

1 **A BILL**

2
3 To amend title 49, United States Code, to authorize appropriations for the Federal Aviation
4 Administration for fiscal years 2008 through 2010, to improve aviation safety and capacity,
5 to provide stable, cost-based funding for the national aviation system, and for other purposes.
6

7 *Be it enacted by the Senate and House of Representatives of the United States of America*
8 *in Congress assembled,*
9

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

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

13
14 (b) TABLE OF CONTENTS.—

- 15
16 Sec. 1. Short title; Table of contents.
17 Sec. 2. Amendments to title 49, United States Code.
18 Sec. 3. Effective date.
19

20 **Title I—AUTHORIZATIONS**

- 21
22 Sec. 101. Authorizations for General Fund, air traffic functions, safety and operations.
23 Sec. 102. Airport planning and development and noise compatibility planning and programs.
24 Sec. 103. Airline data and analysis.
25 Sec. 104. Office of Commercial Space Transportation.
26 Sec. 105. Transition.
27

28 **Title II—USER FEE AUTHORITY**

- 29
30 Sec. 201. Fees.
31 Sec. 202. Conforming Amendments.

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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.

- 1 Sec. 404. Definition of air navigation facility.
2 Sec. 405. Improved management of property inventory.
3 Sec. 406. Clarification to acquisition reform authority.
4 Sec. 407. Assistance to foreign aviation authorities.
5 Sec. 408. Presidential Rank Award Program.
6 Sec. 409. Realignment and consolidation of aviation facilities and services.
7 Sec. 410. Operational and approach procedures by third parties through delegation.
8 Sec. 411. Judicial review of denial of airman certificates.
9 Sec. 412. Release of data relating to abandoned type certificates and supplemental type
10 certificates.
11 Sec. 413 Design Organization Certificates.
12 Sec. 414. Contract tower program.
13 Sec. 415. Enhanced Oversight of Next Generation Air Transportation System Joint Planning and
14 Development office.

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17 Title V—AVIATION SAFETY, SECURITY, CAPACITY AND CONNECTIVITY
18 IMPROVEMENTS

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

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26 Title VI—ENVIRONMENTAL STEWARDSHIP AND STREAMLINING

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- 28 Sec. 601. Airport Cooperative Research Program.
29 Sec. 602. State Block Grant Program.
30 Sec. 603. Airport funding of special studies or reviews.
31 Sec. 604. Environmental Mitigation Demonstration Pilot Program.

1 Sec. 605. Grant eligibility for assessment of flight procedures.

2 Sec. 606. Research consortium for lower energy, emissions and noise technology partnership.

3 Sec. 607. Amendments to Air Tour Management Program.

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5 Title VII—AVIATION INSURANCE

6

7 Sec. 701. General Authority.

8 Sec. 702. Extension of authority to limit third party liability of air carriers arising out of acts of
9 terrorism.

10 Sec. 703. Clarification on reinsurance authority.

11 Sec. 704. Use of independent claims adjusters.

12 Sec. 705. Extension of aviation program authority.

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14 Title VIII—AVIATION SERVICE IMPROVEMENTS

15 Sec. 801. Extension of competitive access reports.

16 Sec. 802. Essential air service reform.

17 Sec. 803. Termination of DOT authority to set international mail rates.

18 Sec. 804. Air carriage of international mail.

19 Sec. 805. Contents of competition plans.

20 Sec. 806. Airport privatization.

21 Sec. 807. Clarification of air carrier fee disputes.

22 Sec. 808. Amendments to chapter 415.

23

24 Title IX—INTERNAL REVENUE CODE AMENDMENTS

25

26 Sec. 901. Amendment of 1986 Code.

27 Sec. 902. Modifications to tax on aviation fuel.

28 Sec. 903. Modifications to tax on transportation of persons by air.

29 Sec. 904. Extension of Airport and Airway Trust Fund expenditure authority.

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

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

7 **SEC. 3. EFFECTIVE DATE.**

8 Except as otherwise expressly provided, this Act and the amendments made by this Act
9 shall be effective on the date of enactment.
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11
12 Title I—AUTHORIZATIONS
13

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

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

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

21 “Sec.

22 “48201. Air Traffic Organization.

23 “48202. Safety and operations.

24 “48203. Civil aviation research and development.

25 “48204. General fund authorization.
26

27 **“§48201. Air Traffic Organization**

28 “(a) AIR TRAFFIC ORGANIZATION ACCOUNT.—On October 1, 2007, the
29 Secretary of the Treasury shall establish on the books of the Treasury a separate account
30 to be known as the “Air Traffic Organization”.

1 “(b) AUTHORIZATION OF APPROPRIATIONS.—In addition to amounts from
2 the general fund of the Treasury as authorized in section 48204, not more than a total of
3 the following amounts may be appropriated to the Secretary of Transportation out of the
4 Airport and Airway Trust Fund established under section 9502 of the Internal Revenue
5 Code of 1986 (26 U.S.C. 9502) for capital, operating and overhead costs of providing air
6 traffic control and related services:

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

8 “(2) \$1,130,000,000 for fiscal year 2009; and

9 “(3) \$1,126,000,000 for fiscal year 2010.

10 “(c) USER FEES.—(1) In addition to amounts authorized under subsection (b),
11 amounts credited to the account established under subsection (a) from fees collected
12 under section 45305 of this title are authorized to be used for capital, operating and
13 overhead costs of providing air traffic control and related services, as well as for the costs
14 related to the assessment and collection of these fees.

15 “(2) Notwithstanding any other provision of law, amounts credited to the account
16 established under subsection (a) shall be used only to carry out the air traffic functions of
17 the Federal Aviation Administration.

18 “(d) AVAILABILITY OF AMOUNTS.—Amounts appropriated under this
19 section shall remain available until expended.

20
21 **“§48202. Safety and operations**

22 “(a) SAFETY AND OPERATIONS ACCOUNT.—On October 1, 2007, the
23 Secretary of the Treasury shall establish on the books of the Treasury a separate account
24 to be known as the “Safety and Operations”.

25 “(b) AUTHORIZATION OF APPROPRIATIONS.—In addition to amounts from
26 the general fund of the Treasury as authorized in section 48204, not more than a total of
27 the following amounts may be appropriated to the Secretary of Transportation out of the
28 Airport and Airway Trust Fund established under section 9502 of the Internal Revenue
29 Code of 1986 (26 U.S.C. 9502) for programs, activities and services relating to the
30 Federal Aviation Administration’s safety programs, services to the commercial space
31 industry and other staff support functions:

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

2 “(2) \$69,000,000 for fiscal year 2009; and

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

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

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

13 “(d) AVAILABILITY OF AMOUNTS.—Amounts appropriated under this
14 section shall remain available until expended.”.

15
16 **“§ 48203. Civil aviation research and development**

17 “(a) AUTHORIZATION.—In addition to amounts from the general fund of the
18 Treasury as authorized in section 48204, not more than the following amounts may be
19 appropriated out of the Airport and Airway Trust Fund established under section 9502 of
20 the Internal Revenue Code of 1986 (26 U.S.C. 9502), to the Secretary of Transportation
21 for conducting civil aviation research and development under sections 44504, 44505,
22 44507, 44509, and 44511-44513 of this title:

23 “(1) \$122,867,000 for fiscal year 2008;

24 “(2) \$174,000,000 for fiscal year 2009; and

25 “(3) \$174,000,000 for fiscal year 2010.

26 “(b) AVAILABILITY OF AMOUNTS.--Amounts appropriated under this section
27 shall remain available until expended.”.

28
29 **“§ 48204. General Fund Authorization**

30 “Not more than the following amounts may be appropriated under this chapter
31 from the general fund of the Treasury to the Secretary of Transportation for activities or

1 services, the cost of which is not otherwise funded by fees established under chapter 453
2 of this title or by funds made available from the Airport and Airway Trust Fund, related
3 to aviation safety regulation and oversight, research and development, air traffic services
4 provided to military, public or air ambulance aircraft, operation of Flight Service Stations
5 and Automated Flight Service Stations, operation of air traffic control towers at airports
6 with fewer than 100,000 passenger boardings per year, services to the commercial space
7 industry, or other Federal Aviation Administration programs in the general public
8 interest, including the capital, operating, and overhead costs for such activities or
9 services:

10 “(1) \$2,618,322,000 for fiscal year 2008;

11 “(2) \$2,532,000,000 for fiscal year 2009; and

12 “(3) \$2,532,000,000 for fiscal year 2010.”

13
14 (b) CONFORMING AMENDMENT.—The analysis of Part C of Subtitle VII is
15 amended by revising the entry for chapter 482 to read as follows:

16 “482. AUTHORIZATIONS FOR AIR TRAFFIC FUNCTIONS, SAFETY AND
17 OPERATIONS, RESEARCH AND DEVELOPMENT AND GENERAL
18 FUND..... 48201”.

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21 **SEC. 102. AIRPORT PLANNING AND DEVELOPMENT AND NOISE**
22 **COMPATIBILITY PLANNING AND PROGRAMS.**

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

24 (1) in the first sentence, by striking “The” and inserting “(a)
25 AUTHORIZATION.—The”;

26 (2) by striking “September 30, 2003” and inserting “September 30, 2007”;

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

28 “(1) \$2,750,000,000 for fiscal year 2008;

29 “(2) \$2,900,000,000 for fiscal year 2009; and

30 “(3) \$3,050,000,000 for fiscal year 2010.”; and

31 (4) by inserting at the end the following:

1 “(b) AIRPORT COOPERATIVE RESEARCH PROGRAM.--Not more than
2 \$15,000,000 per year for fiscal years 2008, 2009 and 2010 may be appropriated to the
3 Secretary of Transportation from the amounts made available each year under subsection
4 (a) for the Airport Cooperative Research Program under section 44511 of this title, of
5 which not less than \$5,000,000 per year shall be for research activities related to the
6 airport environment, including reduction of community exposure to civil aircraft noise,
7 reduction of civil aviation emissions, or addressing water quality issues.”.

