

110TH CONGRESS
1ST SESSION

S. 1076

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

IN THE SENATE OF THE UNITED STATES

MARCH 29, 2007

Mr. INOUE (for himself and Mr. STEVENS) (by request) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

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

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

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

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

1 (b) TABLE OF CONTENTS.—The table of contents for
 2 this Act is as follows:

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

TITLE I—AUTHORIZATIONS

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

TITLE II—USER FEE AUTHORITY

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

TITLE III—AIRPORT IMPROVEMENT PROGRAM

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

TITLE IV—MANAGEMENT AND ORGANIZATION

- Sec. 401. Air Transportation System Advisory Board.
- Sec. 402. Facilitation of Next Generation air traffic services.
- Sec. 403. Clarification of authority to enter into reimbursable agreements.
- Sec. 404. Definition of air navigation facility.
- Sec. 405. Improved management of property inventory.
- Sec. 406. Clarification to acquisition reform authority.
- Sec. 407. Assistance to foreign aviation authorities.

- Sec. 408. Presidential Rank Award Program.
- Sec. 409. Realignment and consolidation of aviation facilities and services.
- Sec. 410. Operational and approach procedures by third parties through delegation.
- Sec. 411. Judicial review of denial of airman certificates.
- Sec. 412. Release of data relating to abandoned type certificates and supplemental type certificates.
- Sec. 413 Design Organization Certificates.
- Sec. 414. Contract tower program.
- Sec. 415. Enhanced Oversight of Next Generation Air Transportation System Joint Planning and Development office.

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

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

TITLE VI—ENVIRONMENTAL STEWARDSHIP AND STREAMLINING

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

TITLE VII—AVIATION INSURANCE

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

TITLE VIII—AVIATION SERVICE IMPROVEMENTS

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

TITLE IX—INTERNAL REVENUE CODE AMENDMENTS

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

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

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

8 **SEC. 3. EFFECTIVE DATE.**

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

12 **TITLE I—AUTHORIZATIONS**

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

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

“CHAPTER 482—AUTHORIZATIONS FOR AIR TRAFFIC FUNCTIONS,
 SAFETY AND OPERATIONS, AND RESEARCH AND DEVELOPMENT

“Sec.

“48201. Air traffic organization.

“48202. Safety and operations.

“48203. Civil aviation research and development.

“48204. General fund authorization.

19 **“§ 48201. Air traffic organization**

20 “(a) AIR TRAFFIC ORGANIZATION ACCOUNT.—On
 21 October 1, 2007, the Secretary of the Treasury shall es-

1 establish on the books of the Treasury a separate account
2 to be known as the Air Traffic Organization Account.

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

12 “(1) \$7,915,516,000 for fiscal year 2008.

13 “(2) \$1,130,000,000 for fiscal year 2009.

14 “(3) \$1,126,000,000 for fiscal year 2010.

15 “(c) USER FEES.—

16 “(1) In addition to amounts authorized under
17 subsection (b), amounts credited to the account es-
18 tablished under subsection (a) from fees collected
19 under section 45305 of this title are authorized to
20 be used for capital, operating and overhead costs of
21 providing air traffic control and related services, as
22 well as for the costs related to the assessment and
23 collection of these fees.

24 “(2) Notwithstanding any other provision of
25 law, amounts credited to the account established

1 under subsection (a) shall be used only to carry out
2 the air traffic functions of the Federal Aviation Ad-
3 ministration.

4 “(d) AVAILABILITY OF AMOUNTS.—Amounts appro-
5 priated under this section shall remain available until ex-
6 pended.

7 **“§ 48202. Safety and operations**

8 “(a) SAFETY AND OPERATIONS ACCOUNT.—On Oc-
9 tober 1, 2007, the Secretary of the Treasury shall estab-
10 lish on the books of the Treasury a separate account to
11 be known as the Safety and Operations Account.

12 “(b) AUTHORIZATION OF APPROPRIATIONS.—In ad-
13 dition to amounts from the general fund of the Treasury
14 as authorized in section 48204, not more than a total of
15 the following amounts may be appropriated to the Sec-
16 retary of Transportation out of the Airport and Airway
17 Trust Fund established under section 9502 of the Internal
18 Revenue Code of 1986 (26 U.S.C. 9502) for programs,
19 activities, and services relating to the Federal Aviation Ad-
20 ministration’s safety programs, services to the commercial
21 space industry and other staff support functions:

22 “(1) \$671,594,000 for fiscal year 2008.

23 “(2) \$69,000,000 for fiscal year 2009.

24 “(3) \$69,000,000 for fiscal year 2010.

25 “(c) USER FEES.—

1 “(1) Amounts credited to the account estab-
2 lished under subsection (a) from fees collected under
3 sections 45305 and 45306 of this title, are author-
4 ized to be used for programs, activities and services
5 relating to the Federal Aviation Administration’s
6 safety programs and other staff support functions,
7 as well as for the costs related to the assessment
8 and collection of these fees.

9 “(2) Notwithstanding any other provision of
10 law, amounts credited to the account established
11 under subsection (a) shall be used only to carry out
12 the safety programs, services to the commercial
13 space industry, and staff support functions of the
14 Federal Aviation Administration.

15 “(d) AVAILABILITY OF AMOUNTS.—Amounts appro-
16 priated under this section shall remain available until ex-
17 pended.

18 **“§ 48203. Civil aviation research and development**

19 “(a) AUTHORIZATION.—In addition to amounts from
20 the general fund of the Treasury as authorized in section
21 48204, not more than the following amounts may be ap-
22 propriated out of the Airport and Airway Trust Fund es-
23 tablished under section 9502 of the Internal Revenue Code
24 of 1986 (26 U.S.C. 9502), to the Secretary of Transpor-
25 tation for conducting civil aviation research and develop-

1 ment under sections 44504, 44505, 44507, 44509, and
 2 44511 through 44513 of this title:

3 “(1) \$122,867,000 for fiscal year 2008.

4 “(2) \$174,000,000 for fiscal year 2009.

5 “(3) \$174,000,000 for fiscal year 2010.

6 “(b) AVAILABILITY OF AMOUNTS.—Amounts appro-
 7 priated under this section shall remain available until ex-
 8 pended.

9 **“§ 48204. General fund authorization**

10 “Not more than the following amounts may be appro-
 11 priated under this chapter from the general fund of the
 12 Treasury to the Secretary of Transportation for activities
 13 or services, the cost of which is not otherwise funded by
 14 fees established under chapter 453 of this title or by funds
 15 made available from the Airport and Airway Trust Fund,
 16 related to aviation safety regulation and oversight, re-
 17 search and development, air traffic services provided to
 18 military, public or air ambulance aircraft, operation of
 19 Flight Service Stations and Automated Flight Service Sta-
 20 tions, operation of air traffic control towers at airports
 21 with fewer than 100,000 passenger boardings per year,
 22 services to the commercial space industry, or other Fed-
 23 eral Aviation Administration programs in the general pub-
 24 lic interest, including the capital, operating, and overhead
 25 costs for such activities or services:

- 1 “(1) \$2,618,322,000 for fiscal year 2008;
 2 “(2) \$2,582,000,000 for fiscal year 2009; and
 3 “(3) \$2,582,000,000 for fiscal year 2010.”.

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

“482. Authorizations for Air Traffic Functions, Safety and Oper-
 ations, and Research and Development 48201”.

7 **SEC. 102. AIRPORT PLANNING AND DEVELOPMENT AND**
 8 **NOISE COMPATIBILITY PLANNING AND PRO-**
 9 **GRAMS.**

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

11 (1) by inserting “(a) IN GENERAL.—” before
 12 “The total”;

13 (2) by striking “September 30, 2003,” and in-
 14 serting “September 30, 2007,”;

15 (3) by striking paragraphs (1) through (4) and
 16 inserting the following:

- 17 “(1) \$2,750,000,000 for fiscal year 2008;
 18 “(2) \$2,900,000,000 for fiscal year 2009; and
 19 “(3) \$3,050,000,000 for fiscal year 2010.”; and
 20 (4) by adding at the end the following:

21 “(b) AIRPORT COOPERATIVE RESEARCH PRO-
 22 GRAM.—Not more than \$15,000,000 per year for fiscal
 23 years 2008, 2009, and 2010 may be appropriated to the
 24 Secretary of Transportation from the amounts made avail-

1 able each year under subsection (a) for the Airport Coop-
2 erative Research Program under section 44511 of this
3 title, of which not less than \$5,000,000 per year shall be
4 for research activities related to the airport environment,
5 including reduction of community exposure to civil aircraft
6 noise, reduction of civil aviation emissions, or addressing
7 water quality issues.”.

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

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

12 (a) AUTHORIZATION.—There is authorized to be ap-
13 propriated to the Secretary of Transportation out of the
14 Airport and Airway Trust Fund established by section
15 9502 of the Internal Revenue Code of 1986 (26 U.S.C.
16 9502), \$4,000,000 per year for fiscal year 2008 and
17 \$6,000,000 for fiscal years 2009 and 2010 to fund airline
18 data collection and analysis by the Bureau of Transpor-
19 tation Statistics in the Research and Innovative Tech-
20 nology Administration of the Department of Transpor-
21 tation.

22 (b) ECONOMIC DATA PROGRAM REFORM.—In fiscal
23 year 2009, the Secretary shall reform, by the most effi-
24 cient means available, the aviation economic data program

1 for the collection and dissemination of airline traffic and
2 financial data.

3 **SEC. 104. OFFICE OF COMMERCIAL SPACE TRANSPOR-**
4 **TATION.**

5 Section 70119 is amended—

6 (1) by striking “and” in paragraph (4);

7 (2) by striking “2009.” in paragraph (5) and
8 inserting “2009; and”; and

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

10 “(6) \$15,224,000 for fiscal year 2010.”.

11 **SEC. 105. TRANSITION.**

12 (a) **AUTHORIZATION FOR TRANSITION PERIOD.**—For
13 the purpose of supporting the transition to a user fee sys-
14 tem of financing under chapter 453, not more than
15 \$1,360,000,000 is authorized to be appropriated to the
16 Secretary of Transportation from the general fund of the
17 Treasury to provide services for an initial period of 60
18 days for which user fees under sections 45305 (air traffic
19 control and related fees) and 45306 (registration, certifi-
20 cation and related fees) are assessed.

21 (b) **FEE SURCHARGE.**—The Administrator of the
22 Federal Aviation Administration shall, subject to appro-
23 priation in advance, impose and collect a surcharge on the
24 user fees established under sections 45305 and 45306 for
25 fiscal year 2009 in an amount and manner so as to fully

1 recover and return to the general fund in fiscal year 2009
 2 the amount used for transition costs under this section.

3 **TITLE II—USER FEE AUTHORITY**

4 **SEC. 201. FEES.**

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

7 **“§ 45305. Air traffic control and related fees**

8 “(a) SCHEDULE OF FEES.—

9 “(1) Not later than the date of transition, the
 10 Administrator of the Federal Aviation Administra-
 11 tion shall establish fees for air traffic control and re-
 12 lated activities, services, facilities and equipment
 13 provided by, or on behalf of, the Administration in
 14 accordance with this section. Except as provided in
 15 subsection (c), owners or operators of aircraft in the
 16 national airspace system shall pay the fees assessed
 17 under this section. The Administrator may establish
 18 separate fees for aircraft operating in terminal, en
 19 route, or oceanic airspace.

20 “(2) For purposes of this section and section
 21 45306, the term ‘date of transition’ means October
 22 1, 2008.

23 “(3) In establishing fees under paragraph (1),
 24 the Administrator may establish interim fees for a
 25 period not to exceed 1 year after the date of transi-

1 tion, and may impose a surcharge on such fees in
2 order to recover the full costs of services during the
3 initial period of transition to user fees. The estab-
4 lishment of such interim fees would not be subject
5 to the requirements of subsection (e)(2).

6 “(4) In accordance with this section, the Ad-
7 ministrator may periodically modify the fees estab-
8 lished under this section either on the Administra-
9 tor’s own initiative, based on the requirements of the
10 agency or the users of the National Airspace Sys-
11 tem, or on a recommendation from the Board under
12 subsection (e)(2) of this section.

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

14 “(1) EN ROUTE AND OCEANIC.—In establishing
15 fees for aircraft operating in en route or oceanic air-
16 space, including fees for aircraft that operate in
17 United States controlled airspace but neither take
18 off from, nor land in, the United States, the Admin-
19 istrator may base the fee on distance traveled, or on
20 any other method that is consistent with the treaties
21 and international agreements to which the United
22 States is a party.

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

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

4 “(B) That may be based on the weight of
5 the aircraft.

6 “(C) Specifically for aircraft operating in
7 terminal airspace for a large hub airport, as de-
8 fined by section 40102(a)(29).

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

13 “(i) that such airspace is congested;

14 “(ii) that such congestion results in
15 whole or in part from the limitation on the
16 capacity of the large hub airport or air-
17 ports; and

18 “(iii) that establishing such a fee will
19 help reduce delays in the national airspace
20 system.

21 “(E) A fee that is different for nighttime
22 operations than for daytime operations.

23 “(3) QUANTITATIVE STANDARDS.—For the pur-
24 pose of the determinations required by paragraph
25 (2)(D), the Administrator shall issue quantitative

1 standards for the levels of airspace and airport con-
2 gestion, operating delays, effect of airport delay on
3 national system delay, and feasibility of increasing
4 the capacity of a congested airport, and make such
5 determinations in accordance with those standards.

6 “(4) AIRCRAFT ALTITUDE.—Nothing in this
7 section shall require the Administrator to take into
8 account aircraft altitude in establishing any fee for
9 aircraft operations in terminal, en route or oceanic
10 airspace.

11 “(5) INCENTIVE FOR EQUIPAGE.—The Admin-
12 istrator may establish reduced fees for aircraft that
13 are equipped with avionics whose use the Adminis-
14 trator determines would enhance the safety or effi-
15 ciency of the National Airspace System if the Ad-
16 ministrator finds that such a fee structure would
17 create an incentive for the purchase and installation
18 of such equipment.

19 “(6) RELATION TO COSTS.—The fees estab-
20 lished under this section shall be based on the costs
21 to the Administration of providing the air traffic
22 control and related activities, services, facilities, and
23 equipment using the available data derived from the
24 agency’s cost accounting system and cost allocation
25 system to users. For purposes of this paragraph, the

1 term ‘costs’ means those costs associated with the
2 operation, maintenance, debt service, and overhead
3 expenses of the services provided and the facilities
4 and equipment used in such services, including the
5 projected costs for the period during which the serv-
6 ices will be provided, but shall not include the cost
7 of providing services to aircraft described in sub-
8 section (c).

9 “(7) RESERVE.—The fees that the Adminis-
10 trator establishes under this section may also include
11 amounts sufficient to cover the costs of providing air
12 traffic control and related activities, services, facili-
13 ties and equipment in the event that receipts are less
14 than projected, whether such a shortfall is caused by
15 a decrease in aircraft operations, delinquent pay-
16 ment of fees by any person, or for another com-
17 parable reason.

18 “(8) ANNUAL REVIEW.—The Administrator
19 shall provide for an annual independent review to
20 validate that the agency used actual costs for the
21 year, which were prepared in accordance with gen-
22 erally accepted accounting principles, and compiled
23 those costs in accordance with the agency’s docu-
24 mented cost allocation methodology.

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

5 “(A) be credited as offsetting collections to
6 the account established under section 48201(a)
7 of this title; and

8 “(B) be available to the Administrator for
9 expenditure only to pay the costs of activities
10 and services for which the fee is imposed, in-
11 cluding the costs to determine, assess, review
12 and collect the fee.

13 “(10) EFFECT OF LAW ON FEE COLLECTION.—
14 The Administrator may continue to assess and col-
15 lect and spend fees established under this section
16 during any period in which the agency’s funding is
17 provided under an Act providing continuing appro-
18 priations in lieu of the agency’s regular appropria-
19 tions.

20 “(c) EXCEPTIONS.—

21 “(1) MILITARY AND OTHER PUBLIC AIR-
22 CRAFT.—Fees may not be assessed under this sec-
23 tion for air traffic control and related services pro-
24 vided to military aircraft, public aircraft (as defined
25 in section 40102 of this subtitle), air ambulance air-

1 craft, or to military or non-commercial civil aircraft
2 of a foreign government.

3 “(2) GENERAL AVIATION OPERATIONS.—Except
4 for fees established for operations in terminal air-
5 space for a large hub airport under subsection
6 (b)(2), no fees may be established under this section
7 for air traffic control and related services provided
8 to aircraft operations using fuel for which a tax was
9 paid under section 4081(a)(2) of the Internal Rev-
10 enue Code of 1986, except taxes paid at the rate
11 specified in section 4081(a)(2)(C)(i) of such Code.
12 The exception provided by this paragraph shall cease
13 to be effective if the rate of tax for fuel under sec-
14 tion 4081(a)(2) of such Code is lower than 70.0
15 cents per gallon, starting on the date of transition,
16 unless the lower rate is the result of adjustments
17 made under section 4081(a)(2) of the Internal Rev-
18 enue Code of 1986.

19 “(3) FLIGHT PLAN INFORMATION.—Any person
20 required to file a flight plan with the Administra-
21 tion, including operators of flights described in para-
22 graphs (1) and (2), shall specify in the plan whether
23 the person is engaged in an operation for compensa-
24 tion or hire, or a general aviation operation, or a

1 military or public aircraft operation, for purposes of
2 this section.

3 “(4) CANADA TO CANADA FLIGHTS.—The Ad-
4 ministrator may waive a fee that would otherwise be
5 assessed under this chapter for flights that operate
6 in United States-controlled airspace but takeoff and
7 land at an airport in Canada without an inter-
8 mediate stop outside Canada, if the Administrator
9 determines that not assessing and collecting the fee
10 for such flights would be in the public interest.

11 “(d) ADMINISTRATIVE PROVISIONS.—

12 “(1) FEES PAYABLE TO THE ADMINIS-
13 TRATOR.—Fees assessed and amounts collected
14 under this section are payable to the Administrator.
15 The Administrator may refund any fee, or portion
16 thereof, paid by mistake in excess of the amount re-
17 quired.

18 “(2) COLLECTION PROCEDURES.—The Admin-
19 istrator shall establish procedures for the collection
20 of fees. These procedures shall establish the fre-
21 quency of payment, deadlines for payment, a max-
22 imum amount of fees that may be outstanding on
23 the account of any person, and such other limita-
24 tions and conditions as the Administrator deter-

1 mines are necessary to obtain prompt payment of
2 fees.

