

Editorial Notes

AMENDMENTS

2024—Subsec. (d). Pub. L. 118–63 struck out par. (1) designation before “The Secretary” and par. (2) which read as follows: “Not more than \$38,600,000 is available to the Secretary out of the Fund for each of the fiscal years ending September 30, 1993–1998, to incur obligations under this section. Amounts made available under this section remain available until expended.”

2012—Subsec. (a)(1)(D), (E). Pub. L. 112–95 added subpars. (D) and (E).

2003—Subsec. (e). Pub. L. 108–176 added subsec. (e).

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2003 AMENDMENT

Pub. L. 108–176, title IV, § 402(b), Dec. 12, 2003, 117 Stat. 2543, provided that: “The amendment made by subsection (a) [amending this section] shall take effect 30 days after the date of enactment of this Act [Dec. 12, 2003].”

EMERGENCY ACROSS-THE-BOARD ADJUSTMENT TO COMPENSATION FOR SIGNIFICANTLY INCREASED COSTS

Pub. L. 112–95, title IV, § 426(a), Feb. 14, 2012, 126 Stat. 98; Pub. L. 115–254, div. B, title V, § 539(s)(1), Oct. 5, 2018, 132 Stat. 3371, provided that: “Subject to the availability of funds, the Secretary of Transportation may increase the rates of compensation payable to air carriers under subchapter II of chapter 417 of title 49, United States Code, to compensate such carriers for increased aviation fuel costs without regard to any agreement or requirement relating to the renegotiation of contracts or any notice requirement under section 41734 of such title.”

DEADLINE FOR ISSUANCE OF REVISED GUIDANCE

Pub. L. 112–95, title IV, § 427(b), Feb. 14, 2012, 126 Stat. 99, provided that: “Not later than 1 year after the date of enactment of this Act [Feb. 14, 2012], the Secretary of Transportation shall issue revised guidelines governing the rate of compensation payable under subchapter II of chapter 417 that incorporate the amendments made by this section [amending this section].”

§ 41738. Fitness of air carriers

Notwithstanding section 40109(a) and (c)–(h) of this title, an air carrier may provide air service to an eligible place or air transportation to a place designated under section 41736 of this title only when the Secretary of Transportation decides that—

(1) the carrier is fit, willing, and able to perform the service or transportation; and

(2) aircraft used to provide the service or transportation, and operations related to the service or transportation, conform to the safety standards prescribed by the Administrator of the Federal Aviation Administration.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1152.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
41738	49 App.:1389(e)(1).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 419(e)(1); added Oct. 24, 1978, Pub. L. 95–504, § 33(a), 92 Stat. 1732; Dec. 8, 1983, Pub. L. 98–213, § 10, 97 Stat. 1461; Oct. 4, 1984, Pub. L. 98–443, § 9(r), 98 Stat. 1708; restated Dec. 30, 1987, Pub. L. 100–223, § 202(a)(1), (2), (b)(1), 101 Stat. 1507, 1515.

In this section, before clause (1), the words “air transportation to a place” are substituted for “service to a point” for consistency with the source provisions restated in sections 41733, 41735, and 41736 of the revised title. In clauses (1) and (2), the words “service or transportation” are substituted for “such service” for consistency with the source provisions restated in sections 41733, 41735, and 41736 of the revised title.

§ 41739. Air carrier obligations

If at least 2 air carriers make an agreement to operate under or use a single carrier designator code to provide air transportation, the carrier whose code is being used shares responsibility with the other carriers for the quality of transportation provided the public under the code by the other carriers.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1152.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
41739	49 App.:1389(i).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 419(i); added Oct. 24, 1978, Pub. L. 95–504, § 33(a), 92 Stat. 1732; Dec. 8, 1983, Pub. L. 98–213, § 10, 97 Stat. 1461; Oct. 4, 1984, Pub. L. 98–443, § 9(r), 98 Stat. 1708; restated Dec. 30, 1987, Pub. L. 100–223, § 202(a)(1), (2), (b)(1), 101 Stat. 1507, 1516.

The words “quality of transportation” are substituted for “quality of service” for clarity and consistency in this section.

