in an official capacity.*

(b) *DEFINITIONS.*—*In this section:*

(1) *FLIGHT.*—*The term “flight” means, with respect to an aircraft, the period beginning when the aircraft takes off and ending when the aircraft lands.*

(2) *MOBILE COMMUNICATIONS DEVICE.*—

(A) *IN GENERAL.*—*The term “mobile communications device” means any portable wireless telecommunications equipment utilized for the transmission or reception of voice data.*

(B) *LIMITATION.*—*The term “mobile communications device” does not include a phone installed on an aircraft.*

SUBCHAPTER II. SMALL COMMUNITY AIR SERVICE

**§ 41731. Definitions**

(a) *GENERAL.*—*In this subchapter—*

(1) *“eligible place” means a place in the United States that—*

(A)(i)(I) *was an eligible point under section 419 of the Federal Aviation Act of 1958 before October 1, 1988;*

(II) *received scheduled air transportation at any time after January 1, 1990; and*

(III) *is not listed in Department of Transportation Orders 89-9-37 and 89-12-52 as a place ineligible for compensation under this subchapter;*  
or

[(ii) *was determined, on or after October 1, 1988, and before the date of the enactment of the Wendell H. Ford Aviation Investment and Reform Act for the 21st Century, under this subchapter by the Secretary of Transportation to be eligible to receive subsidized small community air service under section 41736(a);*]

*(ii) was determined, on or after October 1, 1988, and before December 1, 2012, under this subchapter by the Secretary of Transportation to be eligible to receive subsidized small community air service under section 41736 (a);*

(B) *had an average of 10 enplanements per service day or more, as determined by the Secretary, during the most recent fiscal year beginning after September 30, 2012;*

(C) had an average subsidy per passenger of less than \$1,000 during the most recent fiscal year, as determined by the Secretary; and

(D) is a community that, at any time during the period between September 30, 2010, and September 30, 2011, inclusive—

(i) received essential air service for which compensation was provided to an air carrier under this subchapter; or

(ii) received a 90-day notice of intent to terminate essential air service and the Secretary required the air carrier to continue to provide such service to the community.

(2) “enhanced essential air service” means scheduled air transportation to an eligible place of a higher level or quality than basic essential air service described in section 41732 of this title.

(b) **LIMITATION ON AUTHORITY TO DECIDE A PLACE NOT AN ELIGIBLE PLACE.**—The Secretary may not decide that a place described in subsection (a)(1) of this section is not an eligible place on any basis that is not specifically stated in this subchapter.

(c) **EXCEPTION FOR LOCATIONS IN ALASKA AND HAWAII.**—Subparagraphs (B), (C), and (D) of subsection (a)(1) shall not apply with respect to locations in the State of Alaska or the State of Hawaii.

(d) **EXCEPTIONS FOR LOCATIONS MORE THAN 175 DRIVING MILES FROM THE NEAREST LARGE OR MEDIUM HUB AIRPORT.**—Subsection (a)(1)(B) shall not apply with respect to locations that are more than 175 driving miles from the nearest large or medium hub airport.

(e) **WAIVERS.**—For fiscal year 2013 and each fiscal year thereafter, the Secretary may waive, on an annual basis, subsection (a)(1)(B) with respect to a location if the location demonstrates to the Secretary’s satisfaction that the reason the location averages fewer than 10 enplanements per day is due to a temporary decline in enplanements.

(f) **DEFINITION.**—For purposes of subsection (a)(1)(B), the term “enplanements” means the number of passengers enplaning, at an eligible place, on flights operated by the subsidized essential air service carrier.

#### **§ 41732. Basic essential air service**

(a) **GENERAL.**—Basic essential air service provided under section 41733 of this title is scheduled air transportation of passengers and cargo—

(1) to a hub airport that has convenient connecting or single-plane air service to a substantial number of destinations beyond that airport; or

(2) to a small hub or nonhub airport, when in Alaska or when the nearest hub airport is more than 400 miles from an eligible place.

(b) **MINIMUM REQUIREMENTS.**—Basic essential air service shall include at least the following:

(1)(A) for a place not in Alaska, 2 daily round trips 6 days a week, with not more than one intermediate stop on each flight; or

(B) for a place in Alaska, a level of service at least equal to that provided in 1976 or 2 round trips a week, whichever is greater, except that the Secretary of Transportation and the appropriate State authority of Alaska may agree to a different level of service after consulting with the affected community.

(2) flights at reasonable times considering the needs of passengers with connecting flights at the airport and at prices that are not excessive compared to the generally prevailing prices of other air carriers for like service between similar places.

(3) for a place not in Alaska, service provided in an aircraft with an effective capacity of at least 15 passengers if the average daily boardings at the place in any calendar year from 1976-1986 were more than 11 passengers unless—

(A) that level-of-service requirement would require paying compensation in a fiscal year under section 41733(d) or 41734(d) or (e) of this title for the place when compensation otherwise would not have been paid for that place in that year; or

(B) the affected community agrees with the Secretary in writing to the use of smaller aircraft to provide service to the place.

(4) service accommodating the estimated passenger and property traffic at an average load factor, for each class of traffic considering seasonal demands for the service, of not more than—

(A) 50 percent; or

(B) 60 percent when service is provided by aircraft with more than 14 passenger seats.

(5) service provided in aircraft with at least 2 engines and using 2 pilots, unless scheduled air transportation has not been provided to the place in aircraft with at least 2 engines and using 2 pilots for at least 60 consecutive operating days at any time since October 31, 1978.

(6) service provided by pressurized aircraft when the service is provided by aircraft that regularly fly above 8,000 feet in altitude.

(c) WAIVERS.—Notwithstanding section 41733(e), upon request by an eligible place, the Secretary may waive, in whole or in part, subsections (a) and (b) of this section or subsections (a) through (c) of section 41734. A waiver issued under this subsection shall remain in effect for a limited period of time, as determined by the Secretary.

#### **§ 41742. Essential air service authorization**

(a) IN GENERAL.—

(1) AUTHORIZATION.—Out of the amounts received by the Federal Aviation Administration credited to the account established under section 45303 of this title or otherwise provided to the Administration, the sum of \$50,000,000 for each fiscal year is authorized and shall be made available immediately for obligation and expenditure to carry out the essential air service program under this subchapter.



(2) **ADDITIONAL FUNDS.**—In addition to amounts authorized under paragraph (1), there is authorized to be appropriated out of the Airport and Airway Trust Fund (established under section 9502 of the Internal Revenue Code of 1986) **【\$150,000,000 for fiscal year 2011, \$143,000,000 for fiscal year 2012, \$118,000,000 for fiscal year 2013, \$107,000,000 for fiscal year 2014, \$93,000,000 for fiscal year 2015, and \$77,500,000 for the period beginning on October 1, 2015, and ending on July 15, 2016】** *\$155,000,000 for each of fiscal years 2016 through 2017*, 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.

**【(3) AUTHORIZATION FOR ADDITIONAL EMPLOYEES.**—In addition to amounts authorized under paragraphs (1) and (2), there are authorized to be appropriated such sums as may be necessary for the Secretary of Transportation to hire and employ 4 additional employees for the office responsible for carrying out the essential air service program.**】**

(b) **DISTRIBUTION OF ADDITIONAL FUNDS.**—Notwithstanding any other provision of law, in any fiscal year in which funds credited to the account established under section 45303, including the funds derived from fees imposed under the authority contained in section 45301(a), exceed the \$50,000,000 made available under subsection (a)(1), such funds shall be made available immediately for obligation and expenditure to carry out the essential air service program under this subchapter.

(c) **AVAILABILITY OF FUNDS.**—The funds made available under this section shall remain available until expended.

**§ 41743. Airports not receiving sufficient service**

(a) **SMALL COMMUNITY AIR SERVICE DEVELOPMENT PROGRAM.**—The Secretary of Transportation shall establish a program that meets the requirements of this section for improving air carrier service to airports not receiving sufficient air carrier service.

(b) **APPLICATION REQUIRED.**—In order to participate in the program established under subsection (a), a community or consortium of communities shall submit an application to the Secretary in such form, at such time, and containing such information as the Secretary may require, including—

(1) an assessment of the need of the community or consortium for access, or improved access, to the national air transportation system; and

(2) an analysis of the application of the criteria in subsection (c) to that community or consortium.

(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) SIZE.**—For calendar year 1997, the airport serving the community or consortium was not larger than a small hub airport, and—

**【(A) had insufficient air carrier service; or**

**【(B) had unreasonably high air fares.**】****

(1) *SIZE.*—On the date of the most recent notice of order soliciting community proposals issued by the Secretary under this section, the airport serving the community or consortium—

(A) was not larger than a small hub airport, as determined using the Department of Transportation's most recent published classification; and

(B)(i) had insufficient air carrier service; or

(ii) had unreasonably high air fares.

(2) *CHARACTERISTICS.*—The airport presents characteristics, such as geographic diversity or unique circumstances, that will demonstrate the need for, and feasibility of, the program established under subsection (a).

(3) *STATE LIMIT.*—Not more than 4 communities or consortia of communities, or a combination thereof, from the same State may be selected to participate in the program in any fiscal year.

(4) *OVERALL LIMIT.*—

(A) *IN GENERAL.*—No more than 40 communities or consortia of communities, or a combination thereof, may be selected to participate in the program in each year for which funds are appropriated for the program.

(B) *SAME PROJECTS.*—[No community] Except as provided in subparagraph (C), consortia of communities, nor combination thereof may participate in the program in support of the same project more than once, but any community, consortia of communities, or combination thereof may apply, subsequent to such participation, to participate in the program in support of a different project.

(C) *EXCEPTION.*—The Secretary may waive the limitation under subparagraph (B) related to projects that are the same if the Secretary determines that the community or consortium spent little or no money on its previous project or encountered industry or environmental challenges, due to circumstances that were reasonably beyond the control of the community or consortium.

(5) *PRIORITIES.*—The Secretary shall give priority to communities or consortia of communities where—

(A) air fares are higher than the average air fares for all communities;

(B) the community or consortium will provide a portion of the cost of the activity to be assisted under the program from local sources other than airport revenues;

(C) the community or consortium has established, or will establish, a public-private partnership to facilitate air carrier service to the public;

(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;

(E) the assistance will be used in a timely fashion; and

(F) multiple communities cooperate to submit a regional or multistate application to consolidate air service into one regional airport.

(d) *TYPES OF ASSISTANCE.*—The Secretary may use amounts made available under this section—

(1) to provide assistance to an air carrier to subsidize service to and from an underserved airport for a period not to exceed 3 years;

(2) to provide assistance to an underserved airport to obtain service to and from the underserved airport; and

(3) to provide assistance to an underserved airport to implement such other measures as the Secretary, in consultation with such airport, considers appropriate to improve air service both in terms of the cost of such service to consumers and the availability of such service, including improving air service through marketing and promotion of air service and enhanced utilization of airport facilities.

(e) **AUTHORITY TO MAKE AGREEMENTS.—**

(1) **IN GENERAL.—**The Secretary may make agreements to provide assistance under this section. *The Secretary may amend the scope of a grant agreement at the request of the community or consortium and any participating air carrier, and may limit the scope of a grant agreement to only the elements using grant assistance or to only the elements achieved, if the Secretary determines that the amendment is reasonably consistent with the original purpose of the project.*

【(2) **AUTHORIZATION OF APPROPRIATIONS.—**There is authorized to be appropriated to the Secretary \$6,000,000 for each of fiscal years 2012 through 2015 to carry out this section. Such sums shall remain available until expended.】

(3) **AUTHORIZATION OF APPROPRIATIONS.—***There is authorized to be appropriated to the Secretary \$10,000,000 for each of fiscal years 2016 through 2017 to carry out this section. Such sums shall remain available until expended.*

(f) **ADDITIONAL ACTION.—**Under the program established under subsection (a), the Secretary shall work with air carriers providing service to participating communities and major air carriers (as defined in section 41716(a)(2)) serving large hub airports to facilitate joint-fare arrangements consistent with normal industry practice.

(g) **DESIGNATION OF RESPONSIBLE OFFICIAL.—**The Secretary shall designate an employee of the Department of Transportation—

(1) to function as a facilitator between small communities and air carriers;

(2) to carry out this section;

(3) to ensure that the Bureau of Transportation Statistics collects data on passenger information to assess the service needs of small communities;

(4) to work with and coordinate efforts with other Federal, State, and local agencies to increase the viability of service to small communities and the creation of aviation development zones; and

(5) to provide policy recommendations to the Secretary and Congress that will ensure that small communities have access to quality, affordable air transportation services.

(h) **AIR SERVICE DEVELOPMENT ZONE.—**The Secretary shall designate an airport in the program as an Air Service Development Zone and work with the community or consortium on means to attract business to the area surrounding the airport, to develop land use options for the area, and provide data, working with the Department of Commerce and other agencies.

## CHAPTER 419. TRANSPORTATION OF MAIL

**§ 41907. Weighing mail**

The United States Postal Service may weigh mail transported by aircraft between places in Alaska and make statistical ~~and administrative~~ *and administrative* computations necessary in the interest of mail service. When the Secretary of Transportation decides that additional or more frequent weighings of mail are advisable or necessary to carry out this part, the Postal Service shall provide the weighings, but it is not required to provide them for continuous periods of more than 30 days.

## CHAPTER 423. PASSENGER AIR SERVICE IMPROVEMENTS

**§ 42302. Consumer complaints**

(a) **IN GENERAL.**—The Secretary of Transportation shall establish a consumer complaints toll-free hotline telephone number for the use of passengers in air transportation and shall take actions to notify the public of—

- (1) that telephone number; and
- (2) the Internet Web site of the Aviation Consumer Protection Division of the Department of Transportation.

(b) **POINT OF SALE.**—*Each air carrier, foreign air carrier, and ticket agent shall inform each consumer of a carrier service, at the point of sale, that the consumer can file a complaint about that service with the carrier and with the Aviation Consumer Protection Division of the Department of Transportation.*

~~[(b)]~~ **(c) NOTICE TO PASSENGERS ON THE INTERNET.**—An air carrier or foreign air carrier providing scheduled air transportation using any aircraft that as originally designed has a passenger capacity of 30 or more passenger seats shall include on the Internet Web site of the carrier—

~~[(1)]~~ (1) the hotline telephone number established under subsection (a);

~~[(2)]~~ (2) the e-mail address, telephone number, and mailing address of the air carrier for the submission of complaints by passengers about air travel service problems; and

~~[(3)]~~ (3) the Internet Web site and mailing address of the Aviation Consumer Protection Division of the Department of Transportation for the submission of complaints by passengers about air travel service problems.]

(c) **INTERNET WEB SITE OR OTHER ONLINE SERVICE NOTICE.**—*Each air carrier and foreign air carrier shall include on its Internet Web site, any related mobile device application, and online service—*

*(1) the hotline telephone number established under subsection (a) or for the Aviation Consumer Protection Division of the Department of Transportation;*

*(2) an active link and the email address, telephone number, and mailing address of the air carrier or foreign air carrier, as applicable, for a consumer to submit a complaint to the carrier about the quality of service;*

*(3) notice that the consumer can file a complaint with the Aviation Consumer Protection Division of the Department of Transportation;*

(4) *an active link to the Internet Web site of the Aviation Consumer Protection Division of the Department of Transportation for a consumer to file a complaint; and*

(5) *the active link described in paragraph (2) on the same Internet Web site page as the active link described in paragraph (4).*

**[(c)](d) NOTICE TO PASSENGERS ON BOARDING DOCUMENTATION.**—**[An air carrier or foreign air carrier providing scheduled air transportation using any aircraft that as originally designed has a passenger capacity of 30 or more passenger seats]** *Each air carrier and foreign air carrier shall include the hotline telephone number established under subsection (a) on—*

(1) *prominently displayed signs of the carrier at the airport ticket counters in the United States where the [air carrier] carrier operates; and*

(2) *any electronic confirmation of the purchase of a passenger ticket for air transportation issued by the [air carrier] carrier.*

SUBPART III. SAFETY

CHAPTER 441. REGISTRATION AND RECORDATION OF AIRCRAFT

**§ 44112. Limitation of liability**

(a) **DEFINITIONS.**—In this section—

(1) “lessor” means a person leasing for at least 30 days a civil aircraft, aircraft engine, or propeller.

(2) “owner” means a person that owns a civil aircraft, aircraft engine, or propeller.

(3) “secured party” means a person having a security interest in, or security title to, a civil aircraft, aircraft engine, or propeller under a conditional sales contract, equipment trust contract, chattel or corporate mortgage, or similar instrument.

(b) **LIABILITY.**—A lessor, owner, or secured party is liable for personal injury, death, or property loss or damage **[on land or water]** only when a civil aircraft, aircraft engine, or propeller is in the actual possession or *operational* control of the lessor, owner, or secured party, and the personal injury, death, or property loss or damage occurs because of—

(1) the aircraft, engine, or propeller; or

(2) the flight of, or an object falling from, the aircraft, engine, or propeller.

CHAPTER 445. FACILITIES, PERSONNEL, AND RESEARCH

**§ 44502. General facilities and personnel authority**

\* \* \* \* \*

(e) **TRANSFERS OF INSTRUMENT LANDING SYSTEMS.**—**[An airport may transfer, without consideration, to the Administrator of the Federal Aviation Administration an instrument landing system (and associated approach lighting equipment and runway visual range equipment) that conforms to performance specifications of the Administrator if a Government airport aid program, airport development aid program, or airport improvement project grant was used to assist in purchasing the system.]** *An airport may transfer, without consideration, to the Administrator of the Federal Aviation*

*Administration an instrument landing system consisting of a glide slope and localizer that conforms to performance specifications of the Administrator if an airport improvement project grant was used to assist in purchasing the system, and if the Federal Aviation Administration has determined that a satellite navigation system cannot provide a suitable approach. The Administrator shall accept the system and operate and maintain it under criteria of the Administrator.*

*(f) AIRPORT SPACE.—*

*(1) RESTRICTION.—The Administrator may not require an airport owner or sponsor (as defined in section 47102) to provide to the Federal Aviation Administration without cost any of the following:*

*(A) Building construction, maintenance, utilities, or expenses for services relating to air traffic control, air navigation, or weather reporting.*

*(B) Space in a facility owned by the airport owner or sponsor for services relating to air traffic control, air navigation, or weather reporting.*

*(2) RULE OF CONSTRUCTION.—Nothing in this subsection may be construed to affect—*

*(A) any agreement the Secretary may have or make with an airport owner or sponsor for the airport owner or sponsor to provide any of the items described in subparagraph (A) or subparagraph (B) of paragraph (1) at below-market rates; or*

*(B) any grant assurance that requires an airport owner or sponsor to provide land to the Administration without cost for an air traffic control facility.*

**§ 44506. Air traffic controllers**

\* \* \* \* \*

*(e) STAFFING REPORT.—The Administrator of the Federal Aviation Administration shall submit annually to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report containing—*

*(1) the staffing standards used to determine the number of air traffic controllers needed to operate the air traffic control system of the United States;*

*(2) a 3-year projection of the number of controllers needed to be employed to operate the system to meet the standards; and*

*(3) a detailed plan for employing the controllers, including projected budget requests.*

*(f) HIRING OF CERTAIN AIR TRAFFIC CONTROL SPECIALISTS.—*

*(1) CONSIDERATION OF APPLICANTS.—*

*(A) ENSURING SELECTION OF MOST QUALIFIED APPLICANTS.—In appointing individuals to the position of air traffic controllers, the Administrator shall give preferential consideration to qualified individuals maintaining 52 consecutive weeks of air traffic control experience involving the full-time active separation of air traffic after receipt of an air traffic certification or air traffic control facility rating within 5 years of application while serving at—*

(i) a Federal Aviation Administration air traffic control facility;

(ii) a civilian or military air traffic control facility of the Department of Defense; or

(iii) a tower operating under contract with the Federal Aviation Administration under section 47124 of this title.

(B) *CONSIDERATION OF ADDITIONAL APPLICANTS.*—The Administrator shall consider additional applicants for the position of air traffic controller by referring an approximately equal number of employees for appointment among the 2 applicant pools. The number of employees referred for consideration from each group shall not differ by more than 10 percent.

(i) *POOL ONE.*—Applicants who:

(I) have successfully completed air traffic controller training and graduated from an institution participating in the Collegiate Training Initiative program maintained under subsection (c)(1) who have received from the institution—

(aa) an appropriate recommendation; or

(bb) an endorsement certifying that the individual would have met the requirements in effect as of December 31, 2013, for an appropriate recommendation;

(II) are eligible for a veterans recruitment appointment pursuant to section 4214 of title 38, United States Code, and provide a Certificate of Release or Discharge from Active Duty within 120 days of the announcement closing;

(III) are eligible veterans (as defined in section 4211 of title 38, United States Code) maintaining aviation experience obtained in the course of the individual's military experience; or

(IV) are preference eligible veterans (as defined in section 2108 of title 5, United States Code).

(ii) *POOL TWO.*—Applicants who apply under a vacancy announcement recruiting from all United States citizens.

(2) *USE OF BIOGRAPHICAL ASSESSMENTS.*—

(A) *BIOGRAPHICAL ASSESSMENTS.*—The Administration shall not use any biographical assessment when hiring under subparagraph (A) or subparagraph (B)(i) of paragraph (1).

(B) *RECONSIDERATION OF APPLICANTS DISQUALIFIED ON THE BASIS OF BIOGRAPHICAL ASSESSMENTS.*—

(i) *IN GENERAL.*—If an individual described in subparagraph (A) or subparagraph (B)(i) of paragraph (1) who applied for the position of air traffic controller with the Administration in response to Vacancy Announcement FAA-AMC-14-ALLSRCE-33537 (issued on February 10, 2014) and was disqualified from the position as the result of a biographical assessment, the Administrator shall provide the applicant an opportunity

to reapply as soon as practicable for the position under the revised hiring practices.

(ii) **WAIVER OF AGE RESTRICTION.**—The Administrator shall waive any maximum age restriction for the position of air traffic controller with the Administration that would otherwise disqualify an individual from the position if the individual—

(I) is reapplying for the position pursuant to clause (i) on or before December 31, 2017; and

(II) met the maximum age requirement on the date of the individual’s previous application for the position during the interim hiring process.

(3) **MAXIMUM ENTRY AGE FOR EXPERIENCED CONTROLLERS.**—Notwithstanding section 3307 of title 5, United States Code, the maximum limit of age for an original appointment to a position as an air traffic controller shall be 35 years of age for those maintaining 52 weeks of air traffic control experience involving the full-time active separation of air traffic after receipt of an air traffic certification or air traffic control facility rating in a civilian or military air traffic control facility.

**§ 44518. Advanced Materials Center of Excellence**

(a) **IN GENERAL.**—The Administrator of the Federal Aviation Administration shall continue operation of the Advanced Materials Center of Excellence (referred to in this section as the “Center”) under its structure as in effect on March 1, 2016, which shall focus on applied research and training on the durability and maintainability of advanced materials in transport airframe structures.

(b) **RESPONSIBILITIES.**—The Center shall—

(1) promote and facilitate collaboration among academia, the Transportation Division of the Federal Aviation Administration, and the commercial aircraft industry, including manufacturers, commercial air carriers, and suppliers; and

(2) establish goals set to advance technology, improve engineering practices, and facilitate continuing education in relevant areas of study.

(c) **AUTHORIZATION OF APPROPRIATIONS.**—There is authorized to be appropriated to the Administrator \$500,000 for each of the fiscal years 2016 and 2017 to carry out this section.

CHAPTER 447. SAFETY REGULATION

**§ 44701. General requirements**

\* \* \* \* \*

(e) **BILATERAL EXCHANGES OF SAFETY OVERSIGHT RESPONSIBILITIES.**—

(1) **IN GENERAL.**—Notwithstanding the provisions of this chapter, the Administrator, pursuant to Article 83 bis of the Convention on International Civil Aviation and by a bilateral agreement with the aeronautical authorities of another country, may exchange with that country all or part of their respective functions and duties with respect to registered aircraft under the following articles of the Convention: Article 12 (Rules of the Air); Article 31 (Certificates of Airworthiness); or Article 32a (Licenses of Personnel).



(2) RELINQUISHMENT AND ACCEPTANCE OF RESPONSIBILITY.—The Administrator relinquishes responsibility with respect to the functions and duties transferred by the Administrator as specified in the bilateral agreement, under the Articles listed in paragraph (1) for United States-registered aircraft described in paragraph (4)(A) transferred abroad and accepts responsibility with respect to the functions and duties under those Articles for aircraft registered abroad and described in paragraph (4)(B) that are transferred to the United States.

(3) CONDITIONS.—The Administrator may predicate, in the agreement, the transfer of functions and duties under this subsection on any conditions the Administrator deems necessary and prudent, except that the Administrator may not transfer responsibilities for United States registered aircraft described in paragraph (4)(A) to a country that the Administrator determines is not in compliance with its obligations under international law for the safety oversight of civil aviation.

(4) REGISTERED AIRCRAFT DEFINED.—In this subsection, the term “registered aircraft” means—

(A) aircraft registered in the United States and operated pursuant to an agreement for the lease, charter, or interchange of the aircraft or any similar arrangement by an operator that has its principal place of business or, if it has no such place of business, its permanent residence in another country; and

(B) aircraft registered in a foreign country and operated under an agreement for the lease, charter, or interchange of the aircraft or any similar arrangement by an operator that has its principal place of business or, if it has no such place of business, its permanent residence in the United States.

(5) FOREIGN AIRWORTHINESS DIRECTIVES.—

(A) ACCEPTANCE.—*The Administrator shall accept an airworthiness directive (as defined in section 39.3 of title 14, Code of Federal Regulations) issued by an aeronautical safety authority of a foreign country, and leverage that aeronautical safety authority’s regulatory process, if—*

*(i) the country is the state of design for the product that is the subject of the airworthiness directive;*

*(ii) the United States has a bilateral safety agreement relating to aircraft certification with the country;*

*(iii) as part of the bilateral safety agreement with the country, the Administrator has determined that the aeronautical safety authority has an aircraft certification system relating to safety that produces a level of safety equivalent to the level produced by the system of the Federal Aviation Administration; and*

*(iv) the aeronautical safety authority utilizes an open and transparent public notice and comment process in the issuance of airworthiness directives.*

(B) ALTERNATIVE APPROVAL PROCESS.—*Notwithstanding subparagraph (A), the Administrator may issue a Federal Aviation Administration airworthiness directive instead of accepting the airworthiness directive issued by the aeronautical safety authority of a foreign country if the Admin-*

*istrator determines that such issuance is necessary for safety or operational reasons due to the complexity or unique features of the Federal Aviation Administration airworthiness directive or the United States aviation system.*

*(C) ALTERNATIVE MEANS OF COMPLIANCE.—The Administrator may—*

*(i) accept an alternative means of compliance, with respect to an airworthiness directive under subparagraph (A), that was approved by the aeronautical safety authority of the foreign country that issued the airworthiness directive; or*

*(ii) notwithstanding subparagraph (A), and at the request of any person affected by an airworthiness directive under that subparagraph, the Administrator may approve an alternative means of compliance with respect to the airworthiness directive.*

(f) EXEMPTIONS.—The Administrator may grant an exemption from a requirement of a regulation prescribed under subsection (a) or (b) of this section or any of sections 44702-44716 of this title if the Administrator finds the exemption is in the public interest.