3 “(3) FAILURE TO PAY REQUIRED FEES.—If the
4 Administrator determines that any person has failed
5 to pay fees when due under this section, or to com-
6 ply with any limitation or condition on payment
7 under this section, or to provide the Administration
8 with the correct information in the person’s flight
9 plan or by other means regarding the nature of the
10 flight, including whether the person engaged in an
11 operation for compensation or hire or general avia-
12 tion operation, the Administrator may—

13 “(A) assess interest charges, using a rate
14 equal to 150 percent of a rate determined by
15 the Secretary of the Treasury based on the av-
16 erage of bond equivalent yields on 13-week
17 Treasury bills auctioned during the previous
18 calendar quarter, to be redetermined quarterly,
19 on amounts that have not been paid by the
20 deadline;

21 “(B) change the required payment sched-
22 ule for such person;

23 “(C) offset any amount of fees owed by
24 withholding any payment otherwise owed or due

1 to the person by the Secretary or the Adminis-
2 trator;

3 “(D) upon 24 hours notice, terminate, re-
4 duce, or withhold the provision of non-emer-
5 gency air traffic control and related services to
6 such person, except that, in any case involving
7 a foreign air carrier, the Administrator shall
8 take such actions as are necessary to comply
9 with applicable international agreements; or

10 “(E) impose a civil penalty for each day
11 amounts remain unpaid, or take other appro-
12 priate enforcement action under this subtitle.

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

17 “(A) change the required payment sched-
18 ule for such person; or

19 “(B) upon 24 hours notice, terminate, re-
20 duce, or withhold the provision of non-emer-
21 gency air traffic control and related services to
22 such person, except that, in any case involving
23 a foreign air carrier, the Administrator shall
24 take such actions as are necessary to comply
25 with applicable international agreements.

1 “(5) PAYMENT NOT STAYED PENDING RE-
2 VIEW.—In any case where a person seeks adminis-
3 trative review of the Administrator’s action under
4 this section, the collection of fees from that person
5 may not be stayed pending resolution of the case.

6 “(e) CONSULTATION REQUIREMENTS; APPROVAL OF
7 FEES.—

8 “(1) Prior to establishing or modifying fees
9 under this section or section 45306 of this title, the
10 Administrator shall consult with air carriers, includ-
11 ing foreign air carriers, consistent with international
12 agreements, and any other persons subject to such
13 fees, and any other member of the public who wishes
14 to file comments. For purposes of the section, the
15 term ‘consult’ means to afford the opportunity to
16 provide comments to, and have such comments con-
17 sidered by, the Administrator.

18 “(2) Prior to establishing or modifying fees
19 under this section or section 45306 of this title, the
20 Administrator shall consult with and seek the rec-
21 ommendations of the type and level of such fees
22 from the Air Transportation System Advisory Board
23 established under section 106(p) of this title. The
24 Board may, from time to time, recommend that the
25 Administrator modify established fees based on the

1 needs of the agency or the users of the National Air-
2 space System. If the Board fails to recommend ap-
3 proval of any fee proposed by the Administrator, or
4 if the Administrator fails to adopt the recommenda-
5 tion of the Board, the Administrator may establish
6 or maintain such fees only after publishing in the
7 Federal Register a written determination setting
8 forth the reasons for the Administrator's establish-
9 ment or modification of the fees and summarizing
10 the views of the Board.

11 “(3) Any person who is subject to fees estab-
12 lished in this section or section 45306 of this title,
13 and who objects to the establishment or amount of
14 such fees may appeal that decision exclusively to the
15 Secretary of Transportation. The Secretary may dis-
16 approve the establishment or modification of fees if
17 the Secretary finds that the fees—

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

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

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

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

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

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

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

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

1 the list of airports is updated, an airport meets the criteria
2 for a large hub airport under subsection (b)(2), such air-
3 port shall be deemed to remain in such status for 3 years
4 regardless of fluctuation in the passenger boardings dur-
5 ing that time.

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

8 “(1) AIR AMBULANCE AIRCRAFT.—The term
9 ‘air ambulance aircraft’ means—

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

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

16 “(2) ENROUTE AIRSPACE.—The term ‘en route
17 airspace’ means airspace encompassing Class A and
18 Class E airspace listed in part 71 of title 14 of the
19 Code of Federal Regulations and subpart B of Fed-
20 eral Aviation Administration Order 7400.9N or a
21 successor order;

22 “(3) TERMINAL AIRSPACE.—The term ‘terminal
23 airspace’ means airspace encompassing Class B,
24 Class C, and Class D airspace listed in part 71 of
25 title 14 of the Code of Federal Regulations and sub-

1 part B of Federal Aviation Administration Order
2 7400.9N or a successor order.

3 “(4) OCEANIC AIRSPACE.—The term ‘oceanic
4 airspace’ means United States-controlled airspace
5 over an ocean.

6 **“§ 45306. Registration, certification and related fees**

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

10 “(1) \$130 for registering an aircraft.

11 “(2) \$45 for replacing an aircraft registration.

12 “(3) \$130 for issuing an original dealer’s air-
13 craft certificate.

14 “(4) \$105 for issuing an additional aircraft cer-
15 tificate.

16 “(5) \$80 for issuing a special registration num-
17 ber.

18 “(6) \$50 for issuing a renewal of a special reg-
19 istration number.

20 “(7) \$130 for recording a security interest.

21 “(8) \$130 for recording a security interest in
22 aircraft parts.

23 “(9) \$50 for issuing an airman certificate.

24 “(10) \$25 for issuing a replacement airman
25 certificate.

1 “(11) \$42 for issuing an airman medical certifi-
2 cate.

3 “(12) \$100 for providing legal title opinions
4 pertaining to aircraft transactions.

5 “(b) ESTABLISHMENT OF CERTIFICATION FEES.—

6 “(1) IN GENERAL.—The Administrator shall es-
7 tablish fees for the following services or activities:

8 “(A) The appointment of a designee (other
9 than designated medical examiners).

10 “(B) The appointment of delegated organi-
11 zations.

12 “(C) The training of a designee.

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

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

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

22 “(G) The issuance of a certificate to a me-
23 dium domestic repair station under part 145 of
24 title 14 of the Code of Federal Regulations.

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

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

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

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

13 “(L) The issuance of a certificate to a
14 maintenance technical school under part 147 of
15 title 14 of the Code of Federal Regulations.

16 “(M) Training provided to foreign aviation
17 authorities.

18 “(2) RELATION TO COSTS.—The fees that the
19 Administrator establishes and assesses under this
20 section, shall be based on the costs to the Adminis-
21 tration of providing such activities and services
22 using the available data derived from the agency’s
23 cost accounting system and cost allocation system to
24 users. For purposes of this section, the term ‘costs’
25 shall mean those costs associated with capital, oper-

1 ation and maintenance, and overhead, including the
2 projected costs for the period during which the serv-
3 ices are provided.

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

10 “(d) FEES CREDITED AS OFFSETTING COLLEC-
11 TIONS.—

12 “(1) Any fee authorized to be collected under
13 this section shall, subject to appropriation made in
14 advance—

15 “(A) be credited as offsetting collections to
16 the account established under section 48202(a)
17 of this title; and

18 “(B) be available for expenditure only to
19 pay the costs of activities and services for which
20 the fee is imposed, including the costs to deter-
21 mine, assess, review and collect the fee.

22 “(2) The Administrator may continue to assess
23 and collect and spend fees established under this
24 section during any period in which the agency’s
25 funding is provided under an Act providing con-

1 tinuing appropriations in lieu of the agency's regular
2 appropriations.

3 “(e) ADJUSTMENTS.—The Administrator shall peri-
4 odically adjust the fees established by subsections (a) or
5 (b)—

6 “(1) to reflect changes in the Consumer Price
7 Index of All Urban Consumers published by the Sec-
8 retary of Labor;

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

12 “(3) when the Board recommends an adjust-
13 ment in the fees, in accordance with the procedures
14 under subsection (g).

15 “(f) ADMINISTRATIVE PROVISIONS.—

16 “(1) FEES PAYABLE TO THE ADMINIS-
17 TRATOR.—All fees assessed and amounts collected
18 under this section are payable to the Administrator.
19 The Administrator may refund any fee, or portion
20 thereof, paid by mistake in excess of the amount re-
21 quired.

22 “(2) COLLECTION PROCEDURES.—The Admin-
23 istrator shall establish procedures for the collection
24 of fees. These procedures shall establish the fre-
25 quency of payment, deadlines for payment, a max-

1 imum amount of fees that may be outstanding on
2 the account of any person, and such other limita-
3 tions and conditions as the Administrator deter-
4 mines are necessary to obtain prompt payment of
5 fees.

6 “(3) FAILURE TO PAY REQUIRED FEES.—If the
7 Administrator determines that any person has failed
8 to pay fees when due under this section or to comply
9 with any limitation or condition on payment under
10 this section, the Administrator may—

11 “(A) assess interest charges, using a rate
12 equal to 150 percent of a rate determined by
13 the Secretary of the Treasury based on the av-
14 erage of bond equivalent yields on 13-week
15 Treasury bills auctioned during the previous
16 calendar quarter, to be redetermined quarterly,
17 on amounts that have not been paid by the
18 deadline;

19 “(B) change the required payment sched-
20 ule for such person;

21 “(C) upon 24 hours notice to the person,
22 terminate, reduce or withhold non-emergency
23 services or in any case involving a foreign air
24 carrier, the Administrator shall take such ac-

1 tions as are necessary to comply with applicable
2 international agreements; or

3 “(D) impose a civil penalty for each day
4 amounts remain unpaid, or take other appro-
5 priate enforcement action under this subtitle.

6 “(4) ACTION WHEN FUTURE PAYMENT IN JEOP-
7 ARDY.—If the Administrator reasonably determines
8 that a person will not pay its required fees when
9 due, the Administrator may—

10 “(A) change the required payment sched-
11 ule for such person; or

12 “(B) upon 24 hours notice, terminate, re-
13 duce, or withhold non-emergency services to
14 such person, except that, in any case involving
15 a foreign air carrier, the Administrator shall
16 take such actions as are necessary to comply
17 with applicable international agreements.

18 “(5) PAYMENT NOT STAYED PENDING RE-
19 VIEW.—In any case where a person seeks adminis-
20 trative review of the Administrator’s action under
21 this section, the collection of fees from that person
22 may not be stayed pending resolution of the case.

23 “(g) PROCEDURE FOR IMPOSITION OF FEES.—In es-
24 tablishing or modifying fees under this section, the proce-

1 dures and requirements of section 45305(e) of this title
2 shall apply.

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

8 **“§ 45307. Rules of construction**

9 Notwithstanding any other law, the fees computed,
10 established, assessed, modified, or approved under this
11 chapter shall be governed by the provisions of this chapter
12 and not the provisions of section 9701 of title 31.

13 **“§ 45308. Borrowing authority**

14 “(a) IN GENERAL.—

15 “(1) In order to support the transition to the
16 Next Generation Air Transportation System, in fis-
17 cal years 2013 through 2017 the Secretary of
18 Transportation is authorized to issue obligations to
19 the Secretary of the Treasury to finance capital in-
20 vestments in the facilities and equipment of the air
21 traffic control system to be owned and operated by
22 the Federal Aviation Administration. The Secretary
23 of the Treasury, in the Secretary’s discretion, may
24 purchase any such obligations, provided that the

1 Secretary first determines that there is reasonable
2 assurance of repayment of such obligations.

3 “(2) The Secretary shall not issue any obliga-
4 tions under paragraph (1) without first obtaining
5 approval by the Director of the Office of Manage-
6 ment and Budget of the issuance of such obligations
7 and proposed investments to be financed.

8 “(b) CONDITIONS AND LIMIT ON INDEBTEDNESS.—
9 Obligations issued under this section shall be in such
10 forms and denominations, bear such maturities, and shall
11 be subject to such terms and conditions as may be pre-
12 scribed by the Secretary of the Treasury. The aggregate
13 amount of all such obligations shall not exceed
14 \$5,000,000,000 and all obligations shall be repaid by the
15 Secretary of Transportation by the end of fiscal year
16 2017.

17 “(c) USER FEE INCREASE.—Upon the issuance of
18 obligations under paragraph (1), the Secretary of Trans-
19 portation shall increase the user fees authorized in sec-
20 tions 45305 and 45306 in each of the fiscal years 2013
21 to 2017 in the amounts required to repay such obligations
22 with interest, and such payments shall have first priority
23 in the use of fees collected during this period. This in-
24 crease in user fees shall not be treated as discretionary

1 offsetting collections and shall only be used to repay the
2 obligations incurred under paragraph (1).

3 “(d) INTEREST RATE.—The interest rate on obliga-
4 tions issued under this section shall be a rate determined
5 by the Secretary of the Treasury, taking into consideration
6 the current market yields on outstanding marketable obli-
7 gations of the United States of comparable maturity, plus
8 a surcharge, determined by the Secretary of the Treasury,
9 to be sufficient to cover any potential losses and the ad-
10 ministrative costs associated with the obligations. Any sur-
11 charges for administrative costs collected by the Secretary
12 of the Treasury shall be credited to the appropriation ac-
13 count which incurred the cost.

14 “(e) PURCHASE OF OBLIGATIONS.—For the purposes
15 of purchasing obligations under subsection (a), the Sec-
16 retary of the Treasury may use as a public debt trans-
17 action the proceeds from the sale of any securities issued
18 under chapter 31 of title 31, United States Code, and the
19 purposes for which securities may be issued under such
20 chapter are extended to include any purchase of such obli-
21 gations under this subsection.”.

22 (b) CONFORMING AMENDMENTS.—

23 (1) The title of chapter 453 is amended to read
24 as follows:

“CHAPTER 453. FEES AND FINANCING”.

1 (2) The chapter analysis for chapter 453 is
 2 amended by inserting after the item relating to sec-
 3 tion 45304 the following:

“45305. Air traffic control and related fees.

“45306. Certification, registration, and related fees.

“45307. Rules of construction.

“45308. Borrowing authority.”.

4 (3) The analysis of Part A of subtitle VII is
 5 amended by striking the item relating to chapter
 6 453 and inserting the following:

“453. FEES AND FINANCING 45301”.

7 **SEC. 202. CONFORMING AMENDMENTS.**

8 (a) **CIVIL PENALTIES.**—Section 46301(a) is amend-
 9 ed—

10 (1) by inserting “chapter 453,” in paragraph
 11 (1)(A) before “section 47107(b)”;

12 (2) by striking “or chapter 449” in paragraph
 13 (5) and inserting “chapter 449”; and

14 (3) by striking “44907–44909)” and inserting
 15 “44907–44909), or chapter 453”.

16 (b) **FEES FOR OVERFLIGHTS, FOREIGN SERVICES,**
 17 **AND SERVICES TO GENERAL AVIATION.**—Effective Octo-
 18 ber 1, 2008, sections 45301 and 45302 are repealed.

19 (c) **ADMINISTRATIVE PROVISIONS.**—Effective Octo-
 20 ber 1, 2008, in section 45303 is amended by striking (a),
 21 (b), and (c) and redesignating subsections (d), (e), and
 22 (f) as subsections (a), (b), and (c), respectively.

1 **TITLE III—AIRPORT IMPROVE-**
 2 **MENT PROGRAM AMEND-**
 3 **MENTS**

4 **SEC. 301. REFORM OF PASSENGER FACILITY CHARGE AU-**
 5 **THORITY.**

6 (a) BROADENING ELIGIBILITY.—

7 (1) Section 40117 is amended—

8 (A) by striking the section caption and in-
 9 serting the following:

10 “§ 40117. **Passenger facility charges**”;

11 (B) by striking subparagraphs (A) through
 12 (G) of subsection (a)(3) and inserting the fol-
 13 lowing:

14 “(A) A project for capital costs of the air-
 15 port or local airport system under section
 16 47107(b)(1)(A) and (B).

17 “(B) A project for capital costs of a local
 18 facility that is directly and substantially related
 19 to air transportation of passengers or property
 20 and that is available for public use under sec-
 21 tion 47107(b)(1)(C).”;

22 (C) by striking paragraph (4) and (5) of
 23 subsection (a) and inserting the following:

24 “(4) INTERMODAL GROUND ACCESS PROJECT.—

25 The term ‘intermodal ground access project’ means

1 a local facility that is directly and substantially re-
2 lated to the movement of passengers or property in
3 the form of a fixed guideway system (as defined in
4 section 5302 of this title) that is a component of a
5 fixed guideway system that provides transportation
6 services to the general public or that connects to
7 such a fixed guideway system.

8 “(5) PASSENGER FACILITY CHARGE.—The term
9 ‘passenger facility charge’ means a charge imposed
10 under this section.”; and

11 (D) by striking “fee.” in subsection (a)(6)
12 and inserting “charge.”.

13 (2) CONFORMING AMENDMENTS.—

14 (A) Section 47107(b)(1)(C) is amended to
15 read as follows:

16 “(C) any other local facility that is directly and
17 substantially related to air transportation of pas-
18 sengers or property and that is available for public
19 use.”.

20 (B) Section 47133(a)(3) is amended to
21 read as follows:

22 “(3) any other local facility that is directly and
23 substantially related to air transportation of pas-
24 sengers or property and that is available for public
25 use.”.

1 (b) INCREASE IN PFC MAXIMUM LEVEL.—Section
2 40117(b) is amended—

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

5 (2) by striking “The Secretary of Transpor-
6 tation may authorize under this section an eligible
7 agency to” in paragraph (1) and inserting “An eligi-
8 ble agency may”;

9 (3) by striking “or \$3” in paragraph (1) and
10 inserting “\$3, \$4, \$4.50, \$5, or \$6”;

11 (4) by inserting after “controls.” in paragraph
12 (1) “An eligible agency that is approved by the Ad-
13 ministrator to participate in the pilot program estab-
14 lished under section 44518 of this title may impose
15 a passenger facility charge of \$7.”;

16 (5) by inserting “directly or indirectly” in para-
17 graph (2) after “may not”; and

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

19 (c) PASSENGER FACILITY CHARGE STREAM-
20 LINING.—Section 40117(c) is amended to read as follows:

21 “(c) PROCEDURAL REQUIREMENTS FOR IMPOSITION
22 OF PASSENGER FACILITY CHARGE.—

23 “(1) IN GENERAL.—An eligible agency must
24 submit to those air carriers and foreign air carriers
25 operating at the airport with a significant business

1 interest, as defined in paragraph (3), and to the
2 Secretary and make available to the public annually
3 a report, in the form required by the Secretary, on
4 the status of the eligible agency's passenger facility
5 fee program, including—

6 “(A) the total amount of program revenue
7 held by the agency at the beginning of the 12
8 months covered by the report;

9 “(B) the total amount of program revenue
10 collected by the agency during the period cov-
11 ered by the report;

12 “(C) the amount of expenditures with pro-
13 gram revenue made by the agency on each eligi-
14 ble airport-related project during the period
15 covered by the report;

16 “(D) each airport-related project for which
17 the agency plans to collect and use program
18 revenue during the next 12-month period cov-
19 ered by the report, including the amount of rev-
20 enue projected to be used for such project;

21 “(E) the level of program revenue the
22 agency plans to collect during the next 12-
23 month period covered by the report;

24 “(F) a description of the notice and con-
25 sultation process with air carriers and foreign

1 air carriers under paragraph (3), and with the
2 public under paragraph (4), including a copies
3 of any adverse comments received and how the
4 agency responded; and

5 “(G) any other information on the pro-
6 gram that the Secretary may require.