[§ 41740. Repealed. Pub. L. 118–63, title V, § 561(i), May 16, 2024, 138 Stat. 1216]

Section, Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1152; Pub. L. 108–176, title IV, § 403, Dec. 12, 2003, 117 Stat. 2543, related to joint proposals by 2 or more air carriers for providing air service or air transportation under this subchapter.

§ 41741. Insurance

The Secretary of Transportation may pay an air carrier compensation under this subchapter only when the carrier files with the Secretary an insurance policy or self-insurance plan approved by the Secretary. The policy or plan must be sufficient to pay for bodily injury to, or death of, an individual, or for loss of or damage to property of others, resulting from the operation of aircraft, but not more than the amount of the policy or plan limits.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1152.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
41741	49 App.:1389(h).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 419(h); added Oct. 24, 1978, Pub. L. 95–504, § 33(a), 92 Stat. 1732; Dec. 8, 1983, Pub. L. 98–213, § 10, 97 Stat. 1461; Oct. 4, 1984, Pub. L. 98–443, § 9(r), 98 Stat. 1708; restated Dec. 30, 1987, Pub. L. 100–223, § 202(a)(1), (2), (b)(1), 101 Stat. 1507, 1516.

The words “The Secretary of Transportation may pay . . . only when” are substituted for “An air carrier

shall not receive . . . unless” for clarity. The words “approved by the Secretary” are substituted for “complies with regulations or orders issued by the Secretary governing the filing and approval” to eliminate unnecessary words. The words “The policy or plan must be sufficient to pay . . . but not more than the amount of the policy or plan limits” are substituted for “in the amount prescribed by the Secretary which are conditioned to pay, within the amount of such insurance, amounts” because of the restatement. The words “for which such air carrier may become liable” are omitted as unnecessary. The word “individual” is substituted for “person” because it is more precise. The word “operation” is substituted for “operation or maintenance” because it is inclusive.

§ 41742. Essential air service authorization

(a) IN GENERAL.—

(1) AUTHORIZATION.—Out of the amounts received by the Federal Aviation Administration credited to the account established under section 45303 of this title or otherwise provided to the Administration, the sum of \$50,000,000 for each fiscal year is authorized and shall be made available immediately for obligation and expenditure to carry out the essential air service program under this subchapter.

(2) ADDITIONAL FUNDS.—In addition to amounts authorized under paragraph (1), there is authorized to be appropriated out of the Airport and Airway Trust Fund (established under section 9502 of the Internal Revenue Code of 1986) \$348,544,000 for fiscal year 2024, \$340,000,000 for fiscal year 2025, \$342,000,000 for fiscal year 2026, \$342,000,000 for fiscal year 2027, and \$350,000,000 for fiscal year 2028 to carry out this subchapter of which not more than \$12,000,000 per fiscal year may be used for the marketing incentive program for communities and for State marketing assistance.

(3) AUTHORIZATION FOR ADDITIONAL EMPLOYEES.—In addition to amounts authorized under paragraphs (1) and (2), there are authorized to be appropriated such sums as may be necessary for the Secretary of Transportation to hire and employ 4 additional employees for the office responsible for carrying out the essential air service program.

(b) DISTRIBUTION OF ADDITIONAL FUNDS.—Notwithstanding any other provision of law, in any fiscal year in which funds credited to the account established under section 45303, including the funds derived from fees imposed under the authority contained in section 45301(a), exceed the \$50,000,000 made available under subsection (a)(1), such funds shall be made available immediately for obligation and expenditure to carry out the essential air service program under this subchapter.

(c) AVAILABILITY OF FUNDS.—The funds made available under this section shall remain available until expended.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1152; Pub. L. 104–264, title II, §278(c), Oct. 9, 1996, 110 Stat. 3249; Pub. L. 106–181, title II, §209(a), Apr. 5, 2000, 114 Stat. 95; Pub. L. 108–176, title IV, §404, Dec. 12, 2003, 117 Stat. 2543; Pub. L. 112–30, title II, §209, Sept. 16, 2011, 125 Stat. 359; Pub. L. 112–91, §9, Jan. 31, 2012, 126 Stat. 5; Pub. L. 112–95, title IV, §428, Feb. 14, 2012, 126 Stat. 99; Pub. L.