#### § 44703. Airman certificates

\* \* \* \* \*

(i) FAA PILOT RECORDS DATABASE.—

(1) IN GENERAL.—Before allowing an individual to begin service as a pilot, an air carrier shall access and evaluate, in accordance with the requirements of this subsection, information pertaining to the individual from the pilot records database established under paragraph (2).

(2) PILOT RECORDS DATABASE.—**[The Administrator shall establish]** *Not later than April 30, 2017, the Administrator shall establish and make available for use an electronic database (in this subsection referred to as the “database”) containing the following records:*

(A) FAA RECORDS.—From the Administrator—

(i) records that are maintained by the Administrator concerning current airman certificates, including airman medical certificates and associated type ratings and information on any limitations to those certificates and ratings;

(ii) records that are maintained by the Administrator concerning any failed attempt of an individual to pass a practical test required to obtain a certificate or type rating under part 61 of title 14, Code of Federal Regulations; and

(iii) summaries of legal enforcement actions resulting in a finding by the Administrator of a violation of this title or a regulation prescribed or order issued under this title that was not subsequently overturned.

(B) AIR CARRIER AND OTHER RECORDS.—From any air carrier or other person (except a branch of the Armed Forces, the National Guard, or a reserve component of the Armed Forces) that has employed an individual as a pilot of a civil or public aircraft, or from the trustee in bankruptcy for the air carrier or person—

(i) records pertaining to the individual that are maintained by the air carrier (other than records relating to flight time, duty time, or rest time) or person, including records under regulations set forth in—

(I) section 121.683 of title 14, Code of Federal Regulations;

(II) section 121.111(a) of such title;

(III) section 121.219(a) of such title;

(IV) section 125.401 of such title; and

(V) section 135.63(a)(4) of such title; and

(ii) other records pertaining to the individual's performance as a pilot that are maintained by the air carrier or person concerning—

(I) the training, qualifications, proficiency, or professional competence of the individual, including comments and evaluations made by a check airman designated in accordance with section 121.411, 125.295, or 135.337 of such title;

(II) any disciplinary action taken with respect to the individual that was not subsequently overturned; and

(III) any release from employment or resignation, termination, or disqualification with respect to employment.

(C) NATIONAL DRIVER REGISTER RECORDS.—In accordance with section 30305(b)(8) of this title, from the chief driver licensing official of a State, information concerning the motor vehicle driving record of the individual.

\* \* \* \* \*

**§ 44704. Type certificates, production certificates, [airworthiness certificates,] *airworthiness certificates*, and design and production organization certificates**

(a) TYPE CERTIFICATES.—

(1) ISSUANCE, INVESTIGATIONS, AND TESTS.—The Administrator of the Federal Aviation Administration shall issue a type certificate for an aircraft, aircraft engine, or propeller, or for an appliance specified under paragraph (2)(A) of this subsection when the Administrator finds that the aircraft, aircraft engine, propeller, or appliance is properly designed and manufactured, performs properly, and meets the regulations and minimum standards prescribed under section 44701(a) of this title. On receiving an application for a type certificate, the Administrator shall investigate the application and may conduct a hearing. The Administrator shall make, or require the applicant to make, tests the Administrator considers necessary in the interest of safety.

(2) SPECIFICATIONS.—The Administrator may—

(A) specify in regulations those appliances that reasonably require a type certificate in the interest of safety;

(B) include in a type certificate terms required in the interest of safety; and

(C) record on the certificate a numerical specification of the essential factors related to the performance of the air-

craft, aircraft engine, or propeller for which the certificate is issued.

(3) SPECIAL RULES FOR NEW AIRCRAFT AND APPLIANCES.—Except as provided in paragraph (4), if the holder of a type certificate agrees to permit another person to use the certificate to manufacture a new aircraft, aircraft engine, propeller, or appliance, the holder shall provide the other person with written evidence, in a form acceptable to the Administrator, of that agreement. Such other person may manufacture a new aircraft, aircraft engine, propeller, or appliance based on a type certificate only if such other person is the holder of the type certificate or has permission from the holder.

(4) LIMITATION FOR AIRCRAFT MANUFACTURED BEFORE AUGUST 5, 2004.—Paragraph (3) shall not apply to a person who began the manufacture of an aircraft before August 5, 2004, and who demonstrates to the satisfaction of the Administrator that such manufacture began before August 5, 2004, if the name of the holder of the type certificate for the aircraft does not appear on the airworthiness certificate or identification plate of the aircraft. The holder of the type certificate for the aircraft shall not be responsible for the continued airworthiness of the aircraft. A person may invoke the exception provided by this paragraph with regard to the manufacture of only one aircraft.

(5) RELEASE OF DATA.—

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

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

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

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

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

(C) REQUIREMENT TO MAINTAIN DATA.—The Administrator shall maintain engineering data in the possession of

the Administration relating to a type certificate or a supplemental type certificate that has been inactive for 3 or more years.

(6) *TYPE CERTIFICATION RESOLUTION PROCESS.*—

(A) *IN GENERAL.*—*Not later than 15 months after the date of enactment of Federal Aviation Administration Reauthorization Act of 2016, the Administrator shall establish an effective, expeditious, and milestone-based issue resolution process for type certification activities under this subsection.*

(B) *PROCESS REQUIREMENTS.*—*The resolution process shall provide for—*

*(i) the resolution of technical issues at pre-established stages of the certification process, as agreed to by the Administrator and the type certificate applicant;*

*(ii) the automatic escalation to appropriate management personnel of the Federal Aviation Administration and the type certificate applicant of any major certification process milestone that is not completed or resolved within a specific period of time agreed to by the Administrator and the type certificate applicant; and*

*(iii) the resolution of a major certification process milestone escalated under clause (ii) within a specific period of time agreed to by the Administrator and the type certificate applicant.*

(C) *DEFINITION OF MAJOR CERTIFICATION PROCESS MILESTONE.*—*In this paragraph, the term “major certification process milestone” means a milestone related to a type certification basis, type certification plan, type inspection authorization, issue paper, or other major type certification activity agreed to by the Administrator and the type certificate applicant.*

\* \* \* \* \*

**§ 44709. Amendments, modifications, suspensions, and revocations of certificates**

(a) **REINSPECTION AND REEXAMINATION.**—**[The Administrator]**

(1) *IN GENERAL.*—*The Administrator of the Federal Aviation Administration may reinspect at any time a civil aircraft, aircraft engine, propeller, appliance, design organization, production certificate holder, air navigation facility, or air agency, or [reexamine], except as provided in paragraph (2), reexamine an airman holding a certificate issued under section 44703 of this title.*

(2) *LIMITATION ON THE REEXAMINATION OF AIRMAN CERTIFICATES.*—

(A) *IN GENERAL.*—*The Administrator may not reexamine an airman holding a student, sport, recreational, or private pilot certificate issued under section 44703 of this title if the reexamination is ordered as a result of an event involving the fault of the Federal Aviation Administration or its designee, unless the Administrator has reasonable grounds—*

*(i) to establish that the airman may not be qualified to exercise the privileges of a particular certificate or*

rating, based upon an act or omission committed by the airman while exercising those privileges, after the certificate or rating was issued by the Federal Aviation Administration or its designee; or

(ii) to demonstrate that the airman obtained the certificate or the rating through fraudulent means or through an examination that was substantially and demonstrably inadequate to establish the airman's qualifications.

(B) NOTIFICATION REQUIREMENTS.—Before taking any action to reexamine an airman under subparagraph (A), the Administrator shall provide to the airman—

(i) a reasonable basis, described in detail, for requesting the reexamination; and

(ii) any information gathered by the Federal Aviation Administration, that the Administrator determines is appropriate to provide, such as the scope and nature of the requested reexamination, that formed the basis for that justification.

(b) ACTIONS OF THE ADMINISTRATOR.—**[The Administrator]**

(1) IN GENERAL.—Except as provided in paragraph (2), the Administrator may issue an order amending, modifying, suspending, or revoking—

**[(1)](A)** any part of a certificate issued under this chapter if—

**[(A)](i)** the Administrator decides after conducting a reinspection, reexamination, or other investigation that safety in air commerce or air transportation and the public interest require that action; or

**[(B)](ii)** the holder of the certificate has violated an aircraft noise or sonic boom standard or regulation prescribed under section 44715(a) of this title; and

**[(2)](B)** an airman certificate when the holder of the certificate is convicted of violating section 13(a) of the Fish and Wildlife Act of 1956 (16 U.S.C. 742j-1(a)).

(2) AMENDMENTS, MODIFICATIONS, SUSPENSIONS, AND REVOCATIONS OF AIRMAN CERTIFICATES AFTER REEXAMINATION.—

(A) IN GENERAL.—The Administrator may not issue an order to amend, modify, suspend, or revoke an airman certificate held by a student, sport, recreational, or private pilot and issued under section 44703 of this title after a reexamination of the airman holding the certificate unless the Administrator determines that the airman—

(i) lacks the technical skills and competency, or care, judgment, and responsibility, necessary to hold and safely exercise the privileges of the certificate; or

(ii) materially contributed to the issuance of the certificate by fraudulent means.

(B) STANDARD OF REVIEW.—Any order of the Administrator under this paragraph shall be subject to the standard of review provided for under section 2 of the Pilot's Bill of Rights (49 U.S.C. 44703 note).

(c) ADVICE TO CERTIFICATE HOLDERS AND OPPORTUNITY TO ANSWER.—Before acting under subsection (b) of this section, the Administrator shall advise the holder of the certificate of the charges

or other reasons on which the Administrator relies for the proposed action. Except in an emergency, the Administrator shall provide the holder an opportunity to answer the charges and be heard why the certificate should not be amended, modified, suspended, or revoked.

(d) APPEALS.—

(1) A person adversely affected by an order of the Administrator under this section may appeal the order to the National Transportation Safety Board. After notice and an opportunity for a hearing, the Board may amend, modify, or reverse the order when the Board finds—

(A) if the order was issued under [subsection (b)(1)(A)] *subsection (b)(1)(A)(i)* of this section, that safety in air commerce or air transportation and the public interest do not require affirmation of the order; or

(B) if the order was issued under [subsection (b)(1)(B)] *subsection (b)(1)(A)(ii)* of this section—

(i) that control or abatement of aircraft noise or sonic boom and the public health and welfare do not require affirmation of the order; or

(ii) the order, as it is related to a violation of aircraft noise or sonic boom standards and regulations, is not consistent with safety in air commerce or air transportation.

(2) The Board may modify a suspension or revocation of a certificate to imposition of a civil penalty.

(3) When conducting a hearing under this subsection, the Board is not bound by findings of fact of the Administrator.

\* \* \*

**§ 44718. Structures interfering with air commerce**

(a) NOTICE.—By regulation or by order when necessary, the Secretary of Transportation shall require a person to give adequate public notice, in the form and way the Secretary prescribes, of the construction, alteration, establishment, or expansion, or the proposed construction, alteration, establishment, or expansion, of a structure or sanitary landfill when the notice will promote—

(1) safety in air commerce; and

(2) the efficient use and preservation of the navigable airspace and of airport traffic capacity at public-use airports.

(b) STUDIES.—

(1) Under regulations prescribed by the Secretary, if the Secretary decides that constructing or altering a structure may result in an obstruction of the navigable airspace or an interference with [air navigation facilities and equipment] *air or space navigation facilities and equipment* or the navigable airspace, the Secretary shall conduct an aeronautical study to decide the extent of any adverse impact on the safe and efficient use of the airspace, facilities, or equipment. In conducting the study, the Secretary shall consider factors relevant to the efficient and effective use of the navigable airspace, including—

(A) the impact on arrival, departure, and en route procedures for aircraft operating under visual flight rules;

(B) the impact on arrival, departure, and en route procedures for aircraft operating under instrument flight rules;

(C) the impact on existing public-use airports and aeronautical facilities;

(D) the impact on planned public-use airports and aeronautical facilities; **[and]**

(E) the cumulative impact resulting from the proposed construction or alteration of a structure when combined with the impact of other existing or proposed structures**[.]**; *and*

(F) *the impact on launch and reentry for launch and reentry vehicles arriving or departing from a launch site or reentry site licensed by the Secretary.*

(2) On completing the study, the Secretary shall issue a report disclosing completely the extent of the adverse impact on the safe and efficient use of the navigable airspace that the Secretary finds will result from constructing or altering the structure. \* \* \*

#### **§ 44728. Flight attendant certification**

(c) DESIGNATION OF PERSON TO DETERMINE SUCCESSFUL COMPLETION OF TRAINING.—In accordance with part 183 of **[chapter]** *title* 14, Code of Federal Regulation, the director of operations of an air carrier is designated to determine that an individual has successfully completed the training requirements approved by the Administrator for such individual to serve as a flight attendant.

(d) SPECIFICATIONS RELATING TO CERTIFICATES.—Each certificate issued under this section shall—

(1) be numbered and recorded by the Administrator;

(2) contain the name, address, and description of the individual to whom the certificate is issued;

(3) **[is]** *be* similar in size and appearance to certificates issued to airmen;

(4) contain the airplane group for which the certificate is issued; and

(5) be issued not later than 120 days after the Administrator receives notification from the air carrier of demonstrated proficiency and, in the case of an individual serving as flight attendant on the effective date of this section, not later than 1 year after such effective date. \* \* \*

#### **§ 44731. Collection of data on helicopter air ambulance operations**

(a) IN GENERAL.—The Administrator of the Federal Aviation Administration shall require a part 135 certificate holder providing helicopter air ambulance services to submit to the Administrator, **[not later than 1 year after the date of enactment of this section, and annually thereafter]** *annually*, a report containing, at a minimum, the following data:

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

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



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

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

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

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

*(6) The number of hours flown at night by helicopters operated by the certificate holder.*

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

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

(c) DATABASE.—Not later than 180 days after the date of enactment of this section, the Administrator shall develop a method to collect and store the data collected under subsection (a), including a method to protect the confidentiality of any trade secret or proprietary information provided in response to this section.

(d) REPORT TO CONGRESS.—**[Not later than 2 years after the date of enactment of this section, and annually thereafter, the Administrator shall submit]** *The Administrator shall submit annually to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report containing a summary of the data collected under subsection (a). The report shall include the number of accidents experienced by helicopter air ambulance operations, the number of fatal accidents experienced by helicopter air ambulance operations, and the rate, per 100,000 flight hours, of accidents and fatal accidents experienced by operators providing helicopter air ambulance services.*

(e) IMPLEMENTATION.—*In carrying out this section, the Administrator, in collaboration with part 135 certificate holders providing helicopter air ambulance services, shall—*

*(1) propose and develop a method to collect and store the data submitted under subsection (a), including a method to protect the confidentiality of any trade secret or proprietary information submitted; and*

*(2) ensure that the database under subsection (c) and the report under subsection (d) include data and analysis that will best inform efforts to improve the safety of helicopter air ambulance operations.*

**[(e)](f)** DEFINITIONS.—In this section, the terms “part 135” and “part 135 certificate holder” have the meanings given such terms in section 44730.

**§ 44733. Inspection of repair stations located outside the United States**

\* \* \* \* \*

(f) *RISK-BASED OVERSIGHT.*—

(1) *IN GENERAL.*—Not later than 90 days after the date of enactment of the Federal Aviation Administration Reauthorization Act of 2016, the Administrator shall take measures to ensure that the safety assessment system established under subsection (a)—

(A) places particular consideration on inspections of part 145 repair stations located outside the United States that conduct scheduled heavy maintenance work on part 121 air carrier aircraft; and

(B) accounts for the frequency and seriousness of any corrective actions that part 121 air carriers must implement to aircraft following such work at such repair stations.

(2) *INTERNATIONAL AGREEMENTS.*—The Administrator shall take the measures required under paragraph (1)—

(A) in accordance with the United States obligations under applicable international agreements; and

(B) in a manner consistent with the applicable laws of the country in which a repair station is located.

(3) *ACCESS TO DATA.*—The Administrator may access and review such information or data in the possession of a part 121 air carrier as the Administrator may require in carrying out paragraph (1)(B).

~~(f)~~(g) *DEFINITIONS.*—In this section, the following definitions apply:

(1) *HEAVY MAINTENANCE WORK.*—The term “heavy maintenance work” means a C-check, a D-check, or equivalent maintenance operation with respect to the airframe of a transport-category aircraft.

~~(1)~~(2) *PART 121 AIR CARRIER.*—The term “part 121 air carrier” means an air carrier that holds a certificate issued under part 121 of title 14, Code of Federal Regulations.

~~(2)~~(3) *PART 145 REPAIR STATION.*—The term “part 145 repair station” means a repair station that holds a certificate issued under part 145 of title 14, Code of Federal Regulations.

**§ 44736. Organization designation authorizations**

(a) *DELEGATIONS OF FUNCTIONS.*—

(1) *IN GENERAL.*—Except as provided in paragraph (3), in the oversight of an ODA holder, the Administrator of the Federal Aviation Administration, in accordance with Federal Aviation Administration standards, shall—

(A) require, based on an application submitted by the ODA holder and approved by the Administrator (or the Administrator’s designee), a procedures manual that addresses all procedures and limitations regarding the specified functions to be performed by the ODA holder subject to regulations prescribed by the Administrator;

(B) delegate fully to the ODA holder each of the functions specified in the procedures manual, unless the Administrator determines, after the date of the delegation and as a result of an inspection or other investigation, that the pub-

*lic interest and safety of air commerce requires a limitation with respect to 1 or more of the functions; and*

*(C) conduct oversight activities, including by inspecting the ODA holder's delegated functions and taking action based on validated inspection findings.*

**(2) DUTIES OF ODA HOLDERS.**—*An ODA holder shall—*

*(A) perform each specified function delegated to the ODA holder in accordance with the approved procedures manual for the delegation;*

*(B) make the procedures manual available to each member of the appropriate ODA unit; and*

*(C) cooperate fully with oversight activities conducted by the Administrator in connection with the delegation.*

**(3) EXISTING ODA HOLDERS.**—*With regard to an ODA holder operating under a procedures manual approved by the Administrator before the date of enactment of the Federal Aviation Administration Reauthorization Act of 2016, the Administrator shall—*

*(A) at the request of the ODA holder, and in an expeditious manner, consider revisions to the ODA holder's procedures manual;*

*(B) delegate fully to the ODA holder each of the functions specified in the procedures manual, unless the Administrator determines, after the date of the delegation and as a result of an inspection or other investigation, that the public interest and safety of air commerce requires a limitation with respect to 1 or more of the functions; and*

*(C) conduct oversight activities, including by inspecting the ODA holder's delegated functions and taking action based on validated inspection findings.*

**(b) ODA OFFICE.**—

**(1) ESTABLISHMENT.**—*Not later than 120 days after the date of enactment of Federal Aviation Administration Reauthorization Act of 2016, the Administrator shall identify, within the Office of Aviation Safety, a centralized policy office to be responsible for the organization designation authorization (referred to in this subsection as the ODA Office). The Director of the ODA Office shall report to the Director of the Aircraft Certification Service.*

**(2) PURPOSE.**—*The purpose of the ODA Office shall be to provide oversight and ensure consistency of the Federal Aviation Administration audit functions under the ODA program across the agency.*

**(3) FUNCTIONS.**—*The ODA Office shall—*

*(A)(i) at the request of an ODA holder, eliminate all limitations specified in a procedures manual in place on the date of enactment of the Federal Aviation Administration Reauthorization Act of 2016 that are low and medium risk as determined by a risk analysis using criteria established by the ODA Office and disclosed to the ODA holder, except where an ODA holder's performance warrants the retention of a specific limitation due to documented concerns about inadequate current performance in carrying out that authorized function;*

(ii) require an ODA holder to establish a corrective action plan to regain authority for any retained limitations;

(iii) require an ODA holder to notify the ODA Office when all corrective actions have been accomplished;

(iv) make a reassessment to determine if subsequent performance in carrying out any retained limitation warrants continued retention and, if such reassessment determines performance meets objectives, lift such limitation immediately;

(B) improve the Administration and the ODA holder performance and ensure full use of the authorities delegated under the ODA program;

(C) develop a more consistent approach to audit priorities, procedures, and training under the ODA program;

(D) expeditiously review a random sample of limitations on delegated authorities under the ODA program to determine if the limitations are appropriate;

(E) review and approve new limitations to ODA functions; and

(F) ensure national consistency in the interpretation and application of the requirements of the ODA program, including any limitations, and in the performance of the ODA program.

(c) **DEFINITIONS.**—In this section:

(1) **ODA OR ORGANIZATION DESIGNATION AUTHORIZATION.**—The term “ODA” or “organization designation authorization” means an authorization under section 44702(d) to perform approved functions on behalf of the Administrator of the Federal Aviation Administration under subpart D of part 183 of title 14, Code of Federal Regulations.

(2) **ODA HOLDER.**—The term “ODA holder” means an entity authorized under section 44702(d)—

(A) to which the Administrator of the Federal Aviation Administration issues an ODA letter of designation under subpart D of part 183 of title 14, Code of Federal Regulations (or any corresponding similar regulation or ruling); and

(B) that is responsible for administering 1 or more ODA units.

(3) **ODA PROGRAM.**—The term “ODA program” means the program to standardize Federal Aviation Administration management and oversight of the organizations that are approved to perform certain functions on behalf of the Administration under section 44702(d).

(4) **ODA UNIT.**—The term “ODA unit” means a group of 2 or more individuals under the supervision of an ODA holder who perform the specified functions under an ODA.

(5) **ORGANIZATION.**—The term “organization” means a firm, a partnership, a corporation, a company, an association, a joint-stock association, or a governmental entity.

## **CHAPTER 448—UNMANNED AIRCRAFT SYSTEMS**

### **§ 44801. Definitions**

In this chapter—

(1) “appropriate committees of Congress” means the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

(2) “Arctic” means the United States zone of the Chukchi Sea, Beaufort Sea, and Bering Sea north of the Aleutian chain.

(3) “certificate of waiver” and “certificate of authorization” mean a Federal Aviation Administration grant of approval for a specific flight operation.

(4) “permanent areas” means areas on land or water that provide for launch, recovery, and operation of small unmanned aircraft.

(5) “public unmanned aircraft system” means an unmanned aircraft system that meets the qualifications and conditions required for operation of a public aircraft (as defined in section 40102(a)).

(6) “sense and avoid capability” means the capability of an unmanned aircraft to remain a safe distance from and to avoid collisions with other airborne aircraft.

(7) “small unmanned aircraft” means an unmanned aircraft weighing less than 55 pounds, including the weight of anything attached to or carried by the aircraft.

(8) “test range” means a defined geographic area where research and development are conducted as authorized by the Administrator of the Federal Aviation Administration.

(9) “test site” means any of the 6 test ranges established by the Administrator of the Federal Aviation Administration under section 332(c) of the FAA Modernization and Reform Act of 2012 (49 U.S.C. 40101 note), as in effect on the day before the date of enactment of the Federal Aviation Administration Reauthorization Act of 2016, and any public entity authorized by the Federal Aviation Administration as an unmanned aircraft system flight test center before January 1, 2009.

(10) “unmanned aircraft” means an aircraft that is operated without the possibility of direct human intervention from within or on the aircraft.

(11) “unmanned aircraft system” means an unmanned aircraft and associated elements (including communication links and the components that control the unmanned aircraft) that are required for the operator to operate safely and efficiently in the national airspace system.

#### **§ 44802. Unmanned aircraft system test sites**

(a)(1) *IN GENERAL.*—The Administrator of the Federal Aviation Administration shall establish and update, as appropriate, a program for the use of the 6 test sites established under section 332(c) of the FAA Modernization and Reform Act of 2012 (49 U.S.C. 40101 note), and any public entity authorized by the Federal Aviation Administration as an unmanned aircraft system flight test center before January 1, 2009, to facilitate the safe integration of unmanned aircraft systems into the national airspace system.

(2) *TERMINATION.*—The program shall terminate on September 30, 2017.