7 “(2) IMPLEMENTATION.—Subject to the re-
8 quirements of paragraphs (3) and (4), (5), and (6),
9 the eligible agency may implement the planned col-
10 lection and use of passenger facility charges in ac-
11 cordance with its report upon filing the report as re-
12 quired in paragraph (1).

13 “(3) CONSULTATION WITH CARRIERS FOR NEW
14 PROJECTS.—

15 “(A) An eligible agency proposing to col-
16 lect or use passenger facility charge revenue for
17 a project not previously approved by the Sec-
18 retary or not included in a report required by
19 paragraph (1) that was submitted in a prior
20 year, or an eligible agency proposing to increase
21 the level of the passenger facility charge to be
22 collected at the airport, must provide to air car-
23 riers and foreign air carriers operating at the
24 airport reasonable notice, and an opportunity to
25 comment on the planned collection and use of

1 program revenue before providing the report re-
2 quired under paragraph (1). The Secretary
3 shall prescribe by regulation what constitutes
4 reasonable notice under this paragraph, which
5 shall at a minimum include—

6 “(i) that the eligible agency provide to
7 air carriers and foreign air carriers oper-
8 ating at the airport written notice of the
9 planned collection and use of passenger fa-
10 cility charge revenue;

11 “(ii) that the notice include a full de-
12 scription and justification for a proposed
13 project;

14 “(iii) a detailed financial plan for the
15 proposed project; and

16 “(iv) the proposed level for the pas-
17 senger facility charge.

18 “(B) An eligible agency providing notice
19 and an opportunity for comment shall be
20 deemed to have satisfied the requirements of
21 this paragraph if the eligible agency provides
22 such notice to air carriers and foreign air car-
23 riers that have a significant business interest at
24 the airport. For purposes of this subparagraph,

1 the term ‘significant business interest’ means
2 an air carrier or foreign air carrier that—

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

6 “(ii) had at least 25,000 passenger
7 boardings at the airport in the prior cal-
8 endar year; or

9 “(iii) provides scheduled service at the
10 airport.

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

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

1 “(4) PUBLIC NOTICE AND COMMENT.—

2 “(A) An eligible agency proposing to col-
3 lect or use passenger facility charge revenue for
4 a project not previously approved by the Sec-
5 retary or not included in a report required by
6 paragraph (1) that was filed in a prior year, or
7 an eligible agency proposing to increase the
8 level of the passenger facility charge to be col-
9 lected, must provide reasonable notice and an
10 opportunity for public comment on the planned
11 collection and use of program revenue before
12 providing the report required in paragraph (1).

13 “(B) The Secretary shall prescribe by reg-
14 ulation what constitutes reasonable notice under
15 this paragraph, which shall at a minimum re-
16 quire—

17 “(i) that the eligible agency provide
18 public notice of intent to collect a pas-
19 senger facility charge so as to inform those
20 interested persons and agencies that may
21 be affected;

22 “(ii) appropriate methods of publica-
23 tion, which may include notice in local
24 newspapers of general circulation or other

1 local media, or posting of the notice on the
2 agency's internet website; and

3 “(iii) submission of public comments
4 no later than 45 days after the date of the
5 publication of the notice.

6 “(5) OBJECTIONS.—

7 “(A) Any interested person may file with
8 the Secretary a written objection to a proposed
9 project or to a proposed increase in the level of
10 a passenger facility charge included in a notice
11 under this paragraph provided that the filing is
12 made within 30 days after submission of the re-
13 port specified in paragraph (1).

14 “(B) The Secretary shall provide not less
15 than 30 days for the eligible agency to respond
16 to any filed objection.

17 “(C) Not later than 90 days after receiving
18 the eligible agency's response to a filed objec-
19 tion, the Secretary shall make a determination
20 whether or not to terminate authority to collect
21 the passenger facility charge for the project or
22 at the increased level, based on the filed objec-
23 tion. The Secretary shall state the reasons for
24 any determination. The Secretary may only ter-
25minate authority if—

1 “(i) the project is not an eligible air-
2 port related project;

3 “(ii) the eligible agency has not com-
4 plied with the requirements of this section
5 or the Secretary’s implementing regula-
6 tions in proposing the project;

7 “(iii) the eligible agency has been
8 found to be in violation of section
9 47107(b) of this title and has failed to
10 take corrective action, prior to the filing of
11 the objection; or

12 “(iv) in the case of a proposed in-
13 crease in the passenger facility charge
14 level, the level is not authorized by this
15 section.

16 “(D) Upon issuance of a decision termi-
17 nating authority, the public agency shall pre-
18 pare an accounting of passenger facility revenue
19 collected under the terminated authority and re-
20 store the funds for use on other authorized
21 projects.

22 “(E) Except as provided in subparagraph
23 (C), the eligible agency may implement the
24 planned collection and use of a passenger facil-
25 ity charge in accordance with its report upon

1 filing the report as specified in paragraph
2 (1)(A).

3 “(6) APPROVAL REQUIREMENT FOR INTER-
4 MODAL GROUND ACCESS PROJECT.—

5 “(A) An eligible agency may not collect or
6 use a passenger facility charge to finance an
7 intermodal ground access project, unless the
8 project is first approved by the Secretary in ac-
9 cordance with this paragraph.

10 “(B) The eligible agency may submit to
11 the Secretary an application for authority to
12 impose a passenger facility charge for an inter-
13 modal ground access project. The application
14 shall contain information and be in the form
15 that the Secretary may require by regulation
16 but, at a minimum, must include copies of any
17 comments received by the agency during the
18 comment period described by subparagraph (C).

19 “(C) Before submitting an application
20 under this paragraph, an eligible agency must
21 provide air carriers and foreign air carriers op-
22 erating at the airport, and the public, reason-
23 able notice of and an opportunity to comment
24 on a proposed intermodal ground access project.
25 Such notice and opportunity to comment shall

1 conform to the requirements of paragraphs (3)
2 and (4).

3 “(D) After receiving an application, the
4 Secretary may provide air carriers, foreign air
5 carriers and other interested persons notice and
6 an opportunity to comment on the application.
7 The Secretary shall make a final decision on
8 the application not later than 120 days after re-
9 ceiving it.”.

10 (d) CONFORMING AMENDMENTS.—

11 (1) CORRECTION.—Subsections (d) through (m)
12 of section 40117 are amended—

13 (A) by striking “fee” or “fees” each place
14 it appears and inserting “charge” or “charges”,
15 respectively; and

16 (B) striking “FEE” in the subsection cap-
17 tion for subsection (l), and “FEES” in the sub-
18 section captions for subsections (e) and (m),
19 and inserting “CHARGE” and “CHARGES”, re-
20 spectively.

21 (2) LIMITATIONS ON APPROVING APPLICA-
22 TIONS.—Section 40117(d) is amended—

23 (A) by striking “subsection (c) of this sec-
24 tion to finance a specific” and inserting “sub-

1 section (c)(6) of this section to finance an inter-
2 modal ground access”;

3 (B) by striking “fee” in paragraph (1) and
4 inserting “charge”;

5 (C) by striking “specific” in paragraph
6 (1);

7 (D) by striking paragraph (2) and insert-
8 ing the following:

9 “(2) the project is an eligible airport-related
10 project; and”;

11 (E) by striking “each of the specific
12 projects; and” in paragraph (3) and inserting
13 “the project.”; and

14 (F) by striking paragraph (4).

15 (3) LIMITATIONS ON IMPOSING FEES.—Section
16 40117(e)(1) is amended to read as follows: “(1) An
17 eligible agency may impose a passenger facility
18 charge only subject to terms the Secretary may pre-
19 scribe to carry out the objectives of this section.”.

20 (4) LIMITATIONS ON CONTRACTS, LEASES, AND
21 USE AGREEMENTS.—Section 40117(f)(2) is amend-
22 ed—

23 (A) by striking “long-term”; and

24 (B) by striking “Secretary.” and inserting
25 “Secretary, except a project for replacement of

1 baggage conveyor systems and reconfiguration
2 of terminal baggage areas that the Secretary
3 determines are necessary to install bulk explo-
4 sive detection devices.”.

5 (5) COMPLIANCE.—Section 40117(h) is amend-
6 ed—

7 (A) by redesignating paragraph (3) as
8 paragraph (4); and

9 (B) by inserting after paragraph (2) the
10 following:

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

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

3 (A) by striking “(c)(2)” in paragraph (2)
4 and inserting “(c)(3)”; and

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

12 (7) PROHIBITION ON APPROVING PFC APPLICA-
13 TIONS FOR AIRPORT REVENUE DIVERSION.—Section
14 47111(e) is amended in the first sentence by strik-
15 ing “sponsor” the first place it appears and all that
16 follows and inserting “sponsor. A sponsor shall not
17 propose collection or use of passenger facility
18 charges for any new projects under paragraphs (3)
19 through (6) of section 40117(c) unless the Secretary
20 determines that the sponsor has taken corrective ac-
21 tion to address the violation and the violation no
22 longer exists.”.

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

24 Section 47102 is amended—

1 (1) by striking “20” in paragraph (3)(B)(iv)
2 and inserting “9”;

3 (2) by adding at the end of paragraph (3) the
4 following:

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

9 “(N) terminal development subject to the
10 provisions of section 47119.”;

11 (3) by redesignating paragraphs (8) through
12 (25) as paragraphs (9) through (26), respectively
13 and inserting the following after paragraph (7):

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

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

17 “(B) has scheduled service with less than
18 2,500 passenger boardings each year;”;

19 (4) by redesignating paragraphs (24), (25), and
20 (26) (as redesignated) as paragraph (25) through
21 (27), respectively, and inserting the following after
22 paragraph (23):

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

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

6 (5) by adding at the end thereof the following:

7 “(28) ‘terminal development’ means—

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

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

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

17 Section 47107 is amended—

18 (1) by striking “made;” in subsection
19 (a)(16)(D)(ii) and inserting “made, except that, if
20 there is a change in airport design standards that
21 the Secretary determines is beyond the owner or op-
22 erator’s control that requires the relocation or re-
23 placement of an existing airport facility, the Sec-
24 retary, upon the request of the owner or operator,
25 may grant funds available under section 47114 to

1 pay the cost of relocating or replacing such facil-
2 ity;”;

3 (2) by striking “paid to the Secretary for de-
4 posit in the Fund if another eligible project does not
5 exist.” in subsection (c)(2)(A)(iii) and inserting “re-
6 invested in another project at the airport or trans-
7 ferred to another airport as the Secretary pre-
8 scribes.”;

9 (3) by redesignating paragraph (3) of sub-
10 section (c) as paragraph (4) and inserting after
11 paragraph (2) the following:

12 “(3) In approving the reinvestment or transfer of
13 proceeds under paragraph (2)(C)(iii), the Secretary shall
14 give preference, in descending order, to—

15 “(i) reinvestment in an approved noise compat-
16 ibility project;

17 “(ii) reinvestment in an approved project that is
18 eligible for funding under section 47117(e);

19 “(iii) reinvestment in an airport development
20 project that is eligible for funding under sections
21 47114, 47115 or 47117 and meets the requirements
22 of this chapter;

23 “(iv) transfer to the sponsor of another public
24 airport to be reinvested in an approved noise com-
25 patibility project at such airport; and

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

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

6 Section 47109 is amended—

7 (1) by redesignating paragraphs (3), (4), and
8 (5) of subsection (a) as paragraphs (4), (5), and (6),
9 respectively;

10 (2) by striking so much of subsection (a) as
11 precedes paragraph (4), as redesignated, and insert-
12 ing the following:

13 “(a) IN GENERAL.—Except as provided in subsection
14 (b), (c) or (e) of this section, the United States Govern-
15 ment’s share of allowable project costs may not exceed—

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

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

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

1 (3) by striking “47118(f)” in subsection (f) and
2 inserting “47118(e)”; and

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

4 “(e) SPECIAL RULE FOR TRANSITION FROM SMALL
5 HUB TO MEDIUM HUB STATUS.—If the status of a small
6 hub primary airport changes to a medium hub primary
7 airport, the United States Government’s share of allow-
8 able project costs for the airport may not exceed 90 per-
9 cent for 2 fiscal years following such change in hub sta-
10 tus.”.

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

12 Section 47110 is amended—

13 (1) by striking subsection (d) and inserting the
14 following:

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

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

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

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

3 (2) by striking “facilities, including fuel farms
4 and hangars,” in subsection (h) and inserting “fa-
5 cilities, as defined by section 47102,”.

6 **SEC. 306. SIMPLIFICATION AND REFORM OF APPORTION-**
7 **MENT FORMULAS.**

8 Section 47114 is amended—

9 (1) by striking “primary airport” in subsection
10 (c)(1)(A) and inserting “small hub and nonhub pri-
11 mary airport”;

12 (2) by striking “\$7.80” in subsection
13 (c)(1)(A)(i) and inserting “\$15.60”;

14 (3) by striking “\$5.20” in subsection
15 (c)(1)(A)(ii) and inserting “\$10.40”;

16 (4) by striking “\$2.60” in subsection
17 (c)(1)(A)(iii) and inserting “\$5.20”;

18 (5) by striking “\$.65” in subsection
19 (c)(1)(A)(iv) and inserting “\$1.30”;

20 (6) by striking “\$.50” in subsection
21 (c)(1)(A)(v) and inserting “\$1.00”;

22 (7) by striking “\$650,000” in subsection
23 (c)(1)(B) and all that follows through the end of the
24 sentence and inserting “\$1,000,000 nor more than
25 \$26,000,000 may be apportioned under subpara-

1 graph (A) of this paragraph to an airport sponsor
2 of each large hub and medium hub primary airport
3 for fiscal years 2008 and 2009, and to each airport
4 sponsor for a small hub and nonhub primary airport
5 for each fiscal year.”;

6 (8) by striking subsection (c)(1)(C) and insert-
7 ing the following:

8 “(C) TRANSITIONAL RULE FOR LARGE AND ME-
9 DIUM HUB AIRPORTS.—In fiscal years 2008 and
10 2009, the Secretary shall apportion to each large
11 and medium hub airport an amount equal to 50 per-
12 cent of the amount that is calculated using the for-
13 mulas set forth in subparagraph (A).”;

14 (9) by striking “(B) or (C), as appropriate,” in
15 subsection (c)(1)(D) and inserting “(B)”;

16 (10) by striking subparagraph (F) of subsection
17 (c)(1) and redesignating subparagraph (G) as sub-
18 paragraph (F);

19 (11) by striking “(D),” in subsection (c)(2)(A)
20 and inserting “(C),”;

21 (12) by striking subparagraph (C) in subsection
22 (c)(2) and redesignating subparagraphs (D) and (E)
23 as subparagraphs (C) and (D), respectively;

24 (13) by striking “8.5 percent” in subsection
25 (d)(2) and inserting “10 percent”;

1 (14) by adding at the end of subsection (d)(2)
2 the following:

3 “(D) MINIMUM APPORTIONMENT.—In any fis-
4 cal year in which the total amount made available
5 for apportionment under this subsection is less than
6 \$300,000,000, the Secretary shall reduce, on a pro-
7 rated basis, the amount to be apportioned under
8 subparagraph (d)(3)(A) of this section, and make
9 such reduction available to be apportioned under this
10 subsection, so as to meet a minimum apportionment
11 of \$300,000,000.”;

12 (15) by striking subsection (d)(3) and inserting
13 the following:

14 “(3) NONPRIMARY AIRPORTS.—

15 “(A) Except as provided in subsection (2)(D),
16 the Secretary shall each fiscal year apportion—

17 “(i) to each airport, excluding primary air-
18 ports but including reliever and nonprimary
19 commercial service airports—

20 “(I) \$400,000 to each airport
21 that is either a nonprimary commer-
22 cial service airport or a reliever or
23 that is a nonprimary airport having
24 100 or more operational registered
25 based aircraft;

1 “(II) \$200,000 to each airport
2 that is a nonprimary airport (other
3 than a nonprimary commercial service
4 or reliever airport), having from 50 to
5 99 operational registered based air-
6 craft, or 3 or more operational reg-
7 istered based jet aircraft; and

8 “(III) \$100,000 to each airport
9 that is a nonprimary airport (other
10 than a nonprimary commercial service
11 airport or a reliever airport), and has
12 from 10 to 49 operational, registered
13 based aircraft.

14 “(B) For purposes of subparagraph (A), the
15 terms ‘operational registered based aircraft’ or
16 ‘operational registered based jet aircraft’ have the
17 meaning given such terms in the Federal Aviation
18 Administration’s National Flight Data Center Air-
19 port Data Base or in a comparable, updated agency
20 database.”;

21 (16) subsection (e)(1)(B) is amended by insert-
22 ing “twice” before “the minimum”;

23 (17) by striking subsection (e)(4);

24 (18) by striking “in a fiscal year to the sponsor
25 of an airport having at least .25 percent of the total

1 number of boardings each year in the United
2 States” in subsection (f)(1) and inserting “in fiscal
3 years 2008 and 2009 to a sponsor of a large hub or
4 medium hub airport”;

5 (19) by striking “\$3.00,” in subsection
6 (f)(1)(B) and inserting “\$3.00, but not more than
7 \$4.50,”;

8 (20) by adding at the end of subsection (f)(1)
9 the following:

10 “(C) in the case of a passenger facility charge
11 of more than \$4.50, 100 percent of the projected
12 revenues from the charge in the fiscal year but not
13 by more than 100 percent of the amount that other-
14 wise would be apportioned under this section.”;

15 (21) (D) by striking “fee” each place it appears
16 in subsection (f) and inserting “charge”; and

17 (22) by adding at the end thereof the following:
18 “(g) ENVIRONMENTAL SET-ASIDE.—

19 “(1) The Secretary may apportion at least 8
20 percent of the amount subject to apportionment for
21 each fiscal year for grants for—

22 “(A) airport noise compatibility planning
23 under section 47505(a)(2);

24 “(B) carrying out noise compatibility pro-
25 grams under section 47504(c);

1 “(C) noise mitigation projects approved in
2 an environmental record of decision for an air-
3 port development project under this title;

4 “(D) for compatible land use planning
5 projects carried out by State and local govern-
6 ments under section 47141;

7 “(E) for airport development described in
8 section 47102(3)(F), 47102(3)(K), or
9 47102(3)(L) to comply with the Clean Air Act
10 (42 U.S.C. 7401 et seq.);

11 “(F) for water quality mitigation projects
12 to comply with the Clean Water Act (33 U.S.C.
13 1251 et seq.) approved in an environmental
14 record of decision for an airport development
15 project under this title; and

16 “(G) for carrying out an environmental
17 mitigation demonstration project under section
18 47143 of this title.

