

**Calendar No. 407**

115TH CONGRESS }  
2d Session }

SENATE

{ REPORT  
{ 115-243

FEDERAL AVIATION ADMINISTRATION  
REAUTHORIZATION ACT OF 2017

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R E P O R T

OF THE

COMMITTEE ON COMMERCE, SCIENCE, AND  
TRANSPORTATION

ON

S. 1405

together with

SUPPLEMENTAL VIEWS



MAY 9, 2018.—Ordered to be printed

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SENATE COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

ONE HUNDRED FIFTEENTH CONGRESS

SECOND SESSION

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### FEDERAL AVIATION ADMINISTRATION REAUTHORIZATION ACT OF 2017

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MAY 9, 2018.—Ordered to be printed  
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Mr. THUNE, from the Committee on Commerce, Science, and  
Transportation, submitted the following

### R E P O R T

together with

### SUPPLEMENTAL VIEWS

[To accompany S. 1405]

[Including cost estimate of the Congressional Budget Office]

The Committee on Commerce, Science, and Transportation, to which was referred the bill (S. 1405) to amend title 49, United States Code, to authorize appropriations for the Federal Aviation Administration, 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. 1405, 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 (ATC) operations, aviation safety, airline consumer protections, unmanned aircraft systems (UAS), aircraft certification, and small community air service.

#### BACKGROUND AND NEEDS

Civil aviation is a critical sector within the U.S. economy; one that helps transport passengers and cargo and includes a vast net-

work of air carriers, airports, and manufacturers. According to the FAA, in fiscal year (FY) 2014, the aviation industry supported over 10.6 million American jobs, contributed \$1.6 trillion in total economic activity, and accounted for 5.1 percent of U.S. gross domestic product.<sup>1</sup> The aviation community encompasses several different sectors, including commercial aviation, airports, general aviation (GA), and manufacturing. The success of these sectors is dependent upon the following: a safe, efficient, and modern ATC system; a well-maintained airport network; an innovative and robust manufacturing sector; and efficient and effective regulatory processes.

To ensure a single standard of safety for U.S. civil aviation, the FAA has sole authority for safety oversight of the National Airspace System (NAS). To allow the free flow of air commerce across State lines and ensure the fairness of the NAS, the Department of Transportation (DOT), Office of the Secretary has sole economic authority over the aviation system.

The United States has nearly 20,000 airports that provide important services to the aviation community and the Nation's economy. Of those, the FAA has identified 3,340 public-use airports (3,332 existing and 8 proposed) that are important to the national air transportation system, and the FAA estimates a need for approximately \$32.5 billion in projects at these airports that are eligible for Federal funds between FY 2017 and FY 2021.<sup>2</sup>

#### AVIATION FUNDING

The FAA's total enacted budget for FY 2017 is roughly \$16.4 billion. Within that budget are four different accounts: Operations and Maintenance (\$10.03 billion);<sup>3</sup> Facilities and Equipment (\$2.86 billion);<sup>4</sup> Research, Engineering, and Development (\$177 million);<sup>5</sup> and Grants-In-Aid for Airports (\$3.35 billion).<sup>6</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 the following excise taxes paid by users of the NAS:<sup>7</sup>

- 7.5 percent passenger ticket tax.
- \$4.10 passenger flight segment fee.<sup>8</sup>
- 6.25 percent freight waybill tax.

<sup>1</sup>Federal Aviation Administration (FAA), *The Economic Impact of Civil Aviation on U.S. Economy*, November 2016, p. 5, at [https://www.faa.gov/air\\_traffic/publications/media/2016-economic-impact-report\\_final.pdf](https://www.faa.gov/air_traffic/publications/media/2016-economic-impact-report_final.pdf).

<sup>2</sup>FAA, *National Plan of Integrated Airport Systems (NPIAS) 2017-2021*, at [https://www.faa.gov/airports/planning\\_capacity/npias/reports/media/NPIAS-Report-2017-2021-Narrative.pdf](https://www.faa.gov/airports/planning_capacity/npias/reports/media/NPIAS-Report-2017-2021-Narrative.pdf).

<sup>3</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>4</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>5</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>6</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>7</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.

<sup>8</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.

- \$18.00 international departure and arrival taxes.
- \$9.00 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.
  - 4.1 cents/gallon Fractional Ownership Surtax on GA jet fuel.

According to the FAA, these taxes raised about \$14.4 billion in FY 2016, including the following amounts:

- \$9.9 billion from the passenger ticket taxes.
- \$3.4 billion from the international departure and arrival taxes.
- \$476 million from the freight waybill tax.
- \$406 million from the commercial aviation fuel taxes.
- \$217 million from GA fuel taxes.

The Trust Fund continues to earn interest on its cash balance; interest contributed roughly \$267 million in FY 2016.

#### 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.

#### *Passenger Facility Charges*

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 Treasury. They would 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. PFCs also can be used 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 law authorizing PFCs 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 the two segments of a one-way trip, effectively capping total PFCs at \$18 for any round trip. Currently, 354 airports are approved by the FAA to collect such revenues for specific projects, and in calendar year (CY) 2016, \$3.16 billion was collected.<sup>9</sup>

#### FAA SAFETY CERTIFICATION, MANAGEMENT, AND ORGANIZATIONAL ISSUES

##### *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 FAA 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 FAA further conducts inspections, surveillance, investigations, and enforcement actions, and manages the system for registration of civil aircraft and all airmen records.

In recent years, 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 also are 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 multibillion-dollar initiative initially slated to be completed by 2025 to transition the Nation's airspace from a 1950s radar-based system to satellite-based navigation and aircraft tracking. 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 Automatic Dependent Surveillance–Broadcast (ADS-B); Data Communications (Data Comm); En Route Automation Modernization; Terminal Automation Modernization and Replacement; NAS Voice System; and System Wide Information Management (SWIM).<sup>10</sup> These programs,

<sup>9</sup> FAA, *Key Passenger Facility Charge Statistics as of June 30, 2017*.

<sup>10</sup> FAA, "NextGen Implementation Plan 2016," on June 2016.

along with other NextGen programs, would 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 closer together by virtue of improved ATC surveillance technology.

However, as with previous ATC modernization efforts, concerns have been raised regarding FAA's implementation of NextGen technology and procedures. In May 2017, the DOT Inspector General (DOT IG) testified:

Major projects, including some critical to NextGen, have experienced cost increases and schedule slips. Our work continues to find that several systemic issues underlie FAA's problems in delivering new technologies on time and within budget. These include overambitious plans, unreliable cost and schedule estimates, unstable requirements, software development problems, poorly defined benefits, and ineffective contract and program management.<sup>11</sup>

In addition, the DOT IG noted, with regard to NextGen, that although the "FAA has made progress working with industry in identifying and advancing investment priorities, such as new routes based on performance-based navigation . . . several risks remain to be addressed in delivering these identified priorities and achieving expected benefits."<sup>12</sup>

Recently, there have been proposals to move the Air Traffic Organization outside of the FAA. On June 22, 2017, Chairman Bill Shuster (R-PA) of the Transportation and Infrastructure (T&I) Committee of the House of Representatives introduced his FAA reauthorization proposal, H.R. 2997, the 21st Century Aviation Innovation, Reform, and Reauthorization Act, which would create a not-for-profit, non-governmental corporation to handle day-to-day ATC in the United States.

The T&I Committee of the House of Representatives marked up and reported out H.R. 2997 by a vote of 32-25. In addition, the Administration's budget for FY 2018 also proposes shifting the ATC functions of the FAA to a non-profit, non-governmental entity at the start of FY 2021. The Commerce, Science, and Transportation Committee of the Senate held a hearing in which this proposal was the main topic, and though such a transformational initiative was not included in the Committee reported bill, debate on ATC reform is expected to continue.

#### *Unmanned Aircraft Systems*

UAS can be operated by remote or ground control stations and vary greatly in size, with 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 air-

<sup>11</sup> Written testimony of Inspector General, U.S. Department of Transportation, Calvin L. Scovel III, in U.S. Congress, House Committee on Transportation and Infrastructure, "The Need to Reform FAA and Air Traffic Control to Build a 21st Century Aviation System for America," May 17, 2017.

<sup>12</sup> *Ibid.*

craft, civil UAS 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. 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. Given their size and unique characteristics, safety standards requirements for small unmanned aircraft in the NAS may be considered differently from other aircraft. On June 21, 2016, the FAA finalized a long-awaited new rule for small UAS, which has allowed for widespread commercial usage. However, UAS stakeholders still want to be able to fly these aircraft over people, beyond visual line of sight, and at night on a routine basis.

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 by the Secretary of Transportation (Secretary) within the Office of the Secretary.

##### *Essential Air Service*

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 Essential Air Service (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.

EAS has been funded at the following levels in the past two FYs: \$283 million in FY 2016; and \$263 million in FY 2017. The majority of funding has derived from discretionary appropriations (e.g., \$175 million in FY 2016 and \$150 million in FY 2017) 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). The FAA Extension, Safety, and Security Act of 2016 (FESSA; P.L. 114–190) authorized \$175 million but the FY 2017 omnibus (P.L. 115–31) appropriated \$150 million.

*Small Community Air Service Development Program*

The Small Community Air Service Development Program (SCASDP) is a relatively small grant program. Established in 2000, it 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 CY 1997 data), the service is insufficient, and the airfares to the community are unreasonably high. FESSA authorized SCASDP funding of \$6 million per year for FY 2016 and FY 2017; however, \$10 million was appropriated (off the top of the AIP account) for FY 2017 (P.L. 115–31), which is consistent with the Senate-passed FAA bill last Congress.

*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 selection. 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 the DOT’s authority to require air carriers in interstate transportation to provide “safe and adequate service” (49 U.S.C. 41702). In specific cases, the 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) mandates protections, enforced by the DOT, for passengers with disabilities at airports and on airlines.

In the last several years, however, 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.

In addition, DOT initiated a rulemaking proceeding in January 2017 to implement section 2305 of the FAA Extension, Safety, and Security Act of 2016, which generally requires automated refunds for any baggage fees when checked luggage is not delivered within 12 hours after the arrival of a domestic flight or 15 hours after the arrival of an international flight.

SUMMARY OF PROVISIONS

UNMANNED AIRCRAFT SYSTEMS

If enacted the bill would do the following:

- Direct the FAA to charter an aviation rulemaking advisory committee to recommend consensus safety standards for UAS, to be accepted by the FAA, to enhance the safety features built into drones and parameters for operators.
- Enhance privacy by 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.
- Promote safety by requiring UAS users to pass an FAA-approved online aeronautical safety test before flying. This would

ensure users understand the NAS and avoid manned aircraft. Operators of UAS weighing less than 0.55 pounds could be exempted from the testing requirement.

- Authorize the establishment of an airspace hazard mitigation program to intercept drones near airports.
- Foster innovation by authorizing expanded case-by-case exemptions for beyond visual-line-of sight, nighttime operations, and operations over people, as well as for research and development and commercial purposes.
- Improve UAS test sites, first authorized in 2012, by establishing long-term authorization, more clearly directing research priorities, improving coordination with the FAA, and enhancing protections for proprietary information to encourage engagement with the private sector.
- Require 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 pounds or less.
- Streamline the approval process for the safe operation of UAS at institutions of higher education.

#### CONSUMER PROTECTION AND AVIATION ACCESS

If enacted the bill would do the following:

- Reauthorize the DOT’s Advisory Committee for Aviation Consumer Protection (ACP).
- Direct the DOT to review circumstances that may impact travelers to and from small communities, including canceled flights and involuntary changes to itineraries.
- Maintain support for small community air service through the reauthorization of the EAS Program and the SCASDP.
- Direct a DOT rulemaking to standardize the disclosure of ancillary fees to passengers, and provide automatic refunds for services paid for, but not received.
- Strengthen consumer complaint information notification at airlines and improve DOT online communication tools for the traveling public.
- Direct the DOT to establish an Aviation Consumer Advocate position.
- Take steps to improve air travel for persons with disabilities by creating an ongoing advisory committee and requiring the DOT to develop a document using plain language to describe the basic Federal protections for air travelers with disabilities
- Direct the DOT to study the minimum seat pitch for passenger airlines as it relates to the safety of passengers.
- Adopt reforms to boarding procedures to prevent denied boarding after passengers have boarded, except in limited circumstances, and improve passengers’ access to appropriate compensation in oversale situations.
- Require the DOT to issue regulations on certain ancillary fees.

#### AIRLINE SAFETY IMPROVEMENTS

If enacted the bill would do the following:

- Direct the DOT to implement internationally-approved safety standards on bulk transport of lithium batteries and review existing regulations and potential improvements to battery safety.
- Improve a voluntarily safety reporting program for pilots.
- Improve preparedness for communicable disease outbreaks, following through on Government Accountability Office (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.
- Direct the FAA to review airline cabin evacuation procedures used during emergencies.

#### AIRCRAFT CERTIFICATION REFORM

If enacted the bill would do the following:

- Streamline 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.
- Require 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.
- Maintain the quality of the FAA safety workforce by requiring FAA to review and revise its safety workforce training strategy to ensure it meets specific criteria, including fostering an inspector and engineer workforce with the necessary skills and training and seeking knowledge-sharing opportunities between the FAA and aviation industry.

#### GENERAL AVIATION SAFETY AND PROTECTIONS

If enacted the bill would do the following:

- Reform the appeals process, including de novo review, for pilots facing FAA enforcement (Fairness for Pilots Act; S. 755).
- Require the FAA to clearly identify alternatives to traditional aviation gasoline and adopt an expedited process to ensure the safety of modifications to existing aircraft prior to a transition to unleaded aviation fuel.
- Require the FAA to implement a risk-based policy that expedites the installation of safety enhancing technologies for small GA aircraft.

#### ATC, NEXTGEN, AND FAA MANAGEMENT

If enacted the bill would do the following:

- Reduce barriers to the contract tower program through reforms to the FAA's cost-benefit analysis.
- Follow-through on recommendations made by the DOT IG and GAO to improve the FAA's performance on NextGen implementation, including recommendations to improve NextGen

transition management, mitigate risks to NextGen interoperability with foreign countries, and assess NextGen acquisitions.

- Require the FAA to continue to monitor and update contingency plans to better address potential air traffic facility outages.
- Implement National Research Council recommendations directing the FAA to incorporate human factors throughout the development and rollout of NextGen programs, and attracting an even more qualified workforce to manage these programs.
- Require 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 would have a positive return on investment for aviation users and the Government.

#### INFRASTRUCTURE/AIRPORT INVESTMENT

If enacted the bill would do the following:

- Support job creation and improves safety with increased infrastructure investment by authorizing funding for the AIP at \$3.75 billion, a \$400 million increase, beginning in FY 2019.
- Streamline the PFC application process to eliminate unnecessary paperwork.
- Reform the airport grant program for GA airports to ensure more funds are available for such airports, especially those that may support disaster relief efforts.
- Require a qualified organization to conduct a study and make recommendations on upgrading airport infrastructure.

#### LEGISLATIVE HISTORY

Chairman Thune introduced S. 1405, the FAA Reauthorization Act of 2017, on June 22, 2017. Ranking Member Nelson, Subcommittee Chairman Blunt, and Subcommittee Ranking Member Cantwell are original cosponsors.

The Committee held the following five hearings examining key issues addressed in the bill:

- Unmanned Aircraft Systems: Innovation, Integration, Successes, and Challenges (March 15, 2017).
- FAA Reauthorization: Perspectives on Improving Airport Infrastructure and Aviation Manufacturing (March 23, 2017).
- FAA Reauthorization: Perspectives on Rural Air Service and the General Aviation Community (April 6, 2017).
- Questions, Answers, and Perspectives on the Current State of Airline Travel (May 4, 2017).
- FAA Reauthorization: Administration Perspectives (June 7, 2017).

On June 29, 2017, the Committee met in open Executive Session and, by voice vote, ordered the bill to be reported favorably with an amendment (in the nature of a substitute).

Senators Thune, Nelson, Blunt, and Cantwell offered an amendment (in the nature of a substitute) which was adopted by voice vote and served as the base text for further amendments. The Committee then adopted 56 amendments (en bloc) by voice vote.

Two first degree amendments and a second amendment also were considered. Senator Thune offered a first degree amendment to allow prospective pilots to receive credit toward FAA flight hour requirements by taking structured and disciplined training courses if the FAA determines completion of those courses would enhance safety more than simply accruing 1,500 hours of flight time. Senator Duckworth offered a second degree amendment that would replace the text of Senator Thune's first degree amendment with a sense of Congress regarding the current airline pilot qualification rules. The second degree amendment was defeated on a roll call vote of 13 to 14. Senator Thune's first degree amendment was then adopted by voice vote. Senator Fischer offered an amendment related to deregulation of trucking that was adopted by voice vote.

#### *Related Legislation*

After a series of hearings on FAA reauthorization and ATC reform, Chairman Shuster of the T&I Committee of the House of Representatives introduced H.R. 2997, the 21st Century Aviation Innovation, Reform, and Reauthorization Act, to reauthorize Federal aviation programs and for other purposes, on June 22, 2017. That committee marked up and reported out the bill by a vote of 32–25. 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. 1405—Federal Aviation Administration Reauthorization Act of 2017*

Summary: S. 1405 would authorize appropriations, through 2021, 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).

CBO estimates that implementing S. 1405 would cost \$68.8 billion over the 2017–2027 period, assuming appropriation of the authorized and estimated amounts. Enacting the bill would increase both direct spending and revenues; however, CBO estimates that those increases would be insignificant. Because the bill would affect direct spending and revenues, pay-as-you-go procedures apply.

CBO estimates that enacting S. 1405 would not significantly increase net direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2028.

S. 1405 would impose intergovernmental and private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) but CBO estimates that the cost of the mandates on public entities would fall below the annual threshold established in UMRA for intergovernmental mandates (\$78 million in 2017, adjusted annually for inflation). CBO estimates that the aggregate cost of the mandates on private entities would exceed the annual threshold es-

tablished in UMRA for private-sector mandates (\$156 million in 2017, adjusted annually for inflation).

Estimated cost to the Federal Government: The estimated budgetary effect of S. 1405 is shown in the following table. The costs of this legislation fall within budget function 400 (transportation).

By fiscal year, in millions of dollars—													
	2017	2018	2019	2020	2021	2022	2023	2024	2025	2026	2027	2017– 2022	2017– 2027
<b>INCREASES IN SPENDING SUBJECT TO APPROPRIATION</b>													
<b>FAA Operations:</b>													
Authorization Level .....	0	10,123	10,233	10,341	10,453	0	0	0	0	0	0	0	41,150
Estimated Outlays .....	0	9,009	9,917	10,225	10,436	1,145	312	105	0	0	0	0	40,733
<b>Air Navigation Facilities and Equipment:</b>													
Authorization Level .....	0	2,877	2,889	2,906	2,921	0	0	0	0	0	0	0	11,593
Estimated Outlays .....	0	1,295	1,962	2,404	2,675	1,512	930	495	233	880	9,847	11,593	
<b>Airport Improvement Program:<sup>a</sup></b>													
Authorization Level .....	0	0	0	0	0	0	0	0	0	0	0	0	0
Estimated Outlays .....	0	637	2,120	3,025	3,448	2,976	1,459	638	263	38	0	12,204	14,600
<b>Research, Engineering, and Development:</b>													
Authorization Level .....	0	175	175	175	175	0	0	0	0	0	0	0	700
Estimated Outlays .....	0	156	170	173	175	19	5	2	0	0	0	0	693
<b>Essential Air Service:</b>													
Authorization Level .....	0	175	175	175	175	0	0	0	0	0	0	0	700
Estimated Outlays .....	0	105	158	175	175	70	18	0	0	0	0	0	683
<b>Other Activities:</b>													
Estimated Authorization Level .....	0	23	23	23	23	0	0	0	0	0	0	0	92
Estimated Outlays .....	0	14	21	23	23	92	0	0	0	0	90	92	92
<b>Total Changes:</b>													
Estimated Authorization Level .....	0	13,373	13,495	13,620	13,747	0	0	0	0	0	0	0	54,235
Estimated Outlays .....	0	11,215	14,347	16,024	16,932	5,731	2,726	1,239	496	125	0	64,249	68,835
<b>INCREASES IN DIRECT SPENDING</b>													
<b>Airport Improvement Program:<sup>a</sup></b>													
Budget Authority .....	.....	400	400	400	400	400	400	400	400	400	400	1,600	3,600
Estimated Outlays .....	0	0	0	0	0	0	0	0	0	0	0	0	0

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

Basis of estimate: For this estimate CBO assumes that S. 1405 will be enacted near the end of 2017 and that appropriations will be provided as specified by the bill. Estimated outlays are based on historical spending patterns for the FAA and related activities.

*Spending subject to appropriation*

S. 1405 would authorize appropriations for FAA programs and related activities totaling \$54.2 billion over the 2018–2021 period. The bill also would provide contract authority (a mandatory form of budget authority) for the AIP. Assuming appropriation of amounts specifically authorized and estimated to be necessary (including outlays from the obligation limitations for AIP that are consistent with levels of contract authority under the bill), CBO estimates that discretionary spending would total \$57.3 billion over the next 10 years.

FAA Operations. S. 1405 would authorize the appropriation of \$10.1 billion in 2018 and \$41.2 billion over the 2018–2022 period 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 2017 totals \$9.6 billion.) CBO estimates that the resulting outlays would total \$41.2 billion over the next 10 years.

Air Navigation Facilities and Equipment. S. 1405 would authorize the appropriation of \$2.9 billion in 2018 and \$11.6 billion over the 2018–2021 period for programs to maintain and modernize infrastructure and systems for communication, navigation, and surveillance related to air travel. (Funding for those activities in 2017 totals about \$2.9 billion.) CBO estimates that the resulting outlays would total \$11.6 billion over the next 10 years.

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 are subject to limits specified in annual appropriation acts and are therefore considered discretionary. (See the discussion of AIP under the heading "Direct Spending" for more details on the budgetary treatment of the program.)

S. 1405 would provide \$3.35 billion in contract authority for the AIP in 2018 (the same amount provided for 2017) and \$3.75 billion for each of fiscal years 2019 through 2021. Assuming that the obligation limitations on AIP spending, as set forth in annual appropriation acts, are equal to the amounts of contract authority provided for those years, CBO estimates that discretionary outlays would total \$14.6 billion over the 2018–2027 period.

Research, Engineering, and Development. S. 1405 would authorize the appropriation of \$175 million in 2018 and \$700 million over the 2018–2021 period 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 2017 totals \$177 million.) CBO estimates that the resulting outlays would total \$700 million over the 2018–2027 period.

Essential Air Service. S. 1405 would authorize the appropriation of \$175 million in 2018 and \$700 million over the 2018–2021 period 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. (Discretionary funding for such payments in 2017 totals \$150 million.) CBO estimates that the resulting outlays would total \$700 million over the 2018–2027 period.

Other Activities. CBO estimates that implementing other provisions of S. 1405 would cost \$92 million over the 2018–2027 period. That amount includes:

- \$40 million specifically authorized for grants to help small communities enhance air service;
- \$24 million specifically authorized for the FAA to develop technologies to mitigate the risk that unmanned aircraft systems pose to airports and infrastructure related to air navigation;
- \$20 million specifically authorized for the FAA to enforce safety-related requirements on operators of unmanned aircraft systems;
- \$4 million specifically authorized for efforts to raise awareness of safety issues related to operating unmanned aircraft systems;
- \$2 million specifically authorized for applied research related to advanced materials used in aircraft; and
- \$2 million in estimated authorizations for DOT and the Government Accountability Office (GAO) to complete a variety of administrative activities, studies, and reports.