(b) *PROGRAM REQUIREMENTS.*—In establishing the program under subsection (a), the Administrator shall—

- (1) designate airspace for safely testing the integration of unmanned flight operations in the national airspace system;
- (2) develop operational standards and air traffic requirements for unmanned flight operations at test sites, including test ranges;
- (3) coordinate with and leverage the resources of the National Aeronautics and Space Administration and the Department of Defense;
- (4) address both civil and public unmanned aircraft systems;
- (5) ensure that the program is coordinated with relevant aspects of the Next Generation Air Transportation System;
- (6) provide for verification of the safety of unmanned aircraft systems and related navigation procedures as it relates to continued development of standards for integration into the national airspace system;
- (7) engage each test site operator in projects for research, development, testing, and evaluation of unmanned aircraft systems to facilitate the Federal Aviation Administration's development of standards for the safe integration of unmanned aircraft into the national airspace system, which may include solutions for—
  - (A) developing and enforcing geographic and altitude limitations;
  - (B) classifications of airspace where manufacturers must prevent flight of an unmanned aircraft system;
  - (C) classifications of airspace where manufacturers of unmanned aircraft systems must alert the operator to hazards or limitations on flight;
  - (D) sense and avoid capabilities;
  - (E) beyond-line-of-sight, nighttime operations and unmanned traffic management, or other critical research priorities; and
  - (F) improving privacy protections through the use of advances in unmanned aircraft systems technology;
- (8) coordinate periodically with all test site operators to ensure test site operators know which data should be collected, what procedures should be followed, and what research would advance efforts to safely integrate unmanned aircraft systems into the national airspace system;
- (9) allow a test site to develop multiple test ranges within the test site;
- (10) streamline the approval process for test sites when processing unmanned aircraft certificates of waiver or authorization for operations at the test sites;
- (11) require each test site operator to protect proprietary technology, sensitive data, or sensitive research of any civil or private entity when using that test site without the need to obtain an experimental or special airworthiness certificate;
- (12) evaluate options for the operation of 1 or more small unmanned aircraft systems beyond the visual line of sight of the operator for testing under controlled conditions that ensure the safety of persons and property, including on the ground; and
- (13) allow test site operators to receive Federal funding, other than from the Federal Aviation Administration, including in-

*kind contributions, from test site participants in the furtherance of research, development, and testing objectives.*

(c) **TEST SITE LOCATIONS.**—*In determining the location of a test site under subsection (a), the Administrator shall—*

*(1) take into consideration geographic and climatic diversity;*

*(2) take into consideration the location of ground infrastructure and research needs; and*

*(3) consult with the Administrator of the National Aeronautics and Space Administration and the Secretary of Defense.*

(d) **REPORT TO CONGRESS.**—

*(1) IN GENERAL.*—*Not later than 1 year after the date of enactment of the Federal Aviation Administration Reauthorization Act of 2016, the Administrator shall submit to the appropriate committees of Congress a report on the establishment and implementation of the program under subsection (a).*

*(2) BRIEFINGS.*—*Beginning 180 days after the date of enactment of the Federal Aviation Administration Reauthorization Act of 2016, and every 180 days thereafter until September 30, 2017, the Administrator shall provide to the appropriate committees of Congress a briefing that includes—*

*(A) a current summary of unmanned aircraft systems operations at the test sites since the last briefing to Congress;*

*(B) a description of all of the data generated from the operations described in subparagraph (A), and shared with the Federal Aviation Administration through a cooperative research and development agreement authorized in section 2123 of the Federal Aviation Administration Reauthorization Act of 2016, that relate to unmanned aircraft systems research priorities, including beyond-line-of-sight, unmanned traffic management, nighttime operations, and sense and avoid technology;*

*(C) a description of how the data described in subparagraph (B) will be or is used—*

*(i) to advance Federal Aviation Administration priorities;*

*(ii) to validate the safety of unmanned aircraft systems and related technology; and*

*(iii) to inform future rulemaking related to the integration of unmanned aircraft systems into the national airspace;*

*(D) an evaluation of the activities and specific outcomes from activities at the test sites that support the safe integration of unmanned aircraft systems under this chapter; and*

*(E) recommendations for future Federal Aviation Administration test site operations that would generate data necessary to inform future rulemaking related to unmanned aircraft systems.*

(e) **REVIEW OF OPERATIONS BY TEST SITE OPERATORS.**—*The operator of each test site under subsection (a) shall—*

*(1) review the operations of unmanned aircraft systems conducted at the test site, including—*

*(A) ongoing or completed research; and*

*(B) data regarding operations by private and public operators; and*

(2) submit to the Administrator, in such form and manner as specified by the Administrator, the results of the review, including recommendations to further enable private research and development operations at the test sites that contribute to the Federal Aviation Administration's safe integration of unmanned aircraft systems into the national airspace system, on a quarterly basis until the program terminates.

(f) **TESTING.**—The Secretary may authorize an operator of a test site described in subsection (a) to administer testing requirements established by the Administrator for unmanned aircraft systems operations..

### **§ 44803. Aircraft safety standards**

(a) **CONSENSUS AIRCRAFT SAFETY STANDARDS.**—Not later than 60 days after the date of enactment of the Federal Aviation Administration Reauthorization Act of 2016, the Director of the National Institute of Standards and Technology and the Administrator of the Federal Aviation Administration, in consultation with government and industry stakeholders and appropriate standards-setting organizations, shall initiate a collaborative process to develop risk-based, consensus industry airworthiness standards related to the safe integration of small unmanned aircraft systems into the national airspace system.

(b) **CONSIDERATIONS.**—In developing the consensus aircraft safety standards, the Director and Administrator shall consider the following:

(1) Technologies or standards related to geographic limitations, altitude limitations, and sense and avoid capabilities.

(2) Using performance-based standards.

(3) Predetermined action to maintain safety in the event that a communications link between a small unmanned aircraft and its operator is lost or compromised.

(4) Detectability and identifiability to pilots, the Federal Aviation Administration, and air traffic controllers, as appropriate.

(5) Means to prevent tampering with or modification of any system, limitation, or other safety mechanism or standard under this section or any other provision of law, including a means to identify any tampering or modification that has been made.

(6) Consensus identification standards under section 2105.

(7) How to update or modify a small unmanned aircraft system that was commercially distributed prior to the development of the consensus aircraft safety standards so that, to the greatest extent practicable, such systems meet the consensus aircraft safety standards.

(8) Any technology or standard related to small unmanned aircraft systems that promotes aviation safety.

(c) **CONSULTATION.**—In developing the consensus aircraft safety standards under subsection (a), the Director and Administrator shall consult with—

(1) the Administrator of the National Aeronautics and Space Administration;

(2) the President of RTCA, Inc.;

(3) the Secretary of Defense;



- (4) each operator of a test site under section 44802;
- (5) the Center of Excellence for Unmanned Aircraft Systems;
- (6) unmanned aircraft systems stakeholders; and
- (7) community-based aviation organizations.

(d) *FAA APPROVAL.*—Not later than 1 year after the date of enactment of the Federal Aviation Administration Reauthorization Act of 2016, the Administrator of the Federal Aviation Administration shall establish a process for the approval of small unmanned aircraft systems make and models based upon the consensus aircraft safety standards developed under subsection (a). The consensus aircraft safety standards developed under subsection (a) shall allow the Administrator to approve small unmanned aircraft systems for operation within the national airspace system without requiring the type certification process in parts 21 and 23 of the Code of Federal Regulations.

(e) *ELIGIBILITY.*—The consensus aircraft safety standards for approval of small unmanned aircraft systems developed under this section shall set eligibility requirements for an airworthiness approval of a small unmanned aircraft system which shall include the following:

(1) An applicant must provide the Federal Aviation Administration with—

(A) the aircraft’s operating instructions; and

(B) the manufacturer’s statement of compliance as described in subsection (f) of this section.

(2) A sample aircraft must be inspected by the Federal Aviation Administration and found to be in a condition for safe operation and in compliance with the consensus aircraft safety standards required by the Administrator in subsection (d).

(f) *MANUFACTURER’S STATEMENT OF COMPLIANCE FOR SMALL UAS.*—The manufacturer’s statement of compliance shall—

(1) identify the aircraft make and model, and consensus aircraft safety standard used;

(2) state that the aircraft make and model meets the provisions of the standard identified in paragraph (1);

(3) state that the aircraft make and model conforms to the manufacturer’s design data, using the manufacturer’s quality assurance system that meets the identified consensus standard adopted by the Administrator in subsection (d), and is manufactured in way that ensures consistency in the production process so that every unit produced meets the applicable consensus aircraft safety standards;

(4) state that the manufacturer will make available to any interested person—

(A) the aircraft’s operating instructions, that meet the standard identified in paragraph (1); and

(B) the aircraft’s maintenance and inspection procedures, that meet the standard identified in paragraph (1);

(5) state that the manufacturer will monitor and correct safety-of-flight issues through a continued airworthiness system that meets the standard identified in paragraph (1);

(6) state that at the request of the Administration, the manufacturer will provide access by the Administration to its facilities; and

(7) state that the manufacturer, in accordance with a production acceptance test procedure that meets an applicable consensus aircraft safety standard has—

(A) ground and flight tested random samples of the aircraft;

(B) found the sample aircraft performance acceptable; and

(C) determined that the make and model of aircraft is suitable for safe operation.

(g) **PROHIBITION.**—It shall be unlawful for any person to introduce or deliver for introduction into interstate commerce any unmanned aircraft manufactured after the date that the Administrator adopts consensus aircraft safety standards under this section, unless the manufacturer has received approval under subsection (d) for each make and model.

#### **§ 44804. Unmanned aircraft systems in the arctic**

(a) **IN GENERAL.**—The Secretary of Transportation shall develop a plan and initiate a process to work with relevant Federal agencies and national and international communities to designate permanent areas in the Arctic where small unmanned aircraft may operate 24 hours per day for research and commercial purposes.

(b) **PLAN CONTENTS.**—The plan under subsection (a) shall include the development of processes to facilitate the safe operation of unmanned aircraft beyond line of sight.

(c) **REQUIREMENTS.**—Each permanent area designated under subsection (a) shall enable over-water flights from the surface to at least 2,000 feet in altitude, with ingress and egress routes from selected coastal launch sites.

(d) **AGREEMENTS.**—To implement the plan under subsection (a), the Secretary may enter into an agreement with relevant national and international communities.

(e) **AIRCRAFT APPROVAL.**—Not later than 1 year after the entry into force of an agreement necessary to effectuate the purposes of this section, the Secretary shall work with relevant national and international communities to establish and implement a process, or may apply an applicable process already established, for approving the use of unmanned aircraft in the designated permanent areas in the Arctic without regard to whether an unmanned aircraft is used as a public aircraft, a civil aircraft, or a model aircraft.

#### **§ 44805. Special authority for certain unmanned aircraft systems**

(a) **IN GENERAL.**—Notwithstanding any other requirement of this chapter, the Secretary of Transportation shall use a risk-based approach to determine if certain unmanned aircraft systems may operate safely in the national airspace system notwithstanding completion of the comprehensive plan and rulemaking required by section 332 of the FAA Modernization and Reform Act of 2012 (49 U.S.C. 40101 note) or the guidance required by section 44807.

(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, prox-

imity to airports and populated areas, and operation within or beyond visual line of sight, or operation during the day or night, do not create a hazard to users of the national airspace system or the public; and

(2) whether a certificate under section 44703 or section 44704 of this title, or a certificate of waiver or certificate of authorization, is required for the operation of unmanned aircraft systems identified under paragraph (1) of this subsection.

(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, including operation related to research, development, and testing of proprietary systems.

(d) **PILOT CERTIFICATION EXEMPTION.**—If the Secretary proposes, under this section, to require an operator of an unmanned aircraft system to hold an airman certificate, a medical certificate, or to have a minimum number of hours operating a manned aircraft, the Secretary shall set forth the reasoning for such proposal and seek public notice and comment before imposing any such requirements.

(e) **SUNSET.**—The authority under this section for the Secretary to determine if certain unmanned aircraft systems may operate safely in the national airspace system terminates effective September 30, 2017.

#### **§44806. Additional rulemaking authority**

(a) **IN GENERAL.**—Notwithstanding the rulemaking required by section 332 of the FAA Modernization and Reform Act of 2012 (49 U.S.C. 40101 note) or the guidance required by section 44807 of this title and subject to subsection (b)(2) of this section and section 44808, the Administrator may issue regulations under which a person may operate certain unmanned aircraft systems (as determined by the Administrator) in the United States—

(1) without an airman certificate;

(2) without an airworthiness certificate for the associated unmanned aircraft; or

(3) that are not registered with the Federal Aviation Administration.

(b) **MICRO UNMANNED AIRCRAFT SYSTEMS OPERATIONAL RULES.**—

(1) **IN GENERAL.**—Notwithstanding the rulemaking required by section 332 of the FAA Modernization and Reform Act of 2012 (49 U.S.C. 40101 note), the Administrator shall issue regulations not later than 270 days after the date of enactment of the Federal Aviation Administration Reauthorization Act of 2016 under which any person may operate a micro unmanned aircraft system classification of unmanned aircraft systems, the aircraft component of which weighs 4.4 pounds or less, including payload, without the person operating the system being required to pass any airman certification requirement, including any requirements under section 44703 of this title, part 61 of title 14, Code of Federal Regulations, or any other rule or regulation relating to airman certification.

(2) **OPERATIONAL RULES.**—The rulemaking required by paragraph (1) relating to micro unmanned aircraft systems shall consider the following rules, or any appropriate modifications

thereof concerning altitude, airspeed, geographic location, and time of day as the Administrator considers appropriate, for operation of such systems:

(A) Operation an altitude of less than 400 feet above ground level.

(B) Operation with an airspeed of not greater than 40 knots.

(C) Operation within the visual line of sight of the operator.

(D) Operation during the hours between sunrise and sunset.

(E) Operation not less than 5 statute miles from the geographic center of an airport with an operational air traffic control tower or an airport denoted on a current aeronautical chart published by the Federal Aviation Administration, except that a micro unmanned aircraft system may be operated within 5 statute miles of such an airport if the operator of the system—

(i) provides notice to the airport operator; and

(ii) in the case of an airport with an operational air traffic control tower, receives approval from the air traffic control tower.

(c) **SCOPE OF REGULATIONS.**—

(1) **IN GENERAL.**—In determining whether a person may operate an unmanned aircraft system under 1 or more of the circumstances described under paragraphs (1) through (3) of subsection (a), the Administrator shall use a risk-based approach and consider, at a minimum, the physical and functional characteristics of the unmanned aircraft system.

(2) **LIMITATION.**—The Administrator may only issue regulations under this section for unmanned aircraft systems that the Administrator determines may be operated safely in the national airspace system.

(d) **RULES OF CONSTRUCTION.**—Nothing in this section may be construed—

(1) to prohibit a person from operating an unmanned aircraft system under a circumstance described under paragraphs (1) through (3) of subsection (a) if—

(A) the circumstance is allowed by regulations issued under this section; and

(B) the person operates the unmanned aircraft system in a manner prescribed by the regulations; and

(2) to limit or affect in any way the Administrator's authority to conduct a rulemaking, make a determination, or carry out any activity related to unmanned aircraft or unmanned aircraft systems under any other provision of law.

**§ 44807. Public unmanned aircraft systems**

(a) **GUIDANCE.**—The Secretary of Transportation shall issue guidance regarding the operation of a public unmanned aircraft system—

(1) to streamline the process for the issuance of a certificate of authorization or a certificate of waiver;

(2) to 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 analyses and data become available, and until standards are completed and technology issues are resolved;

(3) to 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 public unmanned aircraft systems; and

(4) to provide guidance on a public agency's responsibilities when operating an unmanned aircraft without a civil airworthiness certificate issued by the Administration.

(b) **STANDARDS FOR OPERATION AND CERTIFICATION.**—The Administrator of the Federal Aviation Administration shall develop and implement operational and certification requirements for the operation of a public unmanned aircraft system in the national airspace system.

(c) **AGREEMENTS WITH GOVERNMENT AGENCIES.**—

(1) **IN GENERAL.**—The Secretary shall enter into an agreement with each appropriate public agency to simplify the process for issuing a certificate of waiver or a certificate of authorization with respect to an application for authorization to operate a public unmanned aircraft system in the national airspace system.

(2) **CONTENTS.**—An agreement under paragraph (1) shall—

(A) with respect to an application described in paragraph

(1)—

(i) provide for an expedited review of the application;

(ii) require a decision by the Administrator on approval or disapproval not later than 60 business days after the date of submission of the application;

(iii) allow for an expedited appeal if the application is disapproved; and

(iv) if applicable, include verification of the data minimization policy required under subsection (d);

(B) allow for a one-time approval of similar operations carried out during a fixed period of time; and

(C) allow a government public safety agency to operate an unmanned aircraft weighing 25 pounds or less if that unmanned aircraft is operated—

(i) within or beyond the line of sight of the operator;

(ii) less than 400 feet above the ground;

(iii) during daylight conditions;

(iv) within Class G airspace; and

(v) outside of 5 statute miles from any airport, heliport, seaplane base, spaceport, or other location with aviation activities.

(d) **DATA MINIMIZATION FOR CERTAIN PUBLIC UNMANNED AIRCRAFT SYSTEM OPERATORS.**—Not later than 180 days after the date of enactment of the Federal Aviation Administration Reauthorization Act of 2016 each Federal agency authorized by the Secretary to operate an unmanned aircraft system shall develop and update a data minimization policy that requires, at a minimum, that—

(1) prior to the deployment of any new unmanned aircraft system technology, and at least every 3 years, existing policies and procedures relating to the collection, use, retention, and dissemination of information obtained by an unmanned aircraft

system must be examined to ensure that privacy, civil rights, and civil liberties are protected;

(2) if the unmanned aircraft system is the platform for information collection, information must be collected, used, retained, and disseminated consistent with the Constitution, Federal law, and other applicable regulations and policies, such as the Privacy Act of 1974 (5 U.S.C. 552a);

(3) the Federal agency or person operating on its behalf, only collect information using the unmanned aircraft system, or use unmanned aircraft system-collected information, to the extent that the collection or use is consistent with and relevant to an authorized purpose as determined by the head of a Federal agency and consistent with the law;

(4) any information collected, using an unmanned aircraft or an unmanned aircraft system, that may contain personal information will not be retained by any Federal agency for more than 180 days after the date of collection unless—

(A) the head of the Federal agency determines that retention of the information is directly relevant and necessary to accomplish the specific purpose for which the Federal agency used the unmanned aircraft system;

(B) that Federal agency maintains the information in a system of records under section 552a of title 5; or

(C) the information is required to be retained for a longer period under other applicable law, including regulations;

(5) any information collected, using an unmanned aircraft or unmanned aircraft system, that is not maintained in a system of records under section 552a of title 5, will not be disseminated outside of that Federal agency unless—

(A) dissemination is required by law; or

(B) dissemination satisfies an authorized purpose and complies with that Federal agency's disclosure requirements;

(6) to the extent it does not compromise law enforcement or national security a Federal agency shall—

(A) provide notice to the public regarding where in the national airspace system the Federal agency is authorized to operate the unmanned aircraft system;

(B) keep the public informed about the Federal agency's unmanned aircraft system program, including any changes to that program that would significantly affect privacy, civil rights, or civil liberties;

(C) make available to the public, on an annual basis, a general summary of the Federal agency's unmanned aircraft system operations during the previous fiscal year, including—

(i) a brief description of types or categories of missions flown; and

(ii) the number of times the Federal agency provided assistance to other agencies or to State, local, tribal, or territorial governments; and

(D) make available on a public and searchable Internet website the data minimization policy of the Federal agency;

(7) ensures oversight of the Federal agency's unmanned aircraft system use, including—

(A) the use of audits or assessments that comply with existing Federal agency policies and regulations;

(B) the verification of the existence of rules of conduct and training for Federal Government personnel and contractors who work on programs, and procedures for reporting suspected cases of misuse or abuse of unmanned aircraft system technologies;

(C) the establishment of policies and procedures, or confirmation that policies and procedures are in place, that provide meaningful oversight of individuals who have access to sensitive information, including personal information, collected using an unmanned aircraft system;

(D) ensuring that any data-sharing agreements or policies, data use policies, and record management policies applicable to an unmanned aircraft system conform to applicable laws, regulations, and policies;

(E) the establishment of policies and procedures, or confirmation that policies and procedures are in place, to authorize the use of an unmanned aircraft system in response to a request for unmanned aircraft system assistance in support of Federal, State, local, tribal, or territorial government operations; and

(F) a requirement that State, local, tribal, and territorial government recipients of Federal grant funding for the purchase or use of unmanned aircraft systems for their own operations have in place policies and procedures to safeguard individuals' privacy, civil rights, and civil liberties prior to expending such funds; and

(8) ensures the protection of civil rights and civil liberties, including—

(A) ensuring that policies are in place to prohibit the collection, use, retention, or dissemination of data in any manner that would violate the First Amendment or in any manner that would discriminate against persons based upon their ethnicity, race, gender, national origin, religion, sexual orientation, or gender identity, in violation of law;

(B) ensuring that unmanned aircraft system activities are performed in a manner consistent with the Constitution and applicable laws, Executive Orders, and other Presidential directives; and

(C) ensuring that adequate procedures are in place to receive, investigate, and address, as appropriate, privacy, civil rights, and civil liberties complaints.

(e) **LAW ENFORCEMENT AND NATIONAL SECURITY.**—Each Federal agency shall effectuate a requirement under subsection (d) only to the extent it does not compromise law enforcement or national security.

(f) **DEFINITION OF FEDERAL AGENCY.**—In subsections (d) and (e), the term “Federal agency” has the meaning given the term “agency” in section 552(f) of title 5, United States Code.

**§ 44808. Special rules for model aircraft**

(a) **IN GENERAL.**—Notwithstanding any other provision of law relating to the incorporation of unmanned aircraft systems into Federal Aviation Administration plans and policies, including this

chapter, the Administrator of the Federal Aviation Administration may not promulgate any new rule or regulation specific only to an unmanned aircraft operating as a model aircraft if—

- (1) the aircraft is flown strictly for hobby or recreational use;
- (2) the aircraft is operated in accordance with a community-based set of safety guidelines and within the programming of a nationwide community-based organization;
- (3) not flown beyond visual line of sight of persons co-located with the operator or in direct communication with the operator;
- (4) the aircraft is operated in a manner that does not interfere with and gives way to any manned aircraft;
- (5) when flown within 5 miles of an airport, the operator of the aircraft provides the airport operator, where applicable, and the airport air traffic control tower (when an air traffic facility is located at the airport) with prior notice and receives approval from the tower, to the extent practicable, for the operation from each (model aircraft operators flying from a permanent location within 5 miles of an airport should establish a mutually-agreed upon operating procedure with the airport operator and the airport air traffic control tower (when an air traffic facility is located at the airport));
- (6) the aircraft is flown from the surface to not more than 400 feet in altitude, except under special conditions and programs established by a community-based organization; and
- (7) the operator has passed an aeronautical knowledge and safety test administered by the Federal Aviation Administration online for the operation of unmanned aircraft systems subject to the requirements of section 44809 and maintains proof of test passage to be made available to the Administrator or law enforcement upon request.

(b) **UPDATES.**—

(1) **IN GENERAL.**—The Administrator, in collaboration with government and industry stakeholders, including nationwide community-based organizations, shall initiate a process to update the operational parameters under subsection (a), as appropriate.

(2) **CONSIDERATIONS.**—In updating an operational parameter under paragraph (1), the Administrator shall consider—

- (A) appropriate operational limitations to mitigate aviation safety risk and risk to the uninvolved public;
- (B) operations outside the membership, guidelines, and programming of a nationwide community-based organization;
- (C) physical characteristics, technical standards, and classes of aircraft operating under this section;
- (D) trends in use, enforcement, or incidents involving unmanned aircraft systems; and
- (E) ensuring, to the greatest extent practicable, that updates to the operational parameters correspond to, and leverage, advances in technology.

(3) **SAVINGS CLAUSE.**—Nothing in this subsection shall be construed as expanding the authority of the Administrator to require operators of model aircraft under the exemption of this subsection to be required to seek permissive authority of the Administrator prior to operation in the national airspace system.



(c) *STATUTORY CONSTRUCTION.*—Nothing in this section shall be construed to limit the authority of the Administrator to pursue enforcement action against persons operating model aircraft.

(d) *MODEL AIRCRAFT DEFINED.*—In this section, the term “model aircraft” means an unmanned aircraft that—

- (1) is capable of sustained flight in the atmosphere; and
- (2) is limited to weighing not more than 55 pounds, including the weight of anything attached to or carried by the aircraft, unless otherwise approved through a design, construction, inspection, flight test, and operational safety program administered by a community-based organization.

**§ 44809. Aeronautical knowledge and safety test**

(a) *IN GENERAL.*—An individual may not operate an unmanned aircraft system unless—

- (1) the individual has successfully completed an aeronautical knowledge and safety test under subsection (c);
- (2) the individual has authority to operate an unmanned aircraft under other Federal law; or
- (3) the individual is a holder of an airmen certificate issued under section 44703.

(b) *EXCEPTION.*—This section shall not apply to the operation of an unmanned aircraft system that has been authorized by the Federal Aviation Administration under section 44802, 44805, 44806, or 44807. The Administrator may waive the requirements of this section for operators of aircraft weighing less than 0.55 pounds or for operators under the age of 13 operating the unmanned aircraft system under the supervision of an adult as determined by the Administrator.

(c) *AERONAUTICAL KNOWLEDGE AND SAFETY TEST.*—Not later than 180 days after the date of enactment of the Federal Aviation Administration Reauthorization Act of 2016, the Administrator of the Federal Aviation Administration, in consultation with manufacturers of unmanned aircraft systems, other industry stakeholders, and community-based aviation organizations, shall develop an aeronautical knowledge and safety test that can be administered electronically.

(d) *REQUIREMENTS.*—The Administrator shall ensure that the aeronautical knowledge and safety test is designed to adequately demonstrate an operator’s—

- (1) understanding of aeronautical safety knowledge, as applicable; and
- (2) knowledge of Federal Aviation Administration regulations and requirements pertaining to the operation of an unmanned aircraft system in the national airspace system.

(e) *RECORD OF COMPLIANCE.*—

(1) *IN GENERAL.*—Each operator of an unmanned aircraft system described under subsection (a) shall maintain and make available for inspection, upon request by the Administrator or a Federal, State, or local law enforcement officer, a record of compliance with this section through—

- (A) an identification number, issued by the Federal Aviation Administration certifying passage of the aeronautical knowledge and safety test;

(B) if the individual has authority to operate an unmanned aircraft system under other Federal law, the requisite proof of authority under that law; or

(C) an airmen certificate issued under section 44703.

(2) *COORDINATION.*—The Administrator may coordinate the identification number under paragraph (1)(A) with an operator’s registration number to the extent practicable.

(3) *LIMITATION.*—No fine or penalty may be imposed for the initial failure of an operator of an unmanned aircraft system to comply with paragraph (1) unless the Administrator finds that the conduct of the operator actually posed a risk to the national airspace system.

#### **§ 44810. Safety statements**

(a) *PROHIBITION.*—Beginning on the date that is 1 year after the date of publication of the guidance under subsection (b)(1), it shall be unlawful for any person to introduce or deliver for introduction into interstate commerce any unmanned aircraft manufactured unless a safety statement is attached to the unmanned aircraft or accompanying the unmanned aircraft in its packaging.

(b) *SAFETY STATEMENT.*—

(1) *IN GENERAL.*—Not later than 1 year after the date of enactment of the Federal Aviation Administration Reauthorization Act of 2016, the Administrator of the Federal Aviation Administration shall issue guidance for implementing this section.

(2) *REQUIREMENTS.*—A safety statement described in subsection (a) shall include—

(A) information about laws and regulations applicable to unmanned aircraft systems;

(B) recommendations for using unmanned aircraft in a manner that promotes the safety of persons and property;

(C) the date that the safety statement was created or last modified; and

(D) language approved by the Administrator regarding the following:

(i) A person may operate the unmanned aircraft as a model aircraft (as defined in section 44808) or otherwise in accordance with Federal Aviation Administration authorization or regulation, including requirements for the completion of the aeronautical knowledge and safety test under section 44809.

(ii) The definition of a model aircraft under section 44808.

(iii) The requirements regarding a model aircraft under paragraphs (1) through (7) of section 44808(a).