19 “(2) The Secretary may count the amount of
20 grants made for such planning and programs with
21 funds apportioned under section 47114 in that fiscal
22 year in determining whether or not such 8 percent
23 requirement is being met in that fiscal year.”.

1 **SEC. 307. MINIMUM AMOUNT FOR THE DISCRETIONARY**
 2 **FUND.**

3 Section 47115(g)(1) is amended by striking from
 4 “sum of—” through “The amount” and inserting “sum
 5 of \$520,000,000. The amount”.

6 **SEC. 308. FUNDING OF SPACE TRANSPORTATION INFRA-**
 7 **STRUCTURE GRANTS PROGRAM.**

8 Section 47115 is amended by adding at the end the
 9 following:

10 “(k) **FUNDING OF SPACE TRANSPORTATION INFRA-**
 11 **STRUCTURE MATCHING GRANTS.**—Notwithstanding any
 12 other provision of this chapter, from amounts made avail-
 13 able under this section, the Secretary may issue a grant
 14 for a project under section 70301 of this title, provided
 15 that, in issuing such a grant, the Secretary shall follow
 16 the provisions of chapter 703 of this title. Not more than
 17 \$10,000,000 per fiscal year shall be available for grants
 18 under this subsection.”.

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

20 Section 47116 is repealed.

21 **SEC. 310. CREATION OF NEW SMALL AIRPORT SET-ASIDE,**
 22 **AND REPEAL OF THE MILITARY AND RE-**
 23 **LIEVER AIRPORT SET-ASIDES.**

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

25 “(e) **SMALL AIRPORT SET-ASIDE.**—Each fiscal year,
 26 the Secretary shall provide at least 20 percent of the

1 amount available to the discretionary fund under section
2 47115 of this title to sponsors of small hub airports,
3 nonhub airports, nonprimary commercial service airports,
4 reliever airports or general aviation airports, for any pur-
5 pose for which amounts are made available under section
6 48103. An airport in a State participating in the State
7 block grant program under section 47128 may receive a
8 grant under this section to the same extent the airport
9 may receive a grant if the State were not participating
10 in such program.”.

11 **SEC. 311. MILITARY AIRPORT PROGRAM.**

12 Section 47118 is amended—

13 (1) by striking “section 47117(e)(1)(B)” in
14 subsection (a) and inserting “section 47114(c)(1),
15 (c)(2) and (d), 47115, or 47117(e)”;

16 (2) by striking subsection (c) and redesignating
17 subsections (d) through (g) as subsections (c)
18 through (f), respectively;

19 (3) by striking “section 47117(d)(1)(B) of this
20 title” in subsection (c), as redesignated, and insert-
21 ing “section 47114, 47115, or 47117 of this title for
22 projects at airports designated under this section”;

23 (4) by striking “section 47115, \$10,000,000 for
24 each of fiscal years 2004 and 2005, and \$7,000,000
25 for each fiscal year thereafter,” in subsection (d), as

1 redesignated, and inserting “sections 47114, 47115,
2 and 47117, \$7,000,000 for each fiscal year,”;

3 (5) by striking “(1) CONSTRUCTION.—From”
4 in subsection (e), as redesignated” and inserting
5 “From”;

6 (6) by striking “section 47115, \$10,000,000 for
7 each of fiscal years 2004 and 2005, and \$7,000,000
8 for each fiscal year thereafter,” in subsection (e), as
9 redesignated, and inserting “sections 47114, 47115
10 and 47117, \$7,000,000 for each fiscal year,”;

11 (7) by striking paragraph (2) of subsection (e),
12 as redesignated; and

13 (8) by striking “one” in subparagraph (f), as
14 redesignated, and inserting “up to 3”.

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

16 Section 47133(b) is amended—

17 (1) by resetting the text of the subsection as an
18 indented paragraph 2 ems from the left margin;

19 (2) by inserting “(1)” before “Subsection”; and

20 (3) by adding at the end thereof the following:

21 “(2) In the case of a privately owned airport,
22 subsection (a) shall not apply to the proceeds from
23 the sale of the airport to a public sponsor if—

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

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

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

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

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

11 Section 47137 is repealed effective September 30,
12 2008.

13 **SEC. 314. SUNSET OF PILOT PROGRAM FOR PURCHASE OF**
14 **AIRPORT DEVELOPMENT RIGHTS.**

15 Section 47138 is repealed effective September 30,
16 2007.

17 **SEC. 315. EXTENSION OF GRANT AUTHORITY FOR COMPAT-**
18 **IBLE LAND USE PLANNING AND PROJECTS**
19 **BY STATE AND LOCAL GOVERNMENTS.**

20 Section 47141(f) is amended by striking “September
21 30, 2007.” and inserting “September 30, 2010.”.

22 **SEC. 316. MIDWAY ISLAND AIRPORT.**

23 Section 186(d) of the Vision 100–Century of Aviation
24 Reauthorization Act (17 Stat. 2518) is amended by strik-
25 ing “October 1, 2007,” and inserting “October 1, 2010,”.

1 **SEC. 317. PILOT PROGRAM FOR AIRPORT TAKEOVER OF**
2 **AIR NAVIGATION FACILITIES.**

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

5 **“§ 44518. Pilot program for airport takeover of ter-**
6 **minal area air navigation equipment**

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

14 “(b) TERMS AND CONDITIONS OF TRANSFER FOR
15 AIRPORT SPONSORS.—As a condition of participating in
16 this pilot program the sponsor shall agree that the sponsor
17 will—

18 “(1) operate and maintain all of the air naviga-
19 tion equipment that is subject to this section at the
20 airport in accordance with standards established by
21 the Administrator;

22 “(2) permit the Administrator or a person des-
23 ignated by the Administrator to conduct inspections
24 of the air navigation equipment under a schedule es-
25 tablished by the Administrator; and

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

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

10 “(1) transfer, at no cost to the sponsor, the
11 title and ownership of the air navigation equipment
12 facilities approved for transfer under this program;
13 and

14 “(2) transfer, at no cost to the sponsor, the
15 government’s property interest in the land on which
16 the air navigation facilities transferred under para-
17 graph (1) are located.

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

1 “(e) SPECIAL PASSENGER FACILITY CHARGE AU-
2 THORITY.—Notwithstanding the maximum amount for a
3 passenger facility charge provided under section
4 40117(b)(1), a participating sponsor in the pilot program
5 under this section is authorized to impose a passenger fa-
6 cility charge of \$7 provided that the sponsor meets the
7 otherwise applicable requirements of section 40117.

8 “(f) DEFINITIONS.—In this section:

9 “(1) LARGE HUB AIRPORT; MEDIUM HUB AIR-
10 PORT; SPONSOR.—The terms ‘large hub airport’,
11 ‘medium hub airport’, and ‘sponsor’ have the mean-
12 ing given those terms in section 40102.

13 “(2) TERMINAL AREA.—The term ‘terminal
14 area air navigation equipment’ means an air naviga-
15 tion facility under section 40102, other than build-
16 ings used for air traffic control functions, that exists
17 to provide approach and landing guidance to air-
18 craft.

19 “(g) GUIDELINES.—The Administrator shall issue
20 advisory guidelines on the implementation of the program.
21 The guidelines shall not be subject to administrative rule-
22 making requirements under subchapter II of chapter 5 of
23 title 5.”.

1 (b) CONFORMING AMENDMENT.—The chapter anal-
2 ysis for chapter 445 is amended by inserting after the item
3 relating to section 44517 the following:

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

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

5 (a) IN GENERAL.—Chapter 445, as amended by sec-
6 tion 317, is amended by adding at the end the following:

7 **“§ 44519. ADS-B support pilot program**

8 “(a) IN GENERAL.—The Secretary may carry out a
9 pilot program to support non-Federal acquisition of Na-
10 tional Airspace System compliant Automatic Dependant
11 Surveillance-Broadcast (ADS-B) ground stations if—

12 “(1) the Secretary determines that acquisition
13 of the ground stations benefits the improvement of
14 safety or capacity in the National Airspace System;

15 “(2) the ground stations provide the required
16 transmit and receive data formats consistent with
17 the National Airspace System architecture at the ap-
18 propriate service delivery point; and

19 “(3) the ground stations acquired under this
20 program are supplemental to ground stations estab-
21 lished under programs administered by the Adminis-
22 trator of the Federal Aviation Administration.

23 “(b) PROJECT GRANTS.—

1 “(1) For purposes of carrying out the pilot pro-
2 gram and notwithstanding the requirements of sec-
3 tion 47114(d), the Secretary may make a project
4 grant out of funds apportioned under section
5 47114(d)(2) to not more than 10 eligible sponsors to
6 acquire and install ADS-B ground stations in order
7 to serve any public-use airport.

8 “(2) The Secretary shall establish procurement
9 procedures applicable to grants issued under this
10 section. The procedures shall permit the sponsor to
11 carry out the project using Federal Aviation Admin-
12 istration contracts. The procedures established by
13 the Secretary may provide for the direct reimburse-
14 ment (including administrative costs) of the Admin-
15 istrator by the sponsor using grant funds under this
16 section, for the ordering of such equipment and its
17 installation, or for the direct ordering of such equip-
18 ment and its installation by the sponsor, using such
19 grant funds, from the suppliers with which the Ad-
20 ministrator has contracted.

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

25 “(d) DEFINITIONS.—In this section:

1 connection to the surface transportation network;
2 and”;

3 (3) by striking “aeronautics; and” in subsection
4 (a)(2) and inserting “aeronautics.”;

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

6 (5) by striking paragraph (2) of subsection (b)
7 and redesignating paragraph (3) as paragraph (2);

8 (6) by striking “operations, Short Takeoff and
9 Landing/Very Short Takeoff and Landing aircraft
10 operations,” in subsection (b)(2), as redesignated
11 and inserting “operations”; and

12 (7) by striking “status of the” in subsection
13 (d).

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

17 (c) UPDATE VETERANS PREFERENCE DEFINI-
18 TION.—Section 47112(c) is amended—

19 (1) by striking “separated from” in paragraph
20 (1)(B) and inserting “discharged or released from
21 active duty in”;

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

24 “(C) ‘Afghanistan-Iraq war veteran’ means an
25 individual who served on active duty, as defined by

1 section 101(21) of title 38, at any time in the armed
2 forces for a period of more than 180 consecutive
3 days, any part of which occurred during the period
4 beginning on September 11, 2001, and ending on
5 the date prescribed by Presidential proclamation or
6 by law as the last date of Operation Iraqi Free-
7 dom.”; and

8 (3) by striking “veterans and” in paragraph (2)
9 and inserting “veterans, Afghanistan-Iraq war vet-
10 erans, and”.

11 (d) CONSOLIDATION OF TERMINAL DEVELOPMENT
12 PROVISIONS.—Section 47119 is amended—

13 (1) by redesignating subsections (a), (b), (c),
14 and (d) as subsections (b), (c), (d), and (e) respec-
15 tively, and by inserting the following before sub-
16 section (b), as redesignated:

17 “(a) IN GENERAL.—

18 “(1) The Secretary may approve a project for
19 terminal development (including multimodal terminal
20 development) in a nonrevenue-producing public-use
21 area of a commercial service airport—

22 “(A) if the sponsor certifies that the air-
23 port, on the date the grant application is sub-
24 mitted to the Secretary, has—

1 “(i) all the safety equipment required
2 for certification of the airport under sec-
3 tion 44706 of this title;

4 “(ii) all the security equipment re-
5 quired by regulation;and

6 “(iii) provided for access, to the area
7 of the airport for passengers for boarding
8 or exiting aircraft, to those passengers
9 boarding or exiting aircraft, except air car-
10 rier aircraft;

11 “(B) if the cost is directly related to mov-
12 ing passengers and baggage in air commerce
13 within the airport, including vehicles for moving
14 passengers between terminal facilities and be-
15 tween terminal facilities and aircraft; and

16 “(C) under terms necessary to protect the
17 interests of the Government.

18 “(2) In making a decision under paragraph (1)
19 of this subsection, the Secretary may approve as al-
20 lowable costs the expenses of terminal development
21 in a revenue-producing area and construction, recon-
22 struction, repair, and improvement in a nonrevenue-
23 producing parking lot if—

24 “(A) except as provided in section
25 47108(e)(3), the airport does not have more

1 than .05 percent of the total annual passenger
2 boardings in the United States; and

3 “(B) the sponsor certifies that any needed
4 airport development project affecting safety, se-
5 curity, or capacity will not be deferred because
6 of the Secretary’s approval.”;

7 (2) by striking “section 47110(d)” in para-
8 graph (4)(A) of subsection (b), as redesignated, and
9 inserting “subsection (a)”;

10 (3) by striking “subsection (b)(1) and (2)” in
11 paragraph (5) of subsection (b), as redesignated,
12 and inserting “subsections (c)(1) and (2)”;

13 (4) by adding at the end thereof the following:

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

21 (e) ANNUAL REPORT.—Section 47131(a) is amend-
22 ed—

23 (1) by striking “April 1” and inserting “June
24 1”; and

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

3 “(1) a summary of airport development and
4 planning completed;

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

6 “(3) an accounting of discretionary and appor-
7 tioned funds allocated;

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

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

11 (1) by striking “47102(3)(F),” in subsection
12 (a);

13 (2) by striking “47102(3)(F),” in subsection
14 (b);

15 (3) by striking “47102(3)(L), or 47140” in
16 subsection (b) and inserting “or 47102(3)(L),”;

17 (4) by striking “47103(3)(F), in subsection (b);
18 and

19 (5) by striking “47102(3)(L), or 47140,” in
20 subsection (b) and inserting “or 47102(3)(L),”.

21 (g) REPEAL OF AIRPORT GROUND SUPPORT EQUIP-
22 MENT EMISSIONS RETROFIT PILOT PROGRAM.—Section
23 47140 is repealed.

24 (h) CORRECTION TO SURPLUS PROPERTY AUTHOR-
25 ITY.—Section 47151(e) is amended by striking “(other

1 than real property that is subject to section 2687 of title
2 10, section 201 of the Defense Authorization Amendments
3 and Base Closure and Realignment Act (10 U.S.C. 2687
4 note), or section 2905 of the Defense Base Closure and
5 Realignment Act of 1990 (10 U.S.C. 2687 note)”.

6 (i) AIRPORT CAPACITY BENCHMARK REPORTS; DEFINITION OF JOINT USE AIRPORT.—Section 47175 is
7 amended—
8

9 (1) by striking “Airport Capacity Benchmark
10 Report 2001.” in paragraph (2) and inserting “2001
11 and 2004 Airport Capacity Benchmark Reports or
12 of the most recent Benchmark report.”; and

13 (2) by adding at the end thereof the following:

14 “(7) JOINT USE AIRPORT.—The term ‘joint use
15 airport’ means an airport owned by the United
16 States Department of Defense, at which both mili-
17 tary and civilian aircraft make shared use of the air-
18 field.”.

19 (j) CONFORMING AMENDMENT TO CIVIL PENALTY
20 ASSESSMENT AUTHORITY.—Section 46301(d)(2) is
21 amended by striking “46318,” and inserting “46318,
22 46319”.

23 (k) FUNDING FOR ADMINISTRATIVE EXPENSES FOR
24 AIRPORT PROGRAMS.—

1 (1) Section 48105 is amended to read as fol-
2 lows:

3 **“§ 48105. Airport programs administrative expenses**

4 “Of the amount newly made available, the following
5 shall be available for administrative expenses relating to
6 the Airport Improvement Program, passenger facility fee
7 approval and oversight, national airport system planning,
8 airport standards development and enforcement, airport
9 certification, airport-related environmental activities (in-
10 cluding legal services), and other airport-related activities
11 (including airport technology research), to remain avail-
12 able until expended—

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

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

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

16 (2) CONFORMING AMENDMENTS.—The chapter
17 analysis for chapter 481 is amended by striking the
18 item relating to section 48105 and inserting the fol-
19 lowing:

“48105. Airport programs administrative expenses.”.

20 **TITLE IV—MANAGEMENT AND**
21 **ORGANIZATION REFORMS**

22 **SEC. 401. AIR TRANSPORTATION SYSTEM ADVISORY**
23 **BOARD.**

24 Section 106(p) is amended to read as follows:

1 “(p) AIR TRANSPORTATION SYSTEM ADVISORY
2 BOARD.—

3 “(1) ESTABLISHMENT.—The Secretary shall es-
4 tablish an advisory Board which shall be known as
5 the Air Transportation System Advisory Board.

6 “(2) M.—The Board shall be comprised of 13
7 members, who shall consist of—

8 “(A) the Administrator of the Federal
9 Aviation Administration and a representative
10 from the Department of Defense;

11 “(B) 3 members who shall have a fiduciary
12 responsibility to represent the public interest;
13 and

14 “(C) 8 members representing aviation in-
15 terests, as follows:

16 “(i) 1 representative of the airport
17 community;

18 “(ii) 1 representative each of major
19 air carriers (Carrier Group I), national air
20 carriers (Carrier Group II), and the re-
21 gional air carriers (Carrier Group III), as
22 previously defined by the Secretary of
23 Transportation under section 4, part 241
24 of title 49 of the Code of Federal Regula-
25 tions;

1 “(iii) 1 representative of the cargo
2 airlines;

3 “(iv) 1 representative of the general
4 aviation community;

5 “(v) 1 representative of the business
6 aviation community; and

7 “(vi) 1 representative of the aviation
8 manufacturing community.

9 “(3) APPOINTMENT AND QUALIFICATIONS.—

10 “(A) Members of the Board appointed
11 under paragraphs (2)(B) and (2)(C) shall be
12 appointed by the Secretary and shall not be
13 considered to be employees of the Federal gov-
14 ernment.

15 “(B) Members of the Board appointed
16 under paragraph (2)(B) shall be citizens of the
17 United States, and it is recommended that they
18 shall be appointed without regard to political
19 affiliation and solely on the basis of their pro-
20 fessional experience and expertise in one or
21 more of the following areas and, in the aggre-
22 gate, should collectively bring to bear expertise
23 in the following areas:

24 “(i) management of large service or-
25 ganizations.

1 “(ii) customer service.

2 “(iii) management of large procure-
3 ments.

4 “(iv) information and communications
5 technology.

6 “(v) organizational development.

7 “(vi) labor relations.