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

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

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

18 (b) In fiscal year 2009, the Secretary shall reform, by the most efficient means
19 available, the aviation economic data program for the collection and dissemination of
20 airline traffic and financial data.

22 **SEC. 104. OFFICE OF COMMERCIAL SPACE TRANSPORTATION.**

23 Section 70119 is amended—

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

25 (2) in paragraph (5), by striking “2009.” and inserting “2009; and”; and

26 (3) by inserting at the end:

27 “(6) \$15,224,000 for fiscal year 2010.”.

29 **SEC. 105. TRANSITION.**

30 (a) AUTHORIZATION FOR TRANSITION PERIOD.—For the purpose of
31 supporting the transition to a user fee system of financing under chapter 453, not more

1 than \$1,360,000,000 is authorized to be appropriated to the Secretary of Transportation
2 from the general fund of the Treasury to provide services for an initial period of sixty
3 days for which user fees under sections 45305 (air traffic control and related fees) and
4 45306 (registration, certification and related fees) are assessed.

5 (b) FEE SURCHARGE.—The Administrator of the Federal Aviation
6 Administration shall, subject to appropriation in advance, impose and collect a surcharge
7 on the user fees established under sections 45305 and 45306 for fiscal year 2009 in an
8 amount and manner so as to fully recover and return to the general fund in fiscal year
9 2009 the amount used for transition costs under this section.

10
11
12 Title II—USER FEE AUTHORITY
13

14 **SEC. 201. FEES**

15 (a) IN GENERAL.--Chapter 453 is amended by adding at the end the following:
16

17 **“Sec. 45305. Air traffic control and related fees**

18 “(a) SCHEDULE OF FEES.—(1) Not later than the date of transition, the
19 Administrator of the Federal Aviation Administration shall establish fees for air traffic
20 control and related activities, services, facilities and equipment provided by, or on behalf
21 of, the Administration in accordance with this section. Except as provided in subsection
22 (c), owners or operators of aircraft in the national airspace system shall pay the fees
23 assessed under this section. The Administrator may establish separate fees for aircraft
24 operating in terminal, enroute, or oceanic airspace.

25 “(2) For purposes of this section and section 45306, “date of transition” means
26 October 1, 2008.

27 “(3) In establishing fees under paragraph (1), the Administrator may establish
28 interim fees for a period not to exceed one year after the date of transition, and may
29 impose a surcharge on such fees in order to recover the full costs of services during the
30 initial period of transition to user fees. The establishment of such interim fees would not
31 be subject to the requirements of subsection (e)(2).

1 “(4) In accordance with this section, the Administrator may periodically modify
2 the fees established under this section either on the Administrator’s own initiative, based
3 on the requirements of the agency or the users of the National Airspace System, or on a
4 recommendation from the Board under subsection (e)(2) of this section.

5 “(b) BASIS FOR FEES; COMPUTATION METHODS.—(1) EN ROUTE AND
6 OCEANIC.—In establishing fees for aircraft operating in en route or oceanic airspace,
7 including fees for aircraft that operate in United States controlled airspace but neither
8 take off from, nor land in, the United States, the Administrator may base the fee on
9 distance traveled, or on any other method that is consistent with the treaties and
10 international agreements to which the United States is a party.

11 “(2) TERMINAL AIRSPACE.—For aircraft operations in terminal airspace, the
12 Administrator may establish a fee with the following elements:

13 “(A) for takeoffs and landings at airports with greater than 100,000
14 passenger boardings per year;

15 “(B) that may be based on the weight of the aircraft;

16 “(C) specifically for aircraft operating in terminal airspace for a large hub
17 airport, as defined by section 40102(a)(29);

18 “(D) specifically for terminal airspace for a large hub airport that varies
19 with the time of day, day of the week, or for a particular large hub airport if the
20 Administrator determines—

21 “(i) that such airspace is congested;

22 “(ii) that such congestion results in whole or in part from the
23 limitation on the capacity of the large hub airport or airports;

24 and

25 “(iii) that establishing such a fee will help reduce delays in the
26 national airspace system; and

27 “(E) a fee that is different for nighttime operations than for daytime operations.

28 “(3) QUANTITATIVE STANDARDS.--For the purpose of the determinations
29 required by paragraphs (b)(2)(D), the Administrator shall issue quantitative
30 standards for the levels of airspace and airport congestion, operating delays, effect
31 of airport delay on national system delay, and feasibility of increasing the

1 capacity of a congested airport, and make such determinations in accordance with
2 those standards.

3 “(4) AIRCRAFT ALTITUDE.--Nothing in this section shall require the
4 Administrator to take into account aircraft altitude in establishing any fee for
5 aircraft operations in terminal, en route or oceanic airspace.

6 “(5) INCENTIVE FOR EQUIPAGE.--The Administrator may establish
7 reduced fees for aircraft that are equipped with avionics whose use the
8 Administrator determines would enhance the safety or efficiency of the National
9 Airspace System if the Administrator finds that such a fee structure would create
10 an incentive for the purchase and installation of such equipment.

11 “(6) RELATION TO COSTS.—The fees established under this section shall
12 be based on the costs to the Administration of providing the air traffic control and
13 related activities, services, facilities, and equipment using the available data
14 derived from the agency’s cost accounting system and cost allocation system to
15 users. For purposes of this section, the term ‘costs’ means those costs associated
16 with the operation, maintenance, debt service, and overhead expenses of the
17 services provided and the facilities and equipment used in such services, including
18 the projected costs for the period during which the services will be provided, but
19 shall not include the cost of providing services to aircraft described in subsection
20 (c).

21 “(7) RESERVE.—The fees that the Administrator establishes under this
22 section may also include amounts sufficient to cover the costs of providing air
23 traffic control and related activities, services, facilities and equipment in the event
24 that receipts are less than projected, whether such a shortfall is caused by a
25 decrease in aircraft operations, delinquent payment of fees by any person, or for
26 another comparable reason.

27 “(8) ANNUAL REVIEW.—The Administrator shall provide for an annual
28 independent review to validate that the agency used actual costs for the year,
29 which were prepared in accordance with generally accepted accounting principles,
30 and compiled those costs in accordance with the agency’s documented cost
31 allocation methodology.

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

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

6 “(B) be available to the Administrator for expenditure only to pay the costs of
7 activities and services for which the fee is imposed, including the costs to
8 determine, assess, review and collect the fee.

9 “(10) EFFECT OF LAW ON FEE COLLECTION.--The Administrator may
10 continue to assess and collect and spend fees established under this section during any
11 period in which the agency’s funding is provided under an Act providing continuing
12 appropriations in lieu of the agency’s regular appropriations.

13 “(c) EXCEPTIONS.--(1) MILITARY AND OTHER PUBLIC AIRCRAFT.—
14 Fees may not be assessed under this section for air traffic control and related services
15 provided to military aircraft, public aircraft (as defined in section 40102 of this subtitle),
16 air ambulance aircraft, or to military or non-commercial civil aircraft of a foreign
17 government.

18 “(2) GENERAL AVIATION OPERATIONS.—Except for fees established for
19 operations in terminal airspace for a large hub airport under subsection (b)(2), no fees
20 may be established under this section for air traffic control and related services provided
21 to aircraft operations using fuel for which a tax was paid under section 4081(a)(2) (except
22 taxes paid at the rate specified in section 4081(a)(2)(C)(i)) of title 26, United States Code.
23 The exception provided by this subparagraph shall cease to be effective if the rate of tax
24 for fuel under section 4081(a)(2) is lower than 70.0 cents per gallon, starting on the date
25 of transition, except if the lower rate is the result of adjustments made under section
26 4081(a)(2) of title 26, United States Code.

27 “(3) FLIGHT PLAN INFORMATION.--Any person required to file a flight plan
28 with the Administration, including operators of flights described in paragraphs (1) and
29 (2), must specify in the plan whether the person is engaged in an operation for
30 compensation or hire, or a general aviation operation, or a military or public aircraft
31 operation, for purposes of this section.

1 “(4) CANADA TO CANADA FLIGHTS.—The Administrator may waive a fee
2 that would otherwise be assessed under this chapter for flights that operate in U.S.-
3 controlled airspace but takeoff and land at an airport in Canada without an intermediate
4 stop outside Canada, if the Administrator determines that not assessing and collecting the
5 fee for such flights would be in the public interest.

6 “(d) ADMINISTRATIVE PROVISIONS.—

7 “(1) FEES PAYABLE TO THE ADMINISTRATOR.--Fees assessed and
8 amounts collected under this section are payable to the Administrator. The Administrator
9 may refund any fee, or portion thereof, paid by mistake in excess of the amount required.

10 “(2) COLLECTION PROCEDURES.--The Administrator shall establish
11 procedures for the collection of fees. These procedures shall establish the frequency of
12 payment, deadlines for payment, a maximum amount of fees that may be outstanding on
13 the account of any person, and such other limitations and conditions as the Administrator
14 determines are necessary to obtain prompt payment of fees.