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 has broad general authority to collect and spend fees for a variety of such activities, which are credited as offsetting collections (reductions to discretionary spending) 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. 1405 would be small, and that resulting changes in net federal spending would be negligible in any given year.

#### *Direct spending and revenues*

S. 1405 would provide contract authority for the Airport Improvement Program (AIP) through fiscal year 2021. The FAA Extension, Safety and Security Act of 2016 provided the FAA with \$3.35 billion in contract authority through September 30, 2017. 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 2018–2027 period will remain at the 2017 level of \$3.35 billion per year.

S. 1405 would provide \$3.75 billion for each of fiscal years 2018 through 2021—\$400 million more than the amount currently projected for each of those years. Consistent with the law for projecting contract authority, we assume that, under S. 1405, contract

authority for AIP would continue to be provided after 2021 and would remain at the higher level of \$3.75 billion a year. Under that assumption, CBO estimates that contract authority under S. 1405 would exceed the levels of contract authority already projected in the CBO baseline by \$3.6 billion over the 2018–2027 period. (Because spending from contract authority is controlled by obligation limitations specified in annual appropriation acts, outlays from the AIP are considered discretionary.)

Finally, S. 1405 would establish new civil and criminal 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. Because any criminal penalties collected under the bill could be spent, without further appropriation, for programs to benefit victims of crimes, enacting the bill also could increase direct spending. Based on an analysis of information from the FAA about the limited number of cases likely to be involved, however, CBO estimates that any increases in revenues and direct spending under S. 1405 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. CBO estimates that any net changes in direct spending outlays and revenues under S. 1405 would be insignificant in any year.

**Increase in long-term direct spending and deficits:** CBO estimates that enacting the legislation would not significantly increase net direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2028.

**Intergovernmental and private-sector impact:** S. 1405 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 (\$78 million in 2016, adjusted annually for inflation). Based on analyses of information from the Department of Transportation and industry experts, CBO estimates that the aggregate cost of the mandates on private entities would exceed the annual threshold established in UMRA for private-sector mandates (\$156 million in 2017, 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 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 ambulance services to report additional information to the FAA. CBO expects that the cost of maintaining records and reporting information would be small.

*Other effects on public entities*

The bill would benefit public airports by authorizing funds for airport improvement programs and by allowing more airports to charge passenger facility fees that support airport improvement

projects. Any costs those entities incur to meet grant requirements would result from complying with conditions of federal assistance.

*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 operators of hot air balloons.

*Requirements on air carriers*

The bill would prohibit an air carrier from imposing fees—such as check baggage fees and change or cancellation fees—that are unreasonable or disproportional to the costs incurred by the carrier, as determined by the Secretary of Transportation. According to data from the Department of Transportation, airlines collected more than \$7 billion in 2016 from baggage fees and change fees. A small reduction in those fees less than 2 percent would result in a loss in revenues of more than \$100 million annually. Although actual costs (measured as a loss in income) would depend on future regulations, CBO estimates that the cost of the mandate would be substantial.

The bill would impose several additional mandates on air carriers, which CBO estimates would not impose substantial costs. Specifically, the bill would require that air carriers:

- Establish training for employees and rest requirements for flight attendants;
- Prepare a fatigue risk management plan for flight attendants and an employee assault prevention and response plan;
- 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;
- Comply with prohibitions on involuntary deplaning of passengers
- Assist pregnant customers and customers with disabilities, as directed in regulatory revisions;
- Provide information to customers about the rights of passengers with disabilities and policies concerning oversold flights;
- Ensure that medical kits contain supplies for treating children in emergencies, if determined to be appropriate by the FAA;
- Report more information related to accidents to the FAA.

The bill also would direct the 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. Based on a study from GAO, CBO estimates that the cost of the mandate could total tens of millions of dollars.

*Requirements on unmanned aircraft systems*

The bill also would require some unmanned aircraft systems offered for sale to comply with safety standards to be adopted by the FAA or an alternative approval process. That requirement would impose a mandate on manufacturers of unmanned aircraft systems.

Based on information from the FAA, CBO estimates that the mandate could apply to about 350,000 unmanned aircraft systems

annually. The total cost of the mandate on manufacturers would depend on the nature and scope of the standards to be issued by the FAA, but could be substantial considering the number of units affected by the mandate. Additionally, the bill would direct manufacturers of unmanned aircraft systems to provide a statement of compliance and other information if requested by the FAA. CBO estimates that the cost per manufacturer to provide such statements would be small.

The bill also would establish a test on aeronautical knowledge and safety for operators of some unmanned aircraft systems and restore a requirement for some operators of unmanned aircraft systems for recreational purposes to register with the FAA. CBO expects that the cost to complete a test and to register with the FAA would be small.

#### *Mandates on other entities*

**Manufacturers of Aircraft.** The bill would require manufacturers to install a secondary cockpit barrier on new aircraft for passenger air carriers in the United States. Some industry experts indicate that the cost of secondary barriers could range from \$5,000 to \$12,000. Based on information from industry sources, CBO estimates that the cost of installing such barriers would total no more than \$15 million annually.

**Ticket Agents.** The bill would impose a mandate on ticket agents with annual revenues of \$100 million or more by requiring them to meet minimum customer service standards that would be established in future regulations. The bill would direct the Secretary to consider, at a minimum, establishing standards consistent with all customer service and disclosure requirements applicable to air carriers. Based on information from a regulatory analysis conducted by the FAA of a similar rule to adopt minimum customer service standards, CBO estimates that the cost of the mandate would total less than \$1 million annually.

**Operators of Hot Air Balloons.** The bill would require operators of hot air balloons to obtain a medical certificate. Based on information from industry sources, CBO estimates that each certificate would cost operators about \$200 and that the total cost of the mandate would equal less than \$1 million annually.

**Operators of General Aviation Aircraft.** 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 incremental cost to comply with the mandate would be small.

Previous CBO estimates: On July 11, 2017, CBO transmitted a cost estimate for H.R. 2997, the 21st Century Aviation Innovation, Reform, and Reauthorization Act, as ordered reported by the House Committee on Transportation and Infrastructure on June 27, 2017. Both bills would authorize appropriations for activities of the FAA. Differences in our estimates of spending subject to appropriation reflect differences in the periods of time covered by each bill and the scope of activities authorized.

Estimate prepared by: Federal Costs: Megan Carroll; 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. 1405 would affect a wide range of persons, most of which are already regulated in one form or another by the DOT and FAA, such as airlines, airports, manufacturers of aircraft and their components, pilots, flight attendants, UAS manufacturers and operators, and public agencies.

##### ECONOMIC IMPACT

S. 1405 would stimulate economic activity through authorizing funds for the FAA's programs, and updating policies to foster growth. These programs would 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 foster innovation in an environment conducive to economic opportunity. Certain sections of the bill are intended to address 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 by reducing regulatory burden and further strengthening access to foreign markets.

Provisions of the bill related to UAS would continue to carefully 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 UAS can be used are likely to have a positive impact on the U.S. economy on the order of billions of dollars and thousands of new jobs created 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 reducing negative environmental impacts.

Subtitle F of title II of the bill 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 that would be amended by 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. 1405 would have a beneficial impact on the personal privacy of U.S. citizens. As UAS have 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 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 significant 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, the FAA, the GAO, the DOT IG, the National Telecommunications and Information Administration, the Federal Communications Commission (FCC), the National Oceanic and Atmospheric Administration (NOAA), a FAA-established expert review panel, a FAA-established task force, the Architectural and Transportation Barriers Compliance Board, and two advisory committees established in this bill (one on airspace management and one on disabled travelers) would be required to prepare a variety of reports and studies for Congress. These reports would provide the legislative branch and public with critical information, assessments, reviews, and recommendations that would 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 provide comments.

In order to ensure the safety of the NAS, manufacturers of small UAS would encounter paperwork in complying with any new consensus safety standards.

#### 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 that this Act may be cited as the “Federal Aviation Administration Reauthorization Act of 2017.” This section also would 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 would 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 2018 through FY 2021. In FY 2018, the level would be \$3.35 billion. FYs 2019–2021 would see a rise to \$3.75 billion, a \$400 million (or 12 percent) increase. This increase is within the surplus of the Trust Fund.

*Section 1002. Air navigation facilities and equipment.*

This section would provide authorizations of appropriations for the FAA’s Facilities and Equipment account of \$2,877,365,122 for FY 2018; \$2,889,379,240 for FY 2019; \$2,906,007,932 for FY 2020; and \$2,921,493,286 for FY 2021.

*Section 1003. FAA operations.*

This section would provide authorizations of appropriations for the FAA’s Operations account of \$10,123,257,311 for FY 2018; \$10,233,107,832 for FY 2019; \$10,341,034,956 for FY 2020; and \$10,453,299,174 for FY 2021.

*Section 1004. FAA research and development.*

This section would provide authorization of appropriations for the FAA’s Research and Development account of \$175,000,000 for each of the FYs 2018-2021.

*Section 1005. Funding for aviation programs.*

This section would extend the formula that determines the amount made available from the Trust Fund each FY 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; 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 the term of the bill, to apportion, for up to 3 years, AIP entitlement funds to certain small airports based on the number of passenger boardings during CY 2012 if the airport had scheduled air service and meets certain requirements. It also would provide an annual entitlement of \$600,000 for each airport with annual passenger boardings between 8,000 and 10,000.

*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 CY 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 would 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 also would 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 calculation 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. This section also would allow FAA-certified remote towers to be eligible for the contract tower program.

*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 Contract Tower Program from new entrants, as well as cost share participants seeking full Federal participation based on their eligibility under existing criteria, if the FAA has not implemented a revised cost-benefit methodology for determining eligibility for program 30 days after the date of enactment of this Act. The section would apply to each airport 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 FAA has been developing new 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 evaluation agenda for the pilot program and airports would have to submit competing proposals to the FAA outlining how they would further the FAA's evaluation 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 ATC tower. If the FAA certifies such systems, they would become eligible for AIP funding.

*Section 1207. Midway island airport.*

This section would extend the authorization for Midway Island's airport to receive AIP funds through FY 2021.

*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 to the extent 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 so that it would 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 a grant to each airport that has completed the assessment to acquire or construct equipment that would increase the airport's energy efficiency. This amendment would require the FAA to reimburse an airport sponsor for the costs it incurred 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 an airport preparing a master plan project must include recycling plans in that project. The section also would 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 would need to be purchased with the assistance of an AIP grant and the FAA would need to determine 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 would be 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 would 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) requires the FAA to make noise exposure and land use information from noise exposure maps 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 prohibit the FAA from requiring an airport owner or sponsor to provide the FAA, without cost, any equipment or space for services related to ATC, air navigation, or weather reporting.

*Section 1219. Moratorium on changes to the Contract Weather Observer Program.*

This section would extend the current moratorium on the FAA's ability to discontinue the Contract Weather Observer Program at any airport.

*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 would be required to 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 the law to ensure clarity in statutory aviation provisions.

*Section 1222. Mothers' rooms at airports.*

This section would allow the FAA to approve AIP 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 FAA to approve projects for terminal development for the construction or installation of a lactation area at a commercial service airport.

*Section 1223. Definition of small business concern.*

This section would amend section 47113 of title 49, United States Code, to clarify that "small business concern" has the meaning given in section 3 of the Small Business Act (15 U.S.C. 632) and that in the case of a concern in the construction industry, a concern would be considered a small business concern if the concern meets a specific size standard.

*Section 1224. State standards for airport pavements.*

This provision would direct the FAA, upon request by a State, to promptly provide technical assistance to the State to achieve prompt development of a State standard for pavements on nonprimary public-use airports that would be acceptable to the Secretary. Such technical assistance also would indicate what would be acceptable to the FAA considering local conditions and locally available materials, factors recognized by the FAA as relevant to such State standards.

*Section 1225. Eligibility of CCTV projects for airport improvement program.*

This section would authorize the FAA to approve the installation of security cameras in the public area of the interior and exterior of the terminal as a terminal development project eligible for AIP funding.

*Section 1226. Clarification of reimbursable allowed costs of FAA memoranda of agreement.*

This section would authorize the FAA to provide AIP grants to an airport operator of a congested airport and a unit of local gov-

ernment to carry out a project to mitigate noise if the project meets certain criteria.

*Section 1227. Limited regulation of non-federally sponsored property.*

This section would, except in specific situations, prohibit the DOT from directly or indirectly regulating the acquisition, use, lease, encumbrance, transfer, or disposal of non-federally sponsored land by an airport owner or operator, any facility upon such land, or any portion of such land or facility.

*Section 1228. Pilot program for use of social and economic contracting requirements under Federal Aviation Administration grants.*

This section would direct the DOT to establish a pilot program under which a sponsor that receives a grant from the FAA to carry out a project may use social or economic contracting requirements, such as local labor hiring preferences, economic-based labor hiring preferences, or hiring preferences for veterans, in entering into contracts to carry out that project. This section also would require the pilot program to be modeled after another pilot program under which recipients of grants from the Federal Highway Administration or the Federal Transit Administration may use social or economic contracting requirements. This section also would outline specific requirements that a sponsor operating under the pilot program would have to follow; terminate the pilot program 3 years after the date of enactment of this Act; and require the DOT to submit a report to Congress on the pilot program not later than 180 days after its termination.

SUBTITLE C—FLIGHT ACT OF 2017

*Section 1301. Short title.*

This would provide that this subtitle may be cited as the “Forward Looking Investment in General Aviation, Hangars, and Tarmacs Act of 2017” or the “FLIGHT Act of 2017”.

*Section 1302. General aviation airport entitlement reform.*

This section would give nonprimary airports (i.e., GA airports) flexibility for the use of their entitlement funds by extending the eligibility period for carrying over such annual funds from 4 years to 5 years. It also would authorize the transfer of unused nonprimary entitlement (NPE) funds to a NPE set-aside in the FAA discretionary fund. Further, the section would authorize the FAA to reduce the local match for nonprimary airport projects that meet certain criteria. Also, it would provide \$25 million annually for certain types of airport development at disaster relief airports designated under section 1305.

*Section 1303. Extending aviation development streamlining.*

This section would allow GA airport projects to be subject to the same expedited and coordinated environmental review process available to congested airports.

*Section 1304. Establishment of public private-partnership program at general aviation airports.*

This section would direct the FAA to establish a 5-year public-private partnership GA airport pilot program and would authorize \$5 million from the Trust Fund each FY. Each participating airport would be able to receive up to \$500,000 to be used solely for the purpose of attracting private sector investment for the construction of private hangar, business hangar, and facilities investments. This section also would encourage airport operators to employ best business practices in developing or implementing such agreements.

*Section 1305. Disaster relief airports.*

This section would direct the FAA to designate GA airports in areas subject to natural disasters as “Disaster Relief Airports”.

*Section 1306. Airport development relating to disaster relief.*

This section would amend the statutory definition of airport development to include projects for disaster relief at GA airports, including planning for disaster preparedness, airport communications equipment, and airport infrastructure necessary to facilitate disaster response efforts.

*Section 1307. Inclusion of covered aircraft construction in definition of aeronautical activity for purposes of airport improvement grants.*

This section would clarify that the construction of a covered aircraft should 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.

SUBTITLE D—PASSENGER FACILITY CHARGES

*Section 1401. PFC streamlining.*

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

*Section 1402. 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 1403. Future aviation infrastructure and financing study.*

This section would require the DOT to engage an independent nonprofit research organization to conduct a study and make recommendations on actions needed to upgrade and restore the national aviation infrastructure system to meet growing demand, in-

cluding airport infrastructure needs and existing financial resources for commercial service airports.

*Section 1404. Airport vehicle emissions.*

This section would allow the FAA to approve the use of PFCs to acquire vehicles that produce lower emissions if the airport is located in an air quality nonattainment area and other criteria are met.

*Section 1405. Use of passenger facility charge revenue to enhance security at airports.*

This section would allow an airport to use PFC revenue to fund a project for the construction, repair, or improvement of facilities, or for the acquisition or installation of equipment, if the project is designed to enhance the security of any area of the airport directly and substantially related to the movement of passengers and baggage in air transportation.

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 would 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 written privacy policies 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 users. The Committee is mindful that certain privacy protections and an enforcement framework already exists. Therefore, this section is intended to restate existing law and is not intended to expand the FTC's jurisdiction.

The Committee intends that the FTC would find violations of this provision in those instances in which it would also find an act or practice deceptive under the analysis described in the FTC Policy Statement on Deception appended to Cliffdale Associates, Inc. (103 F.T.C. 110, 174 (1984)) or unfair as provided under section 5(n) of the FTC Act (15 U.S.C. 45(n)) (i.e., an act or practice that causes or is likely to cause substantial injury to consumers which is not reasonably avoidable by consumers themselves and not outweighed by countervailing benefits to consumers or to competition).

Therefore, the Committee does not intend that this provision would alter, supersede, or otherwise affect the discretion of the FTC to enforce against such acts or practices. The FTC would 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.

The FTC would 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. 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 also would require a public aircraft operator to disclose additional information about the location, timing, and purpose of flight as well as technical capabilities of the aircraft flown.

*Section 2105. 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 seven UAS test sites until September 30, 2024. 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 also would expand opportunities for any public entity authorized by the FAA as a UAS flight test center before January 1, 2009.

*Section 2123. Small unmanned aircraft safety standards.*

This section would direct the FAA to charter an Aviation Rule-making Committee (ARC) to recommend risk-based, consensus safety standards for small UAS and a process for the FAA to accept such standards, in lieu of the more cumbersome certification process used for the approval of other aircraft. These standards would ultimately improve safety by determining which safety technologies and other capabilities would be built into UAS sold in the United States. This section also would direct the Center of Excellence for

Unmanned Aircraft Systems to establish a UAS research facility to study appropriate safety standards for UAS and to validate such standards, as directed by the FAA.

*Section 2124. Small unmanned aircraft in the Arctic.*

This section would codify a provision enacted in section of 331 the FAA Modernization and Reform Act of 2012 (FMRA; P.L. 112–95; 49 U.S.C. 40101 note) governing UAS operations in the Arctic.

*Section 2125. Special authority for certain unmanned aircraft systems.*

This section would reauthorize and expand exemption authority, formerly known as “section 333 exemptions,” for the FAA to authorize certain safe UAS operations in the NAS. This section also would make explicit the authority for the FAA to approve nighttime operations, beyond-line-of-sight operations, and operations over people. As provided under section 2154 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 2126. Additional rulemaking authority.*

This section would allow the FAA to conduct risk-based UAS integration regulatory efforts (beyond the small UAS rule under section 170 of title 14, Code of Federal Regulations). The FAA would be directed to conduct a new rulemaking related to micro UAS (4.4 lbs. or less), and expected to take into consideration advancements in beyond-line-of-sight and other technologies for safe integration of UAS.

*Section 2127. Governmental unmanned aircraft systems.*

This section would codify existing authority to authorize public (i.e., governmental) aircraft operations and would require each Federal agency authorized by the Secretary 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 Federal agencies to develop policies intended to ensure that Federal agencies only collect data for authorized purposes and appropriately limit the retention and dissemination of such data.

*Section 2128. Special rules for model aircraft.*

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

*Section 2129. Authority.*

This section would restore the FAA’s rules regarding the registration of small UAS as they pertain to model aircraft.

*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 an operator of aircraft weighing less than 0.55 pounds or for an operator under the age of 13 who is operating the UAS under the supervision of an adult. To maintain safety in the national airspace, this section also would require that all UAS users demonstrate completion of this aeronautical knowledge test.

*Section 2131. Treatment of unmanned aircraft operating underground.*

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

*Section 2132. Enforcement.*

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

*Section 2133. Airport safety and airspace hazard mitigation and enforcement.*

This section would require the FAA to test UAS hazard mitigation systems at public use airports. The FAA also would be required to develop a plan for allowing the deployment of FAA-approved mitigation technologies or systems. Detection and mitigation systems approved by the FAA as a result of the testing would be eligible for purchase by airports using AIP funds.

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

This section would amend the existing statutory prohibition on UAS users from interfering with emergency response efforts to include helicopter air ambulance operations as a type of such efforts.

*Section 2135. 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 2136. 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 1 year after the date of enactment. This section also would require the creation of a small UAS air carrier certificate for a person that directly undertakes the operation of a small UAS to carry property in air transportation and the development of a classification system for a person issued a small UAS air carrier certificate. 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 2137. 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.

*Section 2138. Incorporation of Federal Aviation Administration occupations relating to unmanned aircraft into veterans employment programs of the administration.*

This section would require the FAA, in consultation with the Department of Veterans Affairs, the Department of Defense (DOD), and the Department of Labor (DOL), to determine whether occupations of the FAA relating to UAS technology and regulations can be incorporated into the Veterans' Employment Program of the FAA.

*Section 2139. Report on UAS and chemical aerial application.*

The section would require the FAA to prepare a report evaluating which existing aviation safety requirements should apply to UAS operations engaged in the aerial spraying of chemicals for agricultural purposes.

*Section 2140. Part 107 implementation improvements.*

This section would require the FAA to publish samples of the FAA's justifications for granting waivers to the rules governing operations of small UAS under part 107 of the Code of Federal Regulations.

*Section 2141. Expansion of part 107 waiver authority.*

This section would direct the FAA to issue a final rule revising part 107 of title 14, Code of Federal Regulations, to repeal the prohibitions on the issuance of waivers for the carriage of property of another by aircraft for compensation or hire and to repeal the prohibition on the operation of a small unmanned aircraft system from a moving vehicle to transport another person's property for compensation or hire. This section also would highlight specific factors that would be considered by the FAA in determining whether to grant a waiver under part 107.

*Section 2142. Redesignation.*

This section would codify, without substantive change, several provisions related to UAS contained in the FESSA.

*Section 2143. Sense of Congress on emergency exemption process.*

This section would state the sense of Congress that the FAA should comply as soon as possible, and not later than 60 days after the date of enactment of this Act, with the requirement in FESSA to publish guidance for an emergency exception application process for civil or public operator UAS use in response to a catastrophe, disaster, or other emergency response operation, such as fire-

fighting, search and rescue, and utility and infrastructure restoration operations.

*Section 2144. Unmanned aircraft systems in restricted buildings or grounds.*

This section would make it unlawful to knowingly operate a UAS with the intent for it to enter or operate within or above a restricted building or grounds (as defined section 1752 of title 18, United States Code), and to impede or disrupt Government business or official functions. It also would prescribe penalties for violation of this section.

PART III—OTHER MATTERS

*Section 2151. Federal and local authorities.*

This section would require the GAO to study the roles and responsibilities of the Federal Government and State and local authorities with respect to the NAS, particularly as it pertains to UAS, and make recommendations.

*Section 2152. Spectrum.*

This section would allow UAS, if consistent with 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 any operational or other barriers to such usage.

*Section 2153. 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, while continuing to allow them to operate as permitted under part 107 of title 14, Code of Federal Regulations.

*Section 2154. Transition language.*

This section would address technical legal issues associated with the codification of UAS-related provisions from the FMRA.

*Section 2155. Community and technical college centers of excellence in small unmanned aircraft system technology training.*

This section would direct the DOT, in consultation with the Department of Education and DOL, to establish a process to designate consortia of public, 2-year institutions of higher education as Community and Technical College Centers of Excellence in Small Unmanned Aircraft System Technology Training. This section also would outline the specific requirements a consortium would have to meet to be designated a Center of Excellence under this section, and the required functions a designated Center of Excellence would have to provide.