8 “(4) FUNCTIONS.—

9 “(A) IN GENERAL.—The Board shall—

10 “(i) review and provide advice on the
11 Administration’s safety programs, budget,
12 and cost accounting system;

13 “(ii) review the Administration’s stra-
14 tegic plan and make recommendations on
15 the non-safety program portions of the
16 plan, and provide advice on the safety pro-
17 grams of the plan;

18 “(iii) review the operational efficiency
19 of the air traffic control system and make
20 recommendations on the operational and
21 performance metrics for that system;

22 “(iv) review and make recommenda-
23 tions on the Administration’s plan for
24 modernizing that system and capital ex-

1 penditures for a project of \$100,000,000
2 or more related to the system;

3 “(v) make recommendations of the
4 type and level of fees to be established by
5 the Administration under sections 45305
6 and 45306 and for any adjustments to
7 those fees in accordance with the proce-
8 dures established under those sections; and

9 “(vi) provide advice on the Adminis-
10 trator’s selection of a Chief Operating Offi-
11 cer for the Air Traffic Organization and on
12 the appointment and compensation of its
13 managers.

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

17 “(C) ACCESS TO DOCUMENTS AND
18 STAFF.—The Administration may give the
19 Board appropriate access to relevant documents
20 and personnel of the Administration, and the
21 Administrator shall make available, consistent
22 with the authority to withhold commercial and
23 other proprietary information under section 552
24 of title 5, cost data associated with the acquisi-
25 tion and operation of air traffic control systems.

1 Any member of the Board who receives com-
2 mercial or other proprietary data from the Ad-
3 ministrator shall be subject to the provisions of
4 section 1905 of title 18, pertaining to unauthor-
5 ized disclosure of such information.

6 “(5) FEDERAL ADVISORY COMMITTEE ACT NOT
7 TO APPLY.—The Federal Advisory Committee Act (5
8 U.S.C. App.) shall not apply to the Board or such
9 rulemaking committees as the Administrator shall
10 designate.

11 “(6) ADMINISTRATIVE MATTERS.—

12 “(A) TERMS OF MEMBERS.—Members of
13 the Board appointed under paragraph (2)(B)
14 and (2)(C) shall be appointed for a term of 3
15 years. Of the members first appointed by the
16 Secretary—

17 “(i) 3 shall be appointed for terms of
18 1 year;

19 “(ii) 4 shall be appointed for terms of
20 2 years; and

21 “(iii) 4 shall be appointed for terms of
22 3 years.

23 “(B) REAPPOINTMENT.—No individual
24 may be appointed to the Board for more than
25 6 years total.

1 “(C) VACANCY.—Any vacancy on the
2 Board shall be filled in the same manner as the
3 original position. Any member appointed to fill
4 a vacancy occurring before the expiration of the
5 term for which the member’s predecessor was
6 appointed shall be appointed for the remainder
7 of that term.

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

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

15 “(F) CLAIMS AGAINST MEMBERS OF THE
16 BOARD.—

17 “(i) IN GENERAL.—A member ap-
18 pointed to the Board shall have no per-
19 sonal liability under State or Federal law
20 with respect to any claim arising out of or
21 resulting from an act or omission by such
22 member within the scope of service as a
23 member of the Board.

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

1 “(I) to affect any other immunity
2 or protection that may be available to
3 a member of the Board under applica-
4 ble law with respect to such trans-
5 actions;

6 “(II) to affect any other right or
7 remedy against the United States
8 under applicable law; or

9 “(III) to limit or alter in any way
10 the immunities that are available
11 under applicable law for Federal offi-
12 cers and employees.

13 “(G) ETHICAL CONSIDERATIONS.—Each
14 member of the Board appointed under para-
15 graph (2)(B) must certify that he or she—

16 “(i) does not have a pecuniary interest
17 in, or own stock in or bonds of, an aviation
18 or aeronautical enterprise, except an inter-
19 est in a diversified mutual fund or an in-
20 terest that is exempt from the application
21 of section 208 of title 18;

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

24 “(iii) is not a member of any organi-
25 zation that engages, as a substantial part

1 of its activities, in activities to influence
2 aviation-related legislation.

3 “(H) CHAIRMAN; VICE CHAIRMAN.—The
4 Board shall elect a chair and a vice chair from
5 among its members, each of whom shall serve
6 for a term of 2 years. The vice chair shall per-
7 form the duties of the chairman in the absence
8 of the chairman.

9 “(I) COMPENSATION.—No member shall
10 receive any compensation or other benefits from
11 the Federal government for serving on the
12 Board, except for compensation benefits for in-
13 juries under subchapter I of chapter 81 of title
14 5, except as provided under subparagraph (J).

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

20 “(K) DETAIL OF PERSONNEL FROM THE
21 ADMINISTRATION.—The Administrator shall
22 make available to the Board such staff, infor-
23 mation, and administrative services and assist-
24 ance as may reasonably be required to enable

1 the Board to carry out its responsibilities under
2 this subsection.

3 “(L) QUORUM AND VOTING.—A simple
4 majority of members of the Board shall con-
5 stitute a quorum. A majority vote of members
6 present and voting shall be required for the
7 Committee to take action.

8 “(7) ROLE OF THE ADMINISTRATOR AND THE
9 SECRETARY.—All actions and functions of the Board
10 are subject to the approval or disapproval of the Ad-
11 ministrator and the Secretary.

12 “(8) AIR TRAFFIC CONTROL SYSTEM DE-
13 FINED.—In this section, the term ‘air traffic control
14 system’ has the meaning given that term in section
15 40102(a).”.

16 **SEC. 402. FACILITATION OF NEXT GENERATION AIR TRAF-
17 FIC SERVICES.**

18 Section 106(l) is amended by adding at the end the
19 following:

20 “(7) SERVICES BY PRIVATE SECTOR.—In deter-
21 mining what actions to take, by rule or through an
22 agreement or transaction under paragraph (6) or
23 under section 44502, to permit non-government pro-
24 viders of communications, navigation, surveillance or
25 other services to provide such services in the Na-

1 tional Airspace System, or to require the usage of
2 such services, the Administrator shall consider
3 whether such actions would—

4 “(A) promote the safety of life and prop-
5 erty;

6 “(B) improve the efficiency of the National
7 Airspace System and reduce the regulatory bur-
8 den upon National Airspace System users,
9 based upon sound engineering principles, user
10 operational requirements, and marketplace de-
11 mands;

12 “(C) encourage competition and provide
13 services to the largest feasible number of users;
14 and

15 “(D) take into account the unique role
16 served by general aviation.”.

17 **SEC. 403. CLARIFICATION OF AUTHORITY TO ENTER INTO**
18 **REIMBURSABLE AGREEMENTS.**

19 The last sentence of section 106(m) is amended by
20 striking “without” and inserting “with or without”.

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

22 Section 40102(a)(4) is amended—

23 (1) by striking subparagraph (B) and inserting
24 the following:

1 “(B) runway lighting and airport surface
2 visual and other navigation aids;”;

3 (2) by striking “weather information, signaling,
4 radio-directional finding, or radio or other electro-
5 magnetic communication; and” in subparagraph (C)
6 and inserting “aeronautical and meteorological infor-
7 mation to air traffic control facilities or aircraft,
8 supplying communication, navigation or surveillance
9 equipment for air-to-ground or air-to-air applica-
10 tions;”;

11 (3) by striking “another structure” in subpara-
12 graph (D) and inserting “any structure or equip-
13 ment”;

14 (4) by striking “aircraft.” in subparagraph (D)
15 and inserting “aircraft; and”; and

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

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

19 **SEC. 405. IMPROVED MANAGEMENT OF PROPERTY INVEN-**
20 **TORY.**

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

1 **SEC. 406. CLARIFICATION TO ACQUISITION REFORM AU-**
2 **THORITY.**

3 Section 40110(c) is amended—

4 (1) by inserting “and” after the semicolon in
5 paragraph (3);

6 (2) by striking paragraph (4); and

7 (3) by redesignating paragraph (5) as para-
8 graph (4).

9 **SEC. 407. ASSISTANCE TO FOREIGN AVIATION AUTHORI-**
10 **TIES.**

11 Section 40113(e) is amended—

12 (1) by inserting “(whether public or private)”
13 in paragraph (1) after “authorities”;

14 (2) by striking “safety.” in paragraph (1) and
15 inserting “safety or efficiency. The Administrator is
16 authorized to participate in, and submit offers in re-
17 sponse to, competitions to provide these services,
18 and to contract with foreign aviation authorities to
19 provide these services consistent with the provisions
20 under section 106(l)(6) of this title. The Adminis-
21 trator is also authorized, notwithstanding any other
22 provision of law or policy, to accept payments in ar-
23 rears.”; and

24 (3) by striking “appropriation from which ex-
25 penses were incurred in providing such services.” in
26 paragraph (3) and inserting “appropriation current

1 when the expenditures are or were paid, or the ap-
2 propriation current when the amount is received.”.

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

4 Section 40122(g)(2) is amended—

5 (1) by striking “and” after the semicolon in
6 subparagraph (G);

7 (2) by striking “Board.” in subparagraph (H)
8 and inserting “Board;”; and

9 (3) by inserting at the end the following new
10 subparagraph:

11 “(I) subsections (b), (c), and (d) of section
12 4507 (relating to Meritorious Executive or Dis-
13 tinguished Executive rank awards), and section
14 subsections (b) and (c) of section 4507a (relat-
15 ing to Meritorious Senior Professional or Dis-
16 tinguished Senior Professional rank-awards),
17 except that—

18 “(i) for purposes of applying such
19 provisions to the personnel management
20 system—

21 “(I) the term ‘agency’ means the
22 Department of Transportation;

23 “(II) the term ‘senior executive’
24 means an Federal Aviation Adminis-
25 tration executive;

1 “(III) the term ‘career appointee’
2 means an Federal Aviation Adminis-
3 tration career executive; and

4 “(IV) the term ‘senior career em-
5 ployee’ means an Federal Aviation
6 Administration career senior profes-
7 sional;

8 “(ii) receipt by a career appointee of
9 the rank of Meritorious Executive or Meri-
10 torious Senior Professional entitles such
11 individual to a lump-sum payment of an
12 amount equal to 20 percent of annual
13 basic pay, which shall be in addition to the
14 basic pay paid under the Federal Aviation
15 Administration Executive Compensation
16 Plan; and

17 “(iii) receipt by a career appointee of
18 the rank of Distinguished Executive or
19 Distinguished Senior Professional entitles
20 the individual to a lump-sum payment of
21 an amount equal to 35 percent of annual
22 basic pay, which shall be in addition to the
23 basic pay paid under the Federal Aviation
24 Administration Executive Compensation
25 plan.”.

1 **SEC. 409. REALIGNMENT AND CONSOLIDATION OF AVIA-**
2 **TION FACILITIES AND SERVICES.**

3 (a) IN GENERAL.—Chapter 445, as amended by sec-
4 tion 318 of this Act, is amended by adding at the end
5 the following new section:

6 **“§ 44520. Realignment and consolidation of aviation**
7 **facilities and services**

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

14 “(b) ESTABLISHMENT OF COMMISSION.—

15 “(1) The Secretary may establish an inde-
16 pendent commission to be known as the ‘Realign-
17 ment and Consolidation of Aviation Facilities and
18 Services Commission’.

19 “(2) The Commission shall carry out the duties
20 specified for it in this part.

21 “(3) The Commission shall be composed of 5
22 members appointed by the Secretary. Such members
23 shall not be considered employees of the federal gov-
24 ernment.

25 “(4) Members of the Commission shall be ap-
26 pointed for a term of 3 years.

1 “(5) The Commission shall elect a chair from
2 among its members.

3 “(6) A vacancy in the Commission shall be
4 filled in the same manner as the original appoint-
5 ment but the individual appointed to fill the vacancy
6 shall serve only for the unexpired portion of the
7 term for which the individual’s predecessor was ap-
8 pointed.

9 “(7) No member shall receive any compensation
10 or other benefits from the Federal government for
11 serving on the Commission, except for compensation
12 benefits for injuries under subchapter I of chapter
13 81 of title 5, except that each member of the Com-
14 mission shall be paid actual travel expenses and per
15 diem in lieu of subsistence expenses when away from
16 his or her usual place of residence in accordance
17 with section 5703 of title 5.

18 “(8) The Administrator of the Federal Aviation
19 Administration shall make available to the Commis-
20 sion such staff, information, and administrative serv-
21 ices and assistance as may reasonably be required to
22 enable the Commission to carry out its responsibil-
23 ities under this subsection. The Commission may
24 employ experts or consultants on a temporary or

1 intermittent basis with the approval of the Sec-
2 retary.

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

5 “(c) FAA RECOMMENDATIONS FOR FACILITIES RE-
6 ALIGNMENT AND CONSOLIDATION.—Within 6 months
7 after the establishment of the Commission by the Sec-
8 retary, the Administrator, after providing an opportunity
9 for public comment, shall publish the final criteria to be
10 used in making the Administrator’s recommendations for
11 the realignment and consolidation of services and facilities
12 under this section. On the basis of such final criteria, the
13 Administrator shall publish in the Federal Register and
14 transmit to the Commission a list of the services and fa-
15 cilities that the Administrator recommends for realign-
16 ment and consolidation including a justification for each
17 recommendation.

18 “(d) REVIEW AND RECOMMENDATIONS BY THE COM-
19 MISSION.—

20 “(1) After receiving the recommendations from
21 the Administrator pursuant to subsection (c), the
22 Commission shall opportunity for public comment on
23 such recommendations.

24 “(2) Based on its review and analysis of the
25 Administrator’s recommendations and any public

1 comment it may receive, the Commission shall make
2 its independent recommendations to the President
3 for realignment and consolidation of aviation serv-
4 ices or facilities.

5 “(3) The Commission shall explain and justify
6 in its report submitted to the President any rec-
7 ommendation made by the Commission that is dif-
8 ferent from the recommendations made by the Ad-
9 ministrator pursuant to subsection (c). The Commis-
10 sion shall transmit a copy of such report to the con-
11 gressional committees of interest on the same date
12 on which it transmits its recommendations to the
13 President under paragraph (2).

14 “(e) REVIEW BY THE PRESIDENT.—

15 “(1) The President shall transmit to the Com-
16 mission and to the Congress a report containing the
17 President’s approval or disapproval of the Commis-
18 sion’s recommendations.

19 “(2) If the President approves all the rec-
20 ommendations of the Commission, the President
21 shall transmit a copy of such recommendations to
22 the Congress, together with a certification of such
23 approval.

24 “(3) If the President disapproves the rec-
25 ommendations of the Commission, in whole or in

1 part, the President shall transmit to the Commission
2 and the Congress the reasons for that disapproval.
3 The Commission shall consider the President's re-
4 port and may then transmit to the President a re-
5 vised list of recommendations for the realignment
6 and consolidation of services and facilities.

7 “(4) If the President approves all of the revised
8 recommendations of the Commission transmitted to
9 the President under paragraph (3), the President
10 shall transmit a copy of such revised recommenda-
11 tions to the Congress, together with a certification
12 of such approval.

13 “(5) If the President does not transmit to the
14 Congress an approval and certification, the process
15 by which agency services and facilities may be se-
16 lected for realignment or consolidation under this
17 section shall be terminated.

18 “(f) REALIGNMENT AND CONSOLIDATION OF SERV-
19 ICES FACILITIES.—Subject to subsection (g), the Adminis-
20 trator shall—

21 “(1) realign or consolidate all Federal Aviation
22 Administration services and facilities recommended
23 for realignment or consolidation by the Commission
24 in the report transmitted to the Congress by the
25 President pursuant to subsection (e)(2) or (4);

1 “(2) initiate all such realignments and consoli-
2 dations no later than 2 years after the date on which
3 the President transmits a report to the Congress
4 containing the recommendations for such realign-
5 ments or consolidations; and

6 “(3) complete all such realignments and con-
7 solidations no later than the end of the 6-year period
8 beginning on the date on which the President trans-
9 mits the report containing the recommendations for
10 such realignments or consolidations.

11 “(g) CONGRESSIONAL DISAPPROVAL.—

12 “(1) The Administrator may not carry out any
13 closure or realignment recommended by the Commis-
14 sion in a report transmitted from the President pur-
15 suant to subsection (e)(2) or (4) if a joint resolution
16 is enacted, disapproving such recommendations of
17 the Commission before the earlier of—

18 “(A) the end of the 60-day period begin-
19 ning on the date on which the President trans-
20 mits such report; or

21 “(B) the adjournment of Congress sine die
22 for the session during which such report is
23 transmitted.

24 “(2) For purposes of paragraph (1)(A), the
25 days on which either House of Congress is not in

1 session because of an adjournment of more than 3
2 days to a day certain shall be excluded in the com-
3 putation of the 60 day period.

4 “(g) AUTHORIZATION.—

5 “(1) There are authorized to be appropriated to
6 the Administrator such sums as may be necessary
7 for the Commission to carry out its duties and for
8 the Administrator to implement the realignment and
9 consolidation of services and facilities as described in
10 subsection (f).

11 “(2) Amounts appropriated pursuant to para-
12 graph (1) shall remain available until expended.

13 “(h) EFFECT ON OTHER AUTHORITIES.—Nothing in
14 this section shall affect the authorities provided in section
15 44503 or the existing authorities or responsibilities of the
16 Administrator under this title to manage the operations
17 of the Federal Aviation Administration, including realign-
18 ing or consolidating facilities or services.

19 “(i) DEFINITIONS.—In this section:

20 “(1) CONGRESSIONAL COMMITTEES OF INTER-
21 EST.—The term ‘congressional committees of inter-
22 est’ means the Senate Committee on Commerce,
23 Science, and Transportation, the House of Rep-
24 resentatives Committee on Transportation and In-

1 **SEC. 411. JUDICIAL REVIEW OF DENIAL OF AIRMAN CER-**
2 **TIFICATES.**

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

6 “(3) JUDICIAL REVIEW.—A person substantially af-
7 fected by an order of the Board under this subsection, or
8 the Administrator when the Administrator decides that an
9 order of the Board will have a significant adverse impact
10 on carrying out this part, may obtain judicial review of
11 the order under section 46110 of this title. The Adminis-
12 trator shall be made a party to the judicial review pro-
13 ceedings. The findings of fact of the Board in any such
14 case are conclusive if supported by substantial evidence.”.

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

18 **SEC. 412. RELEASE OF DATA RELATING TO ABANDONED**
19 **TYPE CERTIFICATES AND SUPPLEMENTAL**
20 **TYPE CERTIFICATES.**

21 Section 44704(a) is amended by adding at the end
22 the following:

23 “(5) RELEASE OF DATA.—

24 “(A) Notwithstanding any other provision of
25 law, the Administrator may designate, without the
26 consent of the owner of record, engineering data in

1 the agency's possession related to a type certificate
2 or a supplemental type certificate for an aircraft, en-
3 gine, propeller or appliance, along with any associ-
4 ated supplier approved data for that product as pub-
5 lic data, and therefore releasable, upon request, to a
6 person seeking to maintain the airworthiness of such
7 product, if the Administrator determines that—

8 “(i) the certificate containing the requested
9 data has been inactive for 3 years;

10 “(ii) the owner of record, or the owner of
11 record's heir, of the type certificate or supple-
12 mental certificate has not been located despite
13 a search of due diligence by the agency; and

14 “(iii) the designation of such data as pub-
15 lic data will enhance aviation safety.