15 “(3) FAILURE TO PAY REQUIRED FEES.--If the Administrator determines
16 that any person has failed to pay fees when due under this section, or to comply with any
17 limitation or condition on payment under this section, or to provide the Administration
18 with the correct information in the person’s flight plan or by other means regarding the
19 nature of the flight, including whether the person engaged in an operation for
20 compensation or hire or general aviation operation, the Administrator may--

21 “(A) assess interest charges, using a rate equal to 150 percent of a rate
22 determined by the Secretary of the Treasury based on the average of bond
23 equivalent yields on 13-week Treasury bills auctioned during the previous
24 calendar quarter, to be redetermined quarterly, on amounts that have not been paid
25 by the deadline;

26 “(B) change the required payment schedule for such person;

27 “(C) offset any amount of fees owed by withholding any payment
28 otherwise owed or due to the person by the Secretary or the Administrator;

29 “(D) upon 24 hours notice, terminate, reduce, or withhold the provision of
30 non-emergency air traffic control and related services to such person, except that,

1 in any case involving a foreign air carrier, the Administrator shall take such
2 actions as are necessary to comply with applicable international agreements; or

3 “(E) impose a civil penalty for each day amounts remain unpaid, or take
4 other appropriate enforcement action under this subtitle.

5 “(4) ACTION WHEN FUTURE PAYMENT IN JEOPARDY.—If the
6 Administrator reasonably determines that an aircraft owner or operator will not pay its
7 required fees when due, the Administrator may—

8 “(A) change the required payment schedule for such person; or

9 “(B) upon 24 hours notice, terminate, reduce, or withhold the provision of
10 non-emergency air traffic control and related services to such person, except that,
11 in any case involving a foreign air carrier, the Administrator shall take such
12 actions as are necessary to comply with applicable international agreements.

13 “(5) PAYMENT NOT STAYED PENDING REVIEW.--In any case where a
14 person seeks administrative review of the Administrator’s action under this section, the
15 collection of fees from that person may not be stayed pending resolution of the case.

16 “(e) CONSULTATION REQUIREMENTS; APPROVAL OF FEES.—(1) Prior
17 to establishing or modifying fees under this section or section 45306 of this title, the
18 Administrator shall consult with air carriers, including foreign air carriers, consistent with
19 international agreements, and any other persons subject to such fees, and any other
20 member of the public who wishes to file comments. For purposes of the section,
21 ‘consult’ means to afford the opportunity to provide comments to, and have such
22 comments considered by, the Administrator.

23 “(2) Prior to establishing or modifying fees under this section or section 45306 of
24 this title, the Administrator shall consult with and seek the recommendations of the type
25 and level of such fees from the Air Transportation System Advisory Board (hereinafter
26 ‘the Board’) established under section 106(p) of this title. The Board may, from time to
27 time, recommend that the Administrator modify established fees based on the needs of
28 the agency or the users of the National Airspace System. If the Board fails to recommend
29 approval of any fee proposed by the Administrator, or if the Administrator fails to adopt
30 the recommendation of the Board, the Administrator may establish or maintain such fees
31 only after publishing in the Federal Register a written determination setting forth the

1 reasons for the Administrator's establishment or modification of the fees and
2 summarizing the views of the Board.

3 “(3) Any person who is subject to fees established in this section or section 45306
4 of this title, and who objects to the establishment or amount of such fees may appeal that
5 decision exclusively to the Secretary of Transportation. The Secretary may disapprove
6 the establishment or modification of fees if the Secretary finds that the fees--

7 “(A) are not, in the case of fees under this section, based on costs as
8 described in subsection (b)(6);

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

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

12 “(D) are not in accordance with the strategic plan of the Administration.

13 “(4) The decision of the Administrator to establish or modify a fee or schedule of
14 fees under this section or section 45306 of this title shall be effective unless disapproved
15 by the Secretary within 60 days after submission of the Administrator's decision to the
16 Secretary. The decision of the Secretary constitutes final agency action and is not subject
17 to judicial review.

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

21 “(g) EXEMPTION FROM RULEMAKING.--The requirements applicable to
22 developing and issuing rules under title 5, United States Code, shall not apply to the
23 actions of the Secretary, Administrator, or Board under this section.

24 “(h) STATUS OF AIRPORT.—Based on fiscal year 2006 data, the Administrator
25 shall publish a list of airports that meet the criteria for a large hub airport under
26 subsection (b)(2). The Administrator shall periodically update such list. If in the fiscal
27 year during which the list is first published or in any subsequent fiscal year in which the
28 list of airports is updated, an airport meets the criteria for a large hub airport under
29 subsection (b)(2), such airport shall be deemed to remain in such status for three years
30 regardless of fluctuation in the passenger boardings during that time.

31 “(i) DEFINITIONS.—For the purposes of this section—

1 “(1) ‘Air ambulance aircraft’ means—

2 “(A) rotorcraft, which are engaged in an operation to provide
3 emergency medical services; or

4 “(B) fixed-wing aircraft, which are equipped for and exclusively
5 dedicated to providing acute care medical services.

6 “(2) ‘enroute airspace means airspace encompassing Class A and Class E
7 airspace listed in part 71 of title 14 of the Code of Federal Regulations and
8 subpart B of Federal Aviation Administration Order 7400.9N or a successor
9 order;

10 “(3) ‘terminal airspace’ means airspace encompassing Class B, Class C
11 and Class D airspace listed in part 71 of title 14 of the Code of Federal
12 Regulations and subpart B of Federal Aviation Administration Order 7400.9N or
13 a successor order.

14 “(4) ‘oceanic airspace’ means U.S. controlled airspace over an ocean.
15

16 **“§ 45306. Registration, certification and related fees**

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

19 “(1) \$130 for registering an aircraft.

20 “(2) \$45 for replacing an aircraft registration.

21 “(3) \$130 for issuing an original dealer’s aircraft certificate.

22 “(4) \$105 for issuing an additional aircraft certificate.

23 “(5) \$80 for issuing a special registration number.

24 “(6) \$50 for issuing a renewal of a special registration number.

25 “(7) \$130 for recording a security interest.

26 “(8) \$130 for recording a security interest in aircraft parts.

27 “(9) \$50 for issuing an airman certificate.

28 “(10) \$25 for issuing a replacement airman certificate.

29 “(11) \$42 for issuing an airman medical certificate.

30 “(12) \$100 for providing legal title opinions pertaining to aircraft
31 transactions.

1 “(b) ESTABLISHMENT OF CERTIFICATION FEES.—(1) The Administrator
2 shall establish fees for the following services or activities:

3 “(A) The appointment of a designee (other than designated medical
4 examiners).

5 “(B) The appointment of delegated organizations.

6 “(C) The training of a designee.

7 “(D) The issuance of a certificate to a flight school under Part 141 of title
8 14 of the Code of Federal Regulations.

9 “(E) The issuance of a certificate to a training center under Part 142 of title
10 14 of the Code of Federal Regulations.

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

13 “(G) The issuance of a certificate to a medium domestic repair station
14 under part 145 of title 14 of the Code of Federal Regulations.

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

17 “(I) The issuance of a certificate to a large foreign repair station under part
18 145 of title 14 of the Code of Federal Regulations.

19 “(J) The issuance of a certificate to a medium foreign repair station under
20 part 145 of title 14 of the Code of Federal Regulations.

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

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

25 “(M) Training provided to foreign aviation authorities.

26 “(2) RELATION TO COSTS.—The fees that the Administrator establishes and
27 assesses under this section, shall be based on the costs to the Administration of providing
28 such activities and services using the available data derived from the agency’s cost
29 accounting system and cost allocation system to users. For purposes of this section, the
30 term ‘costs’ shall mean those costs associated with capital, operation and maintenance,

1 and overhead, including the projected costs for the period during which the services are
2 provided.

3 “(c) FEES FOR OTHER SERVICES.--The Administrator may establish and
4 collect such additional fees as may be necessary to cover the cost of aviation certification,
5 regulation, and related services not enumerated in subsection (b), including any
6 additional cost of providing services outside the United States.

7 “(d) FEES CREDITED AS OFFSETTING COLLECTIONS.—(1) Any fee
8 authorized to be collected under this section shall, subject to appropriation made in
9 advance—

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

12 “(B) be available for expenditure only to pay the costs of activities and services
13 for which the fee is imposed, including the costs to determine, assess, review and
14 collect the fee.

15 “(2) The Administrator may continue to assess and collect and spend fees
16 established under this section during any period in which the agency’s funding is
17 provided under an Act providing continuing appropriations in lieu of the agency’s
18 regular appropriations.

19 “(e) ADJUSTMENTS.—The Administrator shall periodically adjust the fees
20 established by subsections (a) or (b) in the following circumstances--

21 “(1) to account for changes in the Consumer Price Index of All Urban Consumers
22 published by the Secretary of Labor;

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

25 “(3) when the Board recommends an adjustment in the fees, in accordance with
26 the procedures under subsection (g).

27 “(f) ADMINISTRATIVE PROVISIONS. –

28 “(1) FEES PAYABLE TO THE ADMINISTRATOR.--All fees assessed and
29 amounts collected under this section are payable to the Administrator. The Administrator
30 may refund any fee, or portion thereof, paid by mistake in excess of the amount required.

1 “(2) COLLECTION PROCEDURES.--The Administrator shall establish
2 procedures for the collection of fees. These procedures shall establish the frequency of
3 payment, deadlines for payment, a maximum amount of fees that may be outstanding on
4 the account of any person, and such other limitations and conditions as the Administrator
5 determines are necessary to obtain prompt payment of fees.

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

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

14 “(B) change the required payment schedule for such person;

15 “(C) upon 24 hours notice to the person, terminate, reduce or withhold
16 non-emergency services or in any case involving a foreign air carrier, the
17 Administrator shall take such actions as are necessary to comply with applicable
18 international agreements; or

19 “(D) impose a civil penalty for each day amounts remain unpaid, or take
20 other appropriate enforcement action under this subtitle.