*Section 2156. Authorization of appropriations for Know Before You Fly campaign.*

This section would authorize \$1 million to be appropriated to the FAA for the Know Before You Fly educational campaign for each of FY 2018 through FY 2021.

*Section 2157. Strategy for responding to public safety threats and enforcement utility of unmanned aircraft systems.*

This section would require the FAA to develop a strategy to provide outreach to State and local governments and provide guidance for local law enforcement agencies with respect to how to identify and respond to safety threats posed by UAS and to share information about how UAS can be used to aid law enforcement. This section also would require the FAA to create a publicly available Internet website that contains resources for State and local law enforcement agencies and first responders seeking to respond to public safety threats posed by UAS and opportunities to use them.

PART IV—OPERATOR SAFETY

*Section 2161. Short title.*

This section would provide that this part may be cited as the “Drone Operator Safety Act.”

*Section 2162. Findings; sense of Congress.*

This section would set forth findings and the sense of Congress relating to the safe operation of UAS.

*Section 2163. Unsafe operation of unmanned aircraft.*

This section would make it a crime to knowingly or recklessly operate a UAS near a manned aircraft or too close to a runway.

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. SOCAC would be responsible for providing advice to the Secretary 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. SOCAC would sunset on September 30, 2021.

## PART II—AIRCRAFT CERTIFICATION REFORM

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

This section would direct the FAA, in collaboration with 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 effective 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 ODA holder, the FAA must require a procedures manual that addresses all procedures and limitations regarding the ODA's functions and would 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 also would 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 multidisciplinary 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 a milestone is not met within the specific timeframe, the relevant milestone 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 of the date of enactment, 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.

#### PART III—FLIGHT STANDARDS REFORM

##### *Section 2231. Flight standards performance objectives and metrics.*

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

##### *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 Regulatory Consistency Communications Board (Board) to be responsible for recommending a process by which FAA personnel and regulated entities may submit regulatory interpretation questions without fear of retaliation from the FAA. 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.

#### 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.

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 also would 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. 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 author-

ized persons to be on the flight deck of a large passenger aircraft at all times during a flight.

*Section 2302. 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 2303. 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 2304. 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 2305. 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 2306. Helicopter air ambulance operations data and reports.*

This section would require the FAA, in collaboration with helicopter air ambulance industry stakeholders, to as-

sess 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 also would 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 2307. 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 2308. 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 2309. 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 2310. 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 2311. 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 also would 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. Additionally, this section would require the DOT to submit a progress report regarding the award of a requested runway safety repair grant (that meets certain existing statutory criteria), with a final determination

on whether to award a requested grant not later than 180 days after the date of enactment of this Act. In the case that a requested grant is not awarded, or a determination is not made within 180 days, the DOT would be required to submit a report outlining the steps taken to determine eligibility, factors considered, and when the Secretary would determine whether the requested grant would be awarded.

*Section 2312. 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, which became effective on April 16, 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 allowed to review existing rules regarding the air transportation, including passenger carrying and cargo aircraft, of lithium batteries and cells. This section would allow the DOT to issue limited exceptions to the restrictions on transportation of lithium ion and lithium metal batteries to allow the shipment on a passenger aircraft of batteries for medical devices if specific criteria are met.

This section also would 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. Not later than 1 year after it is established, the working group would report to Congress on its research.

*Section 2313. 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.

*Section 2314. Annual safety incident report.*

This section would require the FAA to submit an annual report to Congress describing the FAA's safety oversight process, the risk-based oversight methods applied to ensure aviation safety, and in the instance of specific reviews of air carrier performance to safety regulations, a description of the cases where the timelines for recurrent reviews are advanced.

*Section 2315. Airline safety enhancement.*

This section would allow prospective airline pilots to receive credit toward existing, statutory flight hour requirements by taking structured and disciplined training courses, if the completion of such training is determined by the FAA to enhance safety more than an unstructured accumulation of flight hours.

In light of expert testimony, the Committee believes that structured and disciplined training courses would improve the quality of airline pilots entering the workforce versus the simple accruing of hours. Such training courses would likely include, at a minimum, the following: comprehensive screening and selection of candidates; enhanced classroom and flight training; line familiarization; extended operation experience; increased evaluation, assessment, and checking; mentoring; the use of systems simulation; and specialized data collection. Such core elements would help ensure flight crewmembers function at the highest professional standards in a multi-pilot air carrier operational environment and strike the appropriate balance of training and experience.

*Section 2316. Aircraft air quality.*

This section would direct the FAA, in consultation with relevant stakeholders, to establish and make available on a publicly available Internet website educational materials for flight attendants, pilots, aircraft maintenance technicians, and airport first responders and emergency response teams on how to respond to incidents on board aircraft involving smoke or fumes. This section also would require the FAA to issue guidance on reporting incidents of smoke or fumes on board an aircraft, and would require the FAA to commission a study by the Airliner Cabin Environment Research Center of Excellence on bleed air in the cabins of commercial aircraft. This section also would require the FAA to submit a report to the appropriate committees of Congress on the feasibility, efficacy, and cost-effectiveness of certification and installation of systems to evaluate bleed air quality, and would authorize the FAA to conduct a pilot program to evaluate the effectiveness of technologies identified in the study conducted by the Airliner Cabin Environment Research Center of Excellence.

*Section 2317. Emergency medical equipment on passenger aircraft.*

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 consider whether the minimum contents of approved emergency medical kits include appropriate medications and equipment to meet the emergency medical needs of children.

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 also would be required to establish a process under which appropriate onsite airport personnel or aviation officials may be permitted to conduct the minimum triannual 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. 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 date of enactment of this Act.

*Section 2403. 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 2404. Applicability of medical certification standards to operators of air balloons.*

This section would direct the FAA to revise the Federal regulations regarding medical certificates to require them

to apply to operators of air balloons to the same extent such regulations apply to operators of other aircraft.

*Section 2405. Technical corrections.*

This section would, by amending an existing statutory provision, require the FAA to issue regulations to require owners of certain towers that are between 50 and 200 feet tall to either mark the towers or include them in an FAA database to promote safety for low-flying aircraft, particularly those involved in agricultural operations. The FAA would develop the database with appropriate protections of proprietary information.

*Section 2406. Rotorcraft crash resistant fuel systems.*

This section would require the FAA to expedite the certification and validation of U.S. and foreign type designs and retrofit kits that improve fuel system crash worthiness. Further, this section would require the FAA to issue a bulletin within 180 days after the date of enactment of this Act, and periodically thereafter, to inform rotorcraft owners and operators of available modifications to improve fuel system crashworthiness and urge such modifications be installed as soon as practicable.

SUBTITLE E—GENERAL PROVISIONS

*Section 2501. 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 2502. 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 2503. Approach control radar.*

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.

*Section 2504. Airspace management advisory committee.*

This section would direct the FAA to establish an advisory committee to carry out specific duties. The duties of the advisory committee would include conducting a review of the practices and procedures of the FAA for developing proposals with respect to changes in regulations, policies, or guidance of the FAA relating to airspace; recommending revisions to improve communications and coordination between and among affected elements of the FAA and with other affected entities; conducting a review of the management by the FAA of systems and information used to evaluate data relating to obstructions to air navigation or navigational facilities; and making recommendations to ensure that the data relating to obstructions to air navigation is publicly available. This section also would establish the membership of the advisory committee and would require a report on the actions taken by the advisory committee to be submitted to Congress.

The Administrator of the FAA is encouraged to develop policies and procedures to ensure appropriate notice to airport operators prior to any action that affects the airspace around an airport resulting in a significant impact on operations. These changes include, but are not limited to, the following: a change in routes; approach or departure procedures that would change noise contours; and a hazard finding with respect to structures located within the vicinity of the airport. This notice also would afford airport operators the opportunity to comment on proposed changes.

*Section 2505. Report on conspicuity needs for surface vehicles operating on the airside of air carrier served airports.*

This section would require the FAA to perform a study on the need to prescribe conspicuity standards for surface vehicles operating on the airside of specific airports. Additionally, this section would require the FAA to submit a report to the appropriate committees of Congress on the results of the study, including appropriate recommendations regarding the need for the FAA to prescribe such conspicuity standards.

*Section 2506. Study on the effect of extreme weather on air travel.*

This section would require NOAA and the FAA to jointly complete a study on the effect of extreme weather on commercial air travel.

*Section 2507. Self-piloted aircraft introduction plan.*

This section would direct the FAA, in coordination with a committee of appropriate stakeholders, to prepare an air traffic policies and systems plan to enable the introduction of self-piloted aircraft into the NAS.

*Section 2508. Portability of repairman certificates.*

This section would require the FAA to direct the Aviation Rulemaking Advisory Committee to make recommendations with respect to the regulatory and policy changes necessary to allow a repairman certificate to be portable from one employing certificate holder to another. Additionally, this section would require the FAA to take any appropriate action as a result of those recommendations not later than 1 year after receiving them.

*Section 2509. Revision of certain regulations relating to repair station certificates.*

This section would direct the FAA, not later than 60 days after the date of enactment of this Act, to publish a notice of proposed rulemaking revising part 145 of title 14, Code of Federal Regulations, to restore the right of a repair station to unilaterally surrender its certificate, to prevent an individual, who materially contributes to the revocation of a repair station certificate or causes the process of revoking such a certificate to begin, from reentering the industry; and to clarify that a repair station that terminates an individual, who materially contributes to the revocation of the certificate of the repair station or causes the process of revoking that certificate to begin, may reapply for a certificate. This section also would require the FAA to publish a final rule with respect to these revisions not later than 90 days after publishing the notice of proposed rulemaking.

*Section 2510. Critical airfield markings.*

This section would require the FAA to issue, within 180 days of the date of enactment, a request for proposal for a study on the effectiveness and durability of Type I and Type III reflective glass beads on critical airport runway markings.

*Section 2511. Report on aircraft rescue and firefighting training facilities.*

This section would require the FAA to submit to Congress a report on the number and suitability of aircraft rescue and firefighting training facilities in each region of the FAA and a plan to address any coverage gaps identified in that report.

SUBTITLE F—GENERAL AVIATION PILOT PROTECTIONS

*Section 2601. Short title.*

This section would provide that this subtitle may be cited as the “Fairness for Pilots Act.”

*Section 2602. Expansion of Pilot's Bill of Rights.*

This section would make several amendments to the Pilot's Bill of Rights (P.L. 112-153), which allows an individual 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 FAA 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 also would define the portions of an investigative report considered releasable.

*Section 2603. 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 FAA has reasonable grounds to do the following: establish a lack of qualification on the part of the pilot; or 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 2604. Expediting updates to NOTAM Program.*

This section would amend the Pilot's Bill of Rights to require the NOTAM 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 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 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 2605. 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 of the FAA 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 the date of 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 2606. 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 also would allow for the DOT to consult with air carriers and 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. Nothing in this section would 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. As part of the review, the DOT would consider airline refund policies and alternative travel options provided by the carrier in such situations.

*Section 3103. 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 also would include technical and conforming changes to the law related to the assistance that the NTSB that must provide to families in such circumstances.

*Section 3104. 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 3105. Extension of Advisory Committee for Aviation Consumer Protection.*

This section would extend the Advisory Committee for ACP through the last FY of this Act. This section also would 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 3106. 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 3107. Refunds for other fees that are not honored by a covered air carrier.*

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

*Section 3108. Disclosure of fees to consumers.*

This section would require the DOT to promulgate regulations directing 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 addresses disclosures to consumers; it does not address information exchanges between carriers and travel intermediaries.

*Section 3109. 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 would be assigned to the consumer from available inventory prior to departure. This section also would outline how this information should be disclosed to the consumer if a ticket is bought online, if the ticket is purchased over the telephone, during check-in for

a flight, and at other ancillary seat purchase opportunities prior to departure.

*Section 3110. Advance boarding during pregnancy.*

This section would require the DOT to review airline policies regarding traveling during pregnancy and, if appropriate, revise regulations to require an air carrier to offer advance boarding of an aircraft to a pregnant passenger who requests such assistance.

*Section 3111. 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 ACP Division of the DOT. Also included in this section would be a requirement for each air carrier to include specific consumer complaint process information on its website.

*Section 3112. Aviation Consumer Advocate.*

This section would direct the DOT to review aviation consumer complaints received that allege a violation of law and, as appropriate, pursue enforcement or corrective actions that would be in the public interest. Additionally, this section would establish an Aviation Consumer Advocate position within the ACP Division. This section would provide that the functions of the Aviation Consumer Advocate would include assisting consumers in resolving carrier service complaints filed with the ACP Division, evaluating the resolution by the DOT of carrier service complaints, identifying and recommending actions the DOT could take to improve the enforcement of ACP rules and resolution of carrier service complaints, and identifying and recommending regulations and policies that can be amended to more effectively resolve carrier service complaints. Finally, this section would require the DOT, through the Aviation Consumer Advocate, to submit a report to the appropriate committees of Congress with certain consumer complaint statistics.

*Section 3113. Online access to aviation consumer protection information.*

This section would require the DOT to complete an evaluation of the ACP portion of its public website to determine whether there are any changes to the user interface that would 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 would enable a user to access information and perform activities related to ACP. Once developed, this application software would be required to be made available to the public at no cost.

*Section 3114. Study on in cabin wheelchair restraint systems.*

This section would require the Architectural and Transportation Barriers Compliance Board, in consultation with the DOT and relevant stakeholders, including aircraft manufacturers, wheelchair manufacturers, and disability advocates, 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 3115. Advisory committee on the air travel needs of passengers with disabilities.*

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

*Section 3116. Improving wheelchair assistance for individuals with disabilities.*

This section would require the DOT, in developing the best practices regarding the assistance of individuals with disabilities that are required by law, to include specific recommendations regarding the failure of air carriers to provide wheelchair assistance and how training programs by air carriers can address that failure.

*Section 3117. Regulations ensuring assistance for individuals with disabilities in air transportation.*

This section would require the DOT to review applicable regulations and revise, as appropriate, regulations to ensure that individuals with disabilities who request assistant while traveling in air transportation receive timely and effective assistance at airports and on aircraft from trained personnel. Further, this section would mandate that the DOT require air carriers to ensure that personnel, including contractors, who may be providing physical assistance to a passenger with a disability receive hands-on training on an annual basis in performing that assistance. Finally, this section would direct the DOT to consult with the Architectural and Transportation Barriers Compliance Board and periodically review and, as appropriate, amend the regulations and standards prescribed as a result of this section.

*Section 3118. Civil penalties relating to harm to passengers with disabilities.*

This section would establish civil penalties relating to bodily harm to airline passengers with disabilities or damage to a wheelchair or other mobility aid.

*Section 3119. Airline Passengers with Disabilities Bill of Rights.*

This section would direct the DOT to develop a document to be known as the “Airline Passengers with Disabilities Bill of Rights” that describes existing statutory protections for passengers with disabilities. This document would use plain language to describe the basic protections and responsibilities of covered air carriers, their employees and contractors, and people with disabilities.

This section also would require each covered air carrier to include the Airline Passengers with Disabilities Bill of Rights on its website and in any pre-flight notifications or communications provided to passengers who alert the covered air carrier in advance of the need for accommodations relating to a disability.

This section also would require covered air carriers and their contractors to submit, for review, training plans to DOT on their training in respect to the protections and responsibilities described in the Airline Passengers with Disabilities Bill of Rights. The development of the Airline Passenger with Disabilities Bill of Rights would not expand or restrict the rights available to passengers with disabilities.

*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 ACP rules.

*Section 3121. Dimensions for passenger seats.*

This section would require the FAA to review the minimum seat pitch for airline passengers’ seats, taking the safety of passengers into consideration, including those with disabilities.

*Section 3122. Cell phone voice communications.*

This section would direct the DOT to issue regulations to prohibit an individual in scheduled passenger interstate or intra-state air transportation from engaging in voice communication using a mobile communications device during a flight. The Committee does not intend that any regulations issued under this section limit the reception or transmission of wireless data communications or text messaging using a mobile communications device, such as a mobile phone, tablet, or laptop.

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 on an aircraft would be exempt from any such prohibition. The Committee does not intend that any regulations under

this section require domestic airlines or foreign airlines with U.S. domestic routes to disable services that make possible the transmission or reception of voice communications for authorized users.

*Section 3123. TICKETS Act.*

This section would prohibit an air carrier from denying boarding of a revenue passenger without the consent of the passenger once the passenger is approved by the gate attendant to clear the boarding area and board the flight unless the passenger poses a safety, security, or health risk to the other passengers or the passenger is engaging in behavior that is obscene, disruptive, or otherwise unlawful.

This section also would require the DOT to review air carrier policies and revise regulations to eliminate the dollar amount limitation on the amount of compensation that may be provided to a passenger who is denied boarding involuntarily. This section also would require the GAO to review airline policies and practices relating to the oversale of flights, taking into account specific considerations, and to report to Congress on this review.

Finally, this section would require the DOT to prescribe regulations requiring an air carrier, or other entity selling tickets for flight in passenger air transportation, to specify on a passenger's flight itinerary, receipt, or other direct customer communication, the policies of the air carrier operating the flight regarding oversold flights and the possible loss of a seat by a passenger to an employee of the air carrier. The DOT also would be required to provide guidance on the extent to which such policies should be noticed publicly at airport gates.

*Section 3124. Transparency for disabled passengers.*

This section would require that the compliance date of the final DOT rule on the reporting of data for mishandled wheelchairs and scooters transported in aircraft cargo compartments be January 1, 2018.

*Section 3125. Report on availability of lavatories on commercial aircraft.*

This section would require the GAO to submit a report to Congress assessing the availability of functional lavatories on commercial aircraft, the extent to which flights take off without functional lavatories, the ability of individuals with disabilities to access lavatories on commercial aircraft, the extent of complaints to the DOT and air carriers related to lavatories and the efforts they have taken to address complaints, the extent to which air carriers are shrinking lavatories to add more seats, and the extent to which lavatory design creates safety issues. The report would be due not later than 180 days after the date of enactment of this Act.

*Section 3126. Training policies regarding racial, ethnic, and religious nondiscrimination.*

This section would require the GAO to submit a report, not later than 180 days after the date of enactment, describing each air carrier's training policy for its employees and contractors regarding racial, ethnic, and religious nondiscrimination, and how frequently an air carrier is required to train new employees due to turnover. Additionally, after this report is submitted, this section would require the DOT to develop and disseminate best practices necessary to improve training policies in this area.

*Section 3127. Consumer protection requirements relating to large ticket agents.*

This section would direct the DOT to issue a final rule to require large ticket agents, which are those with \$100 million or more in annual income, to adopt minimum customer service standards.

*Section 3128. Sense of Congress regarding equal access for individuals with disabilities.*

This section would state that it is the sense of Congress that the aviation industry and relevant stakeholders must work to ensure that individuals with disabilities have equal access to air travel, that accessibility must be a priority as technology and ease of travel continues to advance, and that accommodations must extend to all airport and airline services and facilities, and be inclusive of all disabilities.

*Section 3129. Regulations prohibiting the imposition of fees that are not reasonable and proportional to the costs incurred.*

This section would direct the DOT to prescribe regulations prohibiting an air carrier from imposing change or cancellation fees that are unreasonable or disproportional to the costs incurred by the air carrier and establishing standards, which would be updated every 3 years at a minimum, for assessing whether most ancillary fees are reasonable and proportional to the costs incurred by the air carrier. This section also would direct the GAO to determine the effect on the availability of air transportation to consumers if the DOT prescribes regulations required by this section. The GAO would be required to submit a report detailing the findings of this study to the appropriate committees of Congress not later than 1 year after the date of enactment of this Act.

SUBTITLE B—ESSENTIAL AIR SERVICE

*Section 3201. Essential air service.*

This section would reauthorize the EAS program at \$175 million for FYs 2018 through 2021. This section also would 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 FYs 2018 through 2021.

*Section 3203. Small community program amendments.*

This section would allow the DOT to waive the limitation related to providing grants for 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 requirements related to EAS service if requested by the community receiving subsidized air service.

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 report.*

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 ATC 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 NAS.

Additionally, this section would require the FAA, in consultation with the NextGen Advisory Committee (NAC), to use the assessment described above to develop a priority list of all NextGen programs and activities. This priority list would be included in the aforementioned report to Congress. Finally, the FAA would be required to modify its 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 provide seamless oceanic operations.*

This section would require the FAA to make a final investment decision for the implementation of a reduced oceanic separation capability by September 30, 2018, that, if a positive business case is provided, would result in operational use by the end of 2020.

*Section 4103. Annual NextGen performance goals.*

This section would direct the FAA to establish annual NextGen performance goals in order to meet previously established NAS 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 in consultation with the NextGen Advisory Committee.

*Section 4104. Air traffic control operational contingency plans.*

This section would require the FAA to update its ATC operational contingency plans (FAA Order JO 1900.47E), and continue to update them every 5 years, to address potential air traffic facility outages that could have a major impact on operation of the NAS. Further, the FAA would be required to convene NextGen program officials to evaluate, expedite, and complete a report on how planned NextGen capabilities can enhance the resiliency of the NAS and mitigate the impact of future ATC disruptions. 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 ATC operational contingency plans are 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 NAS.

*Section 4105. 2020 ADS-B Out mandate plan.*

This section would require the FAA, in collaboration with the NAC, to identify any known and potential barriers to compliance with the 2020 ADS-B Out mandate and to develop a plan to address any identified barriers. This

section would require the plan to be sent to Congress and to be updated periodically.

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 FAA 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 systems, 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 would 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 also would 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 NAS, 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 would be used to implement PBN at additional airports, including information on how the FAA would partner and coordinate with private industry to ensure expeditious implementation of PBN.

*Section 4109. Securing aircraft avionics systems.*

This section would require the FAA to consider revising, where appropriate, regulations regarding airworthiness certification to address cybersecurity for avionics systems and to require that aircraft avionics systems used for flight guidance or aircraft control be secured against unauthorized access via passenger in-flight entertainment systems.

*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 also would 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 its 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 also would 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 NAS.

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

*Section 4115. 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 also would 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 4116. Program management.*

This section would require the FAA, in collaboration with the NAC and the National Academies of Science, Engineering, and Medicine, to submit a report to Congress on how the FAA is utilizing industry best practices regarding highly integrated program management to implement NextGen. As part of this report, this section also would require the FAA to identify the key risks for the implementation of specific NextGen programs and develop a detailed plan to mitigate those risks.

*Section 4117. System-wide improvements.*

This section would require the FAA to submit a report to Congress identifying the improvements and benefits that have been realized in the NAS, as a whole, as a result of specific NextGen programs.

*Section 4118. NextGen research.*

This section would direct the FAA to submit a report to Congress specifying the top five priority research areas for the implementation and advancement of NextGen, and outline why these research areas are important, what other Federal agencies are involved in this research, and provide an estimate on when the research identified would be completed.

*Section 4119. Annual report on NextGen implementation.*

This section would require the FAA to submit a report to Congress on the implementation of NextGen at commercial service airports in the United States. This report would include the number and percentage of commercial service airports in the United States that have fully implemented NextGen, and the percentage completion of NextGen implementation at each commercial service airport in the United States. Finally, this section would direct the FAA to develop a standard for determining the percentage completion of NextGen implementation at commercial service airports in the United States and would require the FAA to include the developed standard in the report.

SUBTITLE B—ADMINISTRATION ORGANIZATION AND  
EMPLOYEES

*Section 4201. 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 also would 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 4202. 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 4203. 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 FAA in the event of a furlough of one or more employees.