16 “(B) In this section, the term ‘engineering
17 data’ means type design drawings and specifications
18 for the entire product, including the original design
19 data, any approved data for any supplemental type
20 certificates, and any approved data for individual
21 parts or components for the particular aeronautical
22 product.”.

23 **SEC. 413. DESIGN ORGANIZATION CERTIFICATES.**

24 Section 44704(e) is amended—

1 (1) by striking “Beginning 7 years after the
2 date of enactment of this subsection,” in paragraph
3 (1) and inserting “Effective January 1, 2013,”;

4 (2) by striking “44701(a) for the type certifi-
5 cation of aircraft, aircraft engines, propellers, or ap-
6 pliances.” in paragraph (1) and inserting “44701.”;

7 (3) by striking “testing” in paragraph (2) and
8 inserting “production”; and

9 (4) by striking paragraph (3) and inserting the
10 following:

11 “(3) ISSUANCE OF CERTIFICATE BASED ON DESIGN
12 ORGANIZATION CERTIFICATION.—The Administrator may
13 rely on the Design Organization for certification of compli-
14 ance under this section.”.

15 **SEC. 414. CONTRACT TOWER PROGRAM.**

16 Section 47124(b) is amended—

17 (1) by striking “(Visual Flight Rules) level I”
18 in paragraph (1) and inserting “nonapproach con-
19 trol”; and

20 (2) by striking “an airport traffic control tower
21 classified as a level I (Visual Flight Rules)” in para-
22 graph (2) and inserting “a low activity nonapproach
23 control air traffic control”.

1 **SEC. 415. ENHANCED OVERSIGHT OF NEXT GENERATION**
2 **AIR TRANSPORTATION SYSTEM JOINT PLAN-**
3 **NING AND DEVELOPMENT OFFICE.**

4 Section 709 of Vision 100–Century of Aviation Reau-
5 thorization Act (49 U.S.C. 40101 note) is amended—

6 (1) by adding at the end of subsection (a)(1)
7 “The Director of the Office shall be supervised for
8 various purposes by such officer or officers of the
9 Department as the Secretary may specify.”;

10 (2) by adding at the end of subsection (a) the
11 following:

12 “(5) The Director of the Office shall be a voting
13 member of the Federal Aviation Administration’s Joint
14 Resources Council and the Air Traffic Organization’s Ex-
15 ecutive Council.”;

16 (3) by redesignating subsections (d) and (e) as
17 subsections (e) and (f), respectively, and inserting
18 after subsection (c) the following:

19 “(d) **CONSOLIDATED OPERATIONAL EVOLUTION**
20 **PARTNERSHIP.**—The Administrator of the Federal Avia-
21 tion Administration shall develop and publish annually a
22 consolidated operational evolution partnership that pro-
23 vides a detailed description of how the agency is imple-
24 menting the Next Generation Air Transportation Sys-
25 tem.”; and

1 (4) by striking “plan.” in paragraph (2) of sub-
2 section (e), as redesignated, and inserting “plan, and
3 how the respective budgets, and assignment of ex-
4 pert personnel, of the Federal Aviation Administra-
5 tion, the National Aeronautics and Space Adminis-
6 tration, the Departments of Defense, the Depart-
7 ment of Homeland Security, the Department of
8 Commerce and any other Federal agency that has
9 an important interest in, or responsibility for, the
10 Next Generation Air Transportation System support
11 specific operational improvements for such System.”.

12 **TITLE V—AVIATION SAFETY, SE-**
13 **CURITY, CAPACITY, AND**
14 **CONNECTIVITY IMPROVE-**
15 **MENTS**

16 **SEC. 501. DISCLOSURE OF DATA TO FEDERAL AGENCIES IN**
17 **INTEREST OF NATIONAL SECURITY.**

18 Section 40119(b) is amended by adding at the end
19 the following:

20 “(3) Section 552 of title 5 does not apply to dislo-
21 sures the Administrator of the Federal Aviation Adminis-
22 tration may make from the agency’s systems of records
23 to any Federal law enforcement, intelligence, protective,
24 immigration, or national security official in order to assist

1 the official receiving that information in the performance
2 of official duties.”.

3 **SEC. 502. FAA ACCESS TO CRIMINAL HISTORY RECORDS OR**
4 **DATABASE SYSTEMS.**

5 (a) IN GENERAL.—Chapter 401 is amended by add-
6 ing at the end thereof the following:

7 **“§ 40130. FAA access to criminal history records or**
8 **databases systems**

9 “(a) ACCESS TO RECORDS OR DATABASES SYS-
10 TEMS.—

11 “(1) Notwithstanding section 534 of title 28
12 and the implementing regulations for such section
13 (28 C.F.R. part 20), the Administrator of the Fed-
14 eral Aviation Administration is authorized to access
15 a system of documented criminal justice information
16 maintained by the Department of Justice or by a
17 State but may do so only for the purpose of carrying
18 out its civil and administrative responsibilities to
19 protect the safety and security of the National Air-
20 space System or to support the missions of the De-
21 partment of Justice, the Department of Homeland
22 Security and other law enforcement agencies. The
23 Administrator shall be subject to the same condi-
24 tions or procedures established by the Department
25 of Justice or State for access to such an information

1 system by other governmental agencies with access
2 to the system.

3 “(2) The Administrator may not use the access
4 authorized under paragraph (1) to conduct criminal
5 investigations.

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

10 “(1) have access to and receive criminal history,
11 driver, vehicle, and other law enforcement informa-
12 tion contained in the law enforcement databases of
13 the Department of Justice, or of any jurisdiction in
14 a State in the same manner as a police officer em-
15 ployed by a State or local authority of that State
16 who is certified or commissioned under the laws of
17 that State;

18 “(2) use any radio, data link, or warning sys-
19 tem of the Federal government and of any jurisdic-
20 tion in a State that provides information about
21 wanted persons, be-on-the-lookout notices, or war-
22 rant status or other officer safety information to
23 which a police officer employed by a State or local
24 authority in that State who is certified or commis-

1 sion under the laws of that State has access and in
 2 the same manner as such police officer; or

3 “(3) receive Federal, State, or local government
 4 communications with a police officer employed by a
 5 State or local authority in that State in the same
 6 manner as a police officer employed by a State or
 7 local authority in that State who is commissioned
 8 under the laws of that State.

9 “(c) SYSTEM OF DOCUMENTED CRIMINAL JUSTICE
 10 INFORMATION DEFINED.—In this section the term ‘sys-
 11 tem of documented criminal justice information’ means
 12 any law enforcement databases, systems or communica-
 13 tions containing information concerning identification,
 14 criminal history, arrests, convictions, arrest warrants,
 15 wanted or missing persons, including the National Crime
 16 Information Center and its incorporated criminal history
 17 databases and the National Law Enforcement Tele-
 18 communications System.”.

19 (b) CONFORMING AMENDMENT.—The chapter anal-
 20 ysis for chapter 401 is amended by inserting after the item
 21 relating to section 40129 the following:

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

22 **SEC. 503. ALLOCATION OF OPERATING AUTHORIZATIONS**
 23 **AT LAGUARDIA AIRPORT.**

24 (a) IN GENERAL.—Subchapter I of chapter 417 is
 25 amended by adding at the end thereof the following:

1 **“§ 41724. Allocation of operating authorizations at**
2 **LaGuardia Airport**

3 (a) GENERAL AUTHORITY.—

4 “(1) Notwithstanding any other provision of
5 law, the Secretary of Transportation and the Admin-
6 istrator of the Federal Aviation Administration may
7 determine that the use of a market based mecha-
8 nism, such as an auction or congestion pricing, is
9 appropriate to promote the efficient movement of air
10 traffic at LaGuardia Airport. To accomplish this ob-
11 jective, the Administrator shall determine the oper-
12 ational capacity of LaGuardia airport, in accordance
13 with section 40103 of this title.

14 “(2) If the Secretary makes a the determination
15 under subsection (a) that use of a market-based
16 mechanism is appropriate, the Secretary and the Ad-
17 ministrator shall permit the Port Authority of New
18 York and New Jersey (Port Authority) to implement
19 a market-based measure for the allocation of oper-
20 ating authorizations at the airport in accordance
21 with subsection (b). If the Port Authority fails to
22 implement such a mechanism within 1 year of the
23 Secretary’s determination, the Secretary may imple-
24 ment a market-based mechanism at LaGuardia Air-
25 port in accordance with section 41725 of this title.

26 “(b) RULEMAKING.—

1 “(1) The Secretary shall issue a rule to estab-
2 lish the terms and conditions under which interested
3 persons may obtain operating authorizations through
4 a market-based mechanism authorized by subsection
5 (a). The rule shall also, at a minimum, establish the
6 procedures, timing, terms and conditions for the im-
7 plementation of this mechanism. The rule shall in-
8 clude provisions to protect the public interest as set
9 forth in section 40101 of this title including—

10 “(A) placing maximum reliance on com-
11 petitive market forces;

12 “(B) avoiding unreasonable industry con-
13 centration;

14 “(C) encouraging entry into air transpor-
15 tation markets by new and existing air carriers;

16 “(D) ensuring that passengers in small
17 communities and rural and remote areas have
18 access to affordable, scheduled air service; and

19 “(E) providing air carriers and the trav-
20 eling public a stable and predictable schedule
21 for planning future travel.

22 “(2) In developing the terms and conditions for
23 an allocation mechanism, the Secretary may distin-
24 guish among classes of aircraft operators and among
25 types of air service.

1 “(c) ESCROW ACCOUNT.—If the Port Authority im-
2 plements a market-based mechanism under this section
3 and such mechanism produces annual revenue in excess
4 of the annual administrative costs associated with the es-
5 tablishment and administration of the mechanism, the
6 Port Authority shall deposit the excess revenue in an es-
7 crow account. Expenditures may be made from the escrow
8 account on eligible airport-related projects, in accordance
9 with section 40117 of this title, or on any other project
10 that the Secretary finds is in the public interest.

11 “(d) RULES OF CONSTRUCTION.—Nothing in this
12 section or in the use of a market-based mechanism author-
13 ized by this section shall—

14 “(1) diminish the authority of the Adminis-
15 trator under other provisions of this title to regulate
16 the safe and efficient use of the national airspace,
17 including the withdrawal of operating authorizations
18 obtained under this section when required in the
19 public interest; or

20 “(2) be considered for purpose of any Federal
21 law a major Federal action significantly affecting
22 the human environment.

23 “(e) TREATMENT AS ADDITIONAL REVENUE.—Ex-
24 penditures or other financial assistance provided under
25 subsection (c) shall be in addition to funds that would oth-

1 erwise be provided under the Airport Improvement Pro-
 2 gram or any other Federal assistance program.”.

3 (b) CONFORMING AMENDMENT.—The chapter anal-
 4 ysis for chapter 417 is amended by inserting after the item
 5 relating to section 41723 the following:

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

6 **SEC. 504. PILOT PROGRAM FOR MARKET-BASED MECHA-**
 7 **NISMS AT CONGESTED AIRPORTS.**

8 (a) PILOT PROGRAM.—Subchapter I of chapter 417,
 9 as amended by section 503, is amended by adding at the
 10 end the following:

11 **“§41725. Pilot program to evaluate market-based**
 12 **mechanisms at congested airports**

13 “(a) IN GENERAL.—In order to promote the efficient
 14 use of airport capacity or the efficient movement of air
 15 traffic, the Secretary of Transportation shall establish a
 16 pilot program for market-based pricing mechanisms for
 17 domestic flights at not more than 15 airports under which
 18 an airport owner or operator may adopt, or the Adminis-
 19 trator of the Federal Aviation Administration may impose,
 20 a market-based mechanism for the airport in accordance
 21 with the procedures established by this section.

22 “(b) REGIONAL DELAY.—

23 “(1) The Secretary may approve the application
 24 of an airport owner or operator to participate in the
 25 program if the Secretary finds that—

1 “(A) the airport experiences demand ex-
2 ceeding existing capacity in the aggregate or
3 during specific times or dates;

4 “(B) delays at the airport have a signifi-
5 cant adverse effect on the regional airspace;
6 and

7 “(C) the market-based mechanism pro-
8 posed by the airport owner or operator will not
9 result in a disincentive for the airport operator
10 to add capacity where possible.

11 “(2) Once the airport’s participation in the pro-
12 gram is approved, the airport owner or operator may
13 implement a market-based mechanism, and, in the
14 case of a congestion fee or auction, establish the
15 method of collecting such revenue. Such fees shall be
16 reasonable and not unjustly discriminatory.

17 “(3) An airport owner or operator may estab-
18 lish or adjust a market-based mechanism under this
19 program only after consultation with the Adminis-
20 trator, air carriers serving the airport, and operators
21 of aircraft based at the airport.

22 “(4) If an auction or congestion fee imple-
23 mented under this section produces annual revenue
24 in excess of the annual administrative costs associ-
25 ated with the establishment and administration of

1 the fee, the airport owner or operator shall deposit
2 the excess revenue in an escrow account. Expendi-
3 tures may be made from the escrow account on eligi-
4 ble airport-related projects, in accordance with sec-
5 tion 40117 of this title, or on any other project that
6 the Secretary finds is in the public interest.

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

8 “(1) If the Secretary finds that the capacity
9 constraints at an airport cause significant delays be-
10 yond the region in which the airport is located and
11 have negative effects on the National Airspace Sys-
12 tem, and the owner or operator of such airport has
13 not already adopted a market-based mechanism
14 under subsection (b), then the Secretary may imple-
15 ment, through rulemaking, a market-based mecha-
16 nism at the airport under the program to address
17 these effects on the system. If market-based mecha-
18 nisms are implemented, the Administrator of the
19 Federal Aviation Administration shall establish the
20 method of collecting such fees. Such fees shall be
21 reasonable and not unjustly discriminatory.

22 “(2) The Administrator may establish or adjust
23 a market-based mechanism under this program only
24 after consultation with the airport owner or oper-

1 ator, air carriers serving the airport, and operators
2 of aircraft based at the airport.

3 “(3) If market-based mechanisms implemented
4 by the Administrator under this section produce an-
5 nual revenue in excess of the annual administrative
6 costs associated with the establishment and adminis-
7 tration of the fee, the Administrator shall deposit
8 the surplus funds in an account established in the
9 Treasury, and designated as the Airspace Conges-
10 tion Mitigation Account. Such surplus revenue shall
11 be available to the Secretary, as specified in appro-
12 priations Acts, until expended, for—

13 “(A) airport capacity expansion or airport
14 congestion and delay reduction at the airport at
15 which a market based mechanism is imple-
16 mented;

17 “(B) airport capacity expansion or airport
18 congestion and delay reduction at other con-
19 gested airports, with priority given to capacity
20 projects in the same region as the airport at
21 which a market based mechanism is imple-
22 mented;

23 “(C) improvement of ground access to the
24 airports in the vicinity, as defined by the Sec-
25 retary, if the Secretary finds that it would help

1 relieve congestion at the airport where a mar-
2 ket-based mechanism is implemented;

3 “(D) construction, reconstruction or recon-
4 figuration of gates and related areas at the air-
5 port where a market-based mechanism is imple-
6 mented;

7 “(E) facilities, equipment, or other air
8 traffic control improvement projects that would
9 enhance airport or airspace capacity in the Na-
10 tional Airspace System, with priority given to
11 projects in the region of an airport where a
12 market-based mechanism is implemented; and

13 “(F) assistance to air carriers in the pur-
14 chase of equipment for their aircraft to enable
15 them to utilize air traffic control facilities and
16 equipment, including the facilities and equip-
17 ment purchased under subparagraph (E), in
18 order to enhance airport and airspace capacity.

19 “(d) CONFORMANCE WITH REQUIREMENTS.—A mar-
20 ket-based mechanism implemented under this pilot pro-
21 gram shall be deemed to meet the requirements of section
22 40116 and chapter 471 of this title.

23 “(e) MARKET-BASED MECHANISM DEFINED.—In
24 this section, the term ‘market-based mechanism’ includes
25 the use of auctions, or congestion or peak period pricing,

1 under which fees may vary by time of day or day of the
2 week in order to reduce aviation congestion and delays.

3 “(f) EXCLUSION.—An airport subject to the require-
4 ments of section 41724 is not eligible to participate in this
5 pilot program.”.

6 (b) CONFORMING AMENDMENT.—The chapter anal-
7 ysis for chapter 417, as amended by section 503, is
8 amended by inserting after the item relating to section
9 41724 the following:

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

10 **TITLE VI—ENVIRONMENTAL**
11 **STEWARDSHIP AND STREAM-**
12 **LINING**

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

14 Section 44511(f) is amended—

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

17 (2) by inserting “pilot” in paragraph (4) before
18 “program” the first time it appears; and

19 (3) by striking “program, including rec-
20 ommendations as to the need for establishing a per-
21 manent airport cooperative research program.” in
22 paragraph (4) and inserting “program.”.

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

24 Section 47128 is amended—

1 (1) by striking “regulations” each place it ap-
2 pears in subsection (a) and inserting “guidance”;

3 (2) by striking “grant;” in subsection (b)(4)
4 and inserting “grant, including Federal environ-
5 mental requirements or an agreed upon equivalent;”;
6 and

7 (3) by redesignating subsection (c) as sub-
8 section (d) and inserting after subsection (b) the fol-
9 lowing:

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

18 **SEC. 603. AIRPORT FUNDING OF SPECIAL STUDIES OR RE-**
19 **VIEWS.**

20 Section 47173(a) is amended by striking “project.”
21 and inserting “project, or to conduct special environmental
22 studies related to a Federally funded airport project or
23 for special studies or reviews to support approved noise
24 compatibility measures in a Part 150 program or environ-

1 mental mitigation in a Federal Aviation Administration
2 Record of Decision or Finding of No Significant Impact.”.

3 **SEC. 604. ENVIRONMENTAL MITIGATION DEMONSTRATION**
4 **PILOT PROGRAM.**

5 (a) PILOT PROGRAM.—Chapter 471 is amended by
6 adding at the end thereof the following:

7 “§ 47143. **Environmental mitigation demonstration**
8 **pilot program**

9 “(a) IN GENERAL.—The Secretary of Transportation
10 shall carry out a pilot program involving not more than
11 6 projects at public-use airports under which the Secretary
12 may make grants to sponsors of such airports from funds
13 apportioned under paragraph 47117(e)(1)(A) for use at
14 such airports for environmental mitigation demonstration
15 projects that will measurably reduce or mitigate aviation
16 impacts on noise, air quality or water quality in the vicin-
17 ity of the airport. Notwithstanding any other provision of
18 this subchapter, an environmental mitigation demonstra-
19 tion project approved under this section shall be treated
20 as eligible for assistance under this subchapter.

21 “(b) PARTICIPATION IN PILOT PROGRAM.—A public-
22 use airport shall be eligible for participation in the pilot.