21 “(4) ACTION WHEN FUTURE PAYMENT IN JEOPARDY.—If the
22 Administrator reasonably determines that a person will not pay its required fees when
23 due, the Administrator may—

24 “(A) change the required payment schedule for such person; or

25 “(B) upon 24 hours notice, terminate, reduce, or withhold non-emergency
26 services to such person, except that, in any case involving a foreign air carrier, the
27 Administrator shall take such actions as are necessary to comply with applicable
28 international agreements.

29 “(5) PAYMENT NOT STAYED PENDING REVIEW.--In any case where a
30 person seeks administrative review of the Administrator’s action under this section, the
31 collection of fees from that person may not be stayed pending resolution of the case.

1 “(g) PROCEDURE FOR IMPOSITION OF FEES.—In establishing or modifying
2 fees under this section, the procedures and requirements of section 45305(e) of this title
3 shall apply.

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

7
8 **“§ 45307. Rules of construction**

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

12
13 **“§ 45308. Borrowing authority.**

14 “(a) IN GENERAL.—(1) In order to support the transition to the Next Generation
15 Air Transportation System, in fiscal years 2013 through 2017 the Secretary of
16 Transportation is authorized to issue obligations to the Secretary of the Treasury to
17 finance capital investments in the facilities and equipment of the air traffic control system
18 to be owned and operated by the Federal Aviation Administration. The Secretary of the
19 Treasury, in the Secretary’s discretion, may purchase any such obligations, provided that
20 the Secretary first determines that there is reasonable assurance of repayment of such
21 obligations.

22 “(2) The Secretary shall not issue any obligations under paragraph (1) without
23 first obtaining approval by the Director of the Office of Management and Budget of the
24 issuance of such obligations and proposed investments to be financed.

25 “(b) CONDITIONS AND LIMIT ON INDEBTEDNESS.--Obligations issued
26 under this section shall be in such forms and denominations, bear such maturities, and
27 shall be subject to such terms and conditions as may be prescribed by the Secretary of the
28 Treasury. The aggregate amount of all such obligations shall not exceed \$5,000,000,000
29 and all obligations shall be repaid by the Secretary of Transportation by the end of fiscal
30 year 2017.

1 “(c) USER FEE INCREASE.--Upon the issuance of obligations under paragraph
2 (1), the Secretary of Transportation shall increase the user fees authorized in sections
3 45305 and 45306 in each of the fiscal years 2013 to 2017 in the amounts required to
4 repay such obligations with interest, and such payments shall have first priority in the use
5 of fees collected during this period. This increase in user fees shall not be treated as
6 discretionary offsetting collections and shall only be used to repay the obligations
7 incurred under paragraph (1).

8 “(d) INTEREST RATE.--The interest rate on obligations issued under this section
9 shall be a rate determined by the Secretary of the Treasury, taking into consideration the
10 current market yields on outstanding marketable obligations of the United States of
11 comparable maturity, plus a surcharge, determined by the Secretary of the Treasury, to be
12 sufficient to cover any potential losses and the administrative costs associated with the
13 obligations. Any surcharges for administrative costs collected by the Secretary of the
14 Treasury shall be credited to the appropriation account which incurred the cost.

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

20
21 (b) CONFORMING AMENDMENT.—(1) The analysis of chapter 453 is
22 amended—

23 (A) by inserting in the title after “FEES”, “AND FINANCING”;

24 (B) by adding at the end the following:

25 “45305. Air traffic control and related fees.

26 “45306. Certification, registration, and related fees.

27 “45307. Rules of construction.

28 “45308. Borrowing authority.”.

29 (2) The analysis of Part A of subtitle VII is amended by revising the entry for
30 chapter 453 to read as follows:

31 “453. FEES AND FINANCING45301 (reserved)”.

1
2 **SEC. 202. CONFORMING AMENDMENTS.**

3 (a) CIVIL PENALTIES.--Section 46301 is amended—

4 (1) in paragraph (a)(1)(A), by inserting “chapter 453,” before “section
5 47107(b)”;

6 (2) in paragraph (a)(5), by

7 (A) striking “or chapter 449” and inserting “chapter 449”; and

8 (B) striking “44907-44909” and inserting “44907-44909), or

9 chapter 453”.

10 (b) FEES FOR OVERFLIGHTS, FOREIGN SERVICES AND SERVICES TO
11 GENERAL AVIATION.—Effective October 1, 2008, sections 45301 and 45302 are
12 repealed.

13 (c) ADMINISTRATIVE PROVISIONS.—Effective October 1, 2008, in section
14 45303—

15 (1) subsections (a), (b) and (c) are repealed; and

16 (2) subsections (d), (e) and (f) are redesignated as (a), (b) and (c)
17 respectively.

18
19
20 Title III--AIRPORT IMPROVEMENT PROGRAM AMENDMENTS

21
22 **SEC. 301. REFORM OF PASSENGER FACILITY CHARGE AUTHORITY.**

23 (a) BROADENING ELIGIBILITY.—(1) Section 40117 is amended—

24 (A) in the title, by striking “fees” and inserting “charges”;

25 (B) in subsection (a)(3), by striking paragraphs (A) through (G) and inserting:

26 “(A) A project for capital costs of the airport or local airport system under section
27 47107(b)(1)(A) and (B).

28 “(B) A project for capital costs of a local facility that is directly and substantially
29 related to air transportation of passengers or property and that is available for public use
30 under section 47107(b)(1)(C).”;

31 (C) by revising paragraph (a)(4) to read as follows:

1 “(4) INTERMODAL GROUND ACCESS PROJECT.—The term “intermodal
2 ground access project” means a local facility that is directly and substantially related to
3 the movement of passengers or property in the form of a fixed guideway system (as
4 defined in section 5302 of this title), that is a component of a fixed guideway system that
5 provides transportation services to the general public or that connects to such a fixed
6 guideway system.”;

7 (D) in paragraph (a)(5), by striking “FEE” or “fee” each time it appears and
8 inserting “CHARGE” or “charge”, respectively;

9 (E) in paragraph (a)(6), by striking “fee.” and inserting “charge.”.

10 (2) CONFORMING AMENDMENTS.—(A) Section 47107(b)(1)(C) is amended
11 to read as follows:

12 “(C) any other local facility that is directly and substantially related to air
13 transportation of passengers or property and that is available for public use.”.

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

15 “(3) any other local facility that is directly and substantially related to air
16 transportation of passengers or property and that is available for public use.”.

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

18 (1) in paragraph (1)—

19 (A) by striking “The Secretary of Transportation may authorize
20 under this section an eligible agency to” and inserting “An eligible agency
21 may”;

22 (B) by striking “fee” both times it appears and inserting “charge”;

23 (C) by striking “or \$3” and inserting “\$3, \$4, \$4.50, \$5, \$6”; and

24 (D) by inserting at the end, “An eligible agency that is approved by
25 the Administrator to participate in the pilot program established under
26 section 44518 of this title may impose a passenger facility charge of \$7.”;

27 (2) in paragraph (2), by inserting “directly or indirectly” before “regulate”;

28 (3) in paragraph (3), by striking “fee” and inserting “charge”; and

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

30 (c) PASSENGER FACILITY CHARGE STREAMLINING.—Section 40117(c)
31 is revised to read as follows:

1 “(c) PROCEDURAL REQUIREMENTS FOR IMPOSITION OF PASSENGER
2 FACILITY CHARGE.—(1) An eligible agency must submit to those air carriers and
3 foreign air carriers operating at the airport with a significant business interest, as defined
4 in paragraph (3), and to the Secretary and make available to the public annually a report,
5 in the form required by the Secretary, on the status of the eligible agency’s passenger
6 facility fee program, including the following:

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

9 “(B) the total amount of program revenue collected by the agency during
10 the period covered by the report;

11 “(C) the amount of expenditures with program revenue made by the
12 agency on each eligible airport-related project during the period covered by the
13 report;

14 “(D) each airport-related project for which the agency plans to collect and
15 use program revenue during the next twelve-month period covered by the report,
16 including the amount of revenue projected to be used for such project;

17 “(E) the level of program revenue the agency plans to collect during the
18 next twelve-month period covered by the report;

19 “(F) a description of the notice and consultation process with air carriers
20 and foreign air carriers under paragraph (3), and with the public under paragraph
21 (4), including a copies of any adverse comments received and how the agency
22 responded; and

23 “(G) any other information on the program that the Secretary may require.

24 “(2) IMPLEMENTATION.—Subject to the requirements of paragraphs (3) and
25 (4), (5) and (6), the eligible agency may implement the planned collection and use of
26 passenger facility charges in accordance with its report upon filing the report as required
27 in paragraph (1).

28 “(3) CONSULTATION WITH CARRIERS FOR NEW PROJECTS.—(A) An
29 eligible agency proposing to collect or use passenger facility charge revenue for a project
30 not previously approved by the Secretary or not included in a report required by
31 paragraph (1) that was submitted in a prior year, or an eligible agency proposing to

1 increase the level of the passenger facility charge to be collected at the airport, must
2 provide to air carriers and foreign air carriers operating at the airport reasonable notice,
3 and an opportunity to comment on the planned collection and use of program revenue
4 before providing the report required under paragraph (1). The Secretary shall prescribe
5 by regulation what constitutes reasonable notice under this paragraph, which shall at a
6 minimum include--

7 “(i) that the eligible agency provide to air carriers and foreign air
8 carriers operating at the airport written notice of the planned collection and
9 use of passenger facility charge revenue;

10 “(ii) that the notice include a full description and justification for a
11 proposed project;

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

13 “(iv) the proposed level for the passenger facility charge.