*Section 4204. Controller candidate interviews.*

This section would instruct the FAA to require that an in-person interview be conducted with each individual applying for an ATC 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 4205. 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 NYC/Newark control facilities for a period of 1 year.

*Section 4206. Work plan for the New York/New Jersey/Philadelphia Metropolitan Area Airspace Project.*

This section would require the FAA to develop and publish a work plan for the NY/NJ/Philadelphia Metropolitan Area Airspace Project.

*Section 4207. 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 4208. Annual report on inclusion of disabled veteran leave in personnel management system.*

This section would require the FAA to publish a public report on the effect of disabled veteran leave on the FAA's workforce and the number of disabled veterans benefiting from that provision.

*Section 4209. Application of veterans' preference to Federal Aviation Administration personnel management system.*

This section would apply specific provisions of title 5, United States Code, related to veterans' preference, to the FAA personnel management system.

*Section 4210. Aircraft Registry Office.*

This section would direct the FAA to designate employees at the Aircraft Registry Office in Oklahoma City, Oklahoma, as excepted employees in the event of a shutdown or emergency furlough.

## 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. 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 5003. Aeronautical studies for commercial space launch site runways.*

This section would amend existing law by giving the DOT 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 DOT also would 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 DOT as relevant to the effective use of the national airspace. This section would require a rulemaking to implement the amendments to existing law.

*Section 5004. Comprehensive aviation preparedness plan.*

This section would require the DOT and the Department of Health and Human Services, in coordination with the Department of Homeland Security, DOL, Department of State, and DOD, and representatives of other Federal departments and agencies, as necessary, to develop a comprehensive national aviation communicable disease preparedness plan.

*Section 5005. 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 5006. Interference with airline employees.*

This section would require the GAO to complete a study of crimes of 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. Additionally, this section would require each air carrier to submit an employee assault prevention and response plan to the FAA for review and acceptance. The plan would have to include certain content and would have to be developed in consultation

with the appropriate labor organizations representing the customer service agents of the air carrier. Finally, this section would require each air carrier to submit to the FAA a plan for training all employees on the employee assault prevention and response plan that includes training on de-escalating hostile situations, written protocols on dealing with hostile situations, and reporting of incidents of violence.

*Section 5007. Secondary cockpit barriers.*

This section would require the FAA to issue an order requiring the installation of secondary barriers on new passenger aircraft.

*Section 5008. 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 5009. Increase in duration of general aviation aircraft registration.*

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

*Section 5010. 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 5011. 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 also would 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 5012. Government Accountability Office review of unmanned aircraft systems.*

This section would direct the GAO to submit a report to Congress examining the law enforcement challenges posed by the use of UAS for illegal drug trafficking. As part of the report, the GAO would examine the ways in which international drug traffickers have used UAS to assist in their efforts to smuggle illegal drugs into the United States, including how they have used UAS to fly packages of illegal drugs into the United States, and how they have used UAS to survey international borders.

*Section 5013. Sense of Congress on preventing the transportation of disease-carrying mosquitoes and other insects on commercial aircraft.*

This section would require the Secretary 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 5014. 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 5015. 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 5016. Authorization of certain flights by stage 2 aircraft.*

This section would authorize the FAA to initiate a pilot program to permit 1 or more operators of a stage 2 aircraft to operate that aircraft in nonrevenue service into not more than four medium hub airports or nonhub airports if the airport and the operator meet specific criteria. The pilot program would terminate on the earlier of either the date 10 years after the date of enactment of this Act, or the date on which the FAA determines that no stage 2 aircraft remain in service.

*Section 5017. Rulemaking on overland supersonic flight.*

This section would require the DOT to publish a notice of proposed rulemaking that permits the development, testing, manufacturing, and operation of civil supersonic aircraft in the United States, specifies a noise standard for sonic boom over the United States, and specifies a noise

standard for landing and take-off of civil supersonic aircraft that is no more stringent than the standard for large subsonic aircraft in use in the United States on January 1, 2017. Additionally, this section would require the DOT to publish a final rule no later than 18 months after the date of publication of the notice of proposed rulemaking. If the DOT does not publish the final rule by a date that is 36 months after the date of enactment of this Act, this section would make clear that section 91.817 of title 14, Code of Federal Regulations, would have no force or effect on or after that date.

*Section 5018. Terminal aerodrome forecast.*

This section would authorize the FAA to permit specific air carrier operations as long as the air carrier utilizes certain weather forecasts and follows specific procedures.

*Section 5019. Technical and conforming amendments.*

This section would make technical and conforming amendments to various parts of title 49, United States Code.

*Section 5020. Aviation Weather Observations.*

This section would require the FAA to use the National Airspace Data Interchange Network to publish weather observation data provided by weather stations of the National Weather Service that are approved by the FAA as ATC facilities and located in a noncontiguous State, and by modular automated weather stations located in a noncontiguous State.

*Section 5021. Role of national advisory committee on travel and tourism infrastructure.*

This section would expand the scope of the National Advisory Committee on Travel and Tourism Infrastructure to include consideration of the effect of the domestic and international aviation market on travel and tourism in the United States.

*Section 5022. Sense of Congress regarding women in aviation.*

This section would express the sense of Congress that the aviation industry should explore all opportunities, including pilot training, science, technology, engineering, and mathematics education, and mentorship programs, to encourage and support female students and aviators to pursue careers in aviation.

*Section 5023. Spectrum availability.*

This section would express the sense of Congress that the Spectrum Efficient National Surveillance Radar (SENSR) Program of the FAA should continue its assessment of the feasibility of making the 1300-1350 megahertz band of electromagnetic spectrum available for non-Federal use.

*Section 5024. Report on illegal charter flights.*

This section would require the FAA to submit an analysis of reports filed during the preceding 10-year period through the FAA's illegal charter hotline, that includes follow up action the FAA takes when a report is received, how the FAA decides to allocate resources, challenges the FAA faces in identifying illegal operators, and recommendations for improving efforts to combat illegal chart operations.

*Section 5025. Federal authority over interstate transportation.*

This amendment would clarify that the preemption provision from the FAA Authorization Act of 1994 extends to State meal and rest break requirements for truck drivers traveling across State lines.

## VOTES IN COMMITTEE

Senator Duckworth offered a second degree amendment to Senator Thune's first degree amendment to the amendment (in the nature of a substitute) offered by Senators Thune, Nelson, Blunt, and Cantwell, that would replace the text of the first degree amendment with a Sense of Congress regarding the current airline pilot qualification rules. By rollcall vote of 13 yeas and 14 nays as follows, the amendment was defeated:

YEAS—13	NAYS—14
Mr. Nelson	Mr. Wicker
Ms. Cantwell	Mr. Blunt
Ms. Klobuchar	Mr. Cruz <sup>1</sup>
Mr. Blumenthal	Ms. Fischer
Mr. Schatz	Mr. Moran
Mr. Markey	Mr. Sullivan
Mr. Booker	Mr. Heller
Mr. Udall	Mr. Inhofe
Mr. Peters	Mr. Lee <sup>1</sup>
Ms. Baldwin	Mr. Johnson <sup>1</sup>
Ms. Duckworth	Mrs. Capito
Ms. Hassan	Mr. Gardner <sup>1</sup>
Ms. Cortez Masto	Mr. Young
	Mr. Thune

<sup>1</sup>By proxy

## SUPPLEMENTAL VIEWS OF SENATOR NELSON

## SECTION 2315. AIRLINE SAFETY ENHANCEMENT

I would like to reiterate my opposition to Chairman Thune's amendment allowing for additional exceptions to the flight hour requirements which apply to prospective airline pilots. The amendment is incorporated as section 2315 of the legislation.

Congress passed legislation in 2010 that directed the FAA to issue a rule requiring airline first officers (co-pilots) to hold airline transport pilot or "ATP" certificates. The new requirement is known as the "1500 Hour Rule." It was among various measures mandated in response to the tragic February 2009 crash of Colgan Air Flight 3407 in Buffalo, New York.

To qualify for an ATP certificate, a pilot must have 1,500 hours of total flight time. Previously, only airline captains were required to hold ATP certificates. First officers could hold a commercial pilot certificate, which required only 250 hours of total flight time.

The 1500 Hour Rule went into effect on August 1, 2013. Regional airlines argue that the increased experience requirement has made it difficult to attract and hire enough qualified pilots to fill their needs. However, I agree with safety advocates who maintain that the rule is necessary to ensure that airline pilots have sufficient experience to operate a commercial aircraft. During the 7 years since Congress mandated the 1500 Hour Rule, there have been no part 121 passenger airline accidents involving fatalities within the United States. In contrast, there were significant numbers of passenger fatalities during the coinciding timeframe prior to passage

of the new law. Many were the result of accidents involving regional airline aircraft—including the Colgan Air crash in February 2009.

To the extent there might be a shortage of qualified pilots, I am persuaded that other factors such as low pilot pay and changing airline economics are more likely the cause. Credible sources report that the annual income for regional airline pilots often falls well short of \$30,000. While the industry tells us the situation has recently improved somewhat, it is by no means clear that pilot pay appropriately reflects the level of responsibility required of pilots nor the financial and time commitment involved in achieving the level of qualification necessary to serve as an airline pilot.

I value the working relationship with Chairman Thune and am prepared to discuss other policy opportunities, such as educational incentives or similar measures to encourage young people to pursue pilot careers. I believe any significant change in the 1500 Hour Rule is the wrong approach.

#### 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 18. CRIMES AND CRIMINAL PROCEDURE

#### PART I. CRIMES

#### CHAPTER 2. AIRCRAFT AND MOTOR VEHICLES

### § 31. Definitions

(a) DEFINITIONS.—In this chapter, the following definitions apply:

(1) AIRCRAFT.—The term “aircraft” means a civil, military, or public contrivance invented, used, or designed to navigate, fly, or travel in the air.

(2) AVIATION QUALITY.—The term “aviation quality”, with respect to a part of an aircraft or space vehicle, means the quality of having been manufactured, constructed, produced, maintained, repaired, overhauled, rebuilt, reconditioned, or restored in conformity with applicable standards specified by law (including applicable regulations).

(3) DESTRUCTIVE SUBSTANCE.—The term “destructive substance” means an explosive substance, flammable material, infernal machine, or other chemical, mechanical, or radioactive device or matter of a combustible, contaminative, corrosive, or explosive nature.

(4) IN FLIGHT.—The term “in flight” means—

(A) any time from the moment at which all the external doors of an aircraft are closed following embarkation until the moment when any such door is opened for disembarkation; and

(B) in the case of a forced landing, until competent authorities take over the responsibility for the aircraft and the persons and property on board.

(5) IN SERVICE.—The term “in service” means—

(A) any time from the beginning of preflight preparation of an aircraft by ground personnel or by the crew for a specific flight until 24 hours after any landing; and

(B) in any event includes the entire period during which the aircraft is in flight.

(6) MOTOR VEHICLE.—The term “motor vehicle” means every description of carriage or other contrivance propelled or drawn by mechanical power and used for commercial purposes on the highways in the transportation of passengers, passengers and property, or property or cargo.

(7) PART.—The term “part” means a frame, assembly, component, appliance, engine, propeller, material, part, spare part, piece, section, or related integral or auxiliary equipment.

(8) SPACE VEHICLE.—The term “space vehicle” means a man-made device, either manned or unmanned, designed for operation beyond the Earth’s atmosphere.

(9) STATE.—The term “State” means a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.

(10) UNMANNED AIRCRAFT.—*The term “unmanned aircraft” has the meaning given such term in section 44801 of title 49.*

[(10)](11) USED FOR COMMERCIAL PURPOSES.—The term “used for commercial purposes” means the carriage of persons or property for any fare, fee, rate, charge or other consideration, or directly or indirectly in connection with any business, or other undertaking intended for profit.

(b) TERMS DEFINED IN OTHER LAW.—In this chapter, the terms “aircraft engine”, “air navigation facility”, “airport”, “appliance”, “civil aircraft”, “foreign air commerce”, “interstate air commerce”, “landing area”, “overseas air commerce”, “propeller”, “spare part”, and “special aircraft jurisdiction of the United States” have the meanings given those terms in sections 40102(a) and 46501 of title 49.

### **§ 39B. Unsafe operation of unmanned aircraft**

(a) OFFENSE.—*Any person who operates an unmanned aircraft and, in so doing, knowingly or recklessly interferes with, or disrupts the operation of, an aircraft carrying 1 or more occupants operating in the special aircraft jurisdiction of the United States, in a manner that poses an imminent safety hazard to such occupants, shall be punished as provided in subsection (b).*

(b) PENALTY.—

(1) IN GENERAL.—*Except as provided in paragraph (2), the punishment for an offense under subsection (a) shall be a fine under this title, imprisonment for not more than 1 year, or both.*

(2) SERIOUS BODILY INJURY OR DEATH.—*Any person who attempts to cause, or knowingly or recklessly causes, serious bodily injury or death during the commission of an offense under subsection (a) shall be fined under this title, imprisoned for any term of years or for life, or both.*

(c) OPERATION OF UNMANNED AIRCRAFT IN CLOSE PROXIMITY TO AIRPORTS.—

(1) IN GENERAL.—*The operation of an unmanned aircraft within a runway exclusion zone shall be considered a violation*

of subsection (a) unless such operation is approved by the airport's air traffic control facility or is the result of a circumstance, such as a malfunction, that could not have been reasonably foreseen or prevented by the operator.

(2) *RUNWAY EXCLUSION ZONE DEFINED.*—In this subsection, the term “runway exclusion zone” means a rectangular area—

(A) centered on the centerline of an active runway of an airport immediately around which the airspace is designated as class B, class C, or class D airspace at the surface under part 71 of title 14, Code of Federal Regulations; and

(B) the length of which extends parallel to the runway's centerline to points that are 1 statute mile from each end of the runway and the width of which is  $\frac{1}{2}$  statute mile.

## TITLE 49. TRANSPORTATION

### SUBTITLE I. DEPARTMENT OF TRANSPORTATION

#### CHAPTER 1. ORGANIZATION

#### § 106. Federal Aviation Administration

(a) \* \* \*

(k) AUTHORIZATION OF APPROPRIATIONS FOR OPERATIONS.—

(1) SALARIES, OPERATIONS, AND MAINTENANCE.—There is authorized to be appropriated to the Secretary of Transportation for salaries, operations, and maintenance of the Administration—

[(A) \$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) \$9,909,724,000 for each of fiscal years 2016 and 2017.]

(A) \$10,123,257,311 for fiscal year 2018;

(B) \$10,233,107,832 for fiscal year 2019;

(C) \$10,341,034,956 for fiscal year 2020; and

(D) \$10,453,299,174 for fiscal year 2021.

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 2018 through 2021 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 2018 through 2021 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 2018 through 2021 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 2017】~~ *2018 through 2021*, 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).

(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(e) 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 organizational performance goals set forth in the agreement shall include quantifiable NextGen airspace performance objectives regarding efficiency, productivity, capacity, and safety, which shall be established in consultation with public and private NextGen stakeholders, including the NextGen Advisory Committee.*

(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.

(t) \* \* \*

## TITLE 49. TRANSPORTATION

### SUBTITLE II. OTHER GOVERNMENT AGENCIES

#### CHAPTER 11. NATIONAL TRANSPORTATION SAFETY BOARD

##### SUBCHAPTER II. ORGANIZATION AND ADMINISTRATIVE

#### § 1113. Administrative

(a) \* \* \*

[(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.]

## TITLE 49. TRANSPORTATION SUBTITLE II. OTHER GOVERNMENT AGENCIES CHAPTER 11. NATIONAL TRANSPORTATION SAFETY BOARD 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.

(b) \* \* \*

## TITLE 49. TRANSPORTATION

## SUBTITLE IV. INTERSTATE TRANSPORTATION

## PART B. MOTOR CARRIERS, WATER CARRIERS, BROKERS, AND FREIGHT FORWARDERS

## CHAPTER 145. FEDERAL-STATE RELATIONS

**§ 14501. Federal authority over intrastate transportation**

(a) \* \* \*

(c) MOTOR CARRIERS OF PROPERTY.—

(1) GENERAL RULE.—Except as provided in paragraphs (2) and (3), a State, political subdivision of a State, or political authority of 2 or more States may not enact or enforce a law, regulation, or other provision having the force and effect of law related to a price, route, or service of any motor carrier (other than a carrier affiliated with a direct air carrier covered by section 41713(b)(4)) or any motor private carrier, broker, or freight forwarder with respect to the transportation of property.

(2) MATTERS NOT COVERED.—**[Paragraph (1)]** *Paragraphs (1) and (6)*—

(A) shall not restrict the safety regulatory authority of a State with respect to motor vehicles, the authority of a State to impose highway route controls or limitations based on the size or weight of the motor vehicle or the hazardous nature of the cargo, or the authority of a State to regulate motor carriers with regard to minimum amounts of financial responsibility relating to insurance requirements and self-insurance authorization;

(B) does not apply to the intrastate transportation of household goods; and

(C) does not apply to the authority of a State or a political subdivision of a State to enact or enforce a law, regulation, or other provision relating to the regulation of tow truck operations performed without the prior consent or authorization of the owner or operator of the motor vehicle.

(3) STATE STANDARD TRANSPORTATION PRACTICES.—

(A) CONTINUATION.—**[Paragraph (1)]** *Paragraphs (1) and (6)* shall not affect any authority of a State, political subdivision of a State, or political authority of 2 or more States to enact or enforce a law, regulation, or other provision, with respect to the intrastate transportation of property by motor carriers, related to—

(i) uniform cargo liability rules,

(ii) uniform bills of lading or receipts for property being transported,

(iii) uniform cargo credit rules,

(iv) antitrust immunity for joint line rates or routes, classifications, mileage guides, and pooling, or

(v) antitrust immunity for agent-van line operations (as set forth in section 13907),

if such law, regulation, or provision meets the requirements of subparagraph (B).

(B) REQUIREMENTS.—A law, regulation, or provision of a State, political subdivision, or political authority meets the requirements of this subparagraph if—

(i) the law, regulation, or provision covers the same subject matter as, and compliance with such law, regulation, or provision is no more burdensome than compliance with, a provision of this part or a regulation issued by the Secretary or the Board under this part; and

(ii) the law, regulation, or provision only applies to a carrier upon request of such carrier.

(C) ELECTION.—Notwithstanding any other provision of law, a carrier affiliated with a direct air carrier through common controlling ownership may elect to be subject to a law, regulation, or provision of a State, political subdivision, or political authority under this paragraph.

(4) NONAPPLICABILITY TO HAWAII.—This subsection shall not apply with respect to the State of Hawaii.

(5) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this section shall be construed to prevent a State from requiring that, in the case of a motor vehicle to be towed from private property without the consent of the owner or operator of the vehicle, the person towing the vehicle have prior written authorization from the property owner or lessee (or an employee or agent thereof) or that such owner or lessee (or an employee or agent thereof) be present at the time the vehicle is towed from the property, or both.

(6) ADDITIONAL LIMITATIONS.—

(A) *IN GENERAL.*—A State, a political subdivision of a State, or a political authority composed of 2 or more States may not enact or enforce a law, regulation, or other provision having the force and effect of law relating to meal or rest breaks applicable to employees whose hours of service are subject to regulation by the Secretary under section 31502.

(B) *SAVINGS PROVISION.*—Nothing in this paragraph may be construed to limit the provisions under paragraph (1).

(d) \* \* \*

## TITLE 49. TRANSPORTATION

### 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) \* \* \*

(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**

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

(1) AIRPORT, COMMERCIAL SERVICE AIRPORT, AND PUBLIC AGENCY.—The terms “airport”, “commercial service airport”, and “public agency” have the meaning those terms have under section 47102.

(2) ELIGIBLE AGENCY.—The term “eligible agency” means a public agency that controls a commercial service airport.

(3) ELIGIBLE AIRPORT-RELATED PROJECT.—The term “eligible airport-related project” means any of the following projects:

(A) A project for airport development or airport planning under subchapter I of chapter 471.

(B) A project for terminal development described in section 47119(a).

(C) A project for costs of terminal development referred to in subparagraph (B) incurred after August 1, 1986, at an airport that did not have more than .25 percent of the total annual passenger boardings in the United States in the most recent calendar year for which data is available and at which total passenger boardings declined by at least 16 percent between calendar year 1989 and calendar year 1997.

(D) A project for airport noise capability planning under section 47505.

(E) A project to carry out noise compatibility measures eligible for assistance under section 47504, whether or not a program for those measures has been approved under section 47504.

(F) A project for constructing gates and related areas at which passengers board or exit aircraft. In the case of a project required to enable additional air service by an air carrier with less than 50 percent of the annual passenger boardings at an airport, the project for constructing gates and related areas may include structural foundations and floor systems, exterior building walls and load-bearing interior columns or walls, windows, door and roof systems, building utilities (including heating, air conditioning, ventilation, plumbing, and electrical service), and aircraft fueling facilities adjacent to the gate.

[(G) A project for converting vehicles and ground support equipment used at a commercial service airport to low-emission technology (as defined in section 47102) or to use cleaner burning conventional fuels, retrofitting of any such vehicles or equipment that are powered by a diesel or gasoline engine with emission control technologies certified or verified by the Environmental Protection Agency to reduce emissions, or acquiring for use at a commercial service airport vehicles and ground support equipment that include low-emission technology or use cleaner burning fuels 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) and if such project will result in an airport receiving appropriate emission credits as described in section 47139.]

*(G) A project to reduce emissions under subchapter I of chapter 471 or to use cleaner burning conventional fuels, or for acquiring for use at a commercial service airport vehicles or ground support equipment that include low-emission technology or to use cleaner burning fuels, or 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), a project to retrofit any such vehicles or equipment that are powered by a diesel or gasoline engine with emission control technologies certified or verified by the Environmental Protection Agency to reduce emissions, if such project would be able to receive emission credits for the project from the governing State or Federal environmental agency as described in section 47139.*

*(H) A project for the construction, repair, or improvement of facilities at an airport, or for the acquisition or installation of equipment at an airport, to enhance the security of any area of the airport directly and substantially related to the movement of passengers and baggage in air transportation. Such a project shall not include the acquisition, installation, operation or maintenance of screening equipment and technology or the functions or activities of the Transportation Security Administration under subsections (d) and (e) of section 114.*

(4) GROUND SUPPORT EQUIPMENT.—The term “ground support equipment” means service and maintenance equipment used at an airport to support aeronautical operations and related activities.

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

(6) PASSENGER FACILITY REVENUE.—The term “passenger facility revenue” means revenue derived from a passenger facility charge.

(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 con-

tribution 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.

(c) \* \* \*

(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] *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) \* \* \*

(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.*

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

(a) \* \* \*

(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 3304(f), 3308-3320, 3330a, 3330b, 3330c, and 3330d, 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;

(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) of this subsection, 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 or

ders 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.

(5) EFFECTIVE DATE.—This subsection shall take effect on April 1, 1996.

(h) \* \* \*

#### § 40125. Qualifications for public aircraft status

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

(1) COMMERCIAL PURPOSES.—The term “commercial purposes” means the transportation of persons or property for compensation or hire, but does not include the operation of an aircraft by the armed forces for reimbursement when that reimbursement is required by any Federal statute, regulation, or directive, in effect on November 1, 1999, or by one government on behalf of another government under a cost reimbursement agreement if the government on whose behalf the operation is conducted certifies to the Administrator of the Federal Aviation Administration that the operation is necessary to respond to a significant and imminent threat to life or property (including natural resources) and that no service by a private operator is reasonably available to meet the threat.