(iv) The Administrator of the Federal Aviation Administration may pursue enforcement action against a person operating model aircraft who endangers the safety of the national airspace system.

(c) *CIVIL PENALTY.*—A person who violates subsection (a) shall be liable for each violation to the United States Government for a civil penalty described in section 46301(a).

**§44811. Regulatory and administrative fees**

(a) *IN GENERAL.*—Subject to subsection (b), the Administrator may assess and collect regulatory and administrative fees to recover the costs of regulatory and administrative activities under this chapter related to authorization to operate unmanned aircraft systems for compensation or hire, or in the furtherance of a business enterprise.

(b) *LIMITATIONS.*—Fees authorized under subsection (a) shall be reasonable, cost-based relative to the regulatory or administrative activity, and may not be discriminatory or a deterrent to compliance.

(c) *RECEIPTS CREDITED TO ACCOUNT.*—Notwithstanding section 3302 of title 31, all fees and amounts collected under this section shall be credited to the separate account established under section 45303(c). Section 41742 shall not apply to fees and amounts collected under this section.

(d) *REGULATIONS.*—Not later than 1 year after the date of enactment of the Federal Aviation Administration Reauthorization Act of 2016, the Administrator shall issue regulations to carry out this section.

**§44812. Carriage of property by small unmanned aircraft systems for compensation or hire**

(a) *IN GENERAL.*—Not later than 2 years after the date of enactment of this section, the Secretary of Transportation shall issue a final rule authorizing the carriage of property by operators of small unmanned aircraft systems for compensation or hire within the United States.

(b) *CONTENTS.*—The final rule required under subsection (a) shall provide for the following:

(1) *SMALL UAS AIR CARRIER CERTIFICATE.*—The Administrator of the Federal Aviation Administration, at the direction of the Secretary, shall establish a certificate (to be known as a “small UAS air carrier certificate”) for persons that undertake directly, by lease, or other arrangement the operation of small unmanned aircraft systems to carry property in air transportation, including commercial fleet operations with highly automated unmanned aircraft systems. The requirements to operate under a small UAS air carrier certificate shall—

(A) consider the unique characteristics of highly automated, small unmanned aircraft systems; and

(B) include requirements for the safe operation of small unmanned aircraft systems that, at a minimum, address—

(i) airworthiness of small unmanned aircraft systems;

(ii) qualifications for operators and the type and nature of the operations; and

(iii) operating specifications governing the type and nature of the unmanned aircraft system air carrier operations.

(2) *SMALL UAS AIR CARRIER CERTIFICATION PROCESS.*—The Administrator, at the direction of the Secretary, shall establish a process for the issuance of small UAS air carrier certificates established pursuant to paragraph (1) that is performance-

based and ensures required safety levels are met. Such certification process shall consider—

(A) safety risks and the mitigation of those risks associated with the operation of highly automated, small unmanned aircraft around other manned and unmanned aircraft, and over persons and property on the ground;

(B) the competencies and compliance programs of manufacturers, operators, and companies that manufacture, operate, or both small unmanned aircraft systems and components; and

(C) compliance with the requirements established pursuant to paragraph (1).

(3) **SMALL UAS AIR CARRIER CLASSIFICATION.**—The Secretary shall develop a classification system for persons issued small UAS air carrier certificates pursuant to this subsection to establish economic authority for the carriage of property by small unmanned aircraft systems for compensation or hire. Such classification shall only require—

(A) registration with the Department of Transportation; and

(B) a valid small UAS air carrier certificate issued pursuant to this subsection.

#### CHAPTER 449. SECURITY

##### SUBCHAPTER II. ADMINISTRATION AND PERSONNEL

#### § 44941. Immunity for reporting suspicious activities

(a) **IN GENERAL.**—Any air carrier or foreign air carrier or any employee of an air carrier or foreign air carrier who makes a voluntary disclosure of any suspicious transaction relevant to a possible violation of law or regulation, relating to air piracy, a threat to aircraft or passenger safety, [or terrorism, as defined by section 3077 of title 18, United States Code,] *human trafficking (as defined by section 41725), or terrorism (as defined by section 3077 of title 18)* to any employee or agent of the Department of Transportation, the Department of Justice, any Federal, State, or local law enforcement officer, or any airport or airline security officer shall not be civilly liable to any person under any law or regulation of the United States, any constitution, law, or regulation of any State or political subdivision of any State, for such disclosure.

(b) **APPLICATION.**—Subsection (a) shall not apply to—

(1) any disclosure made with actual knowledge that the disclosure was false, inaccurate, or misleading; or

(2) any disclosure made with reckless disregard as to the truth or falsity of that disclosure.

#### CHAPTER 453. FEES

#### § 45301. General provisions

(a) **SCHEDULE OF FEES.**—The Administrator shall establish a schedule of new fees, and a collection process for such fees, for the following services provided by the Administration:

(1) Air traffic control and related services provided to aircraft other than military and civilian aircraft of the [United States

government] *United States Government* or of a foreign government that neither take off from, nor land in, the United States.

(2) Services (other than air traffic control services) provided to a foreign government or services provided to any entity obtaining services outside the United States, except that the Administrator shall not impose fees in any manner for production-certification related service performed outside the United States pertaining to aeronautical products manufactured outside the United States.

\* \* \* \* \*

### § 45305. Registration, certification, and related fees

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

- (1) Registering an aircraft.
- (2) Reregistering, replacing, or renewing an aircraft registration certificate.
- (3) Issuing an original dealer's aircraft registration certificate.
- (4) Issuing an additional dealer's aircraft registration certificate (other than the original).
- (5) Issuing a special registration number.
- (6) Issuing a renewal of a special registration number reservation.
- (7) Recording a security interest in an aircraft or aircraft part.
- (8) Issuing an airman certificate.
- (9) Issuing a replacement airman certificate.
- (10) Issuing an airman medical certificate.
- (11) Providing a legal opinion pertaining to aircraft registration or recordation.

(b) CERTIFICATION SERVICES.—*Subject to subsection (c), and notwithstanding section 45301(a), the Administrator may establish and collect a fee from a foreign government or entity for services related to certification, regardless of where the services are provided, if the fee—*

- (1) *is established and collected in a manner consistent with aviation safety agreements; and*
- (2) *does not exceed the estimated costs of the services.*

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

[(c)](d) FEES CREDITED AS OFFSETTING COLLECTIONS.—

- (1) IN GENERAL.—Notwithstanding section 3302 of title 31, any fee authorized to be collected under this section shall—
  - (A) be credited as offsetting collections to the account that finances the activities and services for which the fee is imposed;
  - (B) be available for expenditure only to pay the costs of activities and services for which the fee is imposed, including all costs associated with collecting the fee; and

(C) remain available until expended.

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

(3) ADJUSTMENTS.—The Administrator shall adjust a fee established under subsection (a) for a service or activity if the Administrator determines that the actual cost of the service or activity is higher or lower than was indicated by the cost data used to establish such fee.

#### SUBPART IV. ENFORCEMENT AND PENALTIES

##### CHAPTER 461. INVESTIGATIONS AND PROCEEDINGS

### § 46111. Certificate actions in response to a security threat

\* \* \* \* \*

(g) CLASSIFIED EVIDENCE.—

(1) IN GENERAL.—The Under Secretary, in consultation with the Administrator and the Director of Central Intelligence, shall issue regulations to establish procedures by which the Under Secretary, as part of a hearing conducted under this section, may provide an unclassified summary of classified evidence upon which the order of the Administrator was based to the individual adversely affected by the order.

(2) REVIEW OF CLASSIFIED EVIDENCE BY ADMINISTRATIVE LAW JUDGE.—

(A) REVIEW.—As part of a hearing conducted under this section, if the order of the Administrator issued under subsection (a) is based on classified information (as defined in section 1(a) of the Classified Information Procedures Act [(18 U.S.C. App.)] (*18 U.S.C. App.*)), such information may be submitted by the Under Secretary to the reviewing administrative law judge, pursuant to appropriate security procedures, and shall be reviewed by the administrative law judge *ex parte* and *in camera*.

(B) SECURITY CLEARANCES.—Pursuant to existing procedures and requirements, the Under Secretary shall, in coordination, as necessary, with the heads of other affected departments or agencies, ensure that administrative law judges reviewing orders of the Administrator under this section possess security clearances appropriate for their work under this section.

(3) UNCLASSIFIED SUMMARIES OF CLASSIFIED EVIDENCE.—As part of a hearing conducted under this section and upon the request of the individual adversely affected by an order of the Administrator under subsection (a), the Under Secretary shall provide to the individual and reviewing administrative law judge, consistent with the procedures established under paragraph (1), an unclassified summary of any classified information upon which the order of the Administrator is based.

SUBTITLE VII. AVIATION PROGRAMS  
PART A. AIR COMMERCE AND SAFETY  
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), 44502(b) or (c), chapter 447 (except sections 44717 and 44719-44723), *chapter 448*, chapter 449 (except sections 44902, 44903(d), 44904, 44907(a)-(d)(1)(A) and (d)(1)(C)-(f), and 44908), chapter 451, section 47107(b) (including any assurance made under such section), or section 47133 of this title;

(B) a regulation prescribed or order issued under any provision to which clause (A) of this paragraph applies;

(C) any term of a certificate or permit issued under section 41102, 41103, or 41302 of this title; or

(D) a regulation of the United States Postal Service under this part.

(2) A separate violation occurs under this subsection for each day the violation (other than a violation of section 41719) continues or, if applicable, for each flight involving the violation (other than a violation of section 41719).

(3) PENALTY FOR DIVERSION OF AVIATION REVENUES.—The amount of a civil penalty assessed under this section for a violation of section 47107(b) of this title (or any assurance made under such section) or section 47133 of this title may be increased above the otherwise applicable maximum amount under this section to an amount not to exceed 3 times the amount of revenues that are used in violation of such section.

(4) AVIATION SECURITY VIOLATIONS.—Notwithstanding paragraph (1) of this subsection, the maximum civil penalty for violating chapter 449 shall be \$10,000; except that the maximum civil penalty shall be \$25,000 in the case of a person operating an aircraft for the transportation of passengers or property for compensation (except an individual serving as an airman).

(5) PENALTIES APPLICABLE TO INDIVIDUALS AND SMALL BUSINESS CONCERNS.—

(A) An individual (except an airman serving as an airman) or small business concern is liable to the Government for a civil penalty of not more than \$10,000 for violating—

(i) chapter 401 (except sections 40103(a) and (d), 40105, 40106(b), 40116, and 40117), section 44502 (b)

or (c), chapter 447 (except sections 44717-44723), *chapter 448*, chapter 449 (except sections 44902, 44903(d), 44904, and 44907-44909), or chapter 451, or section 46314(a) of this title; or

(ii) a regulation prescribed or order issued under any provision to which clause (i) applies.

(B) A civil penalty of not more than \$10,000 may be imposed for each violation under paragraph (1) committed by an individual or small business concern related to—

(i) the transportation of hazardous material;

(ii) the registration or recordation under chapter 441 of an aircraft not used to provide air transportation;

(iii) a violation of section 44718(d), relating to the limitation on construction or establishment of landfills;

(iv) a violation of section 44725, relating to the safe disposal of life-limited aircraft parts; or

(v) a violation of section 40127 or section 41705, relating to discrimination.

(C) Notwithstanding paragraph (1), the maximum civil penalty for a violation of section 41719 committed by an individual or small business concern shall be \$5,000 instead of \$1,000.

(D) Notwithstanding paragraph (1), the maximum civil penalty for a violation of section 41712 (including a regulation prescribed or order issued under such section) or any other regulation prescribed by the Secretary by an individual or small business concern that is intended to afford consumer protection to commercial air transportation passengers shall be \$2,500 for each violation.

(6) FAILURE TO COLLECT AIRPORT SECURITY BADGES.—Notwithstanding paragraph (1), any employer (other than a governmental entity or airport operator) who employs an employee to whom an airport security badge or other identifier used to obtain access to a secure area of an airport is issued before, on, or after the date of enactment of this paragraph and who does not collect or make reasonable efforts to collect such badge from the employee on the date that the employment of the employee is terminated and does not notify the operator of the airport of such termination within 24 hours of the date of such termination shall be liable to the Government for a civil penalty not to exceed \$10,000.

(b) SMOKE ALARM DEVICE PENALTY.—

(1) A passenger may not tamper with, disable, or destroy a smoke alarm device located in a lavatory on an aircraft providing air transportation or intrastate air transportation.

(2) An individual violating this subsection is liable to the Government for a civil penalty of not more than \$2,000.

(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.

(B) a violation of a regulation prescribed or order issued under any provision to which clause (A) of this paragraph applies.

(C) a violation of any term of a certificate or permit issued under section 41102, 41103, or 41302 of this title.

(D) a violation under subsection (a)(1) of this section related to the transportation of hazardous material.

(2) The Secretary shall give written notice of the finding of a violation and the civil penalty under paragraph (1) of this subsection.

(d) ADMINISTRATIVE IMPOSITION OF PENALTIES.—

(1) In this subsection—

(A) “flight engineer” means an individual who holds a flight engineer certificate issued under part 63 of title 14, Code of Federal Regulations.

(B) “mechanic” means an individual who holds a mechanic certificate issued under part 65 of title 14, Code of Federal Regulations.

(C) “pilot” means an individual who holds a pilot certificate issued under part 61 of title 14, Code of Federal Regulations.

(D) “repairman” means an individual who holds a repairman certificate issued under part 65 of title 14, Code of Federal Regulations.

(2) The Administrator of the Federal Aviation Administration may impose a civil penalty for a violation of chapter 401 (except sections 40103(a) and (d), 40105, 40106(b), 40116, and 40117), chapter 441 (except section 44109), section 44502(b) or (c), chapter 447 (except sections 44717 and 44719-44723), *chapter 448*, chapter 451, section 46301(b), section 46302 (for a violation relating to section 46504), section 46318, section 46319, *section 46320*, or section 47107(b) (as further defined by the Secretary under section 47107(k) and including any assurance made under section 47107(b)) of this title or a regulation prescribed or order issued under any of those provisions. The Secretary of Homeland Security may impose a civil penalty for a violation of chapter 449 (except sections 44902, 44903(d), 44907(a)-(d)(1)(A), 44907(d)(1)(C)-(f), 44908, and 44909), section 46302 (except for a violation relating to section 46504), or section 46303 of this title or a regulation prescribed or order issued under any of those provisions. The Secretary of Homeland Security or Administrator shall give written notice of the finding of a violation and the penalty.

(3) In a civil action to collect a civil penalty imposed by the Secretary of Homeland Security or Administrator under this subsection, the issues of liability and the amount of the penalty may not be reexamined.

(4) Notwithstanding paragraph (2) of this subsection, the district courts of the United States have exclusive jurisdiction of a civil action involving a penalty the Secretary of Homeland Security or Administrator initiates if—

(A) the amount in controversy is more than—

(i) \$50,000 if the violation was committed by any person before the date of enactment of the Vision 100-Century of Aviation Reauthorization Act

(ii) \$400,000 if the violation was committed by a person other than an individual or small business concern on or after that date; or

(iii) \$50,000 if the violation was committed by an individual or small business concern on or after that date;

(B) the action is in rem or another action in rem based on the same violation has been brought;

(C) the action involves an aircraft subject to a lien that has been seized by the Government; or

(D) another action has been brought for an injunction based on the same violation.

(5)(A) The Administrator may issue an order imposing a penalty under this subsection against an individual acting as a pilot, flight engineer, mechanic, or repairman only after advising the individual of the charges or any reason the Administrator relied on for the proposed penalty and providing the individual an opportunity to answer the charges and be heard about why the order shall not be issued.

(B) An individual acting as a pilot, flight engineer, mechanic, or repairman may appeal an order imposing a penalty under this subsection to the National Transportation Safety Board. After notice and an opportunity for a hearing on the record, the Board shall affirm, modify, or reverse the order. The Board may modify a civil penalty imposed to a suspension or revocation of a certificate.

(C) When conducting a hearing under this paragraph, the Board is not bound by findings of fact of the Administrator but is bound by all validly adopted interpretations of laws and regulations the Administrator carries out and of written agency policy guidance available to the public related to sanctions to be imposed under this section unless the Board finds an interpretation is arbitrary, capricious, or otherwise not according to law.

(D) When an individual files an appeal with the Board under this paragraph, the order of the Administrator is stayed.

(6) An individual substantially affected by an order of the Board under paragraph (5) of this subsection, or the Administrator when the Administrator decides that an order of the Board under paragraph (5) will have a significant adverse impact on carrying out this part, 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.

(7)(A) The Administrator may impose a penalty on a person (except an individual acting as a pilot, flight engineer, mechanic, or repairman) only after notice and an opportunity for a hearing on the record.

(B) In an appeal from a decision of an administrative law judge as the result of a hearing under subparagraph

- (A) of this paragraph, the Administrator shall consider only whether—
- (i) each finding of fact is supported by a preponderance of reliable, probative, and substantial evidence;
  - (ii) each conclusion of law is made according to applicable law, precedent, and public policy; and
  - (iii) the judge committed a prejudicial error that supports the appeal.
- (C) Except for good cause, a civil action involving a penalty under this paragraph may not be initiated later than 2 years after the violation occurs.
- (D) In the case of a violation of section 47107(b) of this title or any assurance made under such section—
- (i) a civil penalty shall not be assessed against an individual;
  - (ii) a civil penalty may be compromised as provided under subsection (f); and
  - (iii) judicial review of any order assessing a civil penalty may be obtained only pursuant to section 46110 of this title.
- (8) The maximum civil penalty the Under Secretary, Administrator, or Board may impose under this subsection is—
- (A) \$50,000 if the violation was committed by any person before the date of enactment of the Vision 100—Century of Aviation Reauthorization Act;
  - (B) \$400,000 if the violation was committed by a person other than an individual or small business concern on or after that date; or
  - (C) \$50,000 if the violation was committed by an individual or small business concern on or after that date.
- (9) This subsection applies only to a violation occurring after August 25, 1992.
- (e) PENALTY CONSIDERATIONS.—In determining the amount of a civil penalty under subsection (a)(3) of this section related to transportation of hazardous material, the Secretary shall consider—
- (1) the nature, circumstances, extent, and gravity of the violation;
  - (2) with respect to the violator, the degree of culpability, any history of prior violations, the ability to pay, and any effect on the ability to continue doing business; and
  - (3) other matters that justice requires.
- (f) COMPROMISE AND SETOFF.—
- (1)(A) The Secretary may compromise the amount of a civil penalty imposed for violating—
    - (i) chapter 401 (except sections 40103(a) and (d), 40105, 40116, and 40117), chapter 441 (except section 44109), section 44502(b) or (c), chapter 447 (except 44717 and 44719-44723), *chapter 448*, chapter 449 (except sections 44902, 44903(d), 44904, 44907(a)-(d)(1)(A) and (d)(1)(C)-(f), 44908, and 44909), or chapter 451 of this title; or
    - (ii) a regulation prescribed or order issued under any provision to which clause (i) of this subparagraph applies.

- (B) The Postal Service may compromise the amount of a civil penalty imposed under subsection (a)(1)(D) of this section.
- (2) The Government may deduct the amount of a civil penalty imposed or compromised under this subsection from amounts it owes the person liable for the penalty.
- (g) JUDICIAL REVIEW.—An order of the Secretary or the Administrator imposing a civil penalty may be reviewed judicially only under section 46110 of this title.
- (h) NONAPPLICATION.—
- (1) This section does not apply to the following when performing official duties:
- (A) a member of the armed forces of the United States.
- (B) a civilian employee of the Department of Defense subject to the Uniform Code of Military Justice.
- (2) The appropriate military authority is responsible for taking necessary disciplinary action and submitting to the Secretary (or the Under Secretary of Transportation for Security with respect to security duties and powers designated to be carried out by the Under Secretary or the Administrator with respect to aviation safety duties and powers designated to be carried out by the Administrator) a timely report on action taken.
- (i) SMALL BUSINESS CONCERN DEFINED.—In this section, the term “small business concern” has the meaning given that term in section 3 of the Small Business Act (15 U.S.C. 632).

**§ 46320. Interference with firefighting, law enforcement, or emergency response activities**

- (a) PROHIBITION.—No person may operate an aircraft so as to interfere with firefighting, law enforcement, or emergency response activities.
- (b) DEFINITION.—For purposes of this section, an aircraft interferes with the activities specified in subsection (a) when its operation prevents the initiation of, interrupts, or endangers a person or property engaged in those activities.
- (c) CIVIL PENALTY.—A person violating subsection (a) shall be liable for a civil penalty of not more than \$20,000.
- (d) COMPROMISE AND SETOFF.—The United States Government may deduct the amount of a civil penalty imposed or compromised under this section from the amounts the Government owes the person liable for the penalty.

PART B. AIRPORT DEVELOPMENT AND NOISE

CHAPTER 471. AIRPORT DEVELOPMENT

SUBCHAPTER I. AIRPORT IMPROVEMENT

**§ 47102. Definitions**

In this subchapter—

- (1) “air carrier airport” means a public airport regularly served by—
- (A) an air carrier certificated by the Secretary of Transportation under section 41102 of this title (except a charter air carrier); or

- (B) at least one air carrier—
  - (i) operating under an exemption from section 41101(a)(1) of this title that the Secretary grants; and
  - (ii) having at least 2,500 passenger boardings at the airport during the prior calendar year.
- (2) “airport”—
  - (A) means—
    - (i) an area of land or water used or intended to be used for the landing and taking off of aircraft;
    - (ii) an appurtenant area used or intended to be used for airport buildings or other airport facilities or rights of way; and
    - (iii) airport buildings and facilities located in any of those areas; and
  - (B) includes a heliport.
- (3) “airport development” means the following activities, if undertaken by the sponsor, owner, or operator of a public-use airport:
  - (A) constructing, repairing, or improving a public-use airport, including—
    - (i) removing, lowering, relocating, marking, and lighting an airport hazard; and
    - (ii) preparing a plan or specification, including carrying out a field investigation.
  - (B) acquiring for, or installing at, a public-use airport—
    - (i) a navigation aid or another aid (including a precision approach system) used by aircraft for landing at or taking off from the airport, including preparing the site as required by the acquisition or installation;
    - [(ii) safety or security equipment, including explosive detection devices, universal access systems, and emergency call boxes, the Secretary requires by regulation for, or approves as contributing significantly to, the safety or security of individuals and property at the airport and integrated in-pavement lighting systems for runways and taxiways and other runway and taxiway incursion prevention devices;]
    - (ii) security equipment owned and operated by the airport, including explosive detection devices, universal access control systems, perimeter fencing, and emergency call boxes, which the Secretary may require by regulation for, or approve as contributing significantly to, the security of individuals and property at the airport;*
    - (iii) safety apparatus owned and operated by the airport, which the Secretary may require by regulation for, or approve as contributing significantly to, the safety of individuals and property at the airport, and integrated in-pavement lighting systems for runways and taxiways and other runway and taxiway incursion prevention devices;*
    - [(iii)]*(iv) equipment to remove snow, to measure runway surface friction, or for aviation-related weather reporting, including closed circuit weather surveillance equipment if the airport is located in Alaska;*

[(iv)](v) firefighting and rescue equipment at an airport that serves scheduled passenger operations of air carrier aircraft designed for more than 9 passenger seats;

[(v)](vi) aircraft deicing equipment and structures (except aircraft deicing fluids and storage facilities for the equipment and fluids);

[(vi)](vii) interactive training systems;

[(vii)](viii) windshear detection equipment that is certified by the Administrator of the Federal Aviation Administration;

[(viii)](ix) stainless steel adjustable lighting extensions approved by the Administrator;

[(ix)](x) engineered materials arresting systems as described in the Advisory Circular No. 150/5220-22 published by the Federal Aviation Administration on August 21, 1998, including any revision to the circular; and

[(x)](xi) replacement of baggage conveyor systems, and reconfiguration of terminal baggage areas, that the Secretary determines are necessary to install bulk explosive detection devices; except that such activities shall be eligible for funding under this subchapter only using amounts apportioned under section 47114.

(C) acquiring an interest in land or airspace, including land for future airport development, that is needed—

(i) to carry out airport development described in subclause (A) or (B) of this clause; or

(ii) to remove or mitigate an existing airport hazard or prevent or limit the creation of a new airport hazard.

(D) acquiring land for, or constructing, a burn area training structure on or off the airport to provide live fire drill training for aircraft rescue and firefighting personnel required to receive the training under regulations the Secretary prescribes, including basic equipment and minimum structures to support the training under standards the Administrator of the Federal Aviation Administration prescribes.

(E) relocating after December 31, 1991, an air traffic control tower and any navigational aid (including radar) if the relocation is necessary to carry out a project approved by the Secretary under this subchapter or under section 40117.

(F) constructing, reconstructing, repairing, or improving an airport, or purchasing capital equipment for an airport, if necessary for compliance with the responsibilities of the operator or owner of the airport under the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.), the Clean Air Act (42 U.S.C. 7401 et seq.), and the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.), except constructing or purchasing capital equipment that would benefit primarily a revenue-producing area of the airport used by a nonaeronautical business.

(G) acquiring land for, or work necessary to construct, a pad suitable for deicing aircraft before takeoff at a commercial service airport, including constructing or reconstructing paved areas, drainage collection structures, treatment and discharge systems, appropriate lighting, paved access for deicing vehicles and aircraft, and including acquiring glycol recovery vehicles, but not including acquiring aircraft deicing fluids or constructing or reconstructing storage facilities for aircraft deicing equipment or fluids.

(H) routine work to preserve and extend the useful life of runways, taxiways, and aprons at nonhub airports and airports that are not primary airports, under guidelines issued by the Administrator of the Federal Aviation Administration.

(I) constructing, reconstructing, or improving an airport, or purchasing nonrevenue generating capital equipment to be owned by an airport, for the purpose of transferring passengers, cargo, or baggage between the aeronautical and ground transportation modes on airport property.

(J) constructing an air traffic control tower or acquiring and installing air traffic control, communications, and related equipment at an air traffic control tower under the terms specified in section 47124(b)(4).

(K) work necessary to construct or modify airport facilities to provide low-emission fuel systems, gate electrification, and other related air quality improvements at a commercial service airport if the airport is located in an air quality nonattainment or maintenance area (as defined in sections 171(2) and 175A of the Clean Air Act (42 U.S.C. 7501(2); 7505a) and if [such project will result in an airport receiving appropriate] *the airport would be able to receive* emission credits, as described in section 47139.