14 “(B) An eligible agency providing notice and an opportunity for comment
15 shall be deemed to have satisfied the requirements of this paragraph if the eligible
16 agency provides such notice to air carriers and foreign air carriers that have a
17 significant business interest at the airport. For purposes of this paragraph, the
18 term “significant business interest” means an air carrier or foreign air carrier
19 that—

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

22 “(ii) had at least 25,000 passenger boardings at the airport in the
23 prior calendar year; or

24 “(iii) provides scheduled service at the airport.

25 (C) Not later than 45 days after written notice is provided under
26 subparagraph (A), each air carrier and foreign air carrier may provide written
27 comments to the eligible agency indicating its agreement or disagreement with the
28 project or, if applicable, the proposed level for a passenger facility charge.

29 “(D) The eligible agency may include, as part of the notice and comment
30 process, a consultation meeting to discuss the proposed project or, if applicable,
31 the proposed level for a passenger facility charge. If the agency provides a

1 consultation meeting, the written comments specified in subparagraph (C) shall be
2 due not later than 30 days after the meeting.

3 “(4) PUBLIC NOTICE AND COMMENT.--(A) An eligible agency proposing to
4 collect or use passenger facility charge revenue for a project not previously approved by
5 the Secretary or not included in a report required by paragraph (1) that was filed in a prior
6 year, or an eligible agency proposing to increase the level of the passenger facility charge
7 to be collected, must provide reasonable notice and an opportunity for public comment on
8 the planned collection and use of program revenue before providing the report required in
9 paragraph (1).

10 “(B) The Secretary shall prescribe by regulation what constitutes
11 reasonable notice under this paragraph, which shall at a minimum require--

12 “(i) that the eligible agency provide public notice of intent to collect
13 a passenger facility charge so as to inform those interested persons and
14 agencies that may be affected;

15 “(ii) appropriate methods of publication, which may include notice
16 in local newspapers of general circulation or other local media, or posting of
17 the notice on the agency’s internet website; and

18 “(iii) submission of public comments no later than 45 days after the
19 date of the publication of the notice.

20 “(5) OBJECTIONS.--(A) Any interested person may file with the Secretary a
21 written objection to a proposed project or to a proposed increase in the level of a
22 passenger facility charge included in a notice under this paragraph provided that the filing
23 is made within 30 days after submission of the report specified in paragraph (1).

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

26 “(C) Not later than 90 days after receiving the eligible agency’s response to a filed
27 objection, the Secretary shall make a determination whether or not to terminate authority
28 to collect the passenger facility charge for the project or at the increased level, based on
29 the filed objection. The Secretary shall state the reasons for any determination. The
30 Secretary may only terminate authority if—

31 “(i) the project is not an eligible airport related project;

1 “(ii) the eligible agency has not complied with the requirements of this
2 section or the Secretary’s implementing regulations in proposing the project;

3 “(iii) the eligible agency has been found to be in violation of section
4 47107(b) of this title and has failed to take corrective action, prior to the filing of
5 the objection; or

6 “(iv) in the case of a proposed increase in the passenger facility charge
7 level, the level is not authorized by this section.

8 “(D) Upon issuance of a decision terminating authority, the public agency shall
9 prepare an accounting of passenger facility revenue collected under the terminated
10 authority and restore the funds for use on other authorized projects.

11 “(E) Except as provided in paragraph (C), the eligible agency may implement the
12 planned collection and use of a passenger facility charge in accordance with its report
13 upon filing the report as specified in paragraph (1)(A).

14 “(6) APPROVAL REQUIREMENT FOR INTERMODAL GROUND ACCESS
15 PROJECT.—(A) An eligible agency may not collect or use a passenger facility charge to
16 finance an intermodal ground access project, unless the project is first approved by the
17 Secretary in accordance with this paragraph.

18 “(B) The eligible agency may submit to the Secretary an application for
19 authority to impose a passenger facility charge for an intermodal ground access
20 project. The application shall contain information and be in the form that the
21 Secretary may require by regulation but, at a minimum, must include copies of
22 any comments received by the agency during the comment period described by
23 subparagraph (C).

24 “(C) Before submitting an application under this paragraph, an eligible
25 agency must provide air carriers and foreign air carriers operating at the airport,
26 and the public, reasonable notice of and an opportunity to comment on a proposed
27 intermodal ground access project. Such notice and opportunity to comment shall
28 conform to the requirements of paragraphs (3) and (4).

29 “(D) After receiving an application, the Secretary may provide air carriers,
30 foreign air carriers and other interested persons notice and an opportunity to

1 comment on the application. The Secretary shall make a final decision on the
2 application not later than 120 days after receiving it.”.

3 (d) CONFORMING CHANGES.—(1) CORRECTION.--In subsections (d)
4 through (m) of section 40117, by—

5 (A) striking “fee” or “fees” wherever the terms appear and inserting
6 “charge” or “charges”, respectively; and

7 (B) striking “FEE” or “FEES” wherever the terms appear and inserting
8 “CHARGE” or “CHARGES”, respectively.

9 (2) LIMITATIONS ON APPROVING APPLICATIONS.--Section 40117(d) is
10 amended—

11 (A) in the first sentence, by striking “subsection (c) of this section to
12 finance a specific” and inserting “subsection (c)(6) of this section to finance an
13 intermodal ground access”;

14 (B) in paragraph (1), by—

15 (i) striking “fee” and inserting “charge”; and

16 (ii) striking “specific”;

17 (C) by revising paragraph (2) to read as follows:

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

19 (E) in paragraph (3), by striking “each of the specific projects; and” and
20 inserting “the project.”; and

21 (F) by striking paragraph (4).

22 (3) LIMITATIONS ON IMPOSING FEES.—Section 40117(e)(1) is amended to
23 read as follows:

24 “An eligible agency may impose a passenger facility charge only subject to terms
25 the Secretary may prescribe to carry out the objectives of this section.”.

26 (4) LIMITATIONS ON CONTRACTS, LEASES, AND USE AGREEMENTS.—
27 Section 40117(f)(2) is amended—

28 (A) by striking “long-term”; and

29 (B) by striking “Secretary.” and inserting “Secretary, except a project for
30 replacement of baggage conveyor systems and reconfiguration of terminal

1 baggage areas that the Secretary determines are necessary to install bulk explosive
2 detection devices.”.

3 (5) COMPLIANCE.—Section 40117(h) is amended—

4 (A) by inserting a new paragraph (3) as follows:

5 “(3) The Secretary may, on complaint of an interested person or on the
6 Secretary’s own initiative, conduct an investigation into an eligible agency’s
7 collection and use of passenger facility charge revenue to determine whether a
8 passenger facility charge is excessive or that passenger facility revenue is not
9 being used as provided in this section. The Secretary shall prescribe regulations
10 establishing procedures for complaints and investigations. The regulations may
11 provide for the issuance of a final agency decision without resort to an oral
12 evidentiary hearing. The Secretary shall not accept complaints filed under this
13 paragraph until after the issuance of regulations establishing complaint
14 procedures.”; and

15 (B) by redesignating paragraph (3) as paragraph (4).

16 (6) PILOT PROGRAM FOR PFC AT NONHUB AIRPORTS.—Section 40117(l)
17 is amended—

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

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

23 (7) PROHIBITION ON APPROVING PFC APPLICATIONS FOR AIRPORT
24 REVENUE DIVERSION.—Section 47111(e) is amended in the first sentence by striking
25 from “sponsor, and withhold approval of any new application to impose a fee under
26 section 40117.” through the end of the subsection, and inserting “ sponsor. A sponsor
27 shall not propose collection or use of passenger facility charges for any new projects
28 under section 40117(c)(3)-(6) unless the Secretary determines that the sponsor has taken
29 corrective action to address the violation and the violation no longer exists.”.

30
31 **SEC. 302. AMENDMENTS TO AIP DEFINITIONS.**

1 Section 47102 is amended—

2 (1) in subsection (3),

3 (A) in clause (B)(iv), by striking “20” and inserting “9”; and

4 (B) by adding at the end, the following:

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

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

10 (2) by inserting the following new paragraph (8) and redesignating
11 paragraphs (8) through (22) as paragraphs (9) through (23), respectively:

12 “(8) a “general aviation airport” means a public airport in a State that the
13 Secretary determines—

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

15 “(B) has scheduled service with less than 2,500 passenger
16 boardings each year.”;

17 (3) by inserting the following new paragraph (24) and redesignating
18 paragraphs (23) through (25) as (25) through (27), respectively:

19 “(24) “revenue producing aeronautical support facilities” means new fuel
20 farms, new hangar buildings, self-service credit card aeronautical fueling systems,
21 airplane wash racks, major rehabilitation of a hangar owned by a sponsor, or other
22 aeronautical support facilities that the Secretary determines will increase the
23 revenue producing ability of the airport.”; and

24 (4) by inserting at the end the following new paragraph (28):

25 “(28) “terminal development” means--

26 “(A) development of an airport passenger terminal building, including
27 terminal gates, access roads servicing exclusively airport traffic that leads
28 directly to or from a terminal building, and walkways that lead directly to or
29 from a terminal building; and

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

31

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

2 Section 47107 is amended—

3 (1) in clause (a)(16)(D)(ii), by striking “made;” and inserting “made,
4 except that, if there is a change in airport design standards that the Secretary
5 determines is beyond the owner or operator’s control that requires the relocation
6 or replacement of an existing airport facility, the Secretary, upon the request of
7 the owner or operator, may grant funds available under section 47114 to pay the
8 cost of relocating or replacing such facility.”; and

9 (2) in clause (c)(2)(A)(iii), by striking from “paid to the Secretary”
10 through the end of the clause, and inserting:

11 “reinvested in another project at the airport or transferred to another
12 airport as the Secretary prescribes. In approving the reinvestment or transfer of
13 such proceeds, the Secretary shall give preference, in descending order, to the
14 following actions:

15 “(I) reinvestment in an approved noise compatibility project;

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

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

21 “(IV) transfer to another an sponsor of another public airport to be
22 reinvested in an approved noise compatibility project at such airport; and

23 “(V) payment to the Secretary for deposit in the Airport and Airway Trust
24 Fund established under section 9502 of the Internal Revenue Code of 1986 (26
25 U.S.C. 9502);”.