(2) GOVERNMENTAL FUNCTION.—The term “governmental function” means an activity undertaken by a government, such as national defense, intelligence missions, firefighting, search and rescue, law enforcement (including transport of prisoners, detainees, and illegal aliens), aeronautical research, or biological or geological resource management.

(3) QUALIFIED NON-CREWMEMBER.—The term “qualified non-crewmember” means an individual, other than a member of the crew, aboard an aircraft—

(A) operated by the armed forces or an intelligence agency of the United States Government; or

(B) whose presence is required to perform, or is associated with the performance of, a governmental function.

(4) ARMED FORCES.—The term “armed forces” has the meaning given such term by section 101 of title 10.

(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.

(c) \* \* \*

**§ 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;

(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 val-

ues 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.

(b) \* \* \*

[(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.*

(g) \* \* \*

TITLE 49. TRANSPORTATION

SUBTITLE VII. AVIATION PROGRAMS

PART A. AIR COMMERCE AND SAFETY

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.

## TITLE 49. TRANSPORTATION

### SUBTITLE VII. AVIATION PROGRAMS

#### PART A. AIR COMMERCE AND SAFETY

#### SUBPART II. ECONOMIC REGULATION

#### CHAPTER 413. FOREIGN AIR TRANSPORTATION

### § 41313. 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 significant] 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** *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.

TITLE 49. TRANSPORTATION

SUBTITLE VII. AVIATION PROGRAMS

PART A. AIR COMMERCE AND SAFETY

SUBPART II. ECONOMIC REGULATION

CHAPTER 417. OPERATIONS OF CARRIERS

SUBCHAPTER I. REQUIREMENTS

**§ 41725. Cell phone voice communications**

(a) **PROHIBITION AUTHORITY.**—*The Secretary of Transportation shall 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.*

TITLE 49. TRANSPORTATION

SUBTITLE VII. AVIATION PROGRAMS

PART A. AIR COMMERCE AND SAFETY

SUBPART II. ECONOMIC REGULATION

CHAPTER 417. OPERATIONS OF CARRIERS

SUBCHAPTER II. SMALL COMMUNITY AIR SERVICE

**§ 41731. Definitions**

(a) **GENERAL.**—*In this subchapter—*

(1) “eligible place” means a place in the United States that—

(1) (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) \* \* \*

#### § 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 \$175,000,000 for each of fiscal years 2016 and 2017】** *\$175,000,000 for each of fiscal years 2018 through 2021* 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) \* \* \*

(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.

(2) **AUTHORIZATION OF APPROPRIATIONS.**—There is authorized to be appropriated to the Secretary ~~【\$6,000,000 for each of fiscal years 2012 through 2017】~~ *\$10,000,000 for each of fiscal years 2018 through 2021* to carry out this section. Such sums shall remain available until expended. *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.*

(f) \* \* \*

TITLE 49. TRANSPORTATION

SUBTITLE VII. AVIATION PROGRAMS

PART A. AIR COMMERCE AND SAFETY

SUBPART II. ECONOMIC REGULATION

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.

TITLE 49. TRANSPORTATION

SUBTITLE VII. AVIATION PROGRAMS

PART A. AIR COMMERCE AND SAFETY

SUBPART II. ECONOMIC REGULATION

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) the hotline telephone number established under subsection (a);

(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) 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, foreign air carrier, and ticket agent 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, foreign air carrier, or ticket agent, 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.

## TITLE 49. TRANSPORTATION

## SUBTITLE VII. AVIATION PROGRAMS

## PART A. AIR COMMERCE AND SAFETY

## 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.

## TITLE 49. TRANSPORTATION

## SUBTITLE VII. AVIATION PROGRAMS

## PART A. AIR COMMERCE AND SAFETY

## SUBPART III. SAFETY

## CHAPTER 445. FACILITIES, PERSONNEL, AND RESEARCH

**§ 44502. General facilities and personnel authority**

(a) \* \* \*

(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.*

**§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 2018 and 2021 to carry out this section.*

TITLE 49. TRANSPORTATION

SUBTITLE VII. AVIATION PROGRAMS

PART A. AIR COMMERCE AND SAFETY

SUBPART III. SAFETY

CHAPTER 447. SAFETY REGULATION

**§ 44701. General requirements**

(a) \* \* \*

(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.—*Subject to subparagraph (D), the Administrator may 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;*

*(iv) the aeronautical safety authority utilizes an open and transparent public notice and comment process, including considering comments from owners and operators of foreign-registered aircraft and other aeronautical products and appliances in the issuance of airworthiness directives; and*

*(v) the airworthiness directive addresses a specific issue necessary for the safe operation of aircraft subject to the directive.*

**(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 Administrator 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—*

*(i) may 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—*

*(I) shall consider an alternative means of compliance with respect to the airworthiness directive; and*

*(II) may approve such alternative means, if appropriate.*

**(D) LIMITATIONS.**—*The Administrator may not accept an airworthiness directive issued by an aeronautical safety authority of a foreign country if the airworthiness directive addresses matters other than those involving the safe operation of an aircraft.*

**(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.*

**§ 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 aircraft, 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 the Federal Aviation Administration Reauthorization Act of 2017, 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 preestablished 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.*

(b) \* \* \*

**§ 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, produc-*

tion 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 re-examination 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.

(e) \* \* \*

**§ 44718. Structures interfering with air commerce or national security**

(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;

- (2) the efficient use and preservation of the navigable airspace and of airport traffic capacity at public-use airports; or
- (3) the interests of national security, as determined by the Secretary of Defense.

(b) STUDIES.—

(1) IN GENERAL.—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, an interference with [air navigation facilities and equipment] *air or space navigation facilities and equipment* or the navigable airspace, or, after consultation with the Secretary of Defense, an adverse impact on military operations and readiness, the Secretary of Transportation 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—

(A) consider factors relevant to the efficient and effective use of the navigable airspace, including—

(i) the impact on arrival, departure, and en route procedures for aircraft operating under visual flight rules;

(ii) the impact on arrival, departure, and en route procedures for aircraft operating under instrument flight rules;

(iii) the impact on existing public-use airports and aeronautical facilities;

(iv) the impact on planned public-use airports and aeronautical facilities;

(v) *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.*

[(v)](vi) 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

[(vi)](vii) other factors relevant to the efficient and effective use of navigable airspace; and

(B) include the finding made by the Secretary of Defense under subsection (f).

(2) REPORT.—On completing the study, the Secretary of Transportation shall issue a report disclosing the extent of the—

(A) adverse impact on the safe and efficient use of the navigable airspace that the Secretary finds will result from constructing or altering the structure; and

(B) unacceptable risk to the national security of the United States, as determined by the Secretary of Defense under subsection (f).

(3) SEVERABILITY.—A determination by the Secretary of Transportation on hazard to air navigation under this section shall remain independent of a determination of unacceptable risk to the national security of the United States by the Secretary of Defense under subsection (f).

(c) \* \* \*

**§ 44728. Flight attendant certification**

(a) \* \* \*

(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.

(c) \* \* \*

**§ 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.

### **§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 accident finding, surveillance, or oversight, that it is in the public interest and safety of air commerce to require a limitation; and

(C) for each function that is limited under subparagraph (B), work with the ODA holder to develop the ODA holder's capability to execute that function safely and effectively, and to return to full authority status.

(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 2017, 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 accident finding, surveillance, or oversight, that it is in the public interest and safety of air commerce to require a limitation; and

(C) for each function that is limited under subparagraph (B), work with the ODA holder to develop the ODA holder's capability to execute that function safely and effectively, and to return to full authority status.

(b) **ODA OFFICE.**—

(1) **ESTABLISHMENT.**—Not later than 120 days after the date of enactment of Federal Aviation Administration Reauthorization Act of 2017, 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 2017 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; and*

*(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.*

## TITLE 49. TRANSPORTATION

## SUBTITLE VII. AVIATION PROGRAMS

## PART A. AIR COMMERCE AND SAFETY

## SUBPART III. SAFETY

**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 2017, 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 test sites to facilitate the safe integration of unmanned aircraft systems into the national airspace system.

(2) *TERMINATION.*—The program shall terminate on September 30, 2024.

(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 visual line of sight operations, nighttime operations, operations over people, and unmanned aircraft systems 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, or at night, 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 2017, 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 2017, and every 180 days thereafter until September 30, 2024, 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 subsection (g), that relate to unmanned aircraft systems research priorities, including beyond visual line of sight operations, nighttime operations, operations over people, sense and avoid technology, and unmanned aircraft systems traffic management;

(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.

(g) *COLLABORATIVE RESEARCH AND DEVELOPMENT AGREEMENTS.*—The Administrator may use the other transaction authority under section 106(l)(6) and enter into collaborative research and development agreements, to direct research related to unmanned aircraft systems, including at any test site under subsection (a), and in coordination with the Center of Excellence for Unmanned Aircraft Systems.

(h) *USE OF CENTER OF EXCELLENCE FOR UNMANNED AIRCRAFT SYSTEMS.*—The Administrator, in carrying out research necessary to establish the consensus safety standards requirements in section 44803 shall, to the maximum extent practicable, leverage the research and testing capacity and capabilities of the Center of Excellence for Unmanned Aircraft Systems and the test sites.

### **§ 44803. Small unmanned aircraft safety standards**

(a) *CONSENSUS SAFETY STANDARDS.*—

(1) *IN GENERAL.*—Not later than 60 days after the date of enactment of the Federal Aviation Administration Reauthorization Act of 2017, the Administrator of the Federal Aviation Administration shall charter an aviation rulemaking advisory committee to develop recommendations for the following:

(A) Risk-based, consensus safety standards related to the safe integration of small unmanned aircraft systems into the national airspace system (referred to in this section as “consensus safety standards”) that can evolve or be updated as appropriate.

(B) A Federal Aviation Administration process for permitting, authorizing, or approving small unmanned aircraft systems and their operations based on the safety standards to be accepted by the Administrator under this section.

(2) *FACA.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to an aviation rulemaking advisory committee chartered under this subsection.*

(b) *CONSIDERATIONS.—In developing recommended consensus safety standards under subsection (a) the members of the aviation rulemaking advisory committee 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 2202 of the FAA Extension Safety and Security Act of 2016 (Public Law 114–190; 130 Stat. 615), including for model aircraft operations authorized under section 44808.*

(7) *Cost-benefit and risk analyses regarding updates to or modifications of small unmanned aircraft systems that were commercially distributed prior to the development of the consensus safety standards so that, to the greatest extent practicable, such systems meet consensus safety standards that may be accepted pursuant to subsection (d).*

(8) *Cost-benefit and risk analyses of consensus safety standards that may be accepted pursuant to subsection (d) for newly designed small unmanned aircraft systems.*

(9) *Applicability of consensus safety standards to small unmanned aircraft systems that are not commercially distributed, including home-built small unmanned aircraft systems.*

(10) *Any technology or standard related to small unmanned aircraft systems that promotes aviation safety.*

(11) *Any category of unmanned aircraft systems that should be exempt from the consensus safety standards based on risk factors.*

(c) *CONSULTATION.—In developing recommendations for consensus safety standards under subsection (a), the Aviation Rulemaking Committee shall consult with—*

(1) *unmanned aircraft systems stakeholders, including manufacturers of varying sizes of unmanned aircraft;*

(2) *community-based aviation organizations;*

(3) *the Center of Excellence for Unmanned Aircraft Systems;*

(4) *each operator of a test site under section 44802;*

(5) *the Administrator of the National Aeronautics and Space Administration;*

(6) *the Secretary of Defense; and*

(7) *the leaders of appropriate standards development organizations, including the President of RTCA, Inc. and the Director of the National Institute for Standards and Technology.*

(d) *FAA PROCESS FOR ACCEPTANCE AND AUTHORIZATION.*—Not later than 180 days after the date of receipt of the recommendations under subsection (a)(2), the Administrator of the Federal Aviation Administration shall establish a process based on those recommendations for—

(1) the acceptance by the Federal Aviation Administration of consensus safety standards recommended under subsection (a)(1);

(2) permitting, authorizing, or the approving small unmanned aircraft systems makes and models based upon the consensus safety standards accepted under paragraph (1);

(3) the certification of a manufacturer of small unmanned aircraft systems that has demonstrated compliance with consensus safety standards accepted under subsection (d)(1), which shall allow the Administrator to enable the self-certification by a manufacturer of small unmanned aircraft systems to the standards; and

(4) the certification of a manufacturer of small unmanned aircraft systems, or an employee of such manufacturer, that has demonstrated compliance with the consensus safety standards developed under subsection (a) and accepted under subsection (d)(1) and met any other qualifying criteria, as determined by the Administrator, to alternatively satisfy the requirements of paragraph (2).

(e) *NONAPPLICABILITY OF OTHER LAWS.*—The process for permitting, authorizing, or approving the operation of small unmanned aircraft systems under subsection (d) shall allow for operation of any applicable small unmanned aircraft systems within the national airspace system without requiring—

(1) airworthiness certification requirements under section 44704 of this title; and

(2) type certification under parts 21 or 23 of title 14, Code of Federal Regulations.

(f) *MODEL AIRCRAFT.*—The standards accepted under subsection (d) shall be applicable to model aircraft operations authorized under section 44808.

(g) *REVOCAION.*—The Administrator may revoke the permission, authorization, or approval in subsection (d) if the Administrator determines that the manufacturer is no longer in compliance with the standards accepted by the Administrator under subsection (d)(1).

(h) *REQUIREMENTS.*—With regard to a permit, authorization, or approval under the process in subsection (d), the Administrator may require a manufacturer of small unmanned aircraft systems to provide the FAA with the following:

(1) The aircraft system's operating instructions.

(2) The aircraft system's recommended maintenance and inspection procedures.

(3) The manufacturer's statement of compliance described in subsection (i).

(4) Upon request, a sample aircraft to be inspected by the Federal Aviation Administration to ensure compliance with the consensus safety standards accepted by the Administrator under subsection (d).

(i) *MANUFACTURER'S STATEMENT OF COMPLIANCE FOR SMALL UAS.*—A manufacturer's statement of compliance shall—

(1) identify the aircraft make and model, and any applicable consensus safety standards used;

(2) state that the aircraft make and model meets the provisions of the consensus safety standards identified in paragraph (1);

(3) state that the aircraft make and model conforms to the manufacturer's design data and is manufactured in a way that ensures consistency across units in the production process in order to meet the applicable consensus safety standards accepted by the Administrator;

(4) state that the manufacturer will make available to any interested person—

(A) the aircraft's operating instructions, that meet the consensus safety standards identified in paragraph (1); and

(B) the aircraft's recommended maintenance and inspection procedures, that meet the consensus safety standards identified in paragraph (1);

(5) state that the manufacturer will monitor safety-of-flight issues to ensure it meets the consensus safety standards identified in paragraph (1);

(6) state that at the request of the Administrator, the manufacturer will provide reasonable access for the Administrator to its facilities for the purposes of overseeing compliance with this section; and

(7) state that the manufacturer, in accordance with testing requirements identified by the Federal Aviation Administration, 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.

(j) PROHIBITIONS.—

(1) FALSE STATEMENTS OF COMPLIANCE.—It shall be unlawful for any person to knowingly submit a statement of compliance described in subsection (i) that is materially false.

(2) INTRODUCTION INTO INTERSTATE COMMERCE.—It shall be unlawful for any person to knowingly introduce or deliver for introduction into interstate commerce any small unmanned aircraft system for which standards developed under subsection (d) are accepted and are applicable, and are manufactured after the date that the Administrator accepts any applicable safety standards under this section unless—

(A) the make and model has been permitted, authorized, or approved for operation under subsection (d); or

(B) the aircraft has alternatively received type, design, and production approval issued by the Federal Aviation Administration.

(k) EXCLUSIONS.—The Administrator shall exempt from the requirements of this section small unmanned aircraft systems that are not capable of navigating beyond the visual line of sight of the operator through advanced flight systems and technology, if the Administrator determines that such an exemption does not pose a risk to the safety of the national airspace system.

**§44804. Small unmanned aircraft 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 small unmanned aircraft beyond the visual 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.*—

(1) *IN GENERAL.*—Subject to paragraph (2), 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 for approving the use of a small unmanned aircraft in the designated permanent areas in the Arctic without regard to whether the small unmanned aircraft is used as a public aircraft, a civil aircraft, or a model aircraft.

(2) *EXISTING PROCESS.*—The Secretary may implement an existing process to meet the requirements under paragraph (1).

**§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, proximity to airports and populated areas, operation over people, and operation within or beyond the 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, 2021.

#### **§ 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 2017 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 at 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 micro unmanned aircraft system.

(2) **LIMITATION.**—The Administrator may only issue regulations under this section for micro 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 a micro 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 micro 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 an operations and certification program for the operators of public unmanned aircraft systems 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 visual 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 2017 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 section 552a of title 5 (commonly known as the Privacy Act of 1974);*

(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 the 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, including regulations and policies;*

*(E) the establishment of policies and procedures, or confirmation that policies and procedures exist, 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, including 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) FEDERAL AGENCY COORDINATION TO ENHANCE THE PUBLIC HEALTH AND SAFETY CAPABILITIES OF PUBLIC UNMANNED AIRCRAFT SYSTEMS.—The Administrator shall assist and enable, without undue interference, Federal civilian government agencies that operate unmanned aircraft systems within civil-controlled airspace, in operationally deploying and integrating sense and avoid capabilities, as necessary to operate unmanned aircraft systems safely and effectively within the National Air Space.*

*(f) 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.*

*(g) DEFINITION OF FEDERAL AGENCY.—In subsections (e) and (g), the term “Federal agency” has the meaning given the term “agency” in section 552(f) of title 5.*

**§ 44808. Special rules for model aircraft**

*(a) IN GENERAL.—Except as provided in subsection (d), and 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 regarding an unmanned aircraft operating as a model aircraft or an unmanned 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) not flown beyond the 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 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)), unless the Administrator determines approval should be required;
- (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 or developed and administered by the community-based organization 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) *EXCEPTIONS.*—The Administrator may promulgate rules relating to the registration and marking of model aircraft.

(e) *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 less 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;
- (3) the individual is a holder of an airmen certificate issued under section 44703; or
- (4) the individual is operating a model aircraft or an unmanned aircraft being developed as a model aircraft under section 44808 and has successfully completed an aeronautical knowledge and safety test in accordance with the community-based organizations safety program described in that section.

(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 2017, 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. Airport safety and airspace hazard mitigation and enforcement**

*(a) AUTHORITY.—The Administrator of the Federal Aviation Administration shall work with the Secretary of Defense, the Secretary of Homeland Security, and the heads of other relevant Federal departments and agencies for the purpose of ensuring that technologies or systems that are developed, tested, or deployed by Federal departments and agencies to detect and mitigate potential threats posed by errant or hostile unmanned aircraft system operations do not adversely impact or interfere with safe airport operations, navigation, air traffic services, or the safe and efficient operation of the national airspace system.*

*(b) PLAN.—*

*(1) IN GENERAL.—Not later than 180 days after the date of enactment of the Federal Aviation Administration Reauthorization Act of 2017, the Administrator shall develop a plan for the certification, permitting, authorizing, or allowing of the deployment of technologies or systems for the detection and mitigation of unmanned aircraft systems.*

*(2) CONTENTS.—The plan shall include the development of policies, procedures, or protocols that will allow appropriate officials of Federal, State, or local agencies requesting to utilize such technologies or systems to take steps to detect and mitigate potential airspace safety threats posed by unmanned aircraft system operations.*

*(3) AVIATION RULEMAKING ADVISORY COMMITTEE.—The Administrator may charter an aviation rulemaking advisory committee to make recommendations for such a plan and any standards that the Administrator determines may need to be developed with respect to such technologies or systems. The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to an aviation rulemaking advisory committee chartered under this paragraph.*

(c) *AIRSPACE HAZARD MITIGATION PROGRAM.*—In order to test and evaluate technologies or systems to detect and mitigate potential airspace safety threats posed by unmanned aircraft system operations, the Administrator shall deploy such technologies or systems at 5 airports.

(d) *AUTHORITY.*—Under the testing and evaluation in subsection (c), the Administrator may use unmanned aircraft detection and mitigation systems to detect and mitigate the unauthorized operation of an unmanned aircraft that poses a risk to airspace safety. Utilization of such technologies or systems, and the communications sent using such technologies and systems to unmanned aircraft systems, shall be regarded as equivalent to separation instructions to pilots of manned aircraft.

(e) *AIP FUNDING ELIGIBILITY.*—Upon the certification, permitting, authorizing, or allowing of such technologies and systems that have been successfully tested under this section, an airport sponsor may apply for a grant under subchapter I of chapter 471 to purchase an unmanned aircraft detection and mitigation system. For purposes of this subsection, purchasing an unmanned aircraft detection and mitigation system shall be considered airport development (as defined in section 47102).

(f) *REPORT.*—

(1) *IN GENERAL.*—Not later than 1 year after the date of enactment of the Federal Aviation Administration Reauthorization Act of 2017, and annually thereafter, the Administrator shall submit to the appropriate committees of Congress a report on the implementation of this section, including the testing and evaluation of detection and mitigation systems under this section.

(2) *CONTENTS.*—The report under paragraph (1) shall include the following:

(A) The number of unauthorized unmanned aircraft operations detected, together with a description of such operations.

(B) The number of instances in which unauthorized unmanned aircraft were mitigated, together with a description of such instances.

(C) The number of enforcement cases brought by the Federal Aviation Administration for unauthorized operation of unmanned aircraft detected through the program, together with a description of such cases.

(D) The number of any technical failures in the program, together with a description of such failures.

(E) Recommendations for safety and operational standards for unmanned aircraft detection and mitigation systems.

(3) *FORMAT.*—To the extent practicable, the report prepared under paragraph (1) shall be submitted in a classified format. If appropriate, the report may include an unclassified summary.

(g) *AUTHORIZATION OF APPROPRIATIONS.*—There is authorized to be appropriated from the Airport and Airway Trust Fund to carry out this section \$6,000,000 for each of fiscal years 2018 through 2021, to remain available until expended.

(h) *APPLICABILITY OF OTHER LAWS.*—Section 32 of title 18, United States Code (commonly known as the Aircraft Sabotage Act), section 1031 of title 18, United States Code (commonly known as the Computer Fraud and Abuse Act of 1986), sections 2510–2522 of title 18, United States Code (commonly known as the Wiretap Act), and sections 3121–3127 of title 18, United States Code (commonly known as the Pen/Trap Statute), shall not apply to any activity authorized by the Administrator pursuant to this section.

(i) *SUNSET.*—This section ceases to be effective September 30, 2021.

**§44811. Carriage of property by small unmanned aircraft systems for compensation or hire**

(a) *IN GENERAL.*—Not later than 1 year after the date of enactment of the Federal Aviation Administration Reauthorization Act of 2017, 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 amend part 298 of title 14, Code of Federal Regulations, to establish an additional class of air carrier 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.

(4) *AVAILABILITY OF CURRENT CERTIFICATION PROCESSES.*—Pending completion of the rulemaking required in subsection (a) of this section, a person may seek an air carrier operating certificate and certificate of public convenience and necessity, or an exemption from such certificate, using existing processes.

#### § [2203] 44812. Safety statements

(a) *REQUIRED INFORMATION.*—Beginning on the date that is 1 year after the date of publication of the guidance under subsection (b)(1), a manufacturer of a small unmanned aircraft shall make available to the owner at the time of delivery of the small unmanned aircraft the safety statement described in subsection (b)(2).