23 “(c) SELECTION CRITERIA.—In selecting from
24 among applicants for participation in the pilot program,

1 the Secretary may give priority consideration to environ-
2 mental mitigation demonstration projects that—

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

7 “(2) will be implemented by an eligible consor-
8 tium.

9 “(d) FEDERAL SHARE.—Notwithstanding any other
10 provision of this subchapter, the United States Govern-
11 ment’s share of the costs of a project carried out under
12 this section shall be 50 percent.

13 “(e) MAXIMUM AMOUNT.—Not more than
14 \$2,500,000 may be made available by the Secretary in
15 grants under this section for any single project.

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

22 “(g) DEFINITIONS.—In this section:

23 “(1) ELIGIBLE CONSORTIUM.—The term ‘eligi-
24 ble consortium’ means a consortium that comprises
25 2 or more of the following entities:

1 “(A) Businesses incorporated in the
2 United States.

3 “(B) Public or private educational or re-
4 search organizations located in the United
5 States.

6 “(C) Entities of State or local governments
7 in the United States.

8 “(D) Federal laboratories.

9 “(2) ENVIRONMENTAL MITIGATION DEM-
10 ONSTRATION PROJECT.—The term ‘environmental
11 mitigation demonstration project’ means a project
12 that—

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

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

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

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

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

4 (b) CONFORMING AMENDMENT.—The chapter anal-
5 ysis for chapter 471 is amended by inserting after the item
6 relating to section 47142 the following:

“47143. Environmental mitigation demonstration pilot program.”.

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

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

11 “(e) GRANTS FOR ASSESSMENT OF FLIGHT PROCE-
12 DURES.—

13 “(1) The Secretary is authorized in accordance
14 with subsection (c)(1) to make a grant to an airport
15 operator to assist in completing environmental re-
16 view and assessment activities for proposals to im-
17 plement flight procedures that have been approved
18 for airport noise compatibility planning purposes
19 under subsection (b).

20 “(2) The Administrator of the Federal Aviation
21 Administration may accept funds from an airport
22 sponsor, including funds provided to the sponsor
23 under paragraph (1), to hire additional staff or ob-
24 tain the services of consultants in order to facilitate
25 the timely processing, review and completion of envi-

1 ronmental activities associated with proposals to im-
 2 plement flight procedures submitted and approved
 3 for airport noise compatibility planning purposes in
 4 accordance with this section. Funds received under
 5 this authority shall not be subject to the procedures
 6 applicable to the receipt of gifts by the Adminis-
 7 trator.”.

8 **SEC. 606. RESEARCH CONSORTIUM FOR LOWER ENERGY,**
 9 **EMISSIONS, AND NOISE TECHNOLOGY PART-**
 10 **NERSHIP.**

11 (a) ESTABLISHMENT OF CONSORTIUM.—Subchapter
 12 I of chapter 475 is amended by adding at the end the
 13 following:

14 **“§ 47512. Research consortium for lower energy,**
 15 **emissions and noise technology partner-**
 16 **ship**

17 “(a) ‘CLEEN’ ENGINE TECHNOLOGY PARTNER-
 18 SHIP.—The Administrator of the Federal Aviation Admin-
 19 istration shall enter into a cooperative agreement with the
 20 Partnership for Air Transportation Noise and Emissions
 21 Reduction (PARTNER) Center of Excellence for the de-
 22 velopment, maturing, and certification for Continuous
 23 Lower Energy, Emissions and Noise (CLEEN) engine and
 24 airframe technology for aircraft over the next 10 years.

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

4 “(1) Certifiable aircraft technology that in-
5 creases aircraft fuel efficiency by 25 percent relative
6 to 1997 subsonic aircraft technology.

7 “(2) Certifiable engine technology that reduces
8 landing and takeoff cycle nitrogen oxide emissions
9 by 50 percent, without increasing other gaseous or
10 particle emissions, over the International Civil Avia-
11 tion Organization standard adopted in 2004.

12 “(3) Certifiable aircraft technology that reduces
13 noise levels by 10 dB relative to 1997 subsonic jet
14 aircraft technology.

15 “(4) Determination of the feasibility of use of
16 alternative fuels in aircraft systems, including suc-
17 cessful demonstration and quantification of benefits.

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

22 “(c) AUTHORIZATION OF APPROPRIATIONS.—There
23 are authorized to be appropriated from the funding pro-
24 vided for the Next Generation Air Transportation System
25 program such sums as necessary to carry out this section.

1 tor and Administrator shall publish an annual list of
2 national parks that fall within the exemption pro-
3 vided by this paragraph. A commercial air tour oper-
4 ator conducting commercial air tours in a national
5 park that is exempt from the requirements of this
6 section shall submit to the Administrator and the
7 Director an annual report of the number of air tour
8 flights it conducts each year in such exempted
9 park.”.

10 (b) AIR TOUR MANAGEMENT PLANS.—Section
11 40128(b) is amended by adding at the end the following:

12 “(7) VOLUNTARY AGREEMENTS.—

13 “(A) As an alternative to an air tour man-
14 agement plan, for any unit of the national park
15 system, the Director and the Administrator
16 may enter into a voluntary agreement to man-
17 age commercial air tour operations over a park
18 unit with any commercial air tour operators
19 that have applied for authority to conduct air
20 tour operations over the park unit, including ex-
21 isting operators that have interim operating au-
22 thority, and new entrant applicants.

23 “(B) The voluntary agreement shall ad-
24 dress the management issues necessary to pro-

1 tect park resources and visitor use without com-
2 promising aviation safety, and may—

3 “(i) include provisions described in
4 subparagraphs (B) through (E) of para-
5 graph (3);

6 “(ii) include provisions to insure the
7 stability of and compliance with the vol-
8 untary agreement; and

9 “(iii) provide for fees for operating
10 over the park.

11 “(C) The Director and the Administrator
12 shall offer the opportunity for public review of
13 a proposed voluntary agreement, and shall con-
14 sult with any Indian tribe whose tribal lands
15 are, or may be, overflowed by commercial air
16 tour operators under a voluntary agreement.

17 “(D) Following such public review and
18 consultation, a voluntary agreement may be im-
19 plemented without further administrative or en-
20 vironmental process.

21 “(E) A voluntary agreement may be re-
22 scinded at the discretion of the Director or the
23 Administrator if the Director determines that
24 the agreement is not adequately protecting park
25 resources or visitor experiences, or the Adminis-

1 trator determines that the agreement is ad-
2 versely affecting aviation safety or the national
3 aviation system. If a voluntary agreement for a
4 park is rescinded, the operators must conform
5 to the requirements for interim operating au-
6 thority under subsection (c) until an air tour
7 management plan for the park is in effect.”.

8 (c) INTERIM OPERATING AUTHORITY.—Section
9 40128(c) is amended—

10 (1) by striking subparagraph (I) of paragraph
11 (2) and inserting the following:

12 “(I) may allow for modifications of the interim
13 operating authority without further environmental
14 process if—

15 “(i) adequate information on the operator’s
16 existing and proposed operations is provided to
17 the Administrator and the Director by the oper-
18 ator making the request;

19 “(ii) the Administrator agrees that there
20 would be no adverse impact on aviation safety;
21 and

22 “(iii) the Director agrees, based on profes-
23 sional expertise regarding the protection of the
24 park resources and values and visitor use and
25 enjoyment.”;

1 (2) by striking from “if the Administrator de-
2 termines” in paragraph (3)(A) through the end and
3 inserting “without further environmental process
4 if—

5 “(i) adequate information on the operator’s
6 proposed operations is provided to the Adminis-
7 trator and the Director by the operator making
8 the request;

9 “(ii) the Administrator agrees that
10 there would be no adverse impact on avia-
11 tion safety; and

12 “(iii) the Director agrees, based on
13 professional expertise regarding the protec-
14 tion of park resources and values and vis-
15 itor use and enjoyment.”; and

16 (3) by striking subparagraph (B) of paragraph
17 (3) and redesignating subparagraph (C) as subpara-
18 graph (B).

19 (d) COMMERCIAL AIR TOUR OPERATOR REPORTS.—
20 Section 40128 is amended by redesignating subsections
21 (d) and (e) as subsections (e) and (f), respectively, and
22 inserting after subsection (c) the following:

23 “(d) COMMERCIAL AIR TOUR OPERATOR RE-
24 PORTS.—Each commercial air tour operator providing a
25 commercial air tour over a national park unit under in-

1 terim operating authority or in accordance with an air
 2 tour management plan shall report the number of com-
 3 mercial air tour operations over each park unit and other
 4 data requested by the Administrator and Director in order
 5 to facilitate administering the provisions of this section.
 6 The reports shall be on a frequency and in a format re-
 7 quested by the Administrator and Director, and shall be
 8 submitted to both the Administrator and Director or their
 9 designees. The Administrator and Director shall jointly
 10 issue an initial request for the reports authorized in this
 11 subsection no later than 3 months after the date of enact-
 12 ment of the Next Generation Air Transportation System
 13 Financing Reform Act of 2007.”.

14 **TITLE VII—AVIATION**
 15 **INSURANCE**

16 **SEC. 701. GENERAL AUTHORITY.**

17 (a) IN GENERAL.—Section 44302 is amended—

18 (1) by striking “subsection (c)” in subsection

19 (a)(1) and inserting “subsection (b)”;

20 (2) by striking subsection (b) and redesignating

21 subsections (c) through (g) as subsections (b)

22 through (f); and

23 (3) by striking paragraph (2) of subsection (e),

24 as redesignated, and inserting the following:

1 “(2) SPECIAL RULES.—Notwithstanding para-
2 graph (1)k, in no event shall the total premium paid
3 by the air carrier for the policy, as amended, be
4 more than twice the premium that the air carrier
5 was paying to the Department of Transportation for
6 its third party policy as of June 19, 2002.”.

7 (b) CONFORMING AMENDMENT.—Section 44303(a)
8 is amended by striking “reinsurance, or reimburse insur-
9 ance costs,” and inserting “reinsurance”.

10 **SEC. 702. EXTENSION OF AUTHORITY TO LIMIT THIRD**
11 **PARTY LIABILITY OF AIR CARRIERS ARISING**
12 **OUT OF ACTS OF TERRORISM.**

13 Section 44303(b) is amended by striking “December
14 31, 2006,” and inserting “December 31, 2011,”.

15 **SEC. 703. CLARIFICATION OF REINSURANCE AUTHORITY.**

16 Section 44304 is amended by striking “the carrier”
17 and inserting “any insurance carrier”.

18 **SEC. 704. USE OF INDEPENDENT CLAIMS ADJUSTERS.**

19 Section 44308(c)(1) is amended by striking “agent”
20 in the second sentence and inserting “agent, or a claims
21 adjuster who is independent of the underwriting agent,”.

22 **SEC. 705. EXTENSION OF PROGRAM AUTHORITY.**

23 Section 44310 is amended by striking “March 30,
24 2008.” and inserting “March 30, 2013.”.

1 **TITLE VIII—AVIATION SERVICE**
2 **IMPROVEMENTS**

3 **SEC. 801. EXTENSION OF COMPETITIVE ACCESS REPORTS.**

4 Section 47107(s)(3) is amended by striking “2008.”
5 and inserting “2012.”.

6 **SEC. 802. ESSENTIAL AIR SERVICE REFORM.**

7 (a) **ELIGIBLE PLACE DEFINED.**—

8 (1) **IN GENERAL.**—Section 41731 is amended
9 to read as follows:

10 **“§ 41731. Eligible place defined**

11 “In this subchapter the term ‘eligible place’ means
12 a place in the United States—

13 “(1) that as of the date of enactment of the
14 Next Generation Air Transportation System Finance-
15 ing Reform Act of 2007, was receiving subsidized
16 Essential Air Service;

17 “(2) that is more than 70 highway miles from
18 the nearest medium or large hub airport; and

19 “(3) at which the subsidy per passenger does
20 not exceed \$200 for a community that is less than
21 210 miles from the nearest medium or large hub air-
22 port.”.

23 (2) **CONFORMING AMENDMENT.**—The chapter
24 analysis for chapter 417 is amended by striking the

1 item relating to section 41731 and inserting the fol-
 2 lowing:

“41731. Eligible place defined”.

3 (b) ESSENTIAL AIR SERVICE.—

4 (1) IN GENERAL.—Section 41732 is amended
 5 to read as follows:

6 **“§ 41732. Essential air service**

7 “Essential air service provided under section 41733
 8 of this title is transportation of passengers and cargo to
 9 a destination airport and at a level of service comparable
 10 to what the community received on the date of enactment
 11 of the Next Generation Air Transportation System Fi-
 12 nancing Reform Act of 2007.”.

13 (2) CONFORMING AMENDMENT.—The chapter
 14 analysis for chapter 417 is amended by striking the
 15 item relating to section 41732 and inserting the fol-
 16 lowing:

“41732. Essential air service.”.

17 (c) AVAILABILITY OF COMPENSATION.—

18 (1) IN GENERAL.—Section 41733 is amended
 19 to read as follows:

20 **“§ 41733. Selection criteria and availability of com-
 21 pensation**

22 “(a) AVAILABILITY OF COMPENSATION.—

23 “(1) If the Secretary decides that essential air
 24 service under section 41732 will not be provided to

1 an eligible place without compensation, the Secretary
2 shall provide notice that any air carrier may apply
3 to provide essential air service to the place for com-
4 pensation under this section. In selecting an appli-
5 cant, the Secretary may consider, among other fac-
6 tors—

7 “(A) the demonstrated reliability of the ap-
8 plicant in providing air service;

9 “(B) the contractual and marketing ar-
10 rangements the applicant has made with air
11 carriers to ensure service beyond the destination
12 airport;

13 “(C) the interline arrangements that the
14 applicant has made with a larger carrier to
15 allow passengers and cargo of the applicant at
16 the destination airport to be transported by car-
17 riers through one reservation, ticket, and bag-
18 gage check-in;

19 “(D) the preferences of the actual and po-
20 tential users of air service at the eligible place,
21 giving substantial weight to the views of the
22 elected officials representing the users; and

23 “(E) the relative subsidy costs to the
24 United States Government based on the appli-
25 cants’ proposals.

1 “(2) Under guidelines prescribed under section
2 41737 of this subchapter, the Secretary shall pay
3 the rate of compensation for providing essential air
4 service under this section and section 41734 of this
5 subchapter.

6 “(b) COMPENSATION PAYMENTS.—The Secretary
7 shall pay compensation under this section at times and
8 in the way the Secretary decides is appropriate. The Sec-
9 retary shall end payment of compensation to an air carrier
10 for providing essential air service to an eligible place when
11 the Secretary decides the compensation is no longer nec-
12 essary to maintain essential air service to the place.

13 “(c) REVIEW.—The Secretary shall review periodi-
14 cally the level of essential air service for each eligible place.
15 Based on the review and consultations with the interested
16 community and the appropriate State authority of the
17 State in which the community is located, the Secretary
18 may make appropriate adjustments in the level of service,
19 but the level of service that is subsidized may not be more
20 than that which a community is receiving as of the date
21 of enactment of the Next Generation Air Transportation
22 System Financing Reform Act of 2007.”.

23 “(2) CONFORMING AMENDMENT.—The chapter
24 analysis for chapter 417 is amended by striking the

1 item relating to section 41733 and inserting the fol-
2 lowing:

“41733. Selection criteria and availability of compensation.”.

3 (d) ENDING, SUSPENDING OR REDUCING ESSENTIAL
4 AIR SERVICE.—Section 41734 is amended to read as fol-
5 lows:

6 **“§ 41734. Ending, suspending, and reducing essential**
7 **air service**

8 “(a) Notice Required.—An air carrier may end, sus-
9 pend, or reduce air transportation to an eligible place
10 below the level of essential air service established for that
11 place under this subchapter only after giving the Secretary
12 of Transportation, the appropriate State authority, and
13 the affected communities at least 90 days’ notice before
14 ending, suspending, or reducing that air service.

15 “(b) CONTINUATION OF SERVICE FOR 30 DAYS
16 AFTER NOTICE PERIOD.—If at the end of the notice pe-
17 riod under subsection (a) of this section the Secretary has
18 not found another air carrier to provide essential air serv-
19 ice to the eligible place, the Secretary shall require the
20 carrier providing notice to continue to provide essential air
21 service to the place for an additional 30-day period or until
22 another air carrier begins to provide essential air service
23 to the place, whichever occurs first.

24 “(c) CONTINUATION OF SERVICE FOR ADDITIONAL
25 30-DAY PERIODS.—If at the end of the 30-day period

1 under subsection (b) of this section the Secretary decides
2 another air carrier will not provide essential air service
3 to the place on a continuing basis, the Secretary shall re-
4 quire the air carrier providing service to continue to pro-
5 vide service for additional 30-day periods until another air
6 carrier begins providing service on a continuing basis. At
7 the end of each 30-day period, the Secretary shall decide
8 if another air carrier will provide service on a continuing
9 basis.

10 “(d) CONTINUATION OF COMPENSATION AFTER NO-
11 TICE PERIOD.—If an air carrier receiving compensation
12 under this subchapter for providing essential air service
13 to an eligible place is required to continue to provide serv-
14 ice to the place under this section after the 90-day notice
15 period under subsection (a) of this section, the Secretary
16 shall continue to pay that compensation after the last day
17 of that period. The Secretary shall pay the compensation
18 until the Secretary finds another air carrier to provide the
19 service to the place or the 180th day after the carrier filed
20 notice to suspend service, whichever is earlier. If, after the
21 180th day, the Secretary has not found another air carrier
22 to provide the service, the carrier required to continue to
23 provide that service shall receive compensation sufficient
24 to pay for the fully allocated actual cost to the air carrier
25 of performing the essential air service that was being pro-

1 vided when the 90-day notice was given under subsection
 2 (a) of this section plus a reasonable return on investment
 3 that is equal to 5 percent of operating costs.

4 “(e) FINDING REPLACEMENT SERVICE PRO-
 5 VIDERS.—When the Secretary requires an air carrier to
 6 continue to provide essential air service to an eligible
 7 place, the Secretary shall promptly issue a request for pro-
 8 posals to find another air carrier to provide at least the
 9 essential air service set forth in section 41732 to the place
 10 on a continuing basis.”.

11 (e) COMPENSATION GUIDELINES.—Section 41737 is
 12 amended to read as follows:

13 “§ 41737. **Compensation guidelines, limitations, and**
 14 **claims**

15 “(a) COMPENSATION GUIDELINES.—

16 “(1) The Secretary of Transportation shall pre-
 17 scribe guidelines governing the rate of compensation
 18 payable under this subchapter. The guidelines shall
 19 be used to determine the reasonable amount of com-
 20 pensation required to ensure the continuation of air
 21 service or air transportation under this subchapter.