26
27 **SEC. 304. GOVERNMENT SHARE OF PROJECT COSTS.**

28 Section 47109 is amended—

29 (1) in subsection (a) by—

30 (A) by striking “subsection (b) or subsection (c)” and inserting
31 “subsections (b), (c) or (e);”

1 (B) by striking “is—” and inserting “may not exceed—”;

2 (C) by striking paragraphs (1) and (2) and adding the following
3 new paragraphs:

4 “(1) 50 percent for an airfield pavement rehabilitation project for runways,
5 taxiways or aircraft aprons at a large hub or medium hub primary airport, as defined in
6 section 47102;

7 “(2) 75 percent for other approved airport development projects at a large hub or
8 medium hub primary airport, as defined in section 47102;

9 “(3) 95 percent for a project funded by a grant issued to a nonprimary airport that
10 is not apportioned funds under section 47114 of this title;”;

11 (D) by redesignating paragraphs (3), (4) and (5) as paragraphs (4),

12 (5), and (6); and

13 (2) in subsection (f), by striking “47118(f)” and inserting “47118(e)”; and

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

15 “(e) SPECIAL RULE FOR TRANSITION FROM SMALL HUB TO MEDIUM
16 HUB STATUS.—If the status of a small hub primary airport changes to a medium hub
17 primary airport, the United States Government’s share of allowable project costs for the
18 airport may not exceed 90 percent for two fiscal years following such change in hub
19 status.”.

20
21 **SEC. 305. AMENDMENTS TO ALLOWABLE COSTS.**

22 Section 47110 is amended—

23 (1) by revising subsection (d) to read as follows:

24 “(d) RELOCATION OF AIRPORT-OWNED FACILITIES.—The Secretary may
25 determine that the costs of relocating or replacing an airport-owned facility are allowable
26 for an airport development project at an airport only if—

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

29 “(2) the Secretary determines that the relocation or replacement is required due to
30 a change in the Secretary’s design standards; and

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

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

5
6 **SEC. 306. SIMPLIFICATION AND REFORM OF APPORTIONMENT**
7 **FORMULAS.**

8 Section 47114 is amended—

9 (1) in subsection (c)(1)--

10 (A) in subparagraph (A), by striking “primary airport” and inserting
11 “small hub and nonhub primary airport”;

12 (B) in clause (A)(i), by striking “\$7.80” and inserting “\$15.60”;

13 (C) in clause (A)(ii), by striking “\$5.20” and inserting “\$10.40”;

14 (D) in clause (A)(iii), by striking “\$2.60” and inserting “\$5.20”;

15 (E) in clause (A)(iv), by striking “\$.65” and inserting “\$1.30”;

16 (F) in clause (A)(v), by striking “\$.50” and inserting “\$1.00”;

17 (G) in subparagraph (B), by striking “\$650,000” and all that follows
18 through the end of the sentence and inserting “\$1,000,000 nor more than
19 \$26,000,000 may be apportioned under subparagraph (A) of this paragraph to an
20 airport sponsor of each large hub and medium hub primary airport for fiscal years
21 2008 and 2009, and to each airport sponsor for a small hub and nonhub primary
22 airport for each fiscal year.”

23 (H) by amending subparagraph (C) to read as follows:

24 “(C) TRANSITIONAL RULE FOR LARGE AND MEDIUM HUB
25 AIRPORTS.—In fiscal years 2008 and 2009, the Secretary shall apportion to each
26 large and medium hub airport an amount equal to 50 percent of the amount that is
27 calculated using the formulas set forth in subparagraph (A).”;

28 (I) in subparagraph (D), by striking “(B) or (C), as appropriate,” and
29 inserting “(B)”;

30 (J) by striking subparagraph (F) and redesignating subparagraph (G) as
31 subparagraph (F);

1 (2) in subsection (c)(2)—

2 (A) in subparagraph (A), by striking “(D),” and inserting “(C),”; and

3 (B) by striking subparagraph (C) and redesignating subparagraphs (D) and
4 (E) as (C) and (D), respectively;

5 (3) in subsection (d)—

6 (A) in subparagraph (2), by—

7 (i) striking “18.5 percent” and inserting “10 percent”; and

8 (ii) adding a new paragraph at the end as follows:

9 “(D) MINIMUM APPORTIONMENT.—In any fiscal year in which the total
10 amount made available for apportionment under this subsection is less than
11 \$300,000,000, the Secretary shall reduce, on a prorated basis, the amount to be
12 apportioned under subparagraph (d)(3)(A) of this section, and make such reduction
13 available to be apportioned under this subsection, so as to meet a minimum
14 apportionment of \$300,000,000.”; and

15 (B) by revising subparagraph (3) to read as follows:

16 “(3) NONPRIMARY AIRPORTS.--Except as provided in subsection (2)(D), the
17 Secretary shall each fiscal year apportion—

18 “(A) to each airport, excluding primary airports but including reliever and
19 nonprimary commercial service airports—

20 “(i) \$400,000 to each airport that is either a nonprimary commercial
21 service airport or a reliever or that is a nonprimary airport having 100 or more
22 operational registered based aircraft;

23 “(ii) \$200,000 to each airport that is a nonprimary airport (other than a
24 nonprimary commercial service or reliever airport), having 50 and 99 operational
25 registered based aircraft, or three or more operational registered based jet aircraft;
26 and

27 “(iii) \$100,000 to each airport that is a nonprimary airport (other than a
28 nonprimary commercial service airport or a reliever airport), and has 10 to 49
29 operational, registered based aircraft.

30 “(B) For purposes of subparagraph (A), the terms “operational registered based
31 aircraft” or “operational registered based jet aircraft” shall be as defined in the Federal

1 Aviation Administration’s National Flight Data Center Airport Data Base or in a
2 comparable, updated agency database.”;

3 (4) subsection (e) is amended—

4 (A) in subparagraph (1)(B), by inserting “twice” before “the minimum”;
5 and

6 (B) by striking paragraph (4);

7 (5) in subsection (f)(1)—

8 (A) by striking “ in a fiscal year to the sponsor of an airport having at least
9 .25 percent of the total number of boardings each year in the United States” and
10 inserting “in fiscal years 2008 and 2009 to a sponsor of a large hub or medium
11 hub airport”;

12 (B) in subparagraph (B), by striking “\$3.00,” and inserting “\$3.00, but not
13 more than \$4.50,”; and

14 (C) by adding a new subparagraph at the end as follows:

15 “(C) in the case of a passenger facility charge of more than \$4.50, 100
16 percent of the projected revenues from the charge in the fiscal year but not by
17 more than 100 percent of the amount that otherwise would be apportioned under
18 this section.”;

19 (D) by striking “fee” each place it appears and inserting “charge”;

20 (6) in subsection (f)(2), by striking “fee” each time it appears and inserting
21 “charge”; and

22 (7) by adding at the end the following:

23 “(g) ENVIRONMENTAL SET-ASIDE.—(1) The Secretary may apportion at
24 least 8 percent of the amount subject to apportionment for each fiscal year for grants
25 for—

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

27 “(B) carrying out noise compatibility programs under section 47504(c);

28 “(C) noise mitigation projects approved in an environmental record of
29 decision for an airport development project under this title;

30 “(D) for compatible land use planning projects carried out by State and
31 local governments under section 47141;

1 “(E) for airport development described in section 47102(3)(F),
2 47102(3)(K) or 47102(3)(L) to comply with the Clean Air Act (42 U.S.C. 7401 et
3 seq.);

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

7 “(G) for carrying out an environmental mitigation demonstration project
8 under section 47143 of this title.

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

12

13 **SEC. 307. MINIMUM AMOUNT FOR THE DISCRETIONARY FUND.**

14 Section 47115(g)(1) is amended by striking from “sum of—” through the end of
15 clause (B) and inserting “sum of \$520,000,000.”.

16

17 **SEC. 308. FUNDING OF SPACE TRANSPORTATION INFRASTRUCTURE** 18 **GRANTS PROGRAM.**

19 Section 47115 is amended by adding at the end the following new subsection:

20 “(k) FUNDING OF SPACE TRANSPORTATION INFRASTRUCTURE
21 MATCHING GRANTS.—Notwithstanding any other provision of this chapter, from
22 amounts made available under this section, the Secretary may issue a grant for a project
23 under section 70301 of this title, provided that, in issuing such a grant, the Secretary shall
24 follow the provisions of chapter 703 of this title. Not more than \$10,000,000 per fiscal
25 year shall be available for grants under this subsection.

26

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

28 Section 47116 is repealed.

29

30 **SEC. 310. CREATION OF NEW SMALL AIRPORT SET-ASIDE, AND REPEAL** 31 **OF THE MILITARY AND RELIEVER AIRPORT SET-ASIDES.**

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

2 “(e) SMALL AIRPORT SET-ASIDE.—Each fiscal year, the Secretary shall
3 provide at least 20 percent of the amount available to the discretionary fund under section
4 47115 of this title to sponsors of small hub airports, nonhub airports, nonprimary
5 commercial service airports, reliever airports or general aviation airports, for any purpose
6 for which amounts are made available under section 48103. An airport in a State
7 participating in the State block grant program under section 47128 may receive a grant
8 under this section to the same extent the airport may receive a grant if the State were not
9 participating in such program.”.