(b) *SAFETY STATEMENT.*—

(1) *IN GENERAL.*—Not later than 1 year after the date of enactment of [this Act] *the FAA Extension Safety and Security Act of 2016*, the Administrator of the Federal Aviation Administration shall issue guidance for implementing this section.

(2) *REQUIREMENTS.*—A safety statement required under subsection (a) shall include—

(A) information about, and sources of, laws and regulations applicable to small unmanned aircraft;

(B) recommendations for using small 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 small unmanned aircraft as a model aircraft (as defined in [section 336 of the FAA Modernization and Reform Act of 2012 (49 U.S.C. 40101 note)] *section 44808*) or otherwise in accordance with Federal Aviation Administration authorization or regulation, including requirements for the completion of any applicable airman test.

(ii) The definition of a model aircraft under [section 336 of the FAA Modernization and Reform Act of 2012 (49 U.S.C. 40101 note)] *section 44808*.

(iii) The requirements regarding the operation of a model aircraft under [section 336 of the FAA Modernization and Reform Act of 2012 (49 U.S.C. 40101 note)] *section 44808*.

(iv) The Administrator 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) of title 49, United States Code.

**§ [2207] 44813. Emergency exemption process**

(a) IN GENERAL.—Not later than 90 days after the date of enactment of [this Act] *the FAA Extension Safety and Security Act of 2016*, the Administrator of the Federal Aviation Administration shall publish guidance for applications for, and procedures for the processing of, on an emergency basis, exemptions or certificates of authorization or waiver for the use of unmanned aircraft systems by civil or public operators in response to a catastrophe, disaster, or other emergency to facilitate emergency response operations, such as firefighting, search and rescue, and utility and infrastructure restoration efforts. In processing such applications, the Administrator shall give priority to applications for public unmanned aircraft systems engaged in emergency response activities.

(b) REQUIREMENTS.—In providing guidance under subsection (a), the Administrator shall—

(1) make explicit any safety requirements that must be met for the consideration of applications that include requests for beyond visual line of sight or nighttime operations, or the suspension of otherwise applicable operating restrictions, consistent with public interest and safety; and

(2) explicitly state the procedures for coordinating with an incident commander, if any, to ensure operations granted under procedures developed under subsection (a) do not interfere with other emergency response efforts.

(c) REVIEW.—In processing applications on an emergency basis for exemptions or certificates of authorization or waiver for unmanned aircraft systems operations in response to a catastrophe, disaster, or other emergency, the Administrator shall act on such applications as expeditiously as practicable and without requiring public notice and comment.

**§ [2209] 44814. Applications for designation**

(a) APPLICATIONS FOR DESIGNATION.—Not later than 180 days after the date of enactment of [this Act] *the FAA Extension Safety and Security Act of 2016*, the Secretary of Transportation shall establish a process to allow applicants to petition the Administrator of the Federal Aviation Administration to prohibit or restrict the operation of an unmanned aircraft in close proximity to a fixed site facility.

(b) REVIEW PROCESS.—

(1) APPLICATION PROCEDURES.—

(A) IN GENERAL.—The Administrator shall establish the procedures for the application for designation under subsection (a).

(B) REQUIREMENTS.—The procedures shall allow operators or proprietors of fixed site facilities to apply for designation individually or collectively.

(C) CONSIDERATIONS.—Only the following may be considered fixed site facilities:

- (i) Critical infrastructure, such as energy production, transmission, and distribution facilities and equipment.
- (ii) Oil refineries and chemical facilities.
- (iii) Amusement parks.
- (iv) Other locations that warrant such restrictions.

(2) DETERMINATION.—

(A) IN GENERAL.—The Secretary shall provide for a determination under the review process established under subsection (a) not later than 90 days after the date of application, unless the applicant is provided with written notice describing the reason for the delay.

(B) AFFIRMATIVE DESIGNATIONS.—An affirmative designation shall outline—

- (i) the boundaries for unmanned aircraft operation near the fixed site facility; and
- (ii) such other limitations that the Administrator determines may be appropriate.

(C) CONSIDERATIONS.—In making a determination whether to grant or deny an application for a designation, the Administrator may consider—

- (i) aviation safety;
- (ii) protection of persons and property on the ground;
- (iii) national security; or
- (iv) homeland security.

(D) OPPORTUNITY FOR RESUBMISSION.—If an application is denied, and the applicant can reasonably address the reason for the denial, the Administrator may allow the applicant to reapply for designation.

(c) PUBLIC INFORMATION.—Designations under subsection (a) shall be published by the Federal Aviation Administration on a publicly accessible website.

(d) SAVINGS CLAUSE.—Nothing in this section may be construed as prohibiting the Administrator from authorizing operation of an aircraft, including an unmanned aircraft system, over, under, or within a specified distance from that fixed site facility designated under subsection (b).

**§ [2210] 44815. Operations associated with critical infrastructure**

(a) IN GENERAL.—Any application process established under [section 333 of the FAA Modernization and Reform Act of 2012 (49 U.S.C. 40101 note)] *section 44805* shall allow for a person to apply to the Administrator of the Federal Aviation Administration to operate an unmanned aircraft system, for purposes of conducting an activity described in subsection (b)—

- (1) beyond the visual line of sight of the individual operating the unmanned aircraft system; and
- (2) during the day or at night.

(b) ACTIVITIES DESCRIBED.—The activities described in this subsection are—

(1) activities for which manned aircraft may be used to comply with Federal, State, or local laws, including—

(A) activities to ensure compliance with Federal or State regulatory, permit, or other requirements, including to conduct surveys associated with applications for permits for new pipeline or pipeline systems construction or maintenance or rehabilitation of existing pipelines or pipeline systems; and

(B) activities relating to ensuring compliance with—

(i) parts 192 and 195 of title 49, Code of Federal Regulations; and

(ii) the requirements of any Federal, State, or local governmental or regulatory body, or industry best practice, pertaining to the construction, ownership, operation, maintenance, repair, or replacement of covered facilities;

(2) activities to inspect, repair, construct, maintain, or protect covered facilities, including for the purpose of responding to a pipeline, pipeline system, or electric energy infrastructure incident; and

(3) activities in response to or in preparation for a natural disaster, manmade disaster, severe weather event, or other incident beyond the control of the applicant that may cause material damage to a covered facility.

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

(1) COVERED FACILITY.—The term “covered facility” means—

(A) a pipeline or pipeline system;

(B) an electric energy generation, transmission, or distribution facility (including a renewable electric energy facility);

(C) an oil or gas production, refining, or processing facility; or

(D) any other critical infrastructure facility.

(2) CRITICAL INFRASTRUCTURE.—The term “critical infrastructure” has the meaning given that term in section 2339D of title 18, United States Code.

(d) DEADLINES.—

(1) CERTIFICATION TO CONGRESS.—Not later than 90 days after the date of enactment of [this Act] *the FAA Extension Safety and Security Act of 2016*, the Administrator shall submit to the appropriate committees of Congress a certification that a process has been established to facilitate applications for unmanned aircraft systems operations described in this section.

(2) FAILURE TO MEET CERTIFICATION DEADLINE.—If the Administrator cannot provide a certification under paragraph (1), the Administrator, not later than 180 days after the deadline specified in paragraph (1), shall update the process under [section 333 of the FAA Modernization and Reform Act of 2012 (49 U.S.C. 40101 note)] *section 44805* to facilitate applications for unmanned aircraft systems operations described in this section.

(e) EXEMPTIONS.—In addition to the operations described in this section, the Administrator may authorize, exempt, or otherwise allow other unmanned aircraft systems operations under [section

333 of the FAA Modernization and Reform Act of 2012 (49 U.S.C. 40101 note)] *section 44805* that are conducted beyond the visual line of sight of the individual operating the unmanned aircraft system or during the day or at night.

**§ 44816. Unmanned aircraft systems in restricted buildings or grounds**

(a) *IN GENERAL.*—*It shall be unlawful to knowingly operate an unmanned aircraft system with the intent for such unmanned aircraft system to enter or operate within or above a restricted building or grounds (as defined in section 1752 of title 18) and to impede or disrupt the orderly conduct of Government business or official functions.*

(b) *PENALTY.*—*Any person who violates subsection (a) shall be—*

(1) *fined under title 18, imprisoned for not more than 10 years, or both, if—*

(A) *a deadly or dangerous weapon or firearm is affixed to the unmanned aircraft system; or*

(B) *the offense results in significant bodily injury, as defined in section 2118 of title 18; or*

(2) *fined under title 18, imprisoned for not more than 1 year, or both, in any other case.*

TITLE 49. TRANSPORTATION

SUBTITLE VII. AVIATION PROGRAMS

PART A. AIR COMMERCE AND SAFETY

SUBPART III. SAFETY

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.*

(b) \* \* \*

**§ 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.

## TITLE 49. TRANSPORTATION

## SUBTITLE VII. AVIATION PROGRAMS

## PART A. AIR COMMERCE AND SAFETY

## SUBPART IV. ENFORCEMENT AND PENALTIES

## CHAPTER 461. INVESTIGATIONS AND PROCEEDINGS

**§ 46111. Certificate actions in response to a security threat**

(a) \* \* \*

(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.

## TITLE 49. TRANSPORTATION

## 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.

(7) PENALTIES RELATING TO HARM TO PASSENGERS WITH DISABILITIES.—

(A) PENALTY FOR BODILY HARM OR DAMAGE TO WHEELCHAIR OR OTHER MOBILITY AID.—*The amount of a civil penalty assessed under this section for a violation of section 41705 that involves damage to a passenger's wheelchair or other mobility aid or injury to a passenger with a disability may be increased above the otherwise applicable maximum amount under this section for a violation of section 41705 to an amount not to exceed 3 times the maximum penalty otherwise allowed.*

(B) *EACH ACT CONSTITUTES SEPARATE OFFENSE.*—*Notwithstanding paragraph (2), a separate violation of section 41705 occurs for each act of discrimination prohibited by that section.*

(b) \* \* \*

(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) \* \* \*

**§ 46320. Interference with wildfire suppression, law enforcement, or emergency response effort by operation of unmanned aircraft**

(a) IN GENERAL.—Except as provided in subsection (b), an individual who operates an unmanned aircraft and in so doing knowingly or recklessly interferes with a wildfire suppression, law enforcement, or emergency response effort, *including helicopter air ambulance operations*, is liable to the United States Government for a civil penalty of not more than \$20,000.

(b) \* \* \*

## TITLE 49. TRANSPORTATION

## SUBTITLE VII. AVIATION PROGRAMS

## 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] 7505a)) and if 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.

(P) *planning, acquiring, or constructing at an airport designated as a disaster relief airport under section 47132, including—*

*(i) planning for disaster preparedness associated with maintaining airport operations during a natural disaster;*

*(ii) airport communication equipment and fixed emergency generators that are not able to be acquired by programs funded under the Department of Homeland Security; and*

*(iii) constructing, expanding, and improving airfield infrastructure to include aprons and terminal buildings the Secretary determines will facilitate disaster response at the airport.*

(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 most recently published National Plan of Integrated Airport Systems (NPIAS) report.

[(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 similar accommodation that—

(A) provides a location for an individual to express breast milk that is shielded from view and free from intrusion;

(B) has a door that can be locked by the individual;

(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 most recently published National Plan of Integrated Airport Systems (NPIAS) report 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 [September 30, 2017] *September 30, 2021*, 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.

#### § 47105. Project grant applications

(a) \* \* \*

(c) STATE STANDARDS FOR AIRPORT DEVELOPMENT.—

(1) *IN GENERAL.*—The Secretary may approve standards (except standards for safety of approaches) that a State prescribes for airport development at nonprimary public-use airports in the State. On approval under this subsection, a State's standards apply to the nonprimary public-use airports in the State instead of the comparable standards prescribed by the Secretary under subsection (b)(3) of this section. The Secretary, or the State with the approval of the Secretary, may revise standards approved under this subsection.

(2) *PAVEMENT STANDARDS.*—

(A) *TECHNICAL ASSISTANCE.*—*At the request of a State, the Secretary shall, not later than 30 days after the date of the request, provide technical assistance to the State in developing standards, acceptable to the Secretary under subparagraph (B), for pavement on nonprimary public-use airports in the State.*

(B) *REQUIREMENTS.*—*The Secretary shall—*

*(i) continue to provide technical assistance under subparagraph (A) until the standards are approved under paragraph (1); and*

*(ii) clearly indicate to the State the standards that are acceptable to the Secretary, considering, at a minimum, local conditions and locally available materials.*

(d) \* \* \*

#### § 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 section 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.*

(b) \* \* \*

**§ 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 air-

port 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 hub airport or large hub airport, the airport owner or operator will maintain a lactation area in each passenger terminal building of the commercial service airport in the sterile area (as defined in section 1540.5 of title 49, Code of Federal Regulations) of the building.*

(b) WRITTEN ASSURANCES ON USE OF REVENUE.—

(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.*

(c) \* \* \*

(u) CONSTRUCTION, REPAIR, AND RESTORATION 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 sponsor’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 to be operated under appropriate regulations under title 14 of the Code of Federal Regulations; 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).]*

(5) *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.*

(b) \* \* \*

(g) *COST SHARE.*—

(1) *IN GENERAL.*—*Subject to paragraph (2), the Government’s share of allowable project costs may be increased by the Administrator to 95 percent for a project at an airport that is categorized as a basic or unclassified airport in the most recently published National Plan of Integrated Airport Systems (NPIAS) report.*

(2) *MULTI-YEAR PROJECTS.*—*If an airport sponsor has an approved multi-year project, approved by the Administrator, and the airport is recategorized above basic category, the cost share for that project shall remain at the cost share specified in paragraph (1) for the duration of the project.*

#### **§ 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 [compatability] *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.

(c) \* \* \*

### § 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;】

(1) “small business concern”—

(A) has the meaning given the term in section 3 of the Small Business Act (15 U.S.C. 632); but

(B) in the case of a concern in the construction industry, a concern shall be considered a small business concern if the concern meets the size standard for the North American Industry Classification System Code 237310, as adjusted by the Small Business Administration;

(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)).

(b) \* \* \*

#### § 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 ap-

portion 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 YEAR 2017.—Notwithstanding subparagraph (A), the Secretary shall apportion to a sponsor of an airport under that subparagraph for fiscal year 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 2017 under subparagraph (A); and**

**[(iii) had scheduled air service at any point during the calendar year used to calculate the apportionment for fiscal year 2017 under subparagraph (A).]**

*(F) SPECIAL RULE FOR FISCAL YEARS 2017 THROUGH 2021.—Notwithstanding subparagraph (A) and subject to subparagraph (G), the Secretary shall apportion to a sponsor of an airport under that subparagraph for each of fiscal years 2017 through 2021 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 2017, 2018, 2019, 2020, or 2021, as applicable, under subparagraph (A); and*

*(iii) had scheduled air service at any point in the calendar year used to calculate the apportionment.*

*(G) LIMITATIONS AND WAIVERS.—The authority to make apportionments in the manner prescribed in subparagraph (F) may be utilized no more than 3 years in a row. The Secretary may waive this limitation if the Secretary determines that an airport's enplanements are substantially close to 10,000 enplanements and the airport sponsor or affected communities are taking reasonable steps to restore enplanements above 10,000.*

*(H) MINIMUM APPORTIONMENT FOR COMMERCIAL SERVICE AIRPORTS WITH MORE THAN 8,000 PASSENGER BOARDINGS IN A CALENDAR YEAR.—Not less than \$600,000 may be apportioned under subparagraph (A) for each fiscal year to each sponsor of a commercial service airport that had fewer than 10,000 passenger boardings, but at least 8,000 passenger boardings, during the prior calendar year.*

(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.

(d) AMOUNTS APPORTIONED FOR GENERAL AVIATION AIRPORTS.—

(1) DEFINITIONS.—In this subsection, the following definitions apply:

(A) AREA.—The term “area” includes land and water.

(B) POPULATION.—The term “population” means the population stated in the latest decennial census of the United States.

(2) APPORTIONMENT.—Except as provided in paragraph (3), the Secretary shall apportion to the States 18.5 percent of the amount subject to apportionment for each fiscal year as follows:

(A) 0.66 percent of the apportioned amount to Guam, American Samoa, the Northern Mariana Islands, and the Virgin Islands.

(B) Except as provided in paragraph (4), 49.67 percent of the apportioned amount for airports, excluding primary airports but including reliever and nonprimary commercial service airports, in States not named in subparagraph (A)

in the proportion that the population of each of those States bears to the total population of all of those States.

(C) Except as provided in paragraph (4), 49.67 percent of the apportioned amount for airports, excluding primary airports but including reliever and nonprimary commercial service airports, in States not named in subparagraph (A) in the proportion that the area of each of those States bears to the total area of all of those States.

(3) SPECIAL RULE.—In any fiscal year in which the total amount made available under section 48103 is \$3,200,000,000 or more, rather than making an apportionment under paragraph (2), the Secretary shall apportion 20 percent of the amount subject to apportionment for each fiscal year as follows:

(A) *Not less than \$25,000,000 to airports designated as disaster relief airports under section 47132 to enhance the ability of such airports to aid in disaster relief, including through funding for airport development described in section 47102(3)(P).*

**[(A)](B) [To each airport]** *Subject to subparagraph (A), to each airport, excluding primary airports but including reliever and nonprimary commercial service airports, in States the lesser of—*

- (i) \$150,000; or
- (ii) 1/5 of the most recently published estimate of the 5-year costs for airport improvement for the airport, as listed in the national plan of integrated airport systems developed by the Federal Aviation Administration under section 47103.

**[(B)](C)** Any remaining amount to States as follows:

- (i) 0.62 percent of the remaining amount to Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Virgin Islands.
- (ii) Except as provided in paragraph (4), 49.69 percent of the remaining amount for airports, excluding primary airports but including reliever and nonprimary commercial service airports, in States not named in clause (i) in the proportion that the population of each of those States bears to the total population of all of those States.
- (iii) Except as provided in paragraph (4), 49.69 percent of the remaining amount for airports, excluding primary airports but including reliever and nonprimary commercial service airports, in States not named in clause (i) in the proportion that the area of each of those States bears to the total area of all of those States.

(4) AIRPORTS IN ALASKA, PUERTO RICO, AND HAWAII.—An amount apportioned under paragraph (2) or (3) to Alaska, Puerto Rico, or Hawaii for airports in such State may be made available by the Secretary for any public airport in those respective jurisdictions.

(5) USE OF STATE HIGHWAY SPECIFICATIONS.—

(A) IN GENERAL.—The Secretary may permit the use of State highway specifications for airfield pavement con-

struction using funds made available under this subsection at nonprimary airports with runways of 5,000 feet or shorter serving aircraft that do not exceed 60,000 pounds gross weight if the Secretary determines that—

- (i) safety will not be negatively affected; and
- (ii) the life of the pavement will not be shorter than it would be if constructed using Administration standards.

(B) LIMITATION.—An airport may not seek funds under this subchapter for runway rehabilitation or reconstruction of any such airfield pavement constructed using State highway specifications for a period of 10 years after construction is completed unless the Secretary determines that the rehabilitation or reconstruction is required for safety reasons.

(6) INTEGRATED AIRPORT SYSTEM PLANNING.—Notwithstanding any other provision of this subsection, funds made available under this subsection may be used for integrated airport system planning that encompasses one or more primary airports.

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

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

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

(e) \* \* \*

#### **§ 47115. Discretionary fund**

(a) \* \* \*

[(i) CONSIDERATIONS FOR PROJECTS 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 [2017] 2021, the sponsors of airports located in the Republic of the Marshall Islands, Federated States of Micronesia, and Republic of Palau shall be eligible for grants under this section and section 47116.

#### **§ 47117. Use of apportioned amounts**

(a) GRANT PURPOSE.—Except as provided in this section, an amount apportioned under section 47114(c)(1) or (d)(2) of this title

is available for making grants for any purpose for which amounts are made available under section 48103 of this title.

(b) PERIOD OF AVAILABILITY.—An amount apportioned under section 47114 of this title is available to be obligated for grants under the apportionment only during the fiscal year for which the amount was apportioned and the 2 fiscal years immediately after that year or the **[3]** 4 fiscal years immediately following that year in the case of a nonhub airport or any airport that is not a commercial service airport. If the amount is not obligated under the apportionment within that time, it shall be added to the discretionary fund.

(c) \* \* \*

(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.

*(D) All amounts subject to apportionment for a fiscal year that are not apportioned under section 47114(d), for grants to sponsors of general aviation airports, reliever airports, or nonprimary commercial service airports.*

(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.

(f) \* \* \*

#### § 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] *directly related to—*

*(i) 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]; or*

*(ii) installing security cameras in the public area of the interior and exterior of the terminal; 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 in 1 or more passenger terminal buildings at a commercial service airport.*

(b) \* \* \*

**§ 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 *or remote airport traffic control tower certified by the Federal Aviation Administration*, 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 service 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 2017 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, *including remote airport traffic control tower equipment certified by the Federal Aviation Administration;* 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, *including remote airport traffic control tower equipment certified by the Federal Aviation Administration.*

(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 2017, 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 2017, 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 investiga-

tion 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 section 47124.

(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 Fairness for Pilots Act, the Administrator shall promulgate regulations or guidance to ensure compliance with this section.

(2) *COMPLIANCE BY CONTRACTORS.*—

(A) *IN GENERAL.*—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 Fairness for Pilots Act.

(B) *NONAPPLICABILITY.*—Subparagraph (A) shall not apply to any contract or agreement in effect on the date of enactment of the Fairness for Pilots Act 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 2018 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.

(b) \* \* \*

**§ 47132. Disaster relief airports**

(a) DESIGNATION.—

(1) IN GENERAL.—*The Secretary of Transportation shall designate as a disaster relief airport an airport that—*

(A) *is categorized as a regional reliever airport in the most recently published National Plan of Integrated Airport Systems (NPIAS) report;*

(B) *is within a reasonable distance, as determined by the Secretary, of a hospital or transplant or trauma center;*

(C) *is in a region that the Secretary determines under subsection (b) is prone to natural disasters;*

(D) *has at least 1 paved runway with not less than 3,400 feet of useable length capable of supporting aircraft up to 12,500 pounds;*

(E) *has aircraft maintenance or servicing facilities at the airport able to provide aircraft fueling and light maintenance services; and*

(F) *has adequate taxiway and ramp space to accommodate single engine or light multi-engine aircraft simultaneously for loading and unloading of supplies.*

(2) DESIGNATION IN STATES WITHOUT QUALIFYING AIRPORTS.—*If fewer than 3 airports described in paragraph (1) are located in a State, the Secretary, in consultation with aviation officials of that State, shall designate not more than 3 general aviation airports in that State as a disaster relief airport under this section.*

(b) PRONE TO NATURAL DISASTERS.—

(1) IN GENERAL.—*For the purposes of subsection (a)(1)(C), a region is prone to natural disasters if—*

(A) *in the case of earthquakes, there is not less than a 50 percent probability that an earthquake of magnitude 6 or above will occur in the region within 30 years, according to the United States Geological Survey; or*

(B) *in the case of other types of natural disasters, the President has declared more than 5 major disasters in the region under section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170), according to the most recent map of the Federal Emergency Management Agency.*

(2) NATURAL DISASTER DEFINED.—*For the purposes of this section, the term “natural disaster” includes a hurricane, tornado, severe storm, high water, wind-driven water, tidal wave,*

*tsunami, earthquake, volcanic eruption, landslide, mudslide, snowstorm, drought, or wildfire.*

(c) **REQUIREMENTS.**—

(1) **OPERATION AND MAINTENANCE.**—

(A) **IN GENERAL.**—*A disaster relief airport and the facilities and fixed-based operators on or connected with the airport shall be operated and maintained in a manner the Secretary consider suitable for disaster relief.*

(B) **EXCLUSION.**—*A disaster relief airport shall not be considered to be in violation of subparagraph (A) if a runway is unuseable because the runway is under scheduled maintenance or is in need of necessary repairs.*

(2) **COMPLIANCE WITH ASSURANCES ON AIRPORT OPERATIONS.**—*A disaster relief airport shall comply with the provisions of section 47107 without regard whether the airport has received a project grant under this subchapter.*

(3) **NATURAL DISASTER MANAGEMENT PLAN.**—*A disaster relief airport shall develop an emergency natural disaster management plan in coordination with local emergency response teams and first responders.*

(d) **CIVIL PENALTY.**—*A public agency that knowingly violates this section shall be liable to the United States Government for a civil penalty of not more than \$10,000 for each day of the violation.*

(e) **CONSIDERATION FOR PROJECT GRANTS.**—*The Secretary shall give consideration to the role an airport plays in disaster relief when determining whether to provide a grant for the airport under this subchapter.*

(f) **APPLICABILITY OF OTHER LAWS.**—*This section shall apply notwithstanding any other law, including regulations and agreements.*

**§ 47133. Restriction on use of revenues**

(a) \* \* \*

(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 2017*, 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 aircraft 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**

(a) \* \* \*

(f) SUNSET.—This section shall not be in effect after [September 30, 2017] *September 30, 2021*.