(L) a project for the acquisition [or conversion of vehicles and] *of vehicles used exclusively for transporting passengers on-airport, employee shuttle buses within the airport, or ground support equipment, owned by a commercial service [airport, to] airport and equipped with* low-emission technology, if the airport is located in an air quality nonattainment or maintenance area (as defined in sections 171(2) and 175A of the Clean Air Act (42 U.S.C. 7501(2); [7505a) and if such project will result in an airport receiving appropriate] 7505a)) *and if the airport would be able to receive* emission credits as described in section 47139.

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

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

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

(4) “airport hazard” means a structure or object of natural growth located on or near a public-use airport, or a use of land near the airport, that obstructs or otherwise is hazardous to the landing or taking off of aircraft at or from the airport.

(5) “airport planning” means planning as defined by [regulations] requirements the Secretary prescribes and includes—

(A) integrated airport system planning;

(B) developing an environmental management system; and

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

(6) “amount made available under section 48103” or “amount newly made available” means the amount authorized for grants under section 48103 as that amount may be limited in that year by a subsequent law, but as determined without regard to grant obligation recoveries made in that year or amounts covered by section 47107(f).

(7) “categorized airport” means a nonprimary airport that has an identified role in the National Plan of Integrated Airport Systems.

[(7)](8) “commercial service airport” means a public airport in a State that the Secretary determines has at least 2,500 passenger boardings each year and is receiving scheduled passenger aircraft service.

[(8)](9) “general aviation airport” means a [public] public-use airport that is located in a State and that, as determined by the Secretary—

(A) does not have scheduled service; or

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

[(9)](10) “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) identifying system needs;

(B) developing an estimate of systemwide development costs;

(C) conducting studies, surveys, and other planning actions, including those related to airport access, needed to decide which aeronautical needs should be met by a system of airports; and

(D) standards prescribed by a State, except standards for safety of approaches, for airport development at nonprimary public-use airports.

(11) “joint use airport” means an airport owned by the Department of Defense, at which both military and civilian aircraft make shared use of the airfield.

(12) “lactation area” means a room or other location in a commercial service airport that—

(A) provides a location for members of the public to express breast milk that is shielded from view and free from intrusion from the public;



*(B) has a door that can be locked;*

*(C) includes a place to sit, a table or other flat surface, and an electrical outlet;*

*(D) is readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs; and*

*(E) is not located in a restroom.*

[(10)](13) “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.

[(11)](14) “large hub airport” means a commercial service airport that has at least 1.0 percent of the passenger boardings.

[(12)](15) “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.

[(13)](16) “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.

[(14)](17) “nonhub airport” means a commercial service airport that has less than 0.05 percent of the passenger boardings.

[(15)](18) “passenger boardings”—

(A) means, unless the context indicates otherwise, revenue passenger boardings in the United States in the prior calendar year on an aircraft in service in air commerce, as the Secretary determines under regulations the Secretary prescribes; and

(B) includes passengers who continue on an aircraft in international flight that stops at an airport in the 48 contiguous States, Alaska, or Hawaii for a nontraffic purpose.

[(16)](19) “primary airport” means a commercial service airport the Secretary determines to have more than 10,000 passenger boardings each year.

[(17)](20) “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.

[(18)](21) “project cost” means a cost involved in carrying out a project.

[(19)](22) “project grant” means a grant of money the Secretary makes to a sponsor to carry out at least one project.

[(20)](23) “public agency” means—

(A) a State or political subdivision of a State;

(B) a tax-supported organization; or

(C) an Indian tribe or pueblo.

[(21)](24) “public airport” means an airport used or intended to be used for public purposes—

(A) that is under the control of a public agency; and

(B) of which the area used or intended to be used for the landing, taking off, or surface maneuvering of aircraft is publicly owned.

[(22)](25) “public-use airport” means—

(A) a public airport; or

(B) a privately-owned airport used or intended to be used for public purposes that is—

[(i) a reliever airport; or]

(i) *determined by the Secretary to have at least—*

(I) *100 based aircraft that are currently registered with the Federal Aviation Administration under chapter 445 of this title; and*

(II) *1 based jet aircraft that is currently registered with the Federal Aviation Administration where, for the purposes of this clause, “based” means the aircraft or jet aircraft overnights at the airport for the greater part of the year; or*

(ii) *determined by the Secretary to have at least 2,500 passenger boardings each year and to receive scheduled passenger aircraft service.*

[(23)](26) “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)](27) “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.

[(25)](28) “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.

[(26)](29) “sponsor” means—

(A) a public agency that submits to the Secretary under this subchapter an application for financial assistance; and

(B) a private owner of a public-use airport that submits to the Secretary under this subchapter an application for financial assistance for the airport.

[(27)](30) “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)](31) “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).

(32) “*unclassified airport*” means a nonprimary airport that is included in the National Plan of Integrated Airport Systems that is not categorized by the Administrator of the Federal Aviation Administration in the most current report entitled *General Aviation Airports: A National Asset*.

**§ 47104. Project grant authority**

(a) GENERAL AUTHORITY.—To maintain a safe and efficient nationwide system of public-use airports that meets the present and future needs of civil aeronautics, the Secretary of Transportation may make project grants under this subchapter from the Airport and Airway Trust Fund.

(b) INCURRING OBLIGATIONS.—The Secretary may incur obligations to make grants from amounts made available under section 48103 of this title as soon as the amounts are apportioned under section 47114(c) and (d)(2) of this title.

(c) EXPIRATION OF AUTHORITY.—After [July 15, 2016] *September 30, 2017*, the Secretary may not incur obligations under subsection (b) of this section, except for obligations of amounts—

(1) remaining available after that date under section 47117(b) of this title; or

(2) recovered by the United States Government from grants made under this chapter if the amounts are obligated only for increases under section 47108(b)(2) and (3) of this title in the maximum amount of obligations of the Government for any other grant made under this title.

**§ 47106. Project grant application approval conditioned on satisfaction of project requirements**

(a) PROJECT GRANT APPLICATION APPROVAL.—The Secretary of Transportation may approve an application under this subchapter for a project grant only if the Secretary is satisfied that—

(1) the project is consistent with plans (existing at the time the project is approved) of public agencies authorized by the State in which the airport is located to plan for the development of the area surrounding the airport;

(2) the project will contribute to carrying out this subchapter;

(3) enough money is available to pay the project costs that will not be paid by the United States Government under this subchapter;

(4) the project will be completed without unreasonable delay;

(5) the sponsor has authority to carry out the project as proposed[; and];

(6) if the project is [for an airport that has an airport master plan, the master plan addresses] *a master plan project, it will address* issues relating to solid waste recycling at the airport, including—

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

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

(C) operation and maintenance requirements;

(D) the review of waste management contracts; and

(E) the potential for cost savings or the generation of revenue[.]; and

*(7) if the project is at an unclassified airport, the project will be funded with an amount apportioned under subsection 47114(d)(3)(B) and is—*

*(A) for maintenance of the pavement of the primary runway;*

*(B) for obstruction removal for the primary runway;*

*(C) for the rehabilitation of the primary runway; or*

*(D) a project that the Secretary considers necessary for the safe operation of the airport.*

**§ 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) the airport will be available for public use on reasonable conditions and without unjust discrimination;

(2) air carriers making similar use of the airport will be subject to substantially comparable charges—

(A) for facilities directly and substantially related to providing air transportation; and

(B) regulations and conditions, except for differences based on reasonable classifications, such as between—

(i) tenants and nontenants; and

(ii) signatory and nonsignatory carriers;

(3) the airport operator will not withhold unreasonably the classification or status of tenant or signatory from an air carrier that assumes obligations substantially similar to those already imposed on air carriers of that classification or status;

(4) a person providing, or intending to provide, aeronautical services to the public will not be given an exclusive right to use the airport, with a right given to only one fixed-base operator to provide services at an airport deemed not to be an exclusive right if—

(A) the right would be unreasonably costly, burdensome, or impractical for more than one fixed-base operator to provide the services; and

(B) allowing more than one fixed-base operator to provide the services would require reducing the space leased under an existing agreement between the one fixed-base operator and the airport owner or operator;

(5) fixed-base operators similarly using the airport will be subject to the same charges;

(6) an air carrier using the airport may service itself or use any fixed-base operator allowed by the airport operator to service any carrier at the airport;

(7) the airport and facilities on or connected with the airport will be operated and maintained suitably, with consideration given to climatic and flood conditions;

(8) a proposal to close the airport temporarily for a nonaeronautical purpose must first be approved by the Secretary;

(9) appropriate action will be taken to ensure that terminal airspace required to protect instrument and visual operations to the airport (including operations at established minimum

flight altitudes) will be cleared and protected by mitigating existing, and preventing future, airport hazards;

(10) appropriate action, including the adoption of zoning laws, has been or will be taken to the extent reasonable to restrict the use of land next to or near the airport to uses that are compatible with normal airport operations;

(11) each of the airport's facilities developed with financial assistance from the United States Government and each of the airport's facilities usable for the landing and taking off of aircraft always will be available without charge for use by Government aircraft in common with other aircraft, except that if the use is substantial, the Government may be charged a reasonable share, proportionate to the use, of the cost of operating and maintaining the facility used;

(12) the airport owner or operator will provide, without charge to the Government, property interests of the sponsor in land or water areas or buildings that the Secretary decides are desirable for, and that will be used for, constructing at Government expense, facilities for carrying out activities related to air traffic control or navigation;

(13) the airport owner or operator will maintain a schedule of charges for use of facilities and services at the airport—

(A) that will make the airport as self-sustaining as possible under the circumstances existing at the airport, including volume of traffic and economy of collection; and

(B) without including in the rate base used for the charges the Government's share of costs for any project for which a grant is made under this subchapter or was made under the Federal Airport Act or the Airport and Airway Development Act of 1970;

(14) the project accounts and records will be kept using a standard system of accounting that the Secretary, after consulting with appropriate public agencies, prescribes;

(15) the airport owner or operator will submit any annual or special airport financial and operations reports to the Secretary that the Secretary reasonably requests and make such reports available to the public;

(16) the airport owner or operator will maintain a current layout plan of the airport that meets the following requirements:

(A) the plan will be in a form the Secretary prescribes;

(B) the Secretary will approve the plan and any revision or modification before the plan, revision, or modification takes effect;

(C) the owner or operator will not make or allow any alteration in the airport or any of its facilities if the alteration does not comply with the plan the Secretary approves, and the Secretary is of the opinion that the alteration may affect adversely the safety, utility, or efficiency of the airport; and

(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) eliminate the adverse effect in a way the Secretary approves; or

(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);

(17) each contract and subcontract for program management, construction management, planning studies, feasibility studies, architectural services, preliminary engineering, design, engineering, surveying, mapping, and related services will be awarded in the same way that a contract for architectural and engineering services is negotiated under chapter 11 of title 40 or an equivalent qualifications-based requirement prescribed for or by the sponsor;

(18) the airport and each airport record will be available for inspection by the Secretary on reasonable request, and a report of the airport budget will be available to the public at reasonable times and places;

(19) the airport owner or operator will submit to the Secretary and make available to the public an annual report listing in detail—

(A) all amounts paid by the airport to any other unit of government and the purposes for which each such payment was made; and

(B) all services and property provided to other units of government and the amount of compensation received for provision of each such service and property;

(20) the airport owner or operator will permit, to the maximum extent practicable, intercity buses or other modes of transportation to have access to the airport, but the sponsor does not have any obligation under this paragraph, or because of it, to fund special facilities for intercity bus service or for other modes of transportation; **[and]**

(21) if the airport owner or operator and a person who owns an aircraft agree that a hangar is to be constructed at the airport for the aircraft at the aircraft owner's expense, the airport owner or operator will grant to the aircraft owner for the hangar a long-term lease that is subject to such terms and conditions on the hangar as the airport owner or operator may impose~~].~~; and

(22) *with respect to a medium or large hub airport, the airport owner or operator will maintain a lactation area in each passenger terminal building of the airport in the sterile area (as defined in section 1540.5 of title 49, Code of Federal Regulations) of the building.*<sup>3</sup>

(b) WRITTEN ASSURANCES ON USE OF REVENUE.—

<sup>3</sup> The amendment made to section 47107(a) of title 49, United States Code, shall apply to a project grant application submitted for a fiscal year beginning on or after the date that is 2 years after the date of the enactment of this Act.

(1) 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 local taxes on aviation fuel (except taxes in effect on December 30, 1987) and the revenues generated by a public airport will be expended for the capital or operating costs of—

(A) the airport;

(B) the local airport system; or

(C) other local facilities owned or operated by the airport owner or operator and directly and substantially related to the air transportation of passengers or property.

(2) Paragraph (1) of this subsection does 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.

(3) This subsection does not prevent the use of a State tax on aviation fuel to support a State aviation program or the use of airport revenue on or off the airport for a noise mitigation purpose.

*(4) This subsection does not prevent the use of airport revenue for the maintenance and improvement of the on-airport portion of a surface transportation facility providing access to an airport and non-airport locations if the surface transportation facility is owned or operated by the airport owner or operator and the use of airport revenue is prorated to airport use and limited to portions of the facility located on the airport. The Secretary shall determine the maximum percentage contribution of airport revenue toward surface transportation facility maintenance or improvement, taking into consideration the current and projected use of the surface transportation facility located on the airport for airport and non-airport purposes. The de minimus use, as determined by the Secretary, of a surface transportation facility for non-airport purposes shall not require prorating.*

\* \* \* \* \*

(r) **COMPETITION DISCLOSURE REQUIREMENT.**—

(1) **IN GENERAL.**—*The Secretary of Transportation may approve an application under this subchapter for an airport development project grant for a large hub airport or a medium hub airport only if the Secretary receives assurances that the airport sponsor will provide the information required by paragraph (2) at such time and in such form as the Secretary may require.*

(2) **COMPETITIVE ACCESS.**—*On February 1 and August 1 of each year, an airport that during the previous 6-month period has been unable to accommodate one or more requests by an air carrier for access to gates or other facilities at that airport in order to provide service to the airport or to expand service at the airport shall transmit a report to the Secretary that—*

*(A) describes the requests;*

(B) provides an explanation as to why the requests could not be accommodated; and

(C) provides a time frame within which, if any, the airport will be able to accommodate the requests.

(3) SUNSET PROVISION.—This subsection shall cease to be effective beginning **July 16, 2016** October 1, 2017.

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

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

(A) Aircraft of the person.

(B) Aircraft authorized by the person.

(2) THROUGH-THE-FENCE AGREEMENTS.—

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

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

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

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

(iii) to maintain the property for residential, non-commercial use for the duration of the agreement;

(iv) to prohibit access to the airport from other properties through the property of the property owner; and

(v) to prohibit any aircraft refueling from occurring on the property.

(t) AIRPORTS THAT ENTER INTO CERTAIN LEASES WITH THE ARMED FORCES.—The Secretary of Transportation may not disapprove a project grant application under this subchapter for an airport development project at an airport solely because the airport renews a lease for the use, at a nominal rate, of airport property by a regular or reserve component of the Armed Forces, including the National Guard.

(u) CONSTRUCTION OF RECREATIONAL AIRCRAFT.—



(1) *IN GENERAL.*—*The construction of a covered aircraft shall be treated as an aeronautical activity for purposes of—*

(A) *determining an airport’s compliance with a grant assurance made under this section or any other provision of law; and*

(B) *the receipt of Federal financial assistance for airport development.*

(2) *COVERED AIRCRAFT DEFINED.*—*In this subsection, the term “covered aircraft” means an aircraft—*

(A) *used or intended to be used exclusively for recreational purposes; and*

(B) *constructed or under construction, repair, or restoration by a private individual at a general aviation airport.*

**§ 47109. United States Government’s share of project costs**

(a) *GENERAL.*—*Except as otherwise provided in this section, the United States Government’s share of allowable project costs is—*

(1) *75 percent for a project at a primary airport having at least .25 percent of the total number of passenger boardings each year at all commercial service airports;*

(2) *not more than 90 percent for a project funded by a grant issued to and administered by a State under section 47128, relating to the State block grant program;*

(3) *90 percent for a project at any other airport;*

(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) *for fiscal year 2002, 100 percent for a project described in section 47102(3)(J), 47102(3)(K), or 47102(3)(L).]***

(6) *95 percent for a project at an airport for which the United States Government’s share would otherwise be capped at 90 percent under paragraph (2) or paragraph (3) if the Administrator determines that the project is a successive phase of a multi-phased construction project for which the sponsor received a grant in fiscal year 2011 or earlier.*

\* \* \* \* \*

**§ 47110. Allowable project costs**

(a) *GENERAL AUTHORITY.*—*Except as provided in section 47111 of this title, the United States Government may pay or be obligated to pay, from amounts appropriated to carry out this subchapter, a cost incurred in carrying out a project under this subchapter only if the Secretary of Transportation decides the cost is allowable.*

(b) *ALLOWABLE COST STANDARDS.*—*A project cost is allowable—*

(1) *if the cost necessarily is incurred in carrying out the project in compliance with the grant agreement made for the project under this subchapter, including any cost a sponsor incurs related to an audit the Secretary requires under section 47121(b) or (d) of this title and any cost of moving a Federal facility impeding the project if the rebuilt facility is of an equivalent size and type;*

(2)

- (A) if the cost is incurred after the grant agreement is executed and is for airport development or airport planning carried out after the grant agreement is executed;
- (B) if the cost is incurred after June 1, 1989, by the airport operator (regardless of when the grant agreement is executed) as part of a Government-approved noise [compatibility] *compatibility* program (including project formulation costs) and is consistent with all applicable statutory and administrative requirements;
- (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 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 because the airport has a shortened construction season due to [climactic] *climatic* conditions in the vicinity of the airport;
  - (ii) the cost is in accordance with an airport layout plan approved by the Secretary and with all statutory and administrative requirements that would have been applicable to the project if the project had been carried out after execution of the grant agreement, including submission of a complete grant application to the appropriate regional or district office of the Federal Aviation Administration;
  - (iii) the sponsor notifies the Secretary before authorizing work to commence on the project;
  - (iv) the sponsor has an alternative funding source available to fund the project; and
  - (v) the sponsor's decision to proceed with the project in advance of execution of the grant agreement does not affect the priority assigned to the project by the Secretary for the allocation of discretionary funds;
- (3) to the extent the cost is reasonable in amount;
- (4) if the cost is not incurred in a project for airport development or airport planning for which other Government assistance has been granted;
- (5) if the total costs allowed for the project are not more than the amount stated in the grant agreement as the maximum the Government will pay (except as provided in section 47108(b) of this title);
- (6) if the cost is for a project not described in section 47102(3) for acquiring for use at a commercial service airport vehicles and ground support equipment owned by an airport

that include low-emission technology, but only to the extent of the incremental cost of equipping such vehicles or equipment with low-emission technology, as determined by the Secretary; and

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

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

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

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

\* \* \* \* \*

**§ 47113. Minority and disadvantaged business participation**

(a) DEFINITIONS.—In this section—

(1) “small business concern”—

(A) has the same meaning given that term in section 3 of the Small Business Act (15 U.S.C. 632); but

(B) does not include a concern, or group of concerns controlled by the same socially and economically disadvantaged individual, that has average annual gross receipts over the prior 3 fiscal years of more than \$16,015,000, as adjusted by the Secretary of Transportation for inflation;

(2) “socially and economically disadvantaged individual” has the same meaning given that term in section 8(d) of the Act (15 U.S.C. 637(d)) and relevant subcontracting regulations prescribed under section 8(d), except that women are presumed to be socially and economically disadvantaged; and

(3) the term “qualified HUBZone small business concern” has the meaning given that term in section 3(p) of the Small Business Act [(15 U.S.C. 632(o))] (15 U.S.C. 632(p)).

\* \* \* \* \*

**§ 47114. Apportionments**

(a) DEFINITION.—In this section, “amount subject to apportionment” means the amount newly made available under section 48103 of this title for a fiscal year.

(b) APPORTIONMENT DATE.—On the first day of each fiscal year, the Secretary of Transportation shall apportion the amount subject to apportionment for that fiscal year as provided in this section.

(c) AMOUNTS APPORTIONED TO SPONSORS.—

(1) PRIMARY AIRPORTS.—

(A) APPORTIONMENT.—The Secretary shall apportion to the sponsor of each primary airport for each fiscal year an amount equal to—

(i) \$7.80 for each of the first 50,000 passenger boardings at the airport during the prior calendar year;

(ii) \$5.20 for each of the next 50,000 passenger boardings at the airport during the prior calendar year;

(iii) \$2.60 for each of the next 400,000 passenger boardings at the airport during the prior calendar year;

(iv) \$.65 for each of the next 500,000 passenger boardings at the airport during the prior calendar year.

(v) \$.50 for each additional passenger boarding at the airport during the prior calendar year.

(B) MINIMUM AND MAXIMUM APPORTIONMENTS.—Not less than \$650,000 nor more than \$22,000,000 may be apportioned under subparagraph (A) of this paragraph to an airport sponsor for a primary airport for each fiscal year.

(C) SPECIAL RULE.—In any fiscal year in which the total amount made available under section 48103 is \$3,200,000,000 or more—

(i) the amount to be apportioned to a sponsor under subparagraph (A) shall be increased by doubling the amount that would otherwise be apportioned;

(ii) the minimum apportionment to a sponsor under subparagraph (B) shall be \$1,000,000 rather than \$650,000; and

(iii) the maximum apportionment to a sponsor under subparagraph (B) shall be \$26,000,000 rather than \$22,000,000.

(D) NEW AIRPORTS.—Notwithstanding subparagraph (A), the Secretary shall apportion on the first day of the first fiscal year following the official opening of a new airport with scheduled passenger air transportation an amount equal to the minimum amount set forth in subparagraph (B) or (C), as appropriate, to the sponsor of such airport.

(E) USE OF PREVIOUS FISCAL YEAR'S APPORTIONMENT.—Notwithstanding subparagraph (A), the Secretary may apportion to an airport sponsor in a fiscal year an amount equal to the amount apportioned to that sponsor in the previous fiscal year if the Secretary finds that—

(i) passenger boardings at the airport fell below 10,000 in the calendar year used to calculate the apportionment;

(ii) the airport had at least 10,000 passenger boardings in the calendar year prior to the calendar year used to calculate apportionments to airport sponsors in a fiscal year; and

(iii) the cause of the shortfall in passenger boardings was a temporary but significant interruption in service by an air carrier to that airport due to an employment action, natural disaster, or other event unrelated to the demand for air transportation at the affected airport.

(F) SPECIAL RULE FOR FISCAL YEARS 2012 AND 2013.—Notwithstanding subparagraph (A), for an airport that had more than 10,000 passenger boardings and scheduled passenger aircraft service in calendar year 2007, but in either

calendar year 2009 or 2010, or in both years, the number of passenger boardings decreased to a level below 10,000 boardings per year at such airport, the Secretary may apportion in each of fiscal years 2012 and 2013 to the sponsor of such airport an amount equal to the amount apportioned to that sponsor in fiscal year 2009.

(G) *SPECIAL RULE FOR FISCAL YEARS 2016 AND 2017.*—Notwithstanding subparagraph (A), the Secretary shall apportion to a sponsor of an airport under that subparagraph for each of fiscal years 2016 through 2017 an amount based on the number of passenger boardings at the airport during calendar year 2012 if the airport—

(i) had 10,000 or more passenger boardings during calendar year 2012;

(ii) had fewer than 10,000 passenger boardings during the calendar year used to calculate the apportionment for fiscal year 2016 or 2017 under subparagraph (A); and

(iii) had scheduled air service in the calendar year used to calculate the apportionment.

(2) CARGO AIRPORTS.—

(A) APPORTIONMENT.—Subject to subparagraph (D), the Secretary shall apportion an amount equal to 3.5 percent of the amount subject to apportionment each fiscal year to the sponsors of airports served by aircraft providing air transportation of only cargo with a total annual landed weight of more than 100,000,000 pounds.

(B) SUBALLOCATION FORMULA.—Any funds apportioned under subparagraph (A) to sponsors of airports described in subparagraph (A) shall be allocated among those airports in the proportion that the total annual landed weight of aircraft described in subparagraph (A) landing at each of those airports bears to the total annual landed weight of those aircraft landing at all those airports.

(C) LIMITATION.—In any fiscal year in which the total amount made available under section 48103 is less than \$3,200,000,000, not more than 8 percent of the amount apportioned under subparagraph (A) may be apportioned for any one airport.

(D) DISTRIBUTION TO OTHER AIRPORTS.—Before apportioning amounts to the sponsors of airports under subparagraph (A) for a fiscal year, the Secretary may set-aside a portion of such amounts for distribution to the sponsors of other airports, selected by the Secretary, that the Secretary finds will be served primarily by aircraft providing air transportation of only cargo.

(E) DETERMINATION OF LANDED WEIGHT.—Landed weight under this paragraph is the landed weight of aircraft landing at each airport described in subparagraph (A) during the prior calendar year.

\* \* \* \* \*

**§ 47115. Discretionary fund**

\* \* \* \* \*

[(i) CONSIDERATIONS FOR PROJECT UNDER EXPANDED SECURITY ELIGIBILITY.—In order to assure that funding under this subchapter is provided to the greatest needs, the Secretary, in selecting a project described in section 47102(3)(J) for a grant, shall consider the non-Federal resources available to sponsor, the use of such non-Federal resources, and the degree to which the sponsor is providing increased funding for the project.]

[(j)](i) MARSHALL ISLANDS, MICRONESIA, AND PALAU.—For fiscal years 2012 through [2015 and for the period beginning on October 1, 2015, and ending on July 15, 2016] 2017, 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

(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, but not more than \$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)(1), 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, 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 Act of June 30, 1948 (33 U.S.C. 1251 et seq.), 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 the requirements of the preceding sentence are being met in that fiscal year.

(B) [at least] *At least* 4 percent to sponsors of current or former military airports designated by the Secretary under section 47118(a) of this title for grants for developing current and former military airports to improve the capacity of the national air transportation system and to sponsors of noncommercial service airports for grants for operational and maintenance expenses at any such airport if the amount of such grants to the sponsor of the airport does not exceed \$30,000 in that fiscal year, if the Secretary determines that the airport is adversely affected by the closure or realignment of a military base, and if the sponsor of the airport certifies that the airport would otherwise close if the airport does not receive the grant.

(C) In any fiscal year in which the total amount made available under section 48103 is \$3,200,000,000 or more, at least two-thirds of 1 percent for grants to sponsors of reliever airports which have—

- (i) more than 75,000 annual operations;
- (ii) a runway with a minimum usable landing distance of 5,000 feet;
- (iii) a precision instrument landing procedure;
- (iv) a minimum number of aircraft, to be determined by the Secretary, based at the airport; and
- (v) been designated by the Secretary as a reliever airport to an airport with 20,000 hours of annual delays in commercial passenger aircraft takeoffs and landings.