10
11 **SEC. 311. MILITARY AIRPORT PROGRAM.**

12 Section 47118 is amended—

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

15 (2) by striking subsection (c) and redesignating subsections (d) through (g)
16 as (c) through (f) respectively?];

17 (3) in subsection (c), as redesignated, by striking “section 47117(d)(1)(B)
18 of this title” and inserting “sections 47114, 47115 or 47117 of this title for
19 projects at airports designated under this section”;

20 (4) in subsection (d), as redesignated, by striking “section 47115,
21 \$10,000,000 for each of fiscal years 2004 and 2005, and \$7,000,000 for each
22 fiscal year thereafter,” and inserting “sections 47114, 47115 or 47117, \$7,000,000
23 for each fiscal year,”;

24 (5) in subsection (e), as redesignated—

25 (A) by striking “(1) CONSTRUCTION.—From” and inserting
26 “From”;

27 (B) by striking “section 47115, \$10,000,000 for each of fiscal
28 years 2004 and 2005, and \$7,000,000 for each fiscal year thereafter,” and
29 inserting “sections 47114, 47115 or 47117, \$7,000,000 for each fiscal
30 year,”; and

31 (C) by striking paragraph (2); and

1 (6) in subparagraph (f), as redesignated, by striking “one” and inserting
2 “up to three”.

3
4 **SEC. 312. SALE OF PRIVATE AIRPORT TO PUBLIC SPONSOR.**

5 Section 47133(b) is amended—

6 (1) by striking “apply if” and inserting: “apply—(1) if”;

7 (2) by striking “operator.” and inserting “operator; and”; and

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

9 “(2) in the case of a privately owned airport, to the proceeds from the sale
10 of the airport to a public sponsor if—

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

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

14 “(C) an amount equal to the remaining unamortized portion of the
15 original grant, amortized over a 20-year period, is repaid to the Secretary
16 by the private owner for deposit in the Trust Fund for airport acquisitions.

17 “(3) This subsection shall apply to grants issued on or after October 1,
18 1996.”.

19
20 **SEC. 313. SUNSET OF AIRPORT SECURITY PROGRAM.**

21 Section 47137 is amended by adding at the end the following:

22 “(h) SUNSET.—This section shall not be in effect after September 30, 2008.”.

23
24 **SEC. 314. SUNSET OF PILOT PROGRAM FOR PURCHASE OF AIRPORT
25 DEVELOPMENT RIGHTS.**

26 Section 47138 is amended by adding at the end the following:

27 “(f) SUNSET.—This section shall not be in effect after September 30, 2007.”.

28
29 **SEC. 315. EXTENSION OF GRANT AUTHORITY FOR COMPATIBLE LAND
30 USE PLANNING AND PROJECTS BY STATE AND LOCAL GOVERNMENTS.**

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

3
4 **SEC. 316. MIDWAY ISLAND AIRPORT.**

5 Section 186(d) of the Vision 100—Century of Aviation Reauthorization Act (Pub.
6 L. No. 108-176, 117 Stat. 2490, 2518) is amended by striking “October 1, 2007” and
7 inserting “October 1, 2010”.

8
9 **Sec. 317. PILOT PROGRAM FOR AIRPORT TAKEOVER OF AIR NAVIGATION**
10 **FACILITIES.**

11 (a) IN GENERAL.--Chapter 445 is amended by adding at the end the following
12 new section:

13 **“§44518. Pilot program for airport takeover of terminal area air navigation**
14 **equipment**

15 “(a) IN GENERAL.—Subject to the requirements of this section, the Administrator
16 of the Federal Aviation Administrator may carry out a pilot program under which the
17 Administrator may transfer ownership, operating and maintenance responsibilities for
18 airport terminal area air navigation equipment to sponsors of not more than 10 medium or
19 large hub airports.

20 “(b) TERMS AND CONDITIONS OF TRANSFER FOR AIRPORT
21 SPONSORS.--As a condition of participating in this pilot program the sponsor shall
22 agree that the sponsor will--

23 “(1) operate and maintain all of the air navigation equipment that is
24 subject to this section at the airport in accordance with standards established by
25 the Administrator;

26 “(2) permit the Administrator or a person designated by the Administrator
27 to conduct inspections of the air navigation equipment under a schedule
28 established by the Administrator; and

29 “(3) acquire and maintain new air navigation equipment as needed to
30 replace facilities that have to be replaced at the end of their useful life or to meet
31 new standards established by the Administrator.

1 “(c) TERMS AND CONDITIONS OF TRANSFER FOR THE
2 ADMINISTRATOR.--When the Administrator approves a sponsor’s participation in this
3 pilot program, the Administrator shall--

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

6 “(2) transfer, at no cost to the sponsor, the government’s property interest
7 in the land on which the air navigation facilities transferred under subsection (1)
8 are located.

9 “(d) TREATMENT OF AIRPORT COSTS UNDER PILOT PROGRAM.--Upon
10 transfer by the Administrator, any costs incurred by the airport for ownership and
11 maintenance of the equipment transferred under this section shall be considered a cost of
12 providing airfield facilities and services under standards and guidelines issued by the
13 Secretary under section 47129(b)(2) and may be recovered in rates and charges assessed
14 for use of the airfield.

15 “(e) SPECIAL PASSENGER FACILITY CHARGE AUTHORITY.—
16 Notwithstanding the maximum amount for a passenger facility charge provided under
17 section 40117(b)(1), a participating sponsor in the pilot program under this section is
18 authorized to impose a passenger facility charge of \$7 provided that the sponsor meets
19 the otherwise applicable requirements of section 40117.

20 “(f) DEFINITIONS.--In this section --

21 “(1) “large hub airport” and medium hub airport” shall have the meaning set forth
22 in section 40102;

23 “(2) “sponsor” shall have the same meaning as in section 47102;

24 “(3) “terminal area air navigation equipment” means an air navigation facility
25 under section 40102, other than buildings used for air traffic control functions, that exists
26 to provide approach and landing guidance to aircraft.

27 “(g) GUIDELINES.--The Administrator shall issue advisory guidelines on the
28 implementation of the program. The guidelines shall not be subject to administrative
29 rulemaking requirements under subchapter II of Chapter 5 of title 5.”.

30 “(b) CONFORMING AMENDMENT.--The analysis of chapter 445 is amended by
31 inserting at the end:

1 “§44518. Pilot program for airport takeover of terminal area air navigation
2 equipment.”.

3
4 **SEC. 318. ADS-B SUPPORT PILOT PROGRAM.**

5 (a) IN GENERAL.—Chapter 445 is amended by adding at the end the following
6 new section:

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

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

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

13 “(2) the ground stations provide the required transmit and receive data formats
14 consistent with the National Airspace System architecture at the appropriate service
15 delivery point; and

16 “(3) the ground stations acquired under this program are supplemental to ground
17 stations established under programs administered by the Administrator of the Federal
18 Aviation Administration.

19 “(b) PROJECT GRANTS.—(1) For purposes of carrying out this pilot program
20 and notwithstanding the requirements of section 47114(d), the Secretary may make a
21 project grant out of funds apportioned under section 47114(d)(2) to not more than ten
22 eligible sponsors to acquire and install ADS-B ground stations in order to serve any
23 public-use airport.

24 “(2) The Secretary shall establish procurement procedures applicable to grants
25 issued under this section. The procedures shall permit the sponsor to carry out the project
26 using Federal Aviation Administration contracts. The procedures established by the
27 Secretary may provide for the direct reimbursement (including administrative costs) of
28 the Administrator by the sponsor using grant funds under this section, for the ordering of
29 such equipment and its installation, or for the direct ordering of such equipment and its
30 installation by the sponsor, using such grant funds, from the suppliers with which the
31 Administrator has contracted.

1 “(c) MATCHING REQUIREMENT.--The amount of a grant to an eligible
2 sponsor under subsection (b) may not exceed 90 percent of the costs of the acquisition
3 and installation of the ground support equipment.

4 “(d) DEFINITIONS.--In this section--

5 “(1) “ADS-B ground station” means electronic equipment that provides
6 for ADS-B reception and broadcast services.

7 “(2) “eligible sponsor” means a state, a metropolitan planning organization
8 in the area where the project is located, or any consortium of two or more state or
9 local governments meeting the definition of a sponsor under section 47102 of this
10 title.”.

11 (b) CONFORMING AMENDMENT.--The analysis of chapter 445 is amended by
12 inserting at the end:

13 “§44519. ADS-B support pilot program.”.

14
15 **SEC. 319. AIP ELIGIBILITY FOR METROPOLITAN WASHINGTON AIRPORTS**
16 **AUTHORITY.**

17 Section 49108 is amended by striking “October 1, 2008,” and inserting “October 1,
18 2010”.

19
20 **SEC. 320. MISCELLANEOUS AMENDMENTS.**

21 (a) TECHNICAL CHANGES TO NATIONAL PLAN OF INTEGRATED
22 AIRPORT SYSTEMS.--Section 47103 is amended—

23 (1) in subsection (a), by striking “each airport to—” and inserting “the
24 airport system to--”;

25 (2) in subsection (a)(1), by striking “system in the particular area;” and
26 inserting “system, including connection to the surface transportation network;
27 and”;

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

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

31 (5) by striking subsection (b)(2) and redesignating (b)(3) as (b)(2);

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

4 (7) in subsection (d), by striking “status of the”.