**§ 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 [subsection (b)] subsection (c) 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) *PROGRESS REPORTS.*—

(1) *INITIAL REPORT.*—Not later than 60 days after the date of enactment of the Federal Aviation Administration Reauthorization Act of 2017, the Secretary of Transportation shall submit a report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives that includes, with respect to a pending application for a grant under subsection (a), what actions the Secretary is taking to expedite the implementation of immediate steps that are determined necessary to ensure the safety and operational benefits of operations at the airport.

(2) *FINAL REPORT.*—Not later than 180 days after the date of enactment of the Federal Aviation Administration Reauthorization Act of 2017, the Secretary of Transportation shall—

(A) make a final determination on whether to award a pending application for a grant under subsection (a) to an airport described in subsection (c); or

(B) if the Secretary determines not to award a grant or a determination is not made under subparagraph (A), submit a report to the committees referred to in paragraph (1) that includes, with respect to such grant and airport—

(i) the steps that have been taken by the Secretary to determine whether an airport meets the description for grant eligibility;

(ii) the factors that the Secretary is considering in determining whether there is a demonstrated need to improve a runway safety area;

(iii) the factors the Secretary is considering in determining whether repairing, replacing, or improving the runway safety area is reasonable in relation to the anticipated safety and operational benefit of such repair, replacement, or improvement, respectively; and

(iv) when the Secretary will determine whether such grant will be awarded.

**[(b)](c) 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.

## TITLE 49. TRANSPORTATION

## SUBTITLE VII. AVIATION PROGRAMS

## PART B. AIRPORT DEVELOPMENT AND NOISE

## CHAPTER 471. AIRPORT DEVELOPMENT

## SUBCHAPTER I. AIRPORT IMPROVEMENT

**§ 47107. Project grant application approval conditioned on assurances about airport operations**

(a) \* \* \*

(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 [October 1, 2017] *October 1, 2021*.

(s) \* \* \*

## TITLE 49. TRANSPORTATION

## SUBTITLE VII. AVIATION PROGRAMS

## PART B. AIRPORT DEVELOPMENT AND NOISE

## CHAPTER 471. AIRPORT DEVELOPMENT

## SUBCHAPTER III. AVIATION DEVELOPMENT STREAMLINING

**§ 47171. Expedited, coordinated environmental review process**

(a) AVIATION PROJECT REVIEW PROCESS.—The Secretary of Transportation shall develop and implement an expedited and coordinated environmental review process for airport capacity enhancement projects at congested airports, *general aviation airport construction or improvement projects*, aviation safety projects, and aviation security projects that—

(1) provides for better coordination among the Federal, regional, State, and local agencies concerned with the preparation of environmental impact statements or environmental as-

assessments under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.);

(2) provides that all environmental reviews, analyses, opinions, permits, licenses, and approvals that must be issued or made by a Federal agency or airport sponsor for such a project will be conducted concurrently, to the maximum extent practicable; and

(3) provides that any environmental review, analysis, opinion, permit, license, or approval that must be issued or made by a Federal agency or airport sponsor for such a project will be completed within a time period established by the Secretary, in cooperation with the agencies identified under subsection (d) with respect to the project.

(b) AVIATION PROJECTS SUBJECT TO A STREAMLINED ENVIRONMENTAL REVIEW PROCESS.—

(1) AIRPORT CAPACITY ENHANCEMENT PROJECTS AT CONGESTED AIRPORTS.—An airport capacity enhancement project at a congested airport shall be subject to the coordinated and expedited environmental review process requirements set forth in this section.

(2) GENERAL AVIATION AIRPORT CONSTRUCTION OR IMPROVEMENT PROJECT.—A general aviation airport construction or improvement project shall be subject to the coordinated and expedited environmental review process requirements set forth in this section.

~~[(2)]~~(3) AVIATION SAFETY AND AVIATION SECURITY PROJECTS.—

(A) IN GENERAL.—The Administrator of the Federal Aviation Administration may designate an aviation safety project or aviation security project for priority environmental review. The Administrator may not delegate this designation authority. A designated project shall be subject to the coordinated and expedited environmental review process requirements set forth in this section.

(B) PROJECT DESIGNATION CRITERIA.—The Administrator shall establish guidelines for the designation of an aviation safety project or aviation security project for priority environmental review. Such guidelines shall provide for consideration of—

- (i) the importance or urgency of the project;
- (ii) the potential for undertaking the environmental review under existing emergency procedures under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.);
- (iii) the need for cooperation and concurrent reviews by other Federal or State agencies;
- (iv) the prospect for undue delay if the project is not designated for priority review; and
- (v) for aviation security projects, the views of the Department of Homeland Security.

(c) HIGH PRIORITY OF AND AGENCY PARTICIPATION IN COORDINATED REVIEWS.—

(1) HIGH PRIORITY FOR ENVIRONMENTAL REVIEWS.—Each Federal agency with jurisdiction over an environmental review, analysis, opinion, permit, license, or approval shall accord any

such review, analysis, opinion, permit, license, or approval involving an airport capacity enhancement project at a congested airport or a project designated under subsection ~~[(b)(2)]~~ (b)(3) the highest possible priority and conduct the review, analysis, opinion, permit, license, or approval expeditiously.

(2) AGENCY PARTICIPATION.—Each Federal agency described in subsection (d) shall formulate and implement administrative, policy, and procedural mechanisms to enable the agency to participate in the coordinated environmental review process under this section and to ensure completion of environmental reviews, analyses, opinions, permits, licenses, and approvals described in subsection (a) in a timely and environmentally responsible manner.

(d) IDENTIFICATION OF JURISDICTIONAL AGENCIES.—With respect to each airport capacity enhancement project at a congested airport or a project designated under subsection ~~[(b)(2)]~~ (b)(3), the Secretary shall identify, as soon as practicable, all Federal and State agencies that may have jurisdiction over environmental-related matters that may be affected by the project or may be required by law to conduct an environmental-related review or analysis of the project or determine whether to issue an environmental-related permit, license, or approval for the project.

(e) STATE AUTHORITY.—Under a coordinated review process being implemented under this section by the Secretary with respect to a project at an airport within the boundaries of a State, the Governor of the State, consistent with State law, may choose to participate in such process and provide that all State agencies that have jurisdiction over environmental-related matters that may be affected by the project or may be required by law to conduct an environmental-related review or analysis of the project or determine whether to issue an environmental-related permit, license, or approval for the project, be subject to the process.

(f) MEMORANDUM OF UNDERSTANDING.—The coordinated review process developed under this section may be incorporated into a memorandum of understanding for a project between the Secretary and the heads of other Federal and State agencies identified under subsection (d) with respect to the project and, if applicable, the airport sponsor.

(g) USE OF INTERAGENCY ENVIRONMENTAL IMPACT STATEMENT TEAMS.—

(1) IN GENERAL.—The Secretary may utilize an interagency environmental impact statement team to expedite and coordinate the coordinated environmental review process for a project under this section. When utilizing an interagency environmental impact statement team, the Secretary shall invite Federal, State and Tribal agencies with jurisdiction by law, and may invite such agencies with special expertise, to participate on an interagency environmental impact statement team.

(2) RESPONSIBILITY OF INTERAGENCY ENVIRONMENTAL IMPACT STATEMENT TEAM.—Under a coordinated environmental review process being implemented under this section, the interagency environmental impact statement team shall assist the Federal Aviation Administration in the preparation of the environmental impact statement. To facilitate timely and efficient environmental review, the team shall agree on agency or Tribal

points of contact, protocols for communication among agencies, and deadlines for necessary actions by each individual agency (including the review of environmental analyses, the conduct of required consultation and coordination, and the issuance of environmental opinions, licenses, permits, and approvals). The members of the team may formalize their agreement in a written memorandum.

(h) **LEAD AGENCY RESPONSIBILITY.**—The Federal Aviation Administration shall be the lead agency for projects designated under subsection **[(b)(2)] (b)(3)** and airport capacity enhancement projects at congested airports and shall be responsible for defining the scope and content of the environmental impact statement, consistent with regulations issued by the Council on Environmental Quality. Any other Federal agency or State agency that is participating in a coordinated environmental review process under this section shall give substantial deference, to the extent consistent with applicable law and policy, to the aviation expertise of the Federal Aviation Administration.

(i) **EFFECT OF FAILURE TO MEET DEADLINE.**—

(1) **NOTIFICATION OF CONGRESS AND CEQ.**—If the Secretary determines that a Federal agency, State agency, or airport sponsor that is participating in a coordinated review process under this section with respect to a project has not met a deadline established under subsection (a)(3) for the project, the Secretary shall notify, within 30 days of the date of such determination, the Committee on Commerce, Science, and Transportation of the Senate, the Committee on Transportation and Infrastructure of the House of Representatives, the Council on Environmental Quality, and the agency or sponsor involved about the failure to meet the deadline.

(2) **AGENCY REPORT.**—Not later than 30 days after date of receipt of a notice under paragraph (1), the agency or sponsor involved shall submit a report to the Secretary, the Committee on Transportation and Infrastructure of the House of Representatives, the Committee on Commerce, Science, and Transportation of the Senate, and the Council on Environmental Quality explaining why the agency or sponsor did not meet the deadline and what actions it intends to take to complete or issue the required review, analysis, opinion, permit, license, or approval.

(j) **PURPOSE AND NEED.**—For any environmental review, analysis, opinion, permit, license, or approval that must be issued or made by a Federal or State agency that is participating in a coordinated review process under this section and that requires an analysis of purpose and need for the project, the agency, notwithstanding any other provision of law, shall be bound by the project purpose and need as defined by the Secretary.

(k) **ALTERNATIVES ANALYSIS.**—The Secretary shall determine the reasonable alternatives to an airport capacity enhancement project at a congested airport or a project designated under subsection **[(b)(2)] (b)(3)**. Any other Federal agency, or State agency that is participating in a coordinated review process under this section with respect to the project shall consider only those alternatives to the project that the Secretary has determined are reasonable.

(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.

### § 47175. Definitions

In this subchapter, the following definitions apply:

[(3)](1) AIRPORT CAPACITY ENHANCEMENT PROJECT.—The term “airport capacity enhancement project” means—

(A) a project for construction or extension of a runway, including any land acquisition, taxiway, or safety area associated with the runway or runway extension; and

(B) such other airport development projects as the Secretary may designate as facilitating a reduction in air traffic congestion and delays.

[(1)](2) AIRPORT SPONSOR.—The term “airport sponsor” has the meaning given the term ‘sponsor’ under section 47102.

[(4)](3) AVIATION SAFETY PROJECT.—The term “aviation safety project” means an aviation project that—

(A) has as its primary purpose reducing the risk of injury to persons or damage to aircraft and property, as determined by the Administrator; and

(B)(i) is needed to respond to a recommendation from the National Transportation Safety Board, as determined by the Administrator; or

(ii) is necessary for an airport to comply with part 139 of title 14, Code of Federal Regulations (relating to airport certification).

[(5)](4) AVIATION SECURITY PROJECT.—The term “aviation security project” means a security project at an airport required by the Department of Homeland Security.

[(2)](5) CONGESTED AIRPORT.—The term “congested airport” means an airport that accounted for at least 1 percent of all delayed aircraft operations in the United States in the most recent year for which such data is available and an airport listed in table 1 of the Federal Aviation Administration’s Airport Capacity Benchmark Report 2004 or any successor report.

(6) FEDERAL AGENCY.—The term “Federal agency” means a department or agency of the United States Government.

(7) GENERAL AVIATION AIRPORT CONSTRUCTION OR IMPROVEMENT PROJECT.—The term “general aviation airport construction or improvement project” means—

(A) a project for the construction or extension of a runway, including any land acquisition, helipad, taxiway, safety area, apron, or navigational aids associated with the runway or runway extension, at a general aviation airport, a reliever airport, or a commercial service airport that is

*not a primary airport (as such terms are defined in section 47102); and*

*(B) any other airport development project that the Secretary designates as facilitating aviation capacity building projects at a general aviation airport.*

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

## TITLE 49. TRANSPORTATION

### SUBTITLE VII. AVIATION PROGRAMS

#### PART B. AIRPORT DEVELOPMENT AND NOISE

##### 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.*

#### § 47504. Noise compatibility programs

(a) \* \* \*

(c) GRANTS.—

(1) The Secretary may incur obligations to make grants from amounts available under section 48103 of this title to carry out a project under a part of a noise compatibility program approved under subsection (b) of this section. A grant may be made to—

(A) an airport operator submitting the program; and

- (B) a unit of local government in the area surrounding the airport, if the Secretary decides the unit is able to carry out the project.
- (2) Soundproofing and acquisition of certain residential buildings and properties. The Secretary may incur obligations to make grants from amounts made available under section 48103 of this title—
- (A) for projects to soundproof residential buildings—
- (i) if the airport operator received approval for a grant for a project to soundproof residential buildings pursuant to section 301(d)(4)(B) of the Airport and Airway Safety and Capacity Expansion Act of 1987;
  - (ii) if the airport operator submits updated noise exposure contours, as required by the Secretary; and
  - (iii) if the Secretary determines that the proposed projects are compatible with the purposes of this chapter;
- (B) to an airport operator and unit of local government referred to in paragraph (1)(A) or (1)(B) of this subsection to soundproof residential buildings located on residential properties, and to acquire residential properties, at which noise levels are not compatible with normal operations of an airport—
- (i) if the airport operator amended an existing local aircraft noise regulation during calendar year 1993 to increase the maximum permitted noise levels for scheduled air carrier aircraft as a direct result of implementation of revised aircraft noise departure procedures mandated for aircraft safety purposes by the Administrator of the Federal Aviation Administration for standardized application at airports served by scheduled air carriers;
  - (ii) if the airport operator submits updated noise exposure contours, as required by the Secretary; and
  - (iii) if the Secretary determines that the proposed projects are compatible with the purposes of this chapter;
- (C) to an airport operator and unit of local government referred to in paragraph (1)(A) or (1)(B) of this subsection to carry out any part of a program developed before February 18, 1980, or before implementing regulations were prescribed, if the Secretary decides the program is substantially consistent with reducing existing noncompatible uses and preventing the introduction of additional noncompatible uses and the purposes of this chapter will be furthered by promptly carrying out the program;
- (D) to an airport operator and unit of local government referred to in paragraph (1)(A) or (1)(B) of this subsection to soundproof a building in the noise impact area surrounding the airport that is used primarily for educational or medical purposes and that the Secretary decides is adversely affected by airport noise; **[and]**
- (E) to an airport operator of a congested airport (as defined in section 47175) and a unit of local government referred to in paragraph (1)(B) of this subsection to carry out

a project to mitigate noise in the area surrounding the airport if the project is included as a commitment in a record of decision of the Federal Aviation Administration for an airport capacity enhancement project (as defined in section 47175) even if that airport has not met the requirements of part 150 of title 14, Code of Federal Regulations[.]; and  
*(F) to an airport operator of a congested airport (as defined in section 47175) and a unit of local government referred to in paragraph (1)(B) to carry out a project to mitigate noise, if the project—*

*(i) consists of—*

*(I) replacement windows, doors, and the installation of through-the-wall air-conditioning units; or*

*(II) acquisition or installation of windows, doors, or other noise mitigation elements to be used in a school reconstruction, if reconstruction is the preferred local solution;*

*(ii) is located at a school near the airport; and*

*(iii) is included in a memorandum of agreement entered into before September 30, 2002, even if the airport has not met the requirements of part 150 of title 14, Code of Federal Regulations, and only if the financial limitations of the memorandum are applied.*

(3) An airport operator may agree to make a grant made under paragraph (1)(A) of this subsection available to a public agency in the area surrounding the airport if the Secretary decides the agency is able to carry out the project.

(4) The Government's share of a project for which a grant is made under this subsection is the greater of—

(A) 80 percent of the cost of the project; or

(B) the Government's share that would apply if the amounts available for the project were made available under subchapter I of chapter 471 of this title for a project at the airport.

(5) The provisions of subchapter I of chapter 471 of this title related to grants apply to a grant made under this chapter, except—

(A) section 47109(a) and (b) of this title; and

(B) any provision that the Secretary decides is inconsistent with, or unnecessary to carry out, this chapter.

(6) AIRCRAFT NOISE PRIMARILY CAUSED BY MILITARY AIRCRAFT.—The Secretary may make a grant under this subsection for a project even if the purpose of the project is to mitigate the effect of noise primarily caused by military aircraft at an airport.

(c) \* \* \*

## TITLE 49. TRANSPORTATION

## SUBTITLE VII. AVIATION PROGRAMS

## 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) \$2,855,000,000 for each of fiscal years 2016 and 2017.]
- (1) \$2,877,365,122 for fiscal year 2018.
- (2) \$2,889,379,240 for fiscal year 2019.
- (3) \$2,906,007,932 for fiscal year 2020.
- (4) \$2,921,493,286 for fiscal year 2021.

(b) \* \* \*

**§ 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) \$166,000,000 for each of fiscal years 2016 and 2017.]  
 (1) *\$175,000,000 for fiscal year 2018.*  
 (2) *\$175,000,000 for fiscal year 2019.*  
 (3) *\$175,000,000 for fiscal year 2020.*  
 (4) *\$175,000,000 for fiscal year 2021.*

(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.]

(c) \* \* \*

**§ 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 2017] *section 47505(a)(2), carrying out noise compatibility programs under section 47504(c), an airport cooperative research program under section 44511, Airports Technology-Safety research, and Airports Technology-Efficiency research \$3,350,000,000 for fiscal year 2018 and \$3,750,000,000 for each of fiscal years 2019 through 2021.*

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

**§ 48104. Operations and maintenance**

[(a) AUTHORIZATION OF APPROPRIATIONS.—the] *The* balance of the money available in the Airport and Airway Trust Fund estab-

lished 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.

#### § 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 2018 through 2021, be equal to—*

*(I) the sum of—*

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

*(bb) 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) less the amount calculated under subclause (I)(bb) for the fourth preceding 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 2017, 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) \* \* \*

(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 described 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 **【2017】 2021** 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.

**§48115. General aviation public-private partnership program**

(a) *SMALL AIRPORT PUBLIC-PRIVATE PARTNERSHIP PROGRAM.—The Secretary of Transportation shall establish a program that meets the requirements under this section for improving facilities at—*

*(1) general aviation airports; and*

*(2) privately owned airports used or intended to be used for public purposes that do not have scheduled air service.*

(b) *APPLICATION REQUIRED.—The operator or sponsor of an airport, or the community in which an airport is located, seeking, on behalf of the airport, to participate in the program established under subsection (a) 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 needs of the airport for additional or improved hangars, airport businesses, or other facilities;*

*(2) the ability of the airport to leverage private sector investments on the airport or develop public-private partnerships to build or improve facilities at the airport; and*

*(3) if the application is submitted by a community, evidence that the airport supports the application.*

(c) *LIMITATION.—*

*(1) STATE LIMIT.—Not more than 4 airports in the same State may be selected to participate in the program established under subsection (a) in any fiscal year.*

- (2) *DOLLAR AMOUNT LIMIT.*—Not more than \$500,000 shall be made available for any one-time grant to an airport in any fiscal year under the program established under subsection (a).
- (d) *PRIORITIES.*—In selecting airports for participation in the program established under subsection (a), the Secretary shall give priority to airports at which—
- (1) the operator or sponsor of the airport, or the community in which the airport is located—
    - (A) will provide a portion of the cost of the project for which assistance is sought under the program from local sources;
    - (B) will employ best business practices in developing or implementing a public-private partnership; or
    - (C) has established, or will establish, a public-private partnership to build or improve facilities at the airport;
  - (2) the assistance will be used in a timely fashion.
- (e) *TYPES OF ASSISTANCE.*—The Secretary may use amounts made available under this section—
- (1) to provide assistance to market an airport to private entities or individuals in order to leverage private sector investments or develop public-private partnerships for the purposes of building or improving hangars, businesses, or other facilities at the airport;
  - (2) to fund studies that consider what measures an airport should take to attract private sector investment at the airport; or
  - (3) to participate in a partnership described in paragraph (1) or an investment described in paragraph (2).
- (f) *AUTHORITY TO MAKE AGREEMENTS.*—The Secretary may enter into agreements with airports and entities entering into partnerships with airports under this section to provide assistance under this section.
- (g) *AVAILABILITY OF AMOUNTS FROM AIRPORT AND AIRWAY TRUST FUND.*—
- (1) *IN GENERAL.*—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, \$5,000,000 for each of the fiscal years 2018 through 2021 to carry out this section. Amounts appropriated pursuant to this paragraph shall remain available until expended.
  - (2) *AVAILABILITY.*—Amounts appropriated pursuant to paragraph (1)—
    - (A) shall remain available until expended; and
    - (B) shall be in addition to any amounts made available pursuant to section 48103.

VISION 100 - CENTURY OF AVIATION REAUTHORIZATION  
ACT

[Public Law 108–176; 117 Stat. 2490]

**SEC. 186. MIDWAY ISLAND AIRPORT.**

[117 Stat. 2518]

(a) \* \* \*

(d) *FUNDING TO SECRETARY OF THE INTERIOR FOR MIDWAY ISLAND AIRPORT.*—The Secretary of Transportation may enter into a

reimbursable agreement with the Secretary of the Interior for the purpose of funding airport development, as defined in section 47102(3) of title 49, United States Code, at Midway Island Airport **【for fiscal years 2012 through 2017】** *for fiscal years 2018 through 2021* 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 there-

after 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).*

#### AIRLINE SAFETY AND FEDERAL AVIATION ADMINISTRATION EXTENSION ACT OF 2010

[Public Law 111–216; 124 Stat. 2348]

#### SEC. 217. AIRLINE TRANSPORT PILOT CERTIFICATION.

(a) \* \* \*

(d) CREDIT TOWARD FLIGHT HOURS.—The Administrator may allow specific academic training courses, beyond those required under subsection (b)(2), to be credited toward the total flight hours required under subsection (c). The Administrator may allow such credit based on a determination by the Administrator that allowing a pilot to take specific academic **[training courses will enhance safety more than requiring the pilot to fully comply with the flight hours requirement.]** *training courses, or other structured and disciplined training courses, will enhance safety more than requiring the pilot to fully comply with the flight hours requirement.*

(c) \* \* \*

## 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. 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) **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).