(2) If the Secretary decides that an amount required to be used for grants under paragraph (1) of this subsection cannot be used for a fiscal year because there are insufficient qualified grant applications, the amount the Secretary determines cannot be used is available during the fiscal year for grants for other airports or for other purposes for which amounts are authorized for grants under section 48103 of this title.

(3) PRIORITY.—The Secretary shall give priority in making grants under paragraph (1)(A) to applications for airport noise compatibility planning and programs at and around—

- (A) Chicago O'Hare International Airport;
- (B) LaGuardia Airport;
- (C) John F. Kennedy International Airport; and
- (D) Ronald Reagan Washington National Airport. \* \* \*

#### § 47119. Terminal development costs

(a) TERMINAL DEVELOPMENT PROJECTS.—

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

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

- (i) all the safety equipment required for certification of the airport under section 44706;
- (ii) all the security equipment required by regulation; and
- (iii) provided for access by passengers to the area of the airport for boarding or exiting aircraft that are not air carrier aircraft;

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

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

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

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

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

(3) *LACTATION AREAS.*—*In addition to the projects described in paragraph (1), the Secretary may approve a project for terminal development for the construction or installation of a lactation area at a commercial service airport.*

**§ 47124. Agreements for State and local operation of airport facilities**

(a) **GOVERNMENT RELIEF FROM LIABILITY.**—The Secretary of Transportation shall ensure that an agreement under this subchapter with a qualified entity (as determined by the Secretary), State, or a political subdivision of a State to allow the entity, State, or subdivision to operate an airport facility relieves the United States Government from any liability arising out of, or related to, acts or omissions of employees of the entity, State, or subdivision in operating the airport facility.

(b) **AIR TRAFFIC CONTROL CONTRACT PROGRAM.**—

(1) **CONTRACT TOWER PROGRAM.**—

(A) **CONTINUATION.**—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] *after the end of the period described in subsection (d)(6)(C).*

(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)] *the Cost-share Program.*

(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] COST-SHARE PROGRAM.**—



(A) IN GENERAL.—The Secretary shall establish a program to contract for air traffic control services at non-approach control towers, as defined by the Secretary, that do not qualify for the [contract tower program established under subsection (a) and continued under paragraph (1) (in this paragraph referred to as the “Contract Tower Program”)] *Contract Tower Program*.

(B) PROGRAM COMPONENTS.—[In carrying out the program] *In carrying out the Cost-share Program*, the Secretary shall—

(i) utilize for purposes of cost-benefit analyses, current, actual, site-specific data, forecast estimates, or airport master plan data provided by a facility owner or operator and verified by the Secretary; and

(ii) approve for participation only facilities willing to fund a pro rata share of the operating costs of the air traffic control tower to achieve a 1-to-1 benefit-to-cost ratio using actual site-specific contract tower operating costs in any case in which there is an operating air traffic control tower, as required for eligibility under the Contract Tower Program.

(C) PRIORITY.—In selecting facilities to [participate in the program] *participate in the Cost-share Program*, the Secretary shall give priority to the following facilities:

(i) Air traffic control towers that are participating in the Contract Tower Program but have been notified that they will be terminated from such program because the Secretary has determined that the benefit-to-cost ratio for their continuation in such program is less than 1.0.

(ii) Air traffic control towers that the Secretary determines have a benefit-to-cost ratio of at least .50.

(iii) Air traffic control towers of the Federal Aviation Administration that are closed as a result of the air traffic controllers strike in 1981.

(iv) Air traffic control towers located at airports or points at which an air carrier is receiving compensation under the essential air service program under this chapter.

(v) Air traffic control towers located at airports that are prepared to assume partial responsibility for maintenance costs.

(vi) Air traffic control towers located at airports with safety or operational problems related to topography, weather, runway configuration, or mix of aircraft.

(vii) Air traffic control towers located at an airport at which the community has been operating the tower at its own expense.

(D) COSTS EXCEEDING BENEFITS.—If the costs of operating an air traffic tower [under the program] *under the Cost-share Program* exceed the benefits, the airport sponsor or State or local government having jurisdiction over the airport shall pay the portion of the costs that exceed such benefit, with the maximum allowable local cost share capped at 20 percent. *Airports with both Part 121 air serv-*

*ice and more than 25,000 passenger enplanements in calendar year 2014 shall be exempt from any cost share requirement under the Cost-share Program.*

【(E) FUNDING.—Of the amounts appropriated pursuant to section 106(k)(1), not more than \$10,350,000 for each of fiscal years 2012 through 2015 and not more than \$ 5,175,000 for the period beginning on October 1, 2015, and ending on March 31, 2016, may be used to carry out this paragraph.】

*(E) FUNDING.—Of the amounts appropriated under section 106(k)(1), such sums as may be necessary may be used to carry out this paragraph.*

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

(4) CONSTRUCTION OF AIR TRAFFIC CONTROL TOWERS.—

(A) GRANTS.—The Secretary may provide grants to a sponsor of—

(i) a primary airport—

(I) from amounts made available under sections 47114(c)(1) and 47114(c)(2) for the construction or improvement of a nonapproach control tower, as defined by the Secretary, and for the acquisition and installation of air traffic control, communications, and related equipment to be used in that tower;

(II) from amounts made available under sections 47114(c)(1) and 47114(c)(2) for reimbursement for the cost of construction or improvement of a nonapproach control tower, as defined by the Secretary, incurred after October 1, 1996, if the sponsor complied with the requirements of sections 47107(e), 47112(b), and 47112(c) in constructing or improving that tower; and

(III) from amounts made available under sections 47114(c)(1) and 47114(c)(2) for reimbursement for the cost of acquiring and installing in that tower air traffic control, communications, and related equipment that was acquired or installed after October 1, 1996; and

(ii) a public-use airport that is not a primary airport—

(I) from amounts made available under sections 47114(c)(2) and 47114(d) for the construction or improvement of a nonapproach control tower, as defined by the Secretary, and for the acquisition and installation of air traffic control, communications, and related equipment to be used in that tower;

(II) from amounts made available under sections 47114(c)(2) and 47114(d)(3)(A) for reimbursement for the cost of construction or improvement of a

nonapproach control tower, as defined by the Secretary, incurred after October 1, 1996, if the sponsor complied with the requirements of sections 47107(e), 47112(b), and 47112(c) in constructing or improving that tower; and

(III) from amounts made available under sections 47114(c)(2) and 47114(d)(3)(A) for reimbursement for the cost of acquiring and installing in that tower air traffic control, communications, and related equipment that was acquired or installed after October 1, 1996.

(B) ELIGIBILITY.—An airport sponsor shall be eligible for a grant under this paragraph only if—

(i)(I) the sponsor is a participant in the Federal Aviation Administration [contract tower program established under subsection (a) and continued under paragraph (1) or the pilot program established under paragraph (3)] *Contract Tower Program or the Cost-share Program*; or

(II) construction of a nonapproach control tower would qualify the sponsor to be eligible to participate in such program;

(ii) the sponsor certifies that it will pay not less than 10 percent of the cost of the activities for which the sponsor is receiving assistance under this paragraph;

(iii) the Secretary affirmatively accepts the proposed contract tower into a contract tower program under this section and certifies that the Secretary will seek future appropriations to pay the Federal Aviation Administration's cost of the contract to operate the tower to be constructed under this paragraph;

(iv) the sponsor certifies that it will pay its share of the cost of the contract to operate the tower to be constructed under this paragraph; and

(v) in the case of a tower to be constructed under this paragraph from amounts made available under section 47114(d)(2) or 47114(d)(3)(B), the Secretary certifies that—

(I) the Federal Aviation Administration has consulted the State within the borders of which the tower is to be constructed and the State supports the construction of the tower as part of its State airport capital plan; and

(II) the selection of the tower for funding is based on objective criteria.

(C) LIMITATION ON FEDERAL SHARE.—The Federal share of the cost of construction of a nonapproach control tower under this paragraph may not exceed **[\$2,000,000]** **\$4,000,000**.

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

(d) COST BENEFIT RATIOS.—

(1) CONTRACT AIR TRAFFIC CONTROL TOWER PROGRAM AT COST-SHARE AIRPORTS.—*Beginning on the date of enactment of*

*the Federal Aviation Administration Reauthorization Act of 2016, if an air traffic control tower is operating under the Cost-share Program, the Secretary shall annually calculate a new benefit-to-cost ratio for the tower.*

(2) *CONTRACT TOWER PROGRAM AT NON-COST-SHARE AIRPORTS.—Beginning on the date of enactment of the Federal Aviation Administration Reauthorization Act of 2016, if a tower is operating under the Contract Tower Program and continued under subsection (b)(1), the Secretary shall not calculate a new benefit-to-cost ratio for the tower unless the annual aircraft traffic at the airport where the tower is located decreases by more than 25 percent from the previous year or by more than 60 percent over a 3-year period.*

(3) *CONSIDERATIONS.—In establishing a benefit-to-cost ratio under paragraph (1) or paragraph (2), the Secretary may consider only the following costs:*

(A) *The Federal Aviation Administration’s actual cost of wages and benefits of personnel working at the tower.*

(B) *The Federal Aviation Administration’s actual telecommunications costs of the tower.*

(C) *Relocation and replacement costs of equipment of the Federal Aviation Administration associated with the tower, if paid for by the Federal Aviation Administration.*

(D) *Logistics, such as direct costs associated with establishing or updating the tower’s interface with other systems and equipment of the Federal Aviation Administration, if paid for by the Federal Aviation Administration.*

(4) *EXCLUSIONS.—In establishing a benefit-to-cost ratio under paragraph (1) or paragraph (2), the Secretary may not consider the following costs:*

(A) *Airway facilities costs, including labor and other costs associated with maintaining and repairing the systems and equipment of the Federal Aviation Administration.*

(B) *Costs for depreciating the building and equipment owned by the Federal Aviation Administration.*

(C) *Indirect overhead costs of the Federal Aviation Administration.*

(D) *Costs for utilities, janitorial, and other services paid for or provided by the airport or the State or political subdivision of a State having jurisdiction over the airport where the tower is located.*

(E) *The cost of new or replacement equipment, or construction of a new or replacement tower, if the costs incurred were incurred by the airport or the State or political subdivision of a State having jurisdiction over the airport where the tower is or will be located.*

(F) *Other expenses of the Federal Aviation Administration not directly associated with the actual operation of the tower.*

(5) *MARGIN OF ERROR.—The Secretary shall add a 5 percent margin of error to a benefit-to-cost ratio determination to acknowledge and account for any direct or indirect factors that are not included in the criteria the Secretary used in calculating the benefit-to-cost ratio.*

(6) *PROCEDURES.*—*The Secretary shall establish procedures—*  
 (A) *to allow an airport or the State or political subdivision of a State having jurisdiction over the airport where the tower is located not less than 90 days following the receipt of an initial benefit-to-cost ratio determination from the Secretary—*

*(i) to request the Secretary reconsider that determination; and*

*(ii) to submit updated or additional data to the Secretary in support of the reconsideration;*

*(B) to allow the Secretary not more than 90 days to review the data submitted under subparagraph (A)(ii) and respond to the request under subparagraph (A)(i);*

*(C) to allow the airport, State, or political subdivision of a State, as applicable, 30 days following the date of the response under subparagraph (B) to review the response before any action is taken based on a benefit-to-cost determination; and*

*(D) to provide, after the end of the period described in subparagraph (C), an 18-month grace period before cost-share payments are due from the airport, State, or political subdivision of a State if as a result of the benefit-to-cost ratio determination the airport, State, or political subdivision, as applicable, is required to transition to the Cost-share Program.*

(e) *DEFINITIONS.*—*In this section:*

(1) *CONTRACT TOWER PROGRAM.*—*The term “Contract Tower Program” means the level I air traffic control tower contract program established under subsection (a) and continued under subsection (b)(1).*

(2) *COST-SHARE PROGRAM.*—*The term “Cost-share Program” means the cost-share program established under subsection (b)(3).*

#### **§47124a. Accessibility of certain flight data**

(a) *DEFINITIONS.*—*In this section:*

(1) *ADMINISTRATION.*—*The term “Administration” means the Federal Aviation Administration.*

(2) *ADMINISTRATOR.*—*The term “Administrator” means the Administrator of the Federal Aviation Administration.*

(3) *APPLICABLE INDIVIDUAL.*—*The term “applicable individual” means an individual who is the subject of an investigation initiated by the Administrator related to a covered flight record.*

(4) *CONTRACT TOWER.*—*The term “contract tower” means an air traffic control tower providing air traffic control services pursuant to a contract with the Administration under the contract air traffic control tower program under section 47124(b)(3).*

(5) *COVERED FLIGHT RECORD.*—*The term “covered flight record” means any air traffic data (as defined in section 2(b)(4)(B) of the Pilot’s Bill of Rights (49 U.S.C. 44703 note)), created, maintained, or controlled by any program of the Administration, including any program of the Administration carried out by employees or contractors of the Administration, such*

as contract towers, flight service stations, and controller training programs.

(b) **PROVISION OF COVERED FLIGHT RECORD TO ADMINISTRATION.**—

(1) **REQUESTS.**—Whenever the Administration receives a written request for a covered flight record from an applicable individual and the covered flight record is not in the possession of the Administration, the Administrator shall request the covered flight record from the contract tower or other contractor of the Administration in possession of the covered flight record.

(2) **PROVISION OF RECORDS.**—Any covered flight record created, maintained, or controlled by a contract tower or another contractor of the Administration that maintains covered flight records shall be provided to the Administration if the Administration requests the record pursuant to paragraph (1).

(3) **NOTICE OF PROPOSED CERTIFICATE ACTION.**—If the Administrator has issued, or subsequently issues, a Notice of Proposed Certificate Action relying on evidence contained in the covered flight record and the individual who is the subject of an investigation has requested the record, the Administrator shall promptly produce the record and extend the time the individual has to respond to the Notice of Proposed Certificate Action until the covered flight record is provided.

(c) **IMPLEMENTATION.**—

(1) **IN GENERAL.**—Not later than 180 days after the date of enactment of the Pilot’s Bill of Rights 2, the Administrator shall promulgate regulations or guidance to ensure compliance with this section.

(2) **COMPLIANCE BY CONTRACTORS.**—

(A) Compliance with this section by a contract tower or other contractor of the Administration that maintains covered flight records shall be included as a material term in any contract between the Administration and the contract tower or contractor entered into or renewed on or after the date of enactment of the Pilot’s Bill of Rights 2.

(B) Subparagraph (A) shall not apply to any contract or agreement in effect on the date of enactment of the Pilot’s Bill of Rights 2 unless the contract or agreement is renegotiated, renewed, or modified after that date.

**§ 47128. State block grant program**

(a) **GENERAL REQUIREMENTS.**—The Secretary of Transportation shall issue guidance to carry out a State block grant program. The 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] 15 qualified States for fiscal year 2016 and 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.

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**§ 47133. Restriction on use of revenues**

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## (c) RULE OF CONSTRUCTION.—

(1) Nothing in this section may be construed to prevent the use of a State tax on aviation fuel to support a State aviation program or the use of airport revenue on or off the airport for a noise mitigation purpose.

(2) *Nothing in this section may be construed to prevent the use of airport revenue for the prorated maintenance and improvement costs of the on-airport portion of the surface transportation facility, subject to the provisions of section 47107(b)(4).*

**§ 47136. Inherently low-emission airport vehicle pilot program**

[(a) IN GENERAL.—The Secretary of Transportation shall carry out a pilot program at not more than 10 public-use airports under which the sponsors of such airports may use funds made available under section 48103 for use at such airports to carry out inherently low-emission vehicle activities. Notwithstanding any other provision of this subchapter, inherently low-emission vehicle activities shall for purposes of the pilot program be treated as eligible for assistance under this subchapter.

## [(b) LOCATION IN AIR QUALITY NONATTAINMENT AREAS.—

[(1) IN GENERAL.—A public-use airport shall be eligible for participation in the pilot program only if the airport is located in an air quality nonattainment area (as defined in section 171(2) of the Clean Air Act (42 U.S.C. 7501(2)).

[(2) SHORTAGE OF CANDIDATES.—If the Secretary receives an insufficient number of applications from public-use airports located in such areas, then the Secretary may consider applications from public-use airports that are not located in such areas.

[(c) SELECTION CRITERIA.—In selecting from among applicants for participation in the pilot program, the Secretary shall give priority consideration to applicants that will achieve the greatest air quality benefits measured by the amount of emissions reduced per dollar of funds expended under the pilot program.

[(d) UNITED STATES GOVERNMENT'S SHARE.—Notwithstanding any other provision of this subchapter, the United States Government's share of the costs of a project carried out under the pilot program shall be 50 percent.

[(e) MAXIMUM AMOUNT.—Not more than \$2,000,000 may be expended under the pilot program at any single public-use airport.

## [(f) TECHNICAL ASSISTANCE.—

[(1) IN GENERAL.—The sponsor of a public-use airport carrying out inherently low-emission vehicle activities under the pilot program may use not more than 10 percent of the amounts made available for expenditure at the airport in a fiscal year under the pilot program to receive technical assistance in carrying out such activities.

[(2) UNIVERSITY TRANSPORTATION CENTER.—To the maximum extent practicable, participants in the pilot program shall use a university transportation center (as defined in section 5506 of this title) in the region of the airport to receive technical assistance described in paragraph (1).

[(g) MATERIALS IDENTIFYING BEST PRACTICES.—The Administrator may develop and make available materials identifying best practices for carrying out low-emission vehicle activities based on the projects carried out under the pilot program and other sources.

[(h) REPORT TO CONGRESS.—Not later than 18 months after the date of the enactment of this section, the Secretary shall transmit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report containing—

[(1) an evaluation of the effectiveness of the pilot program;

[(2) an identification of other public-use airports that expressed an interest in participating in the pilot program; and

[(3) a description of the mechanisms used by the Secretary to ensure that the information and know-how gained by participants in the pilot program is transferred among the participants and to other interested parties, including other public-use airports.

[(i) INHERENTLY LOW-EMISSION VEHICLE ACTIVITY DEFINED.—In this section, the term “inherently low-emission vehicle activity” means—

[(1) the construction of infrastructure or modifications at public-use airports to enable the delivery of fuel and services necessary for the use of vehicles that are certified as inherently low-emission vehicles under title 40 of the Code of Federal Regulations and that—

[(A) operate exclusively on compressed natural gas, liquefied natural gas, liquefied petroleum gas, electricity, hydrogen, or a blend at least 85 percent of which is methanol;

[(B) are labeled in accordance with section 88.312-93(c) of such title; and

[(C) are located or primarily used at public-use airports;

[(2) the construction of infrastructure or modifications at public-use airports to enable the delivery of fuel and services necessary for the use of nonroad vehicles that—

[(A) operate exclusively on compressed natural gas, liquefied natural gas, liquefied petroleum gas, electricity, hydrogen, or a blend at least 85 percent of which is methanol;

[(B) meet or exceed the standards set forth in section 86.1708-99 of such title or the standards set forth in section 89.112(a) of such title, and are in compliance with the requirements of section 89.112(b) of such title; and

[(C) are located or primarily used at public-use airports;

[(3) the payment of that portion of the cost of acquiring vehicles described in this subsection that exceeds the cost of acquiring other vehicles or engines that would be used for the same purpose; or

[(4) the acquisition of technological capital equipment to enable the delivery of fuel and services necessary for the use of vehicles described in paragraph (1).]

#### **§ 47136a. Zero-emission airport vehicles and infrastructure**

(a) IN GENERAL.—The Secretary of Transportation may establish a pilot program under which the sponsor of a public-use airport



may use funds made available under section 47117 or section 48103 for use at such airport to carry out activities associated with the acquisition and operation of zero-emission vehicles (as defined in section 88.102-94 of title 40, Code of Federal Regulations) [, including] *used exclusively for transporting passengers on-airport or for employee shuttle buses within the airport, including the construction or modification of infrastructure to facilitate the delivery of fuel and services necessary for the use of such vehicles.*

(b) LOCATION IN AIR QUALITY NONATTAINMENT AREAS.—

(1) IN GENERAL.—A public-use airport may be eligible for participation in the program only if the airport is located in a nonattainment area (as defined in section 171 of the Clean Air Act (42 U.S.C. 7501)).

(2) SHORTAGE OF APPLICANTS.—If the Secretary receives an insufficient number of applications from public-use airports located in such areas, the Secretary may permit public-use airports that are not located in such areas to participate in the program.

(c) SELECTION CRITERIA.—In selecting from among applicants for participation in the program, the Secretary shall give priority consideration to applicants that will achieve the greatest air quality benefits measured by the amount of emissions reduced per dollar of funds expended under the program.

(d) FEDERAL SHARE.—Notwithstanding any other provision of this subchapter, the Federal share of the costs of a project carried out under the program shall be 50 percent.

(e) TECHNICAL ASSISTANCE.—

(1) IN GENERAL.—The sponsor of a public-use airport carrying out activities funded under the program may not use more than 10 percent of the amounts made available under the program in any fiscal year for technical assistance in carrying out such activities.

(2) USE OF UNIVERSITY TRANSPORTATION CENTER.—Participants in the program may use a university transportation center receiving grants under section 5506 in the region of the airport to receive the technical assistance described in paragraph (1).

(f) MATERIALS IDENTIFYING BEST PRACTICES.—The Secretary may develop and make available materials identifying best practices for carrying out activities funded under the program based on projects carried out under section 47136, *as in effect on the day before the date of enactment of the Federal Aviation Administration Reauthorization Act of 2016*, and other sources.

**§ 47137. Airport security program**

(a) GENERAL AUTHORITY.—To improve security at public airports in the United States, the Secretary of [Transportation] *Homeland Security* shall carry out not less than one project to test and evaluate innovative aviation security systems and related technology.

(b) PRIORITY.—In carrying out this section, the Secretary shall give the highest priority to a request from an eligible sponsor for a grant to undertake a project that—

(1) evaluates and tests the benefits of innovative aviation security systems or related technology, including explosives detection systems, for the purpose of improving aviation and air-

craft physical security, access control, and passenger and baggage screening; and

(2) provides testing and evaluation of airport security systems and technology in an operational, testbed environment.

(c) MATCHING SHARE.—Notwithstanding section 47109, the United States Government's share of allowable project costs for a project under this section shall be 100 percent.

(d) TERMS AND CONDITIONS.—The Secretary may establish such terms and conditions as the Secretary determines appropriate for carrying out a project under this section, including terms and conditions relating to the form and content of a proposal for a project, project assurances, and schedule of payments.

(e) ADMINISTRATION.—The Secretary, in cooperation with the Secretary of [Homeland Security] *Transportation*, shall administer the program authorized by this section.

(f) ELIGIBLE SPONSOR DEFINED.—In this section, the term “eligible sponsor” means a nonprofit corporation composed of a consortium of public and private persons, including a sponsor of a primary airport, with the necessary engineering and technical expertise to successfully conduct the testing and evaluation of airport and aircraft related security systems.

(g) AUTHORIZATION OF APPROPRIATIONS.—Of the amounts made available to the Secretary of *Transportation* under section 47115 in a fiscal year, the Secretary shall make available not less than \$5,000,000 for the purpose of carrying out this section.

**【§ 47140. Airport ground support equipment emissions retrofit pilot program**

【(a) IN GENERAL.— The Secretary of Transportation shall carry out a pilot program at not more than 10 commercial service airports under which the sponsors of such airports may use an amount made available under section 48103 to retrofit existing eligible airport ground support equipment that burns conventional fuels to achieve lower emissions utilizing emission control technologies certified or verified by the Environmental Protection Agency.

【(b) LOCATION IN AIR QUALITY NONATTAINMENT OR MAINTENANCE AREAS.—A commercial service airport shall be eligible for participation in the pilot program only if the airport is located in an air quality nonattainment area (as defined in section 171(2) of the Clean Air Act (42 U.S.C. 7501(2))) or a maintenance area referred to in section 175A of such Act (42 U.S.C. 7505a).

【(c) SELECTION CRITERIA.—In selecting from among applicants for participation in the pilot program, the Secretary shall give priority consideration to applicants that will achieve the greatest air quality benefits measured by the amount of emissions reduced per dollar of funds expended under the pilot program.

【(d) MAXIMUM AMOUNT.—Not more than \$500,000 may be expended under the pilot program at any single commercial service airport.

【(e) GUIDELINES.—The Secretary, in consultation with the Administrator of the Environmental Protection Agency, shall establish guidelines regarding the types of retrofit projects eligible under the pilot program by considering remaining equipment useful life, amounts of emission reduction in relation to the cost of projects,

and other factors necessary to carry out this section. The Secretary may give priority to ground support equipment owned by the airport and used for airport purposes.

[(f) ELIGIBLE EQUIPMENT DEFINED.—In this section, the term “eligible equipment” means ground service or maintenance equipment that is located at the airport, is used to support aeronautical and related activities at the airport, and will remain in operation at the airport for the life or useful life of the equipment, whichever is earlier.]

**§ 47140a. Increasing the energy efficiency of airport power sources**

(a) IN GENERAL.—The Secretary of Transportation shall establish a program under which the Secretary shall encourage the sponsor of each public-use airport to assess the airport’s energy requirements, including heating and cooling, base load, back-up power, and power for on-road airport vehicles and ground support equipment, in order to identify opportunities to increase energy efficiency at the [airport.] *airport, and to reimburse the airport sponsor for the costs incurred in conducting the assessment.*

(b) GRANTS.—

(1) IN GENERAL.—The Secretary may make grants from amounts made available under section 48103 to assist airport sponsors that have completed the assessment described in subsection (a) to acquire or construct equipment, including hydrogen equipment and related infrastructure, that will increase energy efficiency at the airport.