114–55, title I, §107, Sept. 30, 2015, 129 Stat. 524; Pub. L. 114–141, title I, §107, Mar. 30, 2016, 130 Stat. 324; Pub. L. 114–190, title I, §1107, July 15, 2016, 130 Stat. 618; Pub. L. 115–63, title I, §104(a), Sept. 29, 2017, 131 Stat. 1170; Pub. L. 115–141, div. M, title I, §104(a), Mar. 23, 2018, 132 Stat. 1047; Pub. L. 115–254, div. B, title IV, §451(a), Oct. 5, 2018, 132 Stat. 3347; Pub. L. 118–15, div. B, title II, §2206(a), Sept. 30, 2023, 137 Stat. 85; Pub. L. 118–34, title I, §106(a), Dec. 26, 2023, 137 Stat. 1115; Pub. L. 118–41, title I, §106(a), Mar. 8, 2024, 138 Stat. 23; Pub. L. 118–63, title V, §566, May 16, 2024, 138 Stat. 1219.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
41742	49 App.:1389(m).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §419(m); added Oct. 24, 1978, Pub. L. 95–504, §33(a), 92 Stat. 1732; Dec. 8, 1983, Pub. L. 98–213, §10, 97 Stat. 1461; Oct. 4, 1984, Pub. L. 98–443, §9(r), 98 Stat. 1708; restated Dec. 30, 1987, Pub. L. 100–223, §202(a)(1), (2), (b)(1), 101 Stat. 1507, 1517; Nov. 5, 1990, Pub. L. 101–508, §913(b)(1), 104 Stat. 1388–363.

Editorial Notes

REFERENCES IN TEXT

Section 9502 of the Internal Revenue Code of 1986, referred to in subsec. (a)(2), is classified to section 9502 of Title 26, Internal Revenue Code.

AMENDMENTS

2024—Subsec. (a)(2). Pub. L. 118–63 substituted “\$348,544,000 for fiscal year 2024, \$340,000,000 for fiscal year 2025, \$342,000,000 for fiscal year 2026, \$342,000,000 for fiscal year 2027, and \$350,000,000 for fiscal year 2028” for “\$155,000,000 for fiscal year 2018, \$158,000,000 for fiscal year 2019, \$161,000,000 for fiscal year 2020, \$165,000,000 for fiscal year 2021, \$168,000,000 for fiscal year 2022, and \$172,000,000 for fiscal year 2023, and \$216,192,407 for the period beginning on October 1, 2023, and ending on May 10, 2024.”

Pub. L. 118–41 substituted “\$216,192,407 for the period beginning on October 1, 2023, and ending on May 10, 2024,” for “\$155,115,628 for the period beginning on October 1, 2023, and ending on March 8, 2024.”

2023—Subsec. (a)(2). Pub. L. 118–34 substituted “\$155,115,628 for the period beginning on October 1, 2023, and ending on March 8, 2024,” for “\$89,191,486 for the period beginning on October 1, 2023, and ending on December 31, 2023.”

Pub. L. 118–15 substituted “2023, and \$89,191,486 for the period beginning on October 1, 2023, and ending on December 31, 2023,” for “2023”.

2018—Subsec. (a)(2). Pub. L. 115–254 substituted “\$155,000,000 for fiscal year 2018, \$158,000,000 for fiscal year 2019, \$161,000,000 for fiscal year 2020, \$165,000,000 for fiscal year 2021, \$168,000,000 for fiscal year 2022, and \$172,000,000 for fiscal year 2023” for “\$150,000,000 for fiscal year 2011, \$143,000,000 for fiscal year 2012, \$118,000,000 for fiscal year 2013, \$107,000,000 for fiscal year 2014, \$93,000,000 for fiscal year 2015, \$175,000,000 for each of fiscal years 2016 and 2017, and \$150,000,000 for fiscal year 2018”.

Pub. L. 115–141 substituted “2016 and 2017, and \$150,000,000 for fiscal year 2018” for “2016 and 2017, and \$74,794,521 for the period beginning on October 1, 2017, and ending on March 31, 2018.”

2017—Subsec. (a)(2). Pub. L. 115–63 substituted “\$175,000,000 for each of fiscal years 2016 and 2017, and \$74,794,521 for the period beginning on October 1, 2017,