(e) **ANNUAL NEXTGEN 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 established in consultation with public and private NextGen stakeholders, including the NextGen Advisory Committee.*

**SEC. 332. INTEGRATION OF CIVIL UNMANNED AIRCRAFT SYSTEMS INTO NATIONAL AIRSPACE SYSTEM.**

(a) \* \* \*

[(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 on September 30, 2019.

[(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.]**

[(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.]**

[(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.**

[49 U.S.C. 42301 prec. note]

(a) \* \* \*

(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 implemented, 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 2017, 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 [September 30, 2017] *September 30, 2021*.

**SEC. 817. RELEASE FROM RESTRICTIONS.**

(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 De-

velopment 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.

(2) 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.

(3) Any other conditions required by the Secretary.”.

**SEC. 822. PILOT PROGRAM FOR REDEVELOPMENT OF AIRPORT PROPERTIES.**

[49 U.S.C. 47141 note]

(a) \* \* \*

(k) **SUNSET.**—This section shall not be in effect after [September 30, 2017] *September 30, 2021*.

**FIXING AMERICAS SURFACE TRANSPORTATION ACT**

[Public Law 114–94; 129 Stat. 1312]

**SEC. 1431. NATIONAL ADVISORY COMMITTEE ON TRAVEL AND TOURISM INFRASTRUCTURE.**

[49 U.S.C. 301 note]

(a) \* \* \*

(d) **ROLE OF COMMITTEE.**—The Committee shall—

(1) advise the Secretary on current and emerging priorities, issues, projects, and funding needs related to the use of the intermodal transportation network of the United States to facilitate travel and tourism;

(2) serve as a forum for discussion for travel and tourism stakeholders on transportation issues affecting interstate and interregional mobility of passengers;

(3) promote the sharing of information between the private and public sectors on transportation issues impacting travel and tourism;

(4) gather information, develop technical advice, and make recommendations to the Secretary on policies that improve the condition and performance of an integrated national transportation system that—

(A) is safe, economical, and efficient; and

(B) maximizes the benefits to the United States generated through the travel and tourism industry;

(5) identify critical transportation facilities and corridors that facilitate and support the interstate and interregional transportation of passengers for tourism, commercial, and recreational activities;

(6) provide for development of measures of condition, safety, and performance for transportation related to travel and tourism;

(7) provide for development of transportation investment, data, and planning tools to assist Federal, State, and local offi-

cial in making investment decisions relating to transportation projects that improve travel and tourism【; and】;

(8) address other issues of transportation policy and programs impacting the movement of travelers for tourism and recreational purposes, including by making legislative recommendations【.】; and

(9) consider the effect of the domestic and international aviation market on travel and tourism in the United States.

(e) \* \* \*

## PILOT'S 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 Federal 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 the district court shall review the denial, suspension, or revocation de novo, including by—

(A) conducting a full independent review of the complete administrative record of the denial, suspension, or revocation;

(B) permitting additional discovery and the taking of additional evidence; and

(C) 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, in-

cluding 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 Fairness for Pilots Act.

(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 portion 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 Fairness for Pilots Act*, 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.*

## FAA EXTENSION SAFETY AND SECURITY ACT OF 2016

[Public Law 114–190; 130 Stat. 615]

### **[SEC. 2110. TOWER MARKING.**

[49 U.S.C. 44718 note]

[(a) **IN GENERAL.**—Not later than 1 year after the date of enactment of this Act, the Administrator of the Federal Aviation Administration shall issue regulations to require the marking of covered towers.

[(b) **MARKING REQUIRED.**—The regulations under subsection (a) shall require that a covered tower be clearly marked in a manner that is consistent with applicable guidance under the Federal Avia-

tion Administration Advisory Circular issued December 4, 2015 (AC 70/7460-1L), or other relevant safety guidance, as determined by the Administrator.

[(c) APPLICATION.—The regulations issued under subsection (a) shall ensure that—

[(1) all covered towers constructed on or after the date on which such regulations take effect are marked in accordance with subsection (b); and

[(1) a covered tower constructed before the date on which such regulations take effect is marked in accordance with subsection (b) not later than 1 year after such effective date.

[(d) DEFINITIONS.—

[(1) IN GENERAL.—In this section, the following definitions apply:

[(A) COVERED TOWER.—

[(i) IN GENERAL.—The term “covered tower” means a structure that—

[(I) is self-standing or supported by guy wires and ground anchors;

[(II) is 10 feet or less in diameter at the above-ground base, excluding concrete footing;

[(III) at the highest point of the structure is at least 50 feet above ground level;

[(IV) at the highest point of the structure is not more than 200 feet above ground level;

[(V) has accessory facilities on which an antenna, sensor, camera, meteorological instrument, or other equipment is mounted; and

[(VI) is located—

[(aa) outside the boundaries of an incorporated city or town; or

[(bb) on land that is—

[(cc) undeveloped; or

[(dd) used for agricultural purposes.

[(ii) EXCLUSIONS.—The term “covered tower” does not include any structure that—

[(I) is adjacent to a house, barn, electric utility station, or other building;

[(II) is within the curtilage of a farmstead;

[(III) supports electric utility transmission or distribution lines;

[(IV) is a wind-powered electrical generator with a rotor blade radius that exceeds 6 feet; or

[(V) is a street light erected or maintained by a Federal, State, local, or tribal entity.

[(B) UNDEVELOPED.—The term “undeveloped” means a defined geographic area where the Administrator determines low-flying aircraft are operated on a routine basis, such as low-lying forested areas with predominant tree cover under 200 feet and pasture and range land.

[(2) OTHER DEFINITIONS.—The Administrator shall define such other terms as may be necessary to carry out this section.

[(e) DATABASE.—The Administrator shall—

[(1) develop a database that contains the location and height of each covered tower;

- [(2) keep the database current to the extent practicable;
- [(3) ensure that any proprietary information in the database is protected from disclosure in accordance with law; and
- [(4) ensure that, by virtue of accessing the database, users agree and acknowledge that information in the database—
  - [(A) may only be used for aviation safety purposes; and
  - [(B) may not be disclosed for purposes other than aviation safety, regardless of whether or not the information is marked or labeled as proprietary or with a similar designation.]

**SEC. 2110. TOWER MARKING.**

(a) *IN GENERAL.*—Not later than 1 year after the date of enactment of this Act, the Administrator of the Federal Aviation Administration shall issue regulations to implement the requirements of this section with respect to covered towers.

(b) *MARKING REQUIRED.*—Regulations under subsection (a) that require that a covered tower be clearly marked shall be consistent with applicable guidance under the Federal Aviation Administration Advisory Circular issued December 4, 2015 (AC 70/7460–1L), or other relevant safety guidance, as determined by the Administrator.

(c) *APPLICATION.*—The regulations issued under subsection (a) shall—

(1) ensure that consistent with this section all covered towers constructed on or after the date on which such regulations take effect are marked in accordance with subsection (b), or included in the database in subsection (e), or, in the case of meteorological evaluation towers both;

(2) ensure that consistent with this section all covered towers constructed before the date on which such regulations take effect are marked in accordance with subsection (b), or included in the database in subsection (e), or, in the case of meteorological evaluation towers both, not later than 1 year after such effective date; and

(3) take effect no earlier than the availability of the database developed by the Administrator pursuant to subsection (e).

(d) *DEFINITIONS.*—

(1) *IN GENERAL.*—In this section:

(A) *AGRICULTURAL PURPOSES.*—The term “agricultural purposes” means farming in all its branches and the cultivation and tillage of the soil, the production, cultivation, growing, and harvesting of any agricultural or horticultural commodities performed by a farmer or on a farm, or on pasture land or rangeland.

(B) *COVERED TOWER.*—

(i) *IN GENERAL.*—Except as specified in clause (ii), the term “covered tower” means a structure that—

(I) is a meteorological evaluation tower, a self-standing tower, or a tower supported by guy wires and ground anchors;

(II) is 10 feet or less in diameter at the above-ground base, excluding concrete footing;

(III) at the highest point of the structure is at least 50 feet above ground level;

(IV) at the highest point of the structure is not more than 200 feet above ground level;

(V) has accessory facilities on which an antenna, sensor, camera, meteorological instrument, or other equipment is mounted; and

(VI) is located on land that is—

(aa) in a rural area; and

(bb) used for agricultural purposes or immediately adjacent to such land.

(ii) **EXCLUSIONS.**—The term “covered tower” does not include any structure that—

(I) is adjacent to a house, barn, electric utility station, or other building;

(II) is within the curtilage of a farmstead or adjacent to another building or visible structure;

(III) supports electric utility transmission or distribution lines;

(IV) is a wind-powered electrical generator with a rotor blade radius that exceeds 6 feet;

(V) is a street light erected or maintained by a Federal, State, local, or tribal entity;

(VI) is designed and constructed to resemble a tree or visible structure other than a tower;

(VII) is an advertising billboard;

(VIII) is located within the right-of-way of a rail carrier, including within the boundaries of a rail yard, and is used for a railroad purpose;

(IX)(aa) is registered with the Federal Communications Commission under the Antenna Structure Registration program set forth under part 17 of title 47, Code of Federal Regulations; and

(bb) has been determined by the Administrator to pose no hazard to air navigation; or

(X) has already mitigated any hazard to aviation safety in accordance with Federal Aviation Administration guidance or as otherwise approved by the Administrator.

(C) The term “rural area” has the meaning given the term in section 609(a)(5) of the Public Utility Regulatory Policies Act of 197 (87 U.S.C. 918c(a)(5)).

(2) **OTHER DEFINITIONS.**— The Administrator shall define such other terms not otherwise defined in paragraph (1) as may be necessary to carry out this section.

(e) **DATABASE.**—The Administrator shall—

(1) develop a database that contains the location and height of each covered tower that is not marked in accordance with this section, except that—

(A) meteorological evaluation towers shall be marked in accordance with subsection (b) and contained in the database; and

(B) towers excluded from the definition of covered tower under subsection (d)(1)(B)(2) must be registered by its owner in the database.

(2) keep the database current;

(3) ensure that a tower to be included in the database pursuant to subsection (c)(1) and constructed after the date on which regulations issued under subsection (a) take effect is registered by its owner in the database before its construction;

(4) ensure that—

(A) any proprietary information in the database is protected from disclosure in accordance with law;

(B) information in the database is de-identified and that such information only includes the location, and height, of such covered towers, and whether the tower has guy wires; and

(C) information in the dataset is encrypted at rest and in transit and is protected from unauthorized access and acquisition;

(5) ensure that, by virtue of accessing the database, users agree and acknowledge that information in the database—

(A) may only be used for aviation safety purposes; and

(B) may not be disclosed for purposes other than aviation safety, regardless of whether or not the information is identified or labeled as proprietary or with a similar designation; and

(6) ensure that pilots who intend to conduct low-altitude operations in locations described in subsection (d)(1)(B)(vi) consult the relevant parts of the database before conducting such operations.

(f) **EXCLUSION AND WAIVER AUTHORITIES.**—As part of a rulemaking conducted pursuant to this section, the Administrator—

(1) may exclude a class, category, or type of tower that is determined by the Administrator, after public notice and comment, to not pose a hazard to aviation safety;

(2) shall establish a process to waive specific covered towers from the marking requirements under this section as required under the rulemaking if the Administrator later determines such tower or towers do not pose a hazard to aviation safety; and

(3) shall consider, in establishing exclusions and granting waivers under this subsection, factors that may sufficiently mitigate risks to aviation safety, such as the length of time the tower has been in existence or alternative marking methods or technologies that maintains a tower's level of conspicuousness to a degree which adequately maintains the safety of the airspace.

(g) **PERIODIC REVIEW.**—The Administrator shall, in consultation with the Federal Communications Commission, periodically review any regulations or guidance regarding the marking of covered towers issued pursuant to this section and update them as necessary, consistent with this section, and in the interest of safety of low-altitude aircraft operations.

(h) **FCC REGULATIONS.**—The Federal Communications Commission shall amend section 17.7 of title 47, Code of Federal Regulations, to require a notification to the Federal Aviation Administration for any construction or alteration of an antenna structure, as defined in section 17.2(a) of title 47, Code of Federal Regulations, that is a covered tower as defined by this section.

**SEC. 2204. FACILITATING INTERAGENCY COOPERATION FOR UNMANNED AIRCRAFT AUTHORIZATION IN SUPPORT OF FIREFIGHTING OPERATIONS AND UTILITY RESTORATION.**

[49 U.S.C. 40101 note]

(a) **FIREFIGHTING OPERATIONS.**—The Administrator of the Federal Aviation Administration shall enter into agreements with the Secretary of the Interior and the Secretary of Agriculture, as necessary, to continue the expeditious authorization of safe unmanned aircraft system operations in support of firefighting operations consistent with the requirements of [section 334(c) of the FAA Modernization and Reform Act of 2012 (49 U.S.C. 40101 note)] *section 44807 of title 49, United States Code.*

(b) **UTILITY RESTORATION.**—The Administrator shall enter into agreements with the Secretary of Energy and with such other agencies or parties, including the Federal Emergency Management Agency, as are necessary to facilitate the expeditious authorization of safe unmanned aircraft system operations in support of service restoration efforts of utilities.

(c) **DEFINITION OF UTILITY.**—In this section, the term “utility” shall at a minimum include the definition in section 3(4) of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2602(4)).

**ISEC. 2206. PILOT PROJECT FOR AIRPORT SAFETY AND AIRSPACE HAZARD MITIGATION.**

[(a) **IN GENERAL.**—The Administrator of the Federal Aviation Administration shall establish a pilot program for airspace hazard mitigation at airports and other critical infrastructure using unmanned aircraft detection systems.

[(b) **CONSULTATION.**—In carrying out the pilot program under subsection (a), the Administrator shall work with the Secretary of Defense, the Secretary of Homeland Security, and the heads of other relevant Federal departments and agencies for the purpose of ensuring that technologies that are developed, tested, or deployed by those departments and agencies to mitigate threats posed by errant or hostile unmanned aircraft system operations do not adversely impact or interfere with safe airport operations, navigation, air traffic services, or the safe and efficient operation of the national airspace system.

[(c) **AUTHORIZATION OF APPROPRIATIONS.**—There is authorized to be appropriated from the Airport and Airway Trust Fund to carry out this section \$6,000,000, to remain available until expended.

[(d) **AUTHORITY.**—After the pilot program established under subsection (a) ceases to be effective pursuant to subsection (g), the Administrator may use unmanned aircraft detection systems to detect and mitigate the unauthorized operation of an unmanned aircraft that poses a risk to aviation safety.

[(e) **REPORT.**—

[(1) **IN GENERAL.**—Not later than 18 months after the date of enactment of this Act, the Administrator shall submit to the appropriate committees of Congress a report on the results of the pilot program established under subsection (a).

[(2) **CONTENTS.**—The report required under paragraph (1) shall include the following:

[(A) The number of unauthorized unmanned aircraft operations detected, together with a description of such operations.

[(B) The number of instances in which unauthorized unmanned aircraft were mitigated, together with a description of such instances.

[(C) The number of enforcement cases brought by the Federal Aviation Administration for unauthorized operation of unmanned aircraft detected through the pilot program, together with a description of such cases.

[(D) The number of any technical failures in the pilot program, together with a description of such failures.

[(E) Recommendations for safety and operational standards for unmanned aircraft detection systems.

[(F) The feasibility of deployment of the systems at other airports.

[(3) **FORMAT.**—To the extent practicable, the report prepared under paragraph (1) shall be submitted in a classified format. If appropriate, the report may include an unclassified summary.

[(f) **SUNSET.**—The pilot program established under subsection (a) shall cease to be effective on the earlier of—

[(1) the date that is 18 months after the date of enactment of this Act; and

[(2) the date of the submission of the report under subsection (e).]

#### INTERNAL REVENUE CODE OF 1986

##### **SEC. 9502. AIRPORT AND AIRWAY TRUST FUND.**

(a) **CREATION OF TRUST FUND.**—There is established in the Treasury of the United States a trust fund to be known as the “Airport and Airway Trust Fund”, consisting of such amounts as may be appropriated, credited, or paid into the Airport and Airway Trust Fund as provided in this section, section 9503(c)(5), or section 9602(b).

(b) **TRANSFERS TO AIRPORT AND AIRWAY TRUST FUND.**—There are hereby appropriated to the Airport and Airway Trust Fund amounts equivalent to—

(1) the taxes received in the Treasury under—

(A) section 4041(c) (relating to aviation fuels),

(B) section 4043 (relating to surtax on fuel used in aircraft part of a fractional ownership program),

(C) sections 4261 and 4271 (relating to transportation by air), and

(D) section 4081 with respect to aviation gasoline and kerosene to the extent attributable to the rate specified in section 4081(a)(2)(C), and

(2) the amounts determined by the Secretary of the Treasury to be equivalent to the amounts of civil penalties collected under section 47107(m) of title 49, United States Code.

There shall not be taken into account under paragraph (1) so much of the taxes imposed by section 4081 as are determined at the rate specified in section 4081(a)(2)(B).

(c) **APPROPRIATION OF ADDITIONAL SUMS.**—There are hereby authorized to be appropriated to the Airport and Airway Trust Fund such additional sums as may be required to make the expenditures referred to in subsection (d) of this section.

(d) **EXPENDITURES FROM AIRPORT AND AIRWAY TRUST FUND.**—

(1) AIRPORT AND AIRWAY PROGRAM.—Amounts in the Airport and Airway Trust Fund shall be available, as provided by appropriation Acts, for making expenditures before October 1, 2017, to meet those obligations of the United States—

(A) Incurred under title i of the airport and airway development act of 1970 or of the airport and airway development act amendments of 1976 or of the aviation safety and noise abatement act of 1979 or under the fiscal year 1981 airport development authorization act or the provisions of the airport and airway improvement act of 1982 or the airport and airway safety and capacity expansion act of 1987 or the federal aviation administration research, engineering, and development authorization act of 1990 or the aviation safety and capacity expansion act of 1990 or the airport and airway safety, capacity, noise improvement, and intermodal transportation act of 1992 or the airport improvement program temporary extension act of 1994 or the federal aviation administration authorization act of 1994 or the federal aviation reauthorization act of 1996 or the provisions of the omnibus consolidated and emergency supplemental appropriations act, 1999 providing for payments from the airport and airway trust fund or the interim federal aviation administration authorization act or section 6002 of the 1999 emergency supplemental appropriations act, public law 106-59, or the wendell h. ford aviation investment and reform act for the 21st century or the aviation and transportation security act or the vision 100—Century of Aviation Reauthorization Act or any joint resolution making continuing appropriations for the fiscal year 2008 or the Department of Transportation Appropriations Act, 2008 or the Airport and Airway Extension Act of 2008 or the Federal Aviation Administration Extension Act of 2008 or the Federal Aviation Administration Extension Act of 2008, Part II or the Federal Aviation Administration Extension Act of 2009 or any joint resolution making continuing appropriations for the fiscal year 2010 or the Fiscal Year 2010 Federal Aviation Administration Extension Act or the Fiscal Year 2010 Federal Aviation Administration Extension Act, Part II or the Federal Aviation Administration Extension Act of 2010 or the Airport and Airway Extension Act of 2010 or the Airport and Airway Extension Act of 2010, Part II or the Airline Safety and Federal Aviation Administration Extension Act of 2010 or the Airport and Airway Extension Act of 2010, Part III or the Airport and Airway Extension Act of 2010, Part IV or the Airport and Airway Extension Act of 2011, or the Airport and Airway Extension Act of 2011, Part II or the Airport and Airway Extension Act of 2011, Part III or the Airport and Airway Extension Act of 2011, Part IV or the Airport and Airway Extension Act of 2011, Part V or the Airport and Airway Extension Act of 2012 or the FAA Modernization and Reform Act of 2012 or the Airport and Airway Extension Act of 2015 or the Airport and Airway Extension Act of 2016 or the FAA Extension, Safety, and Security Act of 2016;

(B) heretofore or hereafter incurred under part A of subtitle VII of title 49, United States Code, which are attributable to planning, research and development, construction, or operation and maintenance of—

- (i) air traffic control,
- (ii) air navigation,
- (iii) communications, or
- (iv) supporting services,

(1) for the airway system; or

(C) for those portions of the administrative expenses of the Department of Transportation which are attributable to activities described in subparagraph (A) or (B).

(1) Any reference in subparagraph (A) to an Act shall be treated as a reference to such Act and the corresponding provisions (if any) of title 49, United States Code, as such Act and provisions were in effect on the date of the enactment of the last Act referred to in subparagraph (A).

(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).

(3) TRANSFERS FROM THE AIRPORT AND AIRWAY TRUST FUND ON ACCOUNT OF CERTAIN SECTION 34 CREDITS.—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 credits allowed under section 34 (other than payments made by reason of paragraph (4) of section 6427(1)) with respect to fuel used after August 31, 1982. Such amounts shall be transferred on the basis of estimates by the Secretary of the Treasury, and proper adjustments shall be made in amounts subsequently transferred to the extent prior estimates were in excess of or less than the credits allowed.

(4) TRANSFERS FOR REFUNDS AND CREDITS NOT TO EXCEED TRUST FUND REVENUES ATTRIBUTABLE TO FUEL USED.—The amounts payable from the Airport and Airway Trust Fund under paragraph (2) or (3) shall not exceed the amounts required to be appropriated to such Trust Fund with respect to fuel so used.

(5) TRANSFERS FROM AIRPORT AND AIRWAY TRUST FUND ON ACCOUNT OF REFUNDS OF TAXES ON TRANSPORTATION BY AIR.—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 December 31, 1995, under section 6402 (relating to authority to make credits or refunds) or section 6415 (relating to credits or refunds to persons who collected certain taxes) in respect of taxes under sections 4261 and 4271.

(6) TRANSFERS FROM THE AIRPORT AND AIRWAY TRUST FUND ON ACCOUNT OF CERTAIN AIRPORTS.—The Secretary of the

Treasury may transfer from the Airport and Airway Trust Fund to the Secretary of Transportation or the Administrator of the Federal Aviation Administration an amount to make a payment to an airport affected by a diversion that is the subject of an administrative action under paragraph (3) or a civil action under paragraph (4) of section 47107(m) of title 49, United States Code.

(e) LIMITATION ON TRANSFERS TO TRUST FUND.—

(1) IN GENERAL.—Except as provided in paragraph (2), no amount may be appropriated or credited to the Airport and Airway Trust Fund on and after the date of any expenditure from the Airport and Airway Trust Fund which is not permitted by this section. The determination of whether an expenditure is so permitted shall be made without regard to—

(A) any provision of law which is not contained or referenced in this title or in a revenue Act; and

(B) whether such provision of law is a subsequently enacted provision or directly or indirectly seeks to waive the application of this subsection.

(2) EXCEPTION FOR PRIOR OBLIGATIONS.—Paragraph (1) shall not apply to any expenditure to liquidate any contract entered into (or for any amount otherwise obligated) before October 1, 2017, in accordance with the provisions of this section.