(2) APPLICATION.—To be eligible for a grant under paragraph (1), the sponsor of a public-use airport shall submit an application, *including a certification that no safety projects would be deferred by prioritizing a grant under this section*, to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

**§ 47141. Compatible land use planning and projects by State and local governments**

\* \* \* \* \*

(f) SUNSET.—This section shall not be in effect after [July 15, 2016] *September 30, 2017.*

**§ 47143. Non-movement area surveillance surface display systems pilot program**

(a) IN GENERAL.—*The Administrator of the Federal Aviation Administration may carry out a pilot program to support non-Federal acquisition and installation of qualifying non-movement area surveillance surface display systems and sensors if—*

(1) *the Administrator determines that acquisition and installation of qualifying non-movement area surveillance surface display systems and sensors improve safety or capacity in the National Airspace System; and*

(2) *the non-movement area surveillance surface display systems and sensors are supplemental to existing movement area systems and sensors at the selected airports established under other programs administered by the Administrator.*

(b) PROJECT GRANTS.—

(1) *IN GENERAL.*—For purposes of carrying out the pilot program, the Administrator may make a project grant out of funds apportioned under paragraph (1) or paragraph (2) of section 47114(c) to not more than 5 eligible sponsors to acquire and install qualifying non-movement area surveillance surface display systems and sensors. The Administrator may distribute not more than \$2,000,000 per sponsor from the discretionary fund. The airports selected to participate in the pilot program shall have existing Federal Aviation Administration movement area systems and airlines that are participants in Federal Aviation Administration’s Airport Collaborative Decision Making process.

(2) *PROCEDURES.*—In accordance with the authority under section 106, the Administrator may establish procurement procedures applicable to grants issued under this subsection. The procedures may permit the sponsor to carry out the project with vendors that have been accepted in the procurement procedure or using Federal Aviation Administration contracts. The procedures may provide for the direct reimbursement (including administrative costs) of the Administrator by the sponsor using grant funds under this subsection, for the ordering of system-related equipment and its installation, or for the direct ordering of system-related equipment and its installation by the sponsor, using such grant funds, from the suppliers with which the Administrator has contracted.

(3) *DATA EXCHANGE PROCESSES.*—The Administrator may establish data exchange processes to allow airport participation in the Federal Aviation Administration’s Airport Collaborative Decision Making process and fusion of the non-movement surveillance data with the Administration’s movement area systems.

(c) *DEFINITIONS.*—In this section:

(1) *NON-MOVEMENT AREA.*—The term “non-movement area” is the portion of the airfield surface that is not under the control of air traffic control.

(2) *NON-MOVEMENT AREA SURVEILLANCE SURFACE DISPLAY SYSTEM AND SENSORS.*—The term “non-movement area surveillance surface display system and sensors” is a non-Federal surveillance system that uses on-airport sensors that track vehicles or aircraft that are equipped with transponders in the non-movement area.

(3) *QUALIFYING NON-MOVEMENT AREA SURVEILLANCE SURFACE DISPLAY SYSTEM AND SENSORS.*—The term “qualifying non-movement area surveillance surface display system and sensors” is a non-movement area surveillance surface display system that—

(A) provides the required transmit and receive data formats consistent with the National Airspace System architecture at the appropriate service delivery point;

(B) is on-airport; and

(C) is airport operated.

**§47144. Use of funds for repairs for runway safety repairs**

(a) *IN GENERAL.*—The Secretary of Transportation may make project grants under this subchapter to an airport described in sub-

section (b) from funds under section 47114 apportioned to that airport or funds available for discretionary grants to that airport under section 47115 to conduct airport development to repair the runway safety area of the airport damaged as a result of a natural disaster in order to maintain compliance with the regulations of the Federal Aviation Administration relating to runway safety areas, without regard to whether construction of the runway safety area damaged was carried out using amounts the airport received under this subchapter.

(b) AIRPORTS DESCRIBED.—An airport is described in this subsection if—

- (1) the airport is a public-use airport;
- (2) the airport is listed in the National Plan of Integrated Airport Systems of the Federal Aviation Administration;
- (3) the runway safety area of the airport was damaged as a result of a natural disaster;
- (4) the airport was denied funding under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 4121 et seq.) with respect to the disaster;
- (5) the operator of the airport has exhausted all legal remedies, including legal action against any parties (or insurers thereof) whose action or inaction may have contributed to the need for the repair of the runway safety area;
- (6) there is still a demonstrated need for the runway safety area to accommodate current or imminent aeronautical demand; and
- (7) the cost of repairing or replacing the runway safety area is reasonable in relation to the anticipated operational benefit of repairing the runway safety area, as determined by the Administrator of the Federal Aviation Administration.

#### SUBCHAPTER III. AVIATION DEVELOPMENT STREAMLINING

### § 47171. Expedited, coordinated environmental review process

\* \* \* \* \*

(l) SOLICITATION AND CONSIDERATION OF COMMENTS.—In applying subsections (j) and (k), the Secretary shall solicit and consider comments from interested persons and governmental entities in accordance with the National Environmental Policy Act of 1969 (42 U.S.C. [4371] 4321 et seq.).

(m) MONITORING BY TASK FORCE.—The Transportation Infrastructure Streamlining Task Force, established by Executive Order 13274 (67 Fed. Reg. 59449; relating to environmental stewardship and transportation infrastructure project reviews), may monitor airport projects that are subject to the coordinated review process under this section.

#### CHAPTER 475. NOISE

##### SUBCHAPTER I. NOISE ABATEMENT

### § 47503. Noise exposure maps

(a) SUBMISSION AND PREPARATION.—An airport operator may submit to the Secretary of Transportation a noise exposure map showing the noncompatible uses in each area of the map on the

date the map is submitted, a description of estimated aircraft operations during a forecast period that is at least 5 years in the future and how those operations will affect the map. The map shall—

- (1) be prepared in consultation with public agencies and planning authorities in the area surrounding the airport; and
- (2) comply with regulations prescribed under section 47502 of this title.

(b) REVISED MAPS.—If, in an area surrounding an airport, [a change in the operation of the airport would establish] *there is a change in the operation of the airport that would establish* a substantial new noncompatible use, or would significantly reduce noise over existing noncompatible uses, that is not reflected in either the existing conditions map or forecast map currently on file with the Federal Aviation Administration, the airport operator shall submit a revised noise exposure map to the Secretary showing the new noncompatible use or noise reduction *if the change has occurred during the longer of—*

- (1) *the noise exposure map period forecast by the airport operator under subsection (a); or*
- (2) *the implementation timeframe of the operator's noise compatibility program.*

#### PART C. FINANCING

##### 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) \$2,731,000,000 for fiscal year 2012.
- [(2) \$2,715,000,000 for fiscal year 2013.
- [(3) \$2,730,000,000 for fiscal year 2014.
- [(4) \$2,730,000,000 for fiscal year 2015.
- [(5) \$1,300,000,000 for the period beginning on October 1, 2015, and ending on March 31, 2016.]

(1) *\$2,855,241,025 for fiscal year 2016.*

(2) *\$2,862,020,524 for fiscal year 2017.*

(b) AVAILABILITY OF AMOUNTS.—Amounts appropriated under this section remain available until expended.

(c) AUTOMATED SURFACE OBSERVATION SYSTEM/AUTOMATED WEATHER OBSERVING SYSTEM UPGRADE.—Of the amounts appropriated under subsection (a), such sums as may be necessary may be used for the implementation and use of upgrades to the current automated surface observation system/automated weather observing system, if the upgrade is successfully demonstrated.

(d) LIFE-CYCLE COST ESTIMATES.—The Administrator of the Federal Aviation Administration shall establish life-cycle cost estimates for any air traffic control modernization project the total life-cycle costs of which equal or exceed \$50,000,000.

**§ 48102. Research and development**

(a) AUTHORIZATION OF APPROPRIATIONS.—Not more than 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) for conducting civil aviation research and development under sections 44504, 44505, 44507, 44509, and ~~44511-44513~~ *44512-44513* of this title ~~and, for each of fiscal years 2012 through 2015, under subsection (g)]~~:

- (1) for fiscal year 2004, \$346,317,000, including—
  - (A) \$65,000,000 for Improving Aviation Safety;
  - (B) \$24,000,000 for Weather Safety Research;
  - (C) \$27,500,000 for Human Factors and Aeromedical Research;
  - (D) \$30,000,000 for Environmental Research and Development, of which \$20,000,000 shall be for research activities related to reducing community exposure to civilian aircraft noise or emissions;
  - (E) \$7,000,000 for Research Mission Support;
  - (F) \$10,000,000 for the Airport Cooperative Research Program;
  - (G) \$1,500,000 for carrying out subsection (h) of this section;
  - (H) \$42,800,000 for Advanced Technology Development and Prototyping;
  - (I) \$30,300,000 for Safe Flight 21;
  - (J) \$90,800,000 for the Center for Advanced Aviation System Development;
  - (K) \$9,667,000 for Airports Technology-Safety; and
  - (L) \$7,750,000 for Airports Technology-Efficiency;
- (2) for fiscal year 2005, \$356,192,000, including—
  - (A) \$65,705,000 for Improving Aviation Safety;
  - (B) \$24,260,000 for Weather Safety Research;
  - (C) \$27,800,000 for Human Factors and Aeromedical Research;
  - (D) \$30,109,000 for Environmental Research and Development, of which \$20,000,000 shall be for research activities related to reducing community exposure to civilian aircraft noise or emissions;
  - (E) \$7,076,000 for Research Mission Support;
  - (F) \$10,000,000 for the Airport Cooperative Research Program;
  - (G) \$1,650,000 for carrying out subsection (h) of this section;
  - (H) \$43,300,000 for Advanced Technology Development and Prototyping;
  - (I) \$31,100,000 for Safe Flight 21;
  - (J) \$95,400,000 for the Center for Advanced Aviation System Development;
  - (K) \$2,200,000 for Free Flight Phase 2;
  - (L) \$9,764,000 for Airports Technology-Safety; and
  - (M) \$7,828,000 for Airports Technology-Efficiency;
- (3) for fiscal year 2006, \$352,157,000, including—
  - (A) \$66,447,000 for Improving Aviation Safety;
  - (B) \$24,534,000 for Weather Safety Research;

- (C) \$28,114,000 for Human Factors and Aeromedical Research;
  - (D) \$30,223,000 for Environmental Research and Development, of which \$20,000,000 shall be for research activities related to reducing community exposure to civilian aircraft noise or emissions;
  - (E) \$7,156,000 for Research Mission Support;
  - (F) \$10,000,000 for the Airport Cooperation Research Program;
  - (G) \$1,815,000 for carrying out subsection (h) of this section;
  - (H) \$42,200,000 for Advanced Technology Development and Prototyping;
  - (I) \$23,900,000 for Safe Flight 21;
  - (J) \$100,000,000 for the Center for Advanced Aviation System Development;
  - (K) \$9,862,000 for Airports Technology-Safety; and
  - (L) \$7,906,000 for Airports Technology-Efficiency;
  - (4) for fiscal year 2007, \$356,261,000, including—
    - (A) \$67,244,000 for Improving Aviation Safety;
    - (B) \$24,828,000 for Weather Safety Research;
    - (C) \$28,451,000 for Human Factors and Aeromedical Research;
    - (D) \$30,586,000 for Environmental Research and Development, of which \$20,000,000 shall be for research activities related to reducing community exposure to civilian aircraft noise or emissions;
    - (E) \$7,242,000 for Research Mission Support;
    - (F) \$10,000,000 for the Airport Cooperation Research Program;
    - (G) \$1,837,000 for carrying out subsection (h) of this section;
    - (H) \$42,706,000 for Advanced Technology Development and Prototyping;
    - (I) \$24,187,000 for Safe Flight 21;
    - (J) \$101,200,000 for the Center for Advanced Aviation System Development;
    - (K) \$9,980,000 for Airports Technology-Safety; and
    - (L) \$8,000,000 for Airports Technology-Efficiency;
  - (5) \$171,000,000 for fiscal year 2009;
  - (6) \$190,500,000 for fiscal year 2010;
  - (7) \$170,000,000 for fiscal year 2011;
  - (8) \$168,000,000 for each of fiscal years 2012 through 2015【; and】;
  - 【(9) \$78,375,000 for the period beginning on October 1, 2015, and ending on March 31, 2016.】
  - (9) \$166,000,000 for fiscal year 2016; and
  - (10) \$169,000,000 for fiscal year 2017.
- (b) RESEARCH PRIORITIES.—
- (1) The Administrator shall consider the advice and recommendations of the research advisory committee established by section 44508 of this title in establishing priorities among major categories of research and development activities carried out by the Federal Aviation Administration.



(2) At least 15 percent of the amount appropriated under subsection (a) of this section shall be for long-term research projects.

[(3) At least 3 percent of the amount appropriated under subsection (a) of this section shall be available to the Administrator of the Federal Aviation Administration to make grants under section 44511 of this title.]

\* \* \* \* \*

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

(a) IN GENERAL.—There shall be available to the Secretary of Transportation out of the Airport and Airway Trust Fund established under section 9502 of the Internal Revenue Code of 1986 to make grants for airport planning and airport development under section 47104, airport noise compatibility planning under [section 47505(a)(2), and carrying out noise compatibility programs under section 47504(c) \$3,350,000,000 for each of fiscal years 2012 through 2015 and \$2,652,083,333 for the period beginning on October 1, 2015, and ending on July 15, 2016] *section 47505(a)(2), carrying out noise compatibility programs under section 47504(c), for an airport cooperative research program under section 44511, for Airports Technology-Safety research, and Airports Technology-Efficiency research, \$3,350,000,000 for fiscal year 2016 and \$3,750,000,000 for fiscal year 2017.*

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

**§ 48114. Funding for aviation programs**

(a) AUTHORIZATION OF APPROPRIATIONS.—

(1) AIRPORT AND AIRWAY TRUST FUND GUARANTEE.—

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

[(i) in fiscal year 2013, be equal to 90 percent of the estimated level of receipts plus interest credited to the Airport and Airway Trust Fund for that fiscal year; and

[(ii) in fiscal year 2014 and each fiscal year thereafter, be equal to the sum of—

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

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

[(Such amounts may be used only for the aviation investment programs listed in subsection (b)(1).]

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

(i) shall in each of fiscal years 2016 through 2017, be equal to the sum of—

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

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

(ii) may be used only for the aviation investment programs listed in subsection (b)(1).

[(B) *GUARANTEE.*—No funds may be appropriated or limited for aviation investment programs listed in subsection (b)(1) unless the amount described in subparagraph (A) has been provided.]

(2) *ADDITIONAL AUTHORIZATIONS OF APPROPRIATIONS FROM THE GENERAL FUND.*—In any fiscal year through fiscal year 2016, 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) *TOTAL BUDGET RESOURCES.*—The term “total budget resources” means the total amount made available from the Airport and Airway Trust Fund for the sum of obligation limitations and budget authority made available for a fiscal year for the following budget accounts that are subject to the obligation limitation on contract authority provided in this title and for which appropriations are provided pursuant to authorizations contained in this title:

(A) 69-8106-0-7-402 (Grants in Aid for Airports).

(B) 69-8107-0-7-402 (Facilities and Equipment).

(C) 69-8108-0-7-402 (Research and Development).

(D) 69-8104-0-7-402 (Trust Fund Share of Operations).

(2) *ESTIMATED LEVEL OF RECEIPTS PLUS INTEREST.*—The term “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) *TOTAL AIRPORT AND AIRWAY TRUST FUND FUNDING.*—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 would cause total budget resources in a fiscal year for aviation investment programs de-

scribed in subsection (b) to be less than the amount required by subsection (a)(1)(A) for such fiscal year.

(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 **2016** 2017 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.

#### § 48104. Operations and maintenance

**[(a) AUTHORIZATION OF APPROPRIATIONS.—the]** *The* balance of the money available in the Airport and Airway Trust Fund established under section 9502 of the Internal Revenue Code of 1986 (26 U.S.C. 9502) may be appropriated to the Secretary of Transportation out of the Fund for—

(1) direct costs the Secretary incurs to flight check, operate, and maintain air navigation facilities referred to in section 44502(a)(1)(A) of this title safely and efficiently; and

(2) the costs of services provided under international agreements related to the joint financing of air navigation services assessed against the United States Government.

### RAILWAY LABOR ACT

[45 U.S.C. 151 et seq.]

#### SEC. 15. EVALUATION AND AUDIT OF MEDIATION BOARD.

[45 U.S.C. 165]

(a) EVALUATION AND AUDIT OF MEDIATION BOARD.—

(1) IN GENERAL.—In order to promote economy, efficiency, and effectiveness in the administration of the programs, operations, and activities of the Mediation Board, the Comptroller General of the United States shall evaluate and audit the programs and expenditures of the Mediation Board. Such an evaluation and audit shall be conducted not less frequently than every **2 years** 4 years, but may be conducted as determined necessary by the Comptroller General or the appropriate congressional committees.

(2) RESPONSIBILITY OF COMPTROLLER GENERAL.—In carrying out the evaluation and audit required under paragraph (1), the Comptroller General shall evaluate and audit the programs, operations, and activities of the Mediation Board, including, at a minimum—

(A) information management and security, including privacy protection of personally identifiable information;

(B) resource management;

(C) workforce development;

(D) procurement and contracting planning, practices, and policies;

(E) the extent to which the Mediation Board follows leading practices in selected management areas; and

(F) the processes the Mediation Board follows to address challenges in—

- (i) initial investigations of applications requesting that an organization or individual be certified as the representative of any craft or class of employees;
- (ii) determining and certifying representatives of employees; and
- (iii) ensuring that the process occurs without interference, influence, or coercion.

\* \* \* \* \*

INTERNAL REVENUE CODE OF 1986

**§ 9502. Airport and Airway Trust Fund**

\* \* \* \* \*

(d) EXPENDITURES FROM AIRPORT AND AIRWAY TRUST FUND.—

(1) \* \* \*

(2) TRANSFERS FROM AIRPORT AND AIRWAY TRUST FUND ON ACCOUNT OF CERTAIN REFUNDS.—The Secretary of the Treasury shall pay from time to time from the Airport and Airway Trust Fund into the general fund of the Treasury amounts equivalent to the amounts paid after August 31, 1982, in respect of fuel used in aircraft, under section 6420 (relating to amounts paid in respect of gasoline used on **[farms]** *farms*), 6421 (relating to amounts paid in respect of gasoline used for certain non-highway purposes), or 6427 (relating to fuels not used for taxable purposes) (other than subsection (1)(4) thereof).

\* \* \* \* \*

VISION 100—CENTURY OF AVIATION REAUTHORIZATION ACT

[Public Law 108–176; 117 Stat. 2490]

**SEC. 186. MIDWAY ISLAND AIRPORT.**

(a) FINDINGS.—Congress finds that the continued operation of the Midway Island Airport in accordance with the standards of the Federal Aviation Administration applicable to commercial airports is critical to the safety of commercial, military, and general aviation in the mid-Pacific Ocean region.

(b) MEMORANDUM OF UNDERSTANDING ON SALE OF AIRCRAFT FUEL.—The Secretaries of Transportation, Defense, Interior, and Homeland Security shall enter into a memorandum of understanding to facilitate the sale of aircraft fuel on Midway Island at a price that will generate sufficient revenue to improve the ability of the airport to operate on a self-sustaining basis in accordance with the standards of the Federal Aviation Administration applicable to commercial airports. The memorandum shall also address the long-range potential of promoting tourism as a means to generate revenue to operate the airport.

(c) TRANSFER OF NAVIGATION AIDS AT MIDWAY ISLAND AIRPORT.—The Midway Island Airport may transfer, without consideration, to the Administrator the navigation aids at the airport. The Administrator shall accept the navigation aids and operate and maintain the navigation aids under criteria of the Administrator.

(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 2012 through 2015 [and for the period beginning on October 1, 2015, and ending on July 15, 2016,] and for fiscal years 2016 through 2017 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.

**SEC. 710. NEXT GENERATION AIR TRANSPORTATION SENIOR POLICY COMMITTEE.**

[49 U.S.C. 40101 note]

(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.

(b) MEMBERSHIP.—In addition to the Secretary, the senior policy committee shall be composed of—

(1) the Administrator of the Federal Aviation Administration (or the Administrator's designee);

(2) the Administrator of the National Aeronautics and Space Administration (or the Administrator's designee);

(3) the Secretary of Defense (or the Secretary's designee);

(4) the Secretary of Homeland Security (or the Secretary's designee);

(5) the Secretary of Commerce (or the Secretary's designee);

(6) the Director of the Office of Science and Technology Policy (or the Director's designee); and

(7) designees from other Federal agencies determined by the Secretary of Transportation to have an important interest in, or responsibility for, other aspects of the system.

(c) FUNCTION.—The senior policy committee shall—

(1) advise the Secretary of Transportation regarding the national goals and strategic objectives for the transformation of the Nation's air transportation system to meet its future needs;

(2) provide policy guidance for the integrated plan for the air transportation system to be developed by the Next Generation Air Transportation System Joint Planning and Development Office;

(3) provide ongoing policy review for the transformation of the air transportation system;

(4) identify resource needs and make recommendations to their respective agencies for necessary funding for planning, research, and development activities; and

(5) make legislative recommendations, as appropriate, for the future air transportation system.

(d) CONSULTATION.—In carrying out its functions under this section, the senior policy committee shall consult with, and ensure participation by, the private sector (including representatives of general aviation, commercial aviation, aviation labor, and the space industry), members of the public, and other interested parties and

may do so through a special advisory committee composed of such representatives.

(e) ANNUAL REPORT.—

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

(2) CONTENTS.—The report shall include—

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

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

(C) a detailed description of—

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

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

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

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

(F) a description of the progress made in meeting the annual NextGen performance goals relative to the performance metrics established under section 214 of the FAA Modernization and Reform Act of 2012 (Public Law 112–95; 49 U.S.C. 40101 note).

## FAA MODERNIZATION AND REFORM ACT OF 2012

[Public Law 112–95; 126 Stat. 11]

### SEC. 202. NEXTGEN DEMONSTRATIONS AND CONCEPTS.

[49 U.S.C. 40101 note]

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

[(1) Next Generation Transportation System—Demonstrations and Infrastructure Development.

[(2) Next Generation Transportation System—Trajectory Based Operations.

[(3) Next Generation Transportation System—Reduce Weather Impact.

[(4) Next Generation Transportation System—Arrivals/Departures at High Density Airports.

[(5) Next Generation Transportation System—Collaborative ATM.

[(6) Next Generation Transportation System—Flexible Terminals and Airports.

[(7) Next Generation Transportation System—Safety, Security, and Environment.

[(8) Next Generation Transportation System—Systems Network Facilities.

[(9) Center for Advanced Aviation System Development.

[(10) Next Generation Transportation System—System Development.

[(11) Data Communications in support of Next Generation Air Transportation System.

[(12) ADS-B NAS-Wide Implementation.

[(13) System-Wide Information Management.

[(14) Next Generation Transportation System—Facility Consolidation and Realignment.

[(15) En Route Modernization—D-Position Upgrade and System Enhancements.

[(16) National Airspace System Voice System.

[(17) Next Generation Network Enabled Weather.

[(18) NextGen Performance Based Navigation Metroplex Area Navigation/Required Navigation Performance.]

**SEC. 213. ACCELERATION OF NEXTGEN TECHNOLOGIES.**

\* \* \* \* \*

(c) COORDINATED AND EXPEDITED REVIEW.—

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

(2) NextGen procedures. Any navigation performance or other performance based navigation procedure developed, certified, published, or implemented that, in the determination of the Administrator, would result in measurable reductions in fuel consumption, carbon dioxide emissions, and noise, on a per flight basis, as compared to aircraft operations that follow existing instrument flight rules procedures in the same airspace, shall be presumed to have no significant affect on the quality of the human environment and the Administrator shall issue and file a categorical exclusion for the new procedure.

(d) DEPLOYMENT PLAN FOR NATIONWIDE DATA COMMUNICATIONS SYSTEM.—Not later than 1 year after the date of enactment of this Act, the Administrator shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a plan for implementation of a nationwide data communications system. The plan shall include—

- (1) clearly defined budget, schedule, project organization, and leadership requirements;
- (2) specific implementation and transition steps; and
- (3) baseline and performance metrics for measuring the Administration’s progress in implementing the plan.

(e) IMPROVED PERFORMANCE STANDARDS.—

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

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

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

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

(3) **NOTIFICATIONS AND CONSULTATIONS.**—*Not later than 90 days before applying a categorical exclusion under this subsection to a new procedure at an OEP airport, the Administrator shall—*

(A) *notify and consult with the operator of the airport at which the procedure would be implemented; and*

(B) *consider consultations or other engagement with the community in the which the airport is located to inform the public of the procedure.*

(4) **REVIEW OF CERTAIN CATEGORICAL EXCLUSIONS.**—

(A) **IN GENERAL.**—*The Administrator shall review any decision of the Administrator made on or after February 14, 2012, and before the date of the enactment of this paragraph to grant a categorical exclusion under this subsection with respect to a procedure to be implemented at an OEP airport that was a material change from procedures previously in effect at the airport to determine if the implementation of the procedure had a significant effect on the human environment in the community in which the airport is located if the operator of that airport—*

(i) *requests such a review; and*

(ii) *demonstrates that there is good cause to believe that the implementation of the procedure had such an effect.*

(B) **CONTENT OF REVIEW.**—*If, in conducting a review under subparagraph (A) with respect to a procedure implemented at an OEP airport, the Administrator, in consultation with the operator of the airport, determines that implementing the procedure had a significant effect on the human environment in the community in which the airport is located, the Administrator shall—*

(i) *consult with the operator of the airport to identify measures to mitigate the effect of the procedure on the human environment; and*

(ii) *in conducting such consultations, consider the use of alternative flight paths that do not substantially*



*degrade the efficiencies achieved by the implementation of the procedure being reviewed.*

(C) *HUMAN ENVIRONMENT DEFINED.*—*In this paragraph, the term “human environment” has the meaning given such term in section 1508.14 of title 40, Code of Federal Regulations (as in effect on the day before the date of the enactment of this paragraph).*

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

**SEC. 214. PERFORMANCE METRICS.**

[49 U.S.C. 40101 note]

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

- (1) actual arrival and departure rates per hour measured against the currently published aircraft arrival rate and aircraft departure rate for the 35 operational evolution partnership airports;
- (2) average gate-to-gate times;
- (3) fuel burned between key city pairs;
- (4) operations using the advanced navigation procedures, including performance based navigation procedures;
- (5) the average distance flown between key city pairs;
- (6) the time between pushing back from the gate and taking off;
- (7) continuous climb or descent;
- (8) average gate arrival delay for all arrivals;
- (9) flown versus filed flight times for key city pairs;
- (10) implementation of NextGen Implementation Plan, or any successor document, capabilities designed to reduce emissions and fuel consumption;
- (11) the Administration’s unit cost of providing air traffic control services; and
- (12) runway safety, including runway incursions, operational errors, and loss of standard separation events.