22 The guidelines shall—

23 “(A) provide for a reduction in compensa-
 24 tion when an air carrier does not provide serv-
 25 ice or transportation agreed to be provided;

1 “(B) consider amounts needed by an air
2 carrier to promote public use of the service or
3 transportation for which compensation is being
4 paid; and

5 “(C) include expense elements based on
6 representative costs of air carriers providing
7 scheduled air transportation of passengers,
8 property, and mail on equipment of the type the
9 Secretary decides is appropriate for providing
10 the service or transportation for which com-
11 pensation is being provided.

12 “(2) Promotional amounts described in para-
13 graph (1)(B) of this subsection shall be a special,
14 segregated element of the compensation provided to
15 a carrier under this subchapter.

16 “(b) CLAIMS.—Not later than 15 days after receiving
17 a written claim from an air carrier for compensation under
18 this subchapter, the Secretary shall—

19 “(1) pay or deny the United States Govern-
20 ment’s share of a claim; and

21 “(2) if denying the claim, notify the person of
22 the denial and the reasons for the denial.

23 “(c) AUTHORITY TO MAKE AGREEMENTS AND INCUR
24 OBLIGATIONS.—The Secretary may make agreements and
25 incur obligations from the Airport and Airway Trust Fund

1 established under section 9502 of the Internal Revenue
2 Code of 1986 (26 U.S.C. 9502) to pay compensation
3 under this subchapter. An agreement by the Secretary
4 under this subsection is a contractual obligation of the
5 Government to pay the Government's share of the com-
6 pensation.

7 “(d) ELIGIBILITY DETERMINATIONS.—

8 “(1) In making all determinations on eligibility
9 for compensation under this subchapter, the Sec-
10 retary shall rank all compensated points in their
11 order of relative decreasing driving distance from the
12 nearest large or medium hub airport. In this para-
13 graph, the term ‘driving distance’ means the short-
14 est driving distance as determined by the Federal
15 Highway Administration.

16 “(2) If the funds appropriated under section
17 41742 are not sufficient to pay for service to all of
18 the eligible places, the Secretary shall provide sub-
19 sidy first to the eligible communities that do not
20 have highway access to a medium or large hub air-
21 port, then to the most isolated community, as deter-
22 mined under paragraph (1), that requires compensa-
23 tion and then the next most isolated community re-
24 quiring compensation, and so on, in order, until the
25 Secretary has obligated not more than the amount

1 authorized to be appropriated from the Airport and
2 Airway Trust Fund under section 48203(b) of this
3 title, which shall remain available until expended.”.

4 (f) AUTHORIZATION.—Section 41742 is amended to
5 read as follows:

6 **“§ 41742. Essential air service authorization**

7 “Beginning in fiscal year 2009, \$50,000,000 is au-
8 thorized and shall be made available immediately for obli-
9 gation and expenditure to the Secretary of Transportation
10 out of the Airport and Airway Trust Fund established
11 under section 9502 of the Internal Revenue Code of 1986
12 (26 U.S.C. 9502), to carry out the essential air service
13 program under this subchapter for each fiscal year.
14 Amounts appropriated pursuant to this section shall re-
15 main available until expended.”.

16 (g) REPEALED PROVISIONS.—

17 (1) Sections 41735, 41736, 41745, 41747, and
18 41748 are repealed.

19 (2) Subchapter III of chapter 417 is repealed.

20 (h) CONFORMING AMENDMENTS.—

21 (1) The analysis to chapter 417 is amended by
22 striking the items relating to sections 41735, 41736,
23 41745, 41747, and 41748.

24 (2) The analysis to chapter 417 is amended by
25 striking all of the items relating to subchapter III.

1 (3) Section 41738 is amended by striking “or
2 air transportation to a place designated under
3 41736”.

4 **SEC. 803. TERMINATION OF DOT AUTHORITY TO SET INTER-**
5 **NATIONAL MAIL RATES.**

6 (a) **ELIMINATION OF INTERNATIONAL MAIL RATE**
7 **SETTING AUTHORITY.**—Section 41901(b)(1) is amended
8 by striking “in foreign air transportation or”.

9 (b) **EFFECTIVE DATE.**—The amendment made by
10 subsection (a) shall take effect 16 months after the date
11 of enactment of this Act.

12 **SEC. 804. AIR CARRIAGE OF INTERNATIONAL MAIL.**

13 (a) **ELIMINATION OF REQUIREMENT TO FILE CON-**
14 **TRACT.**—Section 5402(b) of title 39, United States Code,
15 is amended by striking the last 3 sentences.

16 (b) **ELIMINATION OF SCHEDULES FOR MAIL TRANS-**
17 **PORTATION.**—Section 41902 is amended—

18 (1) by striking “in foreign air transportation
19 or” in subsection (a);

20 (2) by striking subsection (b) and inserting the
21 following:

22 “(b) **STATEMENTS ON PLACES AND SCHEDULES.**—
23 Every air carrier shall file with the United States Postal
24 Service a statement showing—

1 “(1) the places between which the carrier is au-
2 thorized to transport mail in Alaska;

3 “(2) every schedule of aircraft regularly oper-
4 ated by the carrier between places described in
5 clause (1) of this subsection and every change in
6 each schedule; and

7 “(3) for each schedule, the places served by the
8 carrier and the time of arrival at, and departure
9 from, each place.”; and

10 (3) by striking subsections (e) and (f).

11 (c) **EFFECTIVE DATE.**—The amendment made by
12 subsection (a) shall take effect 16 months after the date
13 of enactment of this Act.

14 **SEC. 805. CONTENTS OF COMPETITION PLANS.**

15 Section 47106(f)(2) is amended—

16 (1) by striking “patterns of air service,”;

17 (2) by inserting “and” before “whether”; and

18 (3) by striking “facilities, and airfare levels (as
19 compiled by the Department of Transportation)
20 compared to other large airports.” and inserting “fa-
21 cilities.”.

22 **SEC. 806. AIRPORT PRIVATIZATION.**

23 Section 47134 is amended—

24 (1) by striking “5 airports” in the first sen-
25 tence of subsection (b) and inserting “15 airports”;

1 (2) by striking so much of subsection (b) as
2 precedes paragraph (1)(B) and inserting the fol-
3 lowing:

4 “(b)APPROVAL OF APPLICATIONS.—

5 “(1) Use of revenues.—

6 “(A) IN GENERAL.—The Secretary may
7 grant an exemption to a sponsor from the pro-
8 visions of section 47107(b) and 47133 of this
9 title (and any other law, regulation, or grant
10 assurance) to the extent necessary to permit the
11 sponsor to recover from the sale or lease of the
12 airport such amount as may be approved by the
13 Secretary after the sponsor has consulted—

14 “(i) in the case of a primary airport,
15 with each air carrier and foreign air car-
16 rier serving the airport as determined by
17 the Secretary; or

18 “(ii) in the case of a non-primary air-
19 port, with at least 65 percent of the own-
20 ers of aircraft based at that airport, as de-
21 termined by the Secretary.”;

22 (3) by resetting the left margin of subpara-
23 graph (B) of subsection (b)(1) 4 ems from the left;

24 (4) by striking subparagraph (b)(1)(C);

1 (5) by resetting the left margin of paragraphs
2 (2) and (3) of subsection (b) 2 ems from the left;

3 (6) by striking paragraphs (4), (5), and (9) of
4 subsection (c) and redesignating paragraphs (6)
5 through (8) as paragraphs (4) through (6), respec-
6 tively;

7 (7) adding at the end of subsection (c) the fol-
8 lowing:

9 “(7) No part of a fee charged to an air carrier
10 or a foreign air carrier may include a return on in-
11 vestment or recovery of principal with respect to
12 consideration paid to the public agency for the lease
13 or sale of the airport unless such part of the fee is
14 approved by the air carrier or foreign air carrier.”;
15 and

16 (8) by striking subsection (d) and redesignating
17 subsections (e) through (m) as subsections (d)
18 through (l), respectively.

19 **SEC. 807. CLARIFICATION OF AIR CARRIER FEE DISPUTES.**

20 (a) IN GENERAL.—Section 47129 is amended—

21 (1) by striking the section heading and insert-
22 ing the following:

1 **“§ 47129. Resolution of airport-air carrier and foreign**
 2 **air carrier disputes concerning airport**
 3 **fees”;**

4 (2) by inserting “AND FOREIGN AIR CARRIER”
 5 in the subsection caption for subsection (d);

6 (3) by inserting “AND FOREIGN AIR CARRIER”
 7 in the paragraph caption for subsection (d)(2);

8 (4) by striking “air carrier” each place it ap-
 9 pears and inserting “air carrier or foreign air car-
 10 rier”;

11 (5) by striking “air carrier’s” each place it ap-
 12 pears and inserting “air carrier’s or foreign air car-
 13 rier’s”;

14 (6) by striking “air carriers” each place it ap-
 15 pears and inserting “air carriers or foreign air car-
 16 riers”; and

17 (7) by striking “(as defined in section 40102 of
 18 this title)” in subsection (a) and inserting “(as those
 19 terms are defined in section 40102 of this title)”.

20 (b) CONFORMING AMENDMENT.—The chapter anal-
 21 ysis for chapter 471 is amended by striking the item relat-
 22 ing to section 47129 and inserting the following:

“47129. Resolution of airport-air carrier and foreign air carrier disputes con-
 cerning airport fees.”.

23 **SEC. 808. AMENDMENTS TO CHAPTER 415.**

24 (a) IN GENERAL.—Chapter 415 is amended—

1 (1) by striking sections 41501 and 41502 and
2 inserting the following:

3 **“§ 41501. Establishing reasonable prices, classifica-**
4 **tions, rules and practices for foreign air**
5 **transportation**

6 “Every air carrier and foreign air carrier shall estab-
7 lish, comply with, and enforce reasonable prices, classifica-
8 tions, rules and practices related to foreign air transpor-
9 tation.

10 **“§ 41502. Establishing joint prices for through routes**
11 **with other carriers**

12 “An air carrier, including an indirect air carrier, may
13 establish reasonable joint prices and through service with
14 another carrier.”;

15 (2) by striking sections 41503, 41505, 41506,
16 41508, and 41510;

17 (3) by striking section 41504(a) and inserting
18 the following:

19 “(a) FILING AND CONTENTS.—In the way prescribed
20 by regulation by the Secretary of Transportation, any air
21 carrier or foreign air carrier providing foreign air trans-
22 portation between places designated by the Secretary, and
23 any air carrier or foreign air carrier granted immunity
24 from the antitrust laws for the coordination of prices pur-
25 suant to section 41308 of this title, shall file with the Sec-

1 retary, publish, and keep open to public inspection, tariffs
2 showing the prices for the foreign air transportation pro-
3 vided by the carrier or provided by the carrier and another
4 air carrier or foreign air carrier in which through service
5 and joint prices have been established. A tariff—

6 “(1) shall contain—

7 “(A) to the extent the Secretary requires
8 by regulation, a description of the classifica-
9 tions, rules, and practices related to the foreign
10 air transportation;

11 “(B) a statement of the prices in money of
12 the United States; and

13 “(C) other information the Secretary re-
14 quires by regulation; and

15 “(2) may contain—

16 “(A) a statement of the prices in money
17 that is not money of the United States; and

18 “(B) information that is required under
19 the laws of a foreign country in or to which the
20 air carrier or foreign air carrier is authorized to
21 operate.”; and

22 (4) by striking subsection (e) of section 41509
23 and redesignating subsections (f) and (g) thereof as
24 subsections (e) and (f), respectively.

25 (b) CONFORMING AMENDMENTS.—

1 (1) The chapter analysis for chapter 415 is
2 amended—

3 (A) by striking the items relating to sec-
4 tions 41503, 41505, 41506, 41508, and 41510;
5 and

6 (B) by striking the items relating to sec-
7 tions 41501 and 41502 and inserting the fol-
8 lowing:

“41501. Establishing reasonable prices, classifications, rules and practices for
foreign air transportation.

“41502. Establishing joint prices for through routes with other carriers.”.

9 (2) Section 40109(c) is amended by striking
10 “41505,”.

11 (3) Section 41110(a)(2)(B) is amended by
12 striking “41503, 41504, 41506, 41510,” and insert-
13 ing “41504,”.

14 (4) Section 46301 is amended by striking
15 “41505,”.

16 **TITLE IX—INTERNAL REVENUE**
17 **CODE AMENDMENTS**

18 **SEC. 901. AMENDMENT OF 1986 CODE.**

19 Except as otherwise expressly provided, whenever in
20 this Title an amendment or repeal is expressed in terms
21 of an amendment to, or a repeal of, a section or other
22 provision, the reference shall be considered to be made to
23 a section or other provision of the Internal Revenue Code
24 of 1986.

1 **SEC. 902. MODIFICATIONS TO TAX ON AVIATION FUEL.**

2 (a) IN GENERAL.—Effective October 1, 2008, section
3 4081(a)(2) (relating to rates of tax) is amended—

4 (1) by striking “gallon,” in subparagraph
5 (A)(ii) and inserting “gallon, except that the rate of
6 tax imposed on and after October 1, 2008, shall be
7 70.0 cents per gallon,”;

8 (2) by striking subparagraph (C) and inserting
9 the following:

10 “(C) TAXES IMPOSED ON FUEL USED IN
11 AVIATION.—In the case of kerosene for use in
12 aviation, the rate of tax under subparagraph
13 (A)(iii) shall be—

14 “(i) in the case of use for commercial
15 aviation by a person registered for such
16 use under section 4101 and in which the
17 fuel is removed from any refinery or ter-
18 minal directly into the fuel tank of an air-
19 craft, 4.3 cents per gallon, except that the
20 rate of tax imposed on and after October
21 1, 2008, shall be 13.6 cents per gallon;
22 and

23 “(ii) in the case of use for aviation
24 not described in clause (i), 21.8 cents per
25 gallon, except that the rate of tax imposed
26 on and after October 1, 2008, shall be

1 70.0 cents per gallon in a case in which
2 the fuel is removed from any refinery or
3 terminal directly into the fuel tank of an
4 aircraft.”; and

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

6 “(E) INFLATION ADJUSTMENT OF TAX
7 RATES.—In the case of taxable events in a cal-
8 endar year after 2009, the amount per gallon
9 specified in subparagraph (C)(i) shall be in-
10 creased by an amount equal to such amount,
11 multiplied by the cost-of-living adjustment de-
12 termined under section 1(f)(3) for such cal-
13 endar year by substituting ‘2008’ for ‘1992’ in
14 subparagraph (B) thereof. Any increase deter-
15 mined under the preceding sentence shall be
16 rounded to the nearest tenth of a cent.

17 “(F) ADJUSTMENT OF TAX RATES TO RE-
18 FLECT COST IMPOSED ON THE SYSTEM.—In the
19 case of taxable events in a calendar year after
20 2009, the amount per gallon specified in sub-
21 paragraphs (A)(ii) and (C)(ii) in excess of the
22 rate specified in (C)(i) shall be an amount
23 based on the costs, as defined in section
24 45305(b)(6), imposed by operators who use fuel
25 on which such taxes are paid as determined by

1 the Federal Aviation Administration’s cost allo-
2 cation system, and shall be increased or de-
3 creased once every 2 years as necessary to cover
4 such costs by an amount determined by the
5 Federal Aviation Administration. Any increase
6 or decrease determined under the preceding
7 sentence shall be rounded to the nearest tenth
8 of a cent.”.

9 (b) CONFORMING CHANGES TO FUEL TAX RATE
10 PROVISIONS.—

11 (1) TAX RATES UNDER SECTION 4081(d)(2).—
12 Effective October 1, 2007, section 4081(d)(2) (relat-
13 ing to aviation fuel tax termination) is amended to
14 read as follows:

15 “(2) AVIATION FUELS.—The rates of tax speci-
16 fied in subsection (a)(2)(A)(ii), (a)(2)(C)(i), and
17 (a)(2)(C)(ii) shall be 0.00 cents per gallon after Sep-
18 tember 30, 2017.”.

19 (2) TAX RATES UNDER SECTION 4041.—Effec-
20 tive October 1, 2008, section 4041(c)(3) (relating to
21 certain liquids used as a fuel in aviation) is amended
22 by striking “aviation).” and inserting “aviation, ex-
23 cept that the rate of tax imposed on and after Octo-
24 ber 1, 2008, shall be the rate, after adjustment for
25 inflation under 4081(a)(2)(E), applicable under sec-

1 tember 30, 2007,” and inserting “September 30,
2 2008,”.

3 (2) Section 4271(d)(1)(A)(ii) (relating to im-
4 position of tax on property) is amended by striking
5 “September 30, 2007,” and inserting “September
6 30, 2008,”.

7 (b) MODIFICATIONS TO TAXES.—Effective October 1,
8 2008, section 4261 (relating to imposition of tax) is
9 amended—

10 (1) by striking “States.” in subsection (c)(1)
11 and inserting “States, except that the rate of tax
12 imposed for transportation beginning on and after
13 October 1, 2008, shall be \$6.39.”;

14 (2) by striking subsection (c)(2) and inserting
15 the following:

16 “(2) EXCEPTION FOR CERTAIN TRANSPOR-
17 TATION.—This subsection shall not apply to any
18 transportation that consumes fuel taxed under sec-
19 tion 4081(a)(2)(C)(i).”;

20 (3) by inserting “involving transportation be-
21 ginning before October 1, 2008, and” after “In any
22 case” in subsection (c)(3);

23 (4) by striking “(c).” in subsection (e)(4)(B)(ii)
24 and inserting “(c), except that the last nonindexed
25 year is 2009 in the case of the dollar amounts con-

1 tained in subsection (c) that apply to taxable events
2 in a calendar year after 2009.”; and

3 (5) by adding at the end of subsection (j) the
4 following:

5 “(3) EXTENSION OF TAXABLE PERIOD IN THE
6 CASE OF INTERNATIONAL TRAVEL FACILITIES.—

7 Notwithstanding paragraph (1), the taxes imposed
8 by subsection (c) of this section shall apply to—

9 “(A) transportation beginning during the
10 period beginning on March 7, 1997, and ending
11 on September 30, 2017; and

12 “(B) amounts paid during such period for
13 transportation beginning after such period.”.

14 **SEC. 904. EXTENSION OF AIRPORT AND AIRWAY TRUST**
15 **FUND EXPENDITURE AUTHORITY.**

16 (a) IN GENERAL.—Paragraph (1) of section 9502(d)
17 (relating to expenditures from Airport and Airway Trust
18 Fund) is amended—

19 (1) by striking “October 1, 2007,” and insert-
20 ing “October 1, 2017,”; and

21 (2) by striking “Act;” in subparagraph (A) and
22 inserting “Act, or the Next Generation Air Trans-
23 portation System Financing Reform Act of 2007;”.

24 (b) CONFORMING AMENDMENT.—Paragraph (2) of
25 section 9502(f) of the Internal Revenue Code of 1986 is

- 1 amended by striking “October 1, 2007,”and inserting
- 2 “October 1, 2017,”.

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