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

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

(d) **ANNUAL PERFORMANCE GOALS.**—*The Administrator shall establish annual NextGen performance goals for each of the performance metrics set forth in subsection (a) to meet the performance metric baselines identified under subsection (b). Such goals shall be consistent with the annual performance objectives established by the senior policy committee (commonly known as the “NextGen Advisory Committee”) established under section 710 of the Vision 100—Cen-*

*tury of Aviation Reauthorization Act (Public Law 108–176; 49 U.S.C. 40101 note).*

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

- (1) a description of the metrics that will be used to measure the Administration’s progress in implementing NextGen capabilities and operational results;
- (2) information on any additional metrics developed; and
- (3) a process for holding the Administration accountable for meeting or exceeding the metrics baselines identified in subsection (b).

**SEC. 332. INTEGRATION OF CIVIL UNMANNED AIRCRAFT SYSTEMS INTO NATIONAL AIRSPACE SYSTEM.**

[49 U.S.C. 40101 note]

(a) REQUIRED PLANNING FOR INTEGRATION.—

(1) COMPREHENSIVE PLAN.—Not later than 270 days after the date of enactment of this Act, the Secretary of Transportation, in consultation with representatives of the aviation industry, Federal agencies that employ unmanned aircraft systems technology in the national airspace system, and the unmanned aircraft systems industry, shall develop a comprehensive plan to safely accelerate the integration of civil unmanned aircraft systems into the national airspace system.

(2) CONTENTS OF PLAN.—The plan required under paragraph (1) shall contain, at a minimum, recommendations or projections on—

(A) the rulemaking to be conducted under subsection (b), with specific recommendations on how the rulemaking will—

- (i) define the acceptable standards for operation and certification of civil unmanned aircraft systems;
- (ii) ensure that any civil unmanned aircraft system includes a sense and avoid capability; and
- (iii) establish standards and requirements for the operator and pilot of a civil unmanned aircraft system, including standards and requirements for registration and licensing;

(B) the best methods to enhance the technologies and subsystems necessary to achieve the safe and routine operation of civil unmanned aircraft systems in the national airspace system;

(C) a phased-in approach to the integration of civil unmanned aircraft systems into the national airspace system;

(D) a timeline for the phased-in approach described under subparagraph (C);

(E) creation of a safe

(F) airspace designation for cooperative manned and unmanned flight operations in the national airspace system;

(G) establishment of a process to develop certification, flight standards, and air traffic requirements for civil unmanned aircraft systems at test ranges where such systems are subject to testing;

(H) the best methods to ensure the safe operation of civil unmanned aircraft systems and public unmanned aircraft systems simultaneously in the national airspace system; and

(I) incorporation of the plan into the annual NextGen Implementation Plan document (or any successor document) of the Federal Aviation Administration.

(3) DEADLINE.—The plan required under paragraph (1) shall provide for the safe integration of civil unmanned aircraft systems into the national airspace system as soon as practicable, but not later than September 30, 2015.

(4) REPORT TO CONGRESS.—Not later than 1 year after the date of enactment of this Act, the Secretary shall submit to Congress a copy of the plan required under paragraph (1).

(5) ROADMAP.—Not later than 1 year after the date of enactment of this Act, the Secretary shall approve and make available in print and on the Administration's Internet Web site a 5-year roadmap for the introduction of civil unmanned aircraft systems into the national airspace system, as coordinated by the Unmanned Aircraft Program Office of the Administration. The Secretary shall update the roadmap annually.

(b) RULEMAKING.—Not later than 18 months after the date on which the plan required under subsection (a)(1) is submitted to Congress under subsection (a)(4), the Secretary shall publish in the Federal Register—

(1) a final rule on small unmanned aircraft systems that will allow for civil operation of such systems in the national airspace system, to the extent the systems do not meet the requirements for expedited operational authorization under section 333 of this Act;

(2) a notice of proposed rulemaking to implement the recommendations of the plan required under subsection (a)(1), with the final rule to be published not later than 16 months after the date of publication of the notice; and

(3) an update to the Administration's most recent policy statement on unmanned aircraft systems, contained in Docket No. FAA-2006-25714.

[(c) PILOT PROJECTS.—

[(1) ESTABLISHMENT.—Not later than 180 days after the date of enactment of this Act, the Administrator shall establish a program to integrate unmanned aircraft systems into the national airspace system at 6 test ranges. The program shall terminate 5 years after the date of enactment of this Act.

[(2) PROGRAM REQUIREMENTS.—In establishing the program under paragraph (1), the Administrator shall—

[(A) safely designate airspace for integrated manned and unmanned flight operations in the national airspace system;

[(B) develop certification standards and air traffic requirements for unmanned flight operations at test ranges;

[(C) coordinate with and leverage the resources of the National Aeronautics and Space Administration and the Department of Defense;

[(D) address both civil and public unmanned aircraft systems;

[(E) ensure that the program is coordinated with the Next Generation Air Transportation System; and

[(F) provide for verification of the safety of unmanned aircraft systems and related navigation procedures before integration into the national airspace system.

[(3) TEST RANGE LOCATIONS.—In determining the location of the 6 test ranges of the program under paragraph (1), the Administrator shall—

[(A) take into consideration geographic and climatic diversity;

[(B) take into consideration the location of ground infrastructure and research needs; and

[(C) consult with the National Aeronautics and Space Administration and the Department of Defense.

[(4) TEST RANGE OPERATION.—A project at a test range shall be operational not later than 180 days after the date on which the project is established.

[(5) REPORT TO CONGRESS.—

[(A) IN GENERAL.—Not later than 90 days after the date of the termination of the program under paragraph (1), the Administrator shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure and the Committee on Science, Space, and Technology of the House of Representatives a report setting forth the Administrator's findings and conclusions concerning the projects.

[(B) ADDITIONAL CONTENTS.—The report under subparagraph (A) shall include a description and assessment of the progress being made in establishing special use airspace to fill the immediate need of the Department of Defense—

[(i) to develop detection techniques for small unmanned aircraft systems; and

[(ii) to validate the sense and avoid capability and operation of unmanned aircraft systems.

[(d) EXPANDING USE OF UNMANNED AIRCRAFT SYSTEMS IN ARCTIC.—

[(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Secretary shall develop a plan and initiate a process to work with relevant Federal agencies and national and international communities to designate permanent areas in the Arctic where small unmanned aircraft may operate 24 hours per day for research and commercial purposes. The plan for operations in these permanent areas shall include the development of processes to facilitate the safe operation of unmanned aircraft beyond line of sight. Such areas shall enable over-water flights from the surface to at least 2,000 feet in altitude, with ingress and egress routes from selected coastal launch sites.

[(2) AGREEMENTS.—To implement the plan under paragraph (1), the Secretary may enter into an agreement with relevant national and international communities.

[(3) AIRCRAFT APPROVAL.—Not later than 1 year after the entry into force of an agreement necessary to effectuate the purposes of this subsection, the Secretary shall work with relevant national and international communities to establish and

implement a process, or may apply an applicable process already established, for approving the use of unmanned aircraft in the designated permanent areas in the Arctic without regard to whether an unmanned aircraft is used as a public aircraft, a civil aircraft, or a model aircraft.】

**[SEC. 333. SPECIAL RULES FOR CERTAIN UNMANNED AIRCRAFT SYSTEMS.**

[49 U.S.C. 40101 note]

【(a) IN GENERAL.—Notwithstanding any other requirement of this subtitle, and not later than 180 days after the date of enactment of this Act, the Secretary of Transportation shall determine if certain unmanned aircraft systems may operate safely in the national airspace system before completion of the plan and rule-making required by section 332 of this Act or the guidance required by section 334 of this Act.

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

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

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

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

**[SEC. 334. PUBLIC UNMANNED AIRCRAFT SYSTEMS.**

[49 U.S.C. 40101 note]

【(a) GUIDANCE.—Not later than 270 days after the date of enactment of this Act, the Secretary of Transportation 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;

【(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; and

【(4) provide guidance on a public entity's responsibility when operating an unmanned aircraft without a civil airworthiness certificate issued by the Administration.

[(b) STANDARDS FOR OPERATION AND CERTIFICATION.—Not later than December 31, 2015, the Administrator shall develop and implement operational and certification requirements for the operation of public unmanned aircraft systems in the national airspace system.]

[(c) AGREEMENTS WITH GOVERNMENT AGENCIES.—

[(1) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the Secretary shall enter into agreements with appropriate government agencies to simplify the process for issuing certificates of waiver or authorization with respect to applications seeking authorization to operate public unmanned aircraft systems in the national airspace system.]

[(2) CONTENTS.—The agreements shall—

[(A) with respect to an application described in paragraph (1)—

[(i) provide for an expedited review of the application;

[(ii) require a decision by the Administrator on approval or disapproval within 60 business days of the date of submission of the application; and

[(iii) allow for an expedited appeal if the application is disapproved;

[(B) allow for a one-time approval of similar operations carried out during a fixed period of time; and

[(C) allow a government public safety agency to operate unmanned aircraft weighing 4.4 pounds or less, if operated—

[(i) within the line of sight of the operator;

[(ii) less than 400 feet above the ground;

[(iii) during daylight conditions;

[(iv) within Class G airspace; and

[(v) outside of 5 statute miles from any airport, heliport, seaplane base, spaceport, or other location with aviation activities.]

**[(SEC. 336. SPECIAL RULE FOR MODEL AIRCRAFT.]**

[(a) IN GENERAL.—Notwithstanding any other provision of law relating to the incorporation of unmanned aircraft systems into Federal Aviation Administration plans and policies, including this subtitle, the Administrator of the Federal Aviation Administration may not promulgate any rule or regulation regarding a model aircraft, or an aircraft being developed as a model aircraft, if—

[(1) the aircraft is flown strictly for hobby or recreational use;

[(2) the aircraft is operated in accordance with a community-based set of safety guidelines and within the programming of a nationwide community-based organization;

[(3) the aircraft is limited to not more than 55 pounds unless otherwise certified through a design, construction, inspection, flight test, and operational safety program administered by a community-based organization;

[(4) the aircraft is operated in a manner that does not interfere with and gives way to any manned aircraft; and

[(5) when flown within 5 miles of an airport, the operator of the aircraft provides the airport operator and the airport air traffic control tower (when an air traffic facility is located at

the airport) with prior notice of the operation (model aircraft operators flying from a permanent location within 5 miles of an airport should establish a mutually-agreed upon operating procedure with the airport operator and the airport air traffic control tower (when an air traffic facility is located at the airport)).

[(b) STATUTORY CONSTRUCTION.—Nothing in this section shall be construed to limit the authority of the Administrator to pursue enforcement action against persons operating model aircraft who endanger the safety of the national airspace system.

[(c) MODEL AIRCRAFT DEFINED.—In this section, the term “model aircraft” means an unmanned aircraft that is—

- [(1) capable of sustained flight in the atmosphere;
- [(2) flown within visual line of sight of the person operating the aircraft; and
- [(3) flown for hobby or recreational purposes.]

**SEC. 411. ESTABLISHMENT OF ADVISORY COMMITTEE FOR AVIATION CONSUMER PROTECTION.**

(a) IN GENERAL.—The Secretary of Transportation shall establish an advisory committee for aviation consumer protection to advise the Secretary in carrying out activities relating to airline customer service improvements.

(b) MEMBERSHIP.—The Secretary shall appoint the members of the advisory committee, which shall be comprised of one representative each of—

- (1) air carriers;
- (2) airport operators;
- (3) State or local governments with expertise in consumer protection matters; and
- (4) nonprofit public interest groups with expertise in 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—

- (1) evaluating existing aviation consumer protection programs and providing recommendations for the improvement of such programs, if needed; and
- (2) providing recommendations for establishing additional aviation consumer protection programs, if needed.

(g) REPORT TO CONGRESS.—Not later than February 1 of each [of the first 2 calendar years beginning after the date of enactment of this Act] *calendar year*, the Secretary shall transmit to Congress *and post on the Department of Transportation Web site* a report containing—

- (1) the recommendations 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 recommendation not imple-

mented, the Secretary's reason for not implementing the recommendation.

(h) *CONFLICT OF INTEREST DISCLOSURE.*—Beginning on the date of enactment of the Federal Aviation Administration Reauthorization Act of 2016, each member of the advisory committee who is not a government employee shall disclose, on an annual basis, any potential conflicts of interest, including financial conflicts of interest, to the Secretary in such form and manner as prescribed by the Secretary.

[(h)](i) *TERMINATION.*—The advisory committee established under this section shall terminate on [July 15, 2016] September 30, 2017.

**SEC. 817. RELEASE FROM RESTRICTIONS.**

[49 U.S.C. 47125 note]

(a) *IN GENERAL.*—Subject to subsection (b), the Secretary of Transportation is authorized to grant to an airport, city, or county a release from any of the terms, conditions, reservations, or restrictions contained in a deed under which the United States conveyed to the airport, city, or county an interest in real property for airport purposes pursuant to section 16 of the Federal Airport Act (60 Stat. 179) [or section 23], section 23 of the Airport and Airway Development Act of 1970 (84 Stat. 232), or section 47125 of title 49, United States Code.

(b) *CONDITION.*—Any release granted by the Secretary pursuant to subsection (a) shall be subject to the following conditions:

(1) The applicable airport, city, or county shall agree that in conveying any interest in the real property which the United States conveyed to the airport, city, or county, the airport, city, or county will receive consideration for such interest that is equal to its fair market value.

(1) Any consideration received by the airport, city, or county under paragraph (1) shall be used exclusively for the development, improvement, operation, or maintenance of a public airport by the airport, city, or county.

(1) Any other conditions required by the Secretary.

**SEC. 822. PILOT PROGRAM FOR REDEVELOPMENT OF AIRPORT PROPERTIES.**

[49 U.S.C. 47141 note]

\* \* \* \* \*

(k) *SUNSET.*—This section shall not be in effect after [July 15, 2016] September 30, 2017.

**PILOTS BILL OF RIGHTS**

[Public Law 112–153; 126 Stat. 1159]

**SEC. 2. FEDERAL AVIATION ADMINISTRATION ENFORCEMENT PROCEEDINGS AND ELIMINATION OF DEFERENCE.**

[49 U.S.C. 44703 note]

(a) *IN GENERAL.*—Any proceeding conducted under subpart C, D, or F of part 821 of title 49, Code of Federal Regulations, relating to denial, amendment, modification, suspension, or revocation of an airman certificate, shall be conducted, to the extent practicable, in accordance with the Federal Rules of Civil Procedure and the Federal Rules of Evidence.



## (b) ACCESS TO INFORMATION.—

(1) IN GENERAL.—Except as provided under paragraph (3), the Administrator of the Federal Aviation Administration (referred to in this section as the “Administrator”) shall provide timely, written notification to an individual who is the subject of an investigation relating to the approval, denial, suspension, modification, or revocation of an airman certificate under chapter 447 of title 49, United States Code.

(2) INFORMATION REQUIRED.—The notification required under paragraph (1) shall inform the individual—

(A) of the nature of the investigation *and the specific activity on which the investigation is based*;

(B) that an oral or written response to a Letter of Investigation from the Administrator is not required;

(C) that no action or adverse inference can be taken against the individual for declining to respond to a Letter of Investigation from the Administrator;

(D) that any response to a Letter of Investigation from the Administrator or to an inquiry made by a representative of the Administrator by the individual may be used as evidence against the individual;

(E) that the releasable portions of the Administrator’s investigative report will be available to the individual; and

(F) that the individual is entitled to access or otherwise obtain air traffic data described in paragraph (4).

(3) EXCEPTION.—The Administrator may delay **[timely]** notification under paragraph (1) if the Administrator determines that such notification may threaten the integrity of the investigation.

## (4) ACCESS TO AIR TRAFFIC DATA.—

(A) FAA AIR TRAFFIC DATA.—The Administrator shall provide an individual described in paragraph (1) with timely access to any air traffic data in the possession of the Federal Aviation Administration that would facilitate the individual’s ability to productively participate in a proceeding relating to an investigation described in such paragraph.

(B) AIR TRAFFIC DATA DEFINED.—As used in subparagraph (A), the term “air traffic data” includes—

(i) relevant air traffic communication tapes;

(ii) radar information;

(iii) air traffic controller statements;

(iv) flight data;

(v) investigative reports; and

(vi) any other air traffic or flight data in the Federal Aviation Administration’s possession that would facilitate the individual’s ability to productively participate in the proceeding.

## (C) GOVERNMENT CONTRACTOR AIR TRAFFIC DATA.—

(i) IN GENERAL.—Any individual described in paragraph (1) is entitled to obtain any air traffic data that would facilitate the individual’s ability to productively participate in a proceeding relating to an investigation described in such paragraph from a government contractor that provides operational services to the Fed-

eral Aviation Administration, including control towers and flight service stations.

(ii) **REQUIRED INFORMATION FROM INDIVIDUAL.**—The individual may obtain the information described in clause (i) by submitting a request to the Administrator that—

(I) describes the facility at which such information is located; and

(II) identifies the date on which such information was generated.

(iii) **PROVISION OF INFORMATION TO INDIVIDUAL.**—If the Administrator receives a request under this subparagraph, the Administrator shall—

(I) request the contractor to provide the requested information; and

(II) upon receiving such information, transmitting the information to the requesting individual in a timely manner.

(5) **TIMING.**—Except when the Administrator determines that an emergency exists under **[section 44709(c)(2)]** *section 44709(e)(2)* or 46105(c), the Administrator may not proceed against an individual that is the subject of an investigation described in paragraph (1) during the 30-day period beginning on the date on which the air traffic data required under paragraph (4) is made available to the individual.

(c) [Omitted]

(d) **APPEAL FROM CERTIFICATE ACTIONS.**—

(1) **IN GENERAL.**—Upon a decision by the National Transportation Safety Board upholding an order or a final decision by the Administrator denying an airman certificate under section 44703(d) of title 49, United States Code, **[or imposing a punitive civil action or an emergency order of revocation under subsections (d) and (e) of section 44709 of such title]** *suspending or revoking an airman certificate under section 44709(d) of such title, or imposing an emergency order of revocation under subsections (d) and (e) of section 44709 of such title*, an individual substantially affected by an order of the Board may, at the individual's election, file an appeal in the United States district court in which the individual resides or in which the action in question occurred, or in the United States District Court for the District of Columbia. If the individual substantially affected by an order of the Board elects not to file an appeal in a United States district court, the individual may file an appeal in an appropriate United States court of appeals.

(2) **EMERGENCY ORDER PENDING JUDICIAL REVIEW.**—Subsequent to a decision by the Board to uphold an Administrator's emergency order under section 44709(e)(2) of title 49, United States Code, and absent a stay of the enforcement of that order by the Board, the emergency order of amendment, modification, suspension, or revocation of a certificate shall remain in effect, pending the exhaustion of an appeal to a Federal district court as provided in this Act.

(e) **STANDARD OF REVIEW.**—

**[(1) IN GENERAL.**—In an appeal filed under subsection (d) in a United States district court, the district court shall give full

independent review of a denial, suspension, or revocation ordered by the Administrator, including substantive independent and expedited review of any decision by the Administrator to make such order effective immediately.】

(1) *IN GENERAL.*—*In an appeal filed under subsection (d) in a United States district court with respect to a denial, suspension, or revocation of an airman certificate by the Administrator—*

(A) *the district court shall review the denial, suspension, or revocation de novo, including by—*

(i) *conducting a full independent review of the complete administrative record of the denial, suspension, or revocation;*

(ii) *permitting additional discovery and the taking of additional evidence; and*

(iii) *making the findings of fact and conclusions of law required by Rule 52 of the Federal Rules of Civil Procedure without being bound to any findings of fact of the Administrator or the National Transportation Safety Board.*

(2) *BURDEN OF PROOF.*—*In an appeal filed under subsection (d) in a United States district court after an exhaustion of administrative remedies, the burden of proof shall be as follows:*

(A) *In an appeal of the denial of an application for the issuance or renewal of an airman certificate under section 44703 of title 49, United States Code, the burden of proof shall be upon the applicant denied an airman certificate by the Administrator.*

(B) *In an appeal of an order issued by the Administrator under section 44709 of title 49, United States Code, the burden of proof shall be upon the Administrator.*

【(2)】(3) *EVIDENCE.*—*A United States district court's review under paragraph (1) shall include in evidence any record of the proceeding before the Administrator and any record of the proceeding before the National Transportation Safety Board, including hearing testimony, transcripts, exhibits, decisions, and briefs submitted by the parties.*

(4) *APPLICABILITY OF ADMINISTRATIVE PROCEDURE ACT.*—*Notwithstanding paragraph (1)(A) of this subsection or subsection (a)(1) of section 554 of title 5, United States Code, section 554 of such title shall apply to adjudications of the Administrator and the National Transportation Safety Board to the same extent as that section applied to such adjudications before the date of enactment of the Pilot's Bill of Rights 2.*

(f) *RELEASE OF INVESTIGATIVE REPORTS.*—

(1) *IN GENERAL.*—

(A) *EMERGENCY ORDERS.*—*In any proceeding conducted under part 821 of title 49, Code of Federal Regulations, relating to the amendment, modification, suspension, or revocation of an airman certificate, in which the Administrator issues an emergency order under subsections (d) and (e) of section 44709, section 44710, or section 46105(c) of title 49, United States Code, or another order that takes effect immediately, the Administrator shall provide to the individual holding the airman certificate the releasable por-*

tion of the investigative report at the time the Administrator issues the order. If the complete Report of Investigation is not available at the time the Emergency Order is issued, the Administrator shall issue all portions of the report that are available at the time and shall provide the full report within 5 days of its completion.

(B) *OTHER ORDERS.*—In any non-emergency proceeding conducted under part 821 of title 49, Code of Federal Regulations, relating to the amendment, modification, suspension, or revocation of an airman certificate, in which the Administrator notifies the certificate holder of a proposed certificate action under subsections (b) and (c) of section 44709 or section 44710 of title 49, United States Code, the Administrator shall, upon the written request of the covered certificate holder and at any time after that notification, provide to the covered certificate holder the releasable portion of the investigative report.

(2) *MOTION FOR DISMISSAL.*—If the Administrator does not provide the releasable portions of the investigative report to the individual holding the airman certificate subject to the proceeding referred to in paragraph (1) by the time required by that paragraph, the individual may move to dismiss the complaint of the Administrator or for other relief and, unless the Administrator establishes good cause for the failure to provide the investigative report or for a lack of timeliness, the administrative law judge shall order such relief as the judge considers appropriate.

(3) *RELEASABLE PORTION OF INVESTIGATIVE REPORT.*—For purposes of paragraph (1), the releasable portion of an investigative report is all information in the report, except for the following:

(A) Information that is privileged.

(B) Information that constitutes work product or reflects internal deliberative process.

(C) Information that would disclose the identity of a confidential source.

(D) Information the disclosure of which is prohibited by any other provision of law.

(E) Information that is not relevant to the subject matter of the proceeding.

(F) Information the Administrator can demonstrate is withheld for good cause.

(G) Sensitive security information, as defined in section 15.5 of title 49, Code of Federal Regulations (or any corresponding similar ruling or regulation).

(4) *RULE OF CONSTRUCTION.*—Nothing in this subsection shall be construed to prevent the Administrator from releasing to an individual subject to an investigation described in subsection (b)(1)—

(A) information in addition to the information included in the releasable portion of the investigative report; or

(B) a copy of the investigative report before the Administrator issues a complaint.

**SEC. 3. NOTICES TO AIRMEN.**

[49 U.S.C. 44701 note]

**(a) IN GENERAL.—**

(1) **DEFINITION.**—In this section, the term “NOTAM” means Notices to Airmen.

(2) **IMPROVEMENTS.**—Not later than 180 days after the date of the enactment of **[this Act]** *the Pilot’s Bill of Rights 2*, the Administrator of the Federal Aviation Administration shall **[begin]** *complete the implementation of* a Notice to Airmen Improvement Program (in this section referred to as the “NOTAM Improvement Program”)—

(A) to improve the system of providing airmen with pertinent and timely information regarding the national airspace system;

**[(B) to archive, in a public central location, all NOTAMs, including the original content and form of the notices, the original date of publication, and any amendments to such notices with the date of each amendment; and]**

*(B) to continue developing and modernizing the NOTAM repository, in a public central location, to maintain and archive all NOTAMs, including the original content and form of the notices, the original date of publication, and any amendments to such notices with the date of each amendment, in a manner that is Internet-accessible, machine-readable, and searchable;*

(C) to apply filters so that pilots can prioritize critical flight safety information from other airspace system information**].**; and

*(D) to specify the times during which temporary flight restrictions are in effect and the duration of a designation of special use airspace in a specific area.*

**(b) GOALS OF PROGRAM.**—The goals of the NOTAM Improvement Program are—

(1) to decrease the overwhelming volume of NOTAMs an airman receives when retrieving airman information prior to a flight in the national airspace system;

(2) make the NOTAMs more specific and relevant to the airman’s route and in a format that is more useable to the airman;

(3) to provide a full set of NOTAM results in addition to specific information requested by airmen;

(4) to provide a document that is easily searchable; and

(5) to provide a filtering mechanism similar to that provided by the Department of Defense Notices to Airmen.

**(c) ADVICE FROM PRIVATE SECTOR GROUPS.**—The Administrator shall establish a NOTAM Improvement Panel, which shall be comprised of representatives of relevant nonprofit and not-for-profit general aviation pilot groups, to advise the Administrator in carrying out the goals of the NOTAM Improvement Program under this section.

**[(d) PHASE-IN AND COMPLETION.**—The improvements required by this section shall be phased in as quickly as practicable and shall be completed not later than the date that is 1 year after the date of the enactment of this Act.]

*(d) DESIGNATION OF REPOSITORY AS SOLE SOURCE FOR NOTAMS.—*

*(1) IN GENERAL.—The Administrator—*

*(A) shall consider the repository for NOTAMs under subsection (a)(2)(B) to be the sole location for airmen to check for NOTAMs; and*

*(B) may not consider a NOTAM to be announced or published until the NOTAM is included in the repository for NOTAMs under subsection (a)(2)(B).*

*(2) PROHIBITION ON TAKING ACTION FOR VIOLATIONS OF NOTAMS NOT IN REPOSITORY.—*

*(A) IN GENERAL.—Except as provided in subparagraph (B), beginning on the date that the repository under subsection (a)(2)(B) is final and published, the Administrator may not take any enforcement action against an airman for a violation of a NOTAM during a flight if—*

*(i) that NOTAM is not available through the repository before the commencement of the flight; and*

*(ii) that NOTAM is not reasonably accessible and identifiable to the airman.*

*(B) EXCEPTION FOR NATIONAL SECURITY.—Subparagraph (A) shall not apply in the case of an enforcement action for a violation of a NOTAM that directly relates to national security.*