5 (b) CONFORMING CHANGE TO PROJECT GRANT AGREEMENTS.—

6 Section 47108(e)(3) is amended by striking “and the small airport fund”.

7 (c) UPDATE VETERANS PREFERENCE DEFINITION.—Section 47112(c) is
8 amended—

9 (1) in paragraph (1) by—

10 (A) in subparagraph (B), by striking “separated from” and inserting
11 “discharged or released from active duty in”; and

12 (B) inserting at the end the following:

13 “(C) “Afghanistan-Iraq war veteran” means an individual who served on
14 active duty, as defined by section 101(21) of title 38, at any time in the armed
15 forces for a period of more than 180 consecutive days, any part of which occurred
16 during the period beginning on September 11, 2001, and ending on the date
17 prescribed by Presidential proclamation or by law as the last date of Operation
18 Iraqi Freedom.”; and

19 (2) in paragraph (2), by striking “veterans and” and inserting “veterans,
20 Afghanistan-Iraq war veterans, and”.

21 (d) CONSOLIDATION OF TERMINAL DEVELOPMENT PROVISIONS.—

22 Section 47119 is amended—

23 (1) redesignating subsections (a), (b), (c) and (d) as subsections (b), (c), (d) and
24 (e) respectively, and by inserting a new subsection (a) as follows:

25 “(a) IN GENERAL.—(1) The Secretary may approve a project for terminal
26 development (including multimodal terminal development) in a nonrevenue-producing
27 public-use area of a commercial service airport—

28 “(A) if the sponsor certifies that the airport, on the date the grant
29 application is submitted to the Secretary, has—

30 “(i) all the safety equipment required for certification of the airport
31 under section 44706 of this title;

1 “(ii) all the security equipment required by regulation;

2 and

3 “(iii) provided for access, to the area of the airport for passengers

4 for boarding or exiting aircraft, to those passengers boarding or exiting

5 aircraft, except air carrier aircraft;

6 “(B) if the cost is directly related to moving passengers and

7 baggage in air commerce within the airport, including vehicles for moving

8 passengers between terminal facilities and between terminal facilities and aircraft; and

9 “(C) under terms necessary to protect the interests of the

10 Government.

11 “(2) In making a decision under paragraph (1) of this subsection, the Secretary

12 may approve as allowable costs the expenses of terminal development in a revenue-

13 producing area and construction, reconstruction, repair, and improvement in a

14 nonrevenue-producing parking lot if—

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

16 more than .05 percent of the total annual passenger boardings in the United States;

17 and

18 “(B) the sponsor certifies that any needed airport development project

19 affecting safety, security, or capacity will not be deferred because of the

20 Secretary’s approval.”;

21 (2) in subsection (b), as redesignated--

22 (A) in paragraph (4)(A), by striking “section 47110(d)” and inserting

23 “subsection (a)”;

24 (B) in paragraph (5), by striking “subsection (b)(1) and (2)” and inserting

25 “subsection (c)(1) and (2)”;

26 (3) by inserting at the end the following new subsections:

27 “(f) LIMITATION ON DISCRETIONARY FUNDS.—The Secretary may

28 distribute not more than \$20,000,000 from the discretionary fund established under

29 section 47115 of this title for terminal development projects at a nonhub airport or a

30 small hub primary airport that is eligible to receive discretionary funds under section

31 47108(e)(3) of this title.”.

1 (e) ANNUAL REPORT.—Section 47131(a) is amended—

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

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

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

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

6 “(3) an accounting of discretionary and apportioned funds
7 allocated;

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

9 (f) CORRECTION TO EMISSION CREDITS PROVISION.—Section 47139 is
10 amended—

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

12 (2) in subsection (b)—

13 (A) by striking “47102(3)(F),”;

14 (B) by striking “47102(3)(L), or 47140” and inserting “or
15 47102(3)(L),”;

16 (C) by striking “47103(3)(F),”;

17 (D) by striking “47102(3)(L), or 47140,” and inserting “or
18 “47102(3)(L),”.

19 (g) REPEAL OF AIRPORT GROUND SUPPORT EQUIPMENT EMISSIONS
20 RETROFIT PILOT PROGRAM.—Section 47140 is repealed.

21 (h) CORRECTION TO SURPLUS PROPERTY AUTHORITY.—Section
22 47151(e) is amended by striking “(other than real property that is subject to section 2687
23 of title 10, section 201 of the Defense Authorization Amendments and Base Closure and
24 Realignment Act (10 U.S.C. 2687 note), or section 2905 of the Defense Base Closure and
25 Realignment Act of 1990 (10 U.S.C. 2687 note)”.

26 (i) AIRPORT CAPACITY BENCHMARK REPORTS; DEFINITION OF JOINT
27 USE AIRPORT.—Section 47175 is amended—

28 (A) in paragraph (2), by striking “Airport Capacity Benchmark Report 2001.” and
29 inserting “2001 and 2004 Airport Capacity Benchmark Reports or of the most recent
30 Benchmark report.”; and

31 (B) by adding at the end:

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

4 (j) CONFORMING AMENDMENT TO CIVIL PENALTY ASSESSMENT
5 AUTHORITY.—Section 46301(d)(2) is amended by striking “46318,” and inserting
6 “46318, 46319”.

7 (k) FUNDING FOR ADMINISTRATIVE EXPENSES FOR AIRPORT
8 PROGRAMS.--(1) Section 48105 is amended to read as follows:

9 **"§ 48105. Airport programs administrative expenses.**

10 "Of the amount newly made available, the following shall be available for
11 administrative expenses relating to the Airport Improvement Program, passenger facility
12 fee approval and oversight, national airport system planning, airport standards
13 development and enforcement, airport certification, airport-related environmental
14 activities (including legal services), and other airport-related activities (including airport
15 technology research), to remain available until expended —

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

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

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

19 (2) CONFORMING AMENDMENTS.--The analysis of chapter 481 is amended
20 by revising the title for section 48105 to read as follows:

21 "48105. Airport programs administrative expenses."
22
23

24 Title IV—MANAGEMENT AND ORGANIZATION REFORMS
25

26 **SEC. 401. AIR TRANSPORTATION SYSTEM ADVISORY BOARD.**

27 Section 106 is amended by striking subsection (p) and inserting in lieu thereof the
28 following:

29 “(p) AIR TRANSPORTATION SYSTEM ADVISORY BOARD.—

30 “(1) ESTABLISHMENT.—The Secretary shall establish an advisory Board
31 which shall be known as the Air Transportation System Advisory Board (in this
32 subsection referred to as the ‘Board’).

1 “(vi) labor relations.

2 “(4) FUNCTIONS.—

3 “(A) IN GENERAL.—The Board shall--

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

6 “(ii) review the Administration’s strategic plan and make
7 recommendations on the non-safety program portions of the plan, and provide
8 advice on the safety programs of the plan;

9 “(iii) review the operational efficiency of the air traffic control system and
10 make recommendations on the operational and performance metrics for that
11 system;

12 “(iv) review and make recommendations on the Administration’s plan for
13 modernizing that system and capital expenditures for a project of \$100,000,000 or
14 more related to the system;

15 “(v) make recommendations of the type and level of fees to be established
16 by the Administration under sections 45305 and 45306 and for any adjustments to
17 those fees in accordance with the procedures established under those sections; and

18 “(vi) provide advice on the Administrator’s selection of a Chief Operating
19 Officer for the Air Traffic Organization and on the appointment and
20 compensation of its managers.

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

23 “(C) ACCESS TO DOCUMENTS AND STAFF.—The Administration
24 may give the Board appropriate access to relevant documents and personnel of the
25 Administration, and the Administrator shall make available, consistent with the
26 authority to withhold commercial and other proprietary information under section
27 552 of title 5 (commonly known as the ‘Freedom of Information Act’), cost data
28 associated with the acquisition and operation of air traffic control systems. Any
29 member of the Board who receives commercial or other proprietary data from the
30 Administrator shall be subject to the provisions of section 1905 of title 18,
31 pertaining to unauthorized disclosure of such information.

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

4 “(6) ADMINISTRATIVE MATTERS.—

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

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

9 “(ii) 4 shall be appointed for terms of 2 years;

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

11 “(B) REAPPOINTMENT.—No individual may be appointed to the Board
12 for more than six years total.

13 “(C) VACANCY.—Any vacancy on the Board shall be filled in the same
14 manner as the original position. Any member appointed to fill a vacancy
15 occurring before the expiration of the term for which the member’s predecessor
16 was appointed shall be appointed for the remainder of that term.

17 “(D) CONTINUATION IN OFFICE.—A member of the Board whose
18 term expires shall continue to serve until the date on which the member’s
19 successor takes office.

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

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

23 “(i) IN GENERAL.—A member appointed to the Board shall have
24 no personal liability under State or Federal law with respect to any claim
25 arising out of or resulting from an act or omission by such member within
26 the scope of service as a member of the Board.

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

29 (I) to affect any other immunity or protection that may be available
30 to a member of the Board under applicable law with respect to such
31 transactions;

1 (II) to affect any other right or remedy against the United States
2 under applicable law; or

3 (III) to limit or alter in any way the immunities that are available
4 under applicable law for

5 Federal officers and employees.

6 “(G) ETHICAL CONSIDERATIONS.—Each member of the Board
7 appointed under paragraph (2)(B) must self-certify that he or she--

8 “(i) does not have a pecuniary interest in, or own stock in or
9 bonds of, an aviation or aeronautical enterprise, except an interest in
10 a diversified mutual fund or an interest that is exempt from the
11 application of section 208 of title 18;

12 “(ii) does not engage in another business related to aviation or
13 aeronautics; or

14 “(iii) is not a member of any organization that engages, as a
15 substantial part of its activities, in activities to influence aviation-
16 related legislation.

17 “(H) CHAIRMAN; VICE CHAIRMAN.—The Board shall elect a chair
18 and a vice chair from among its members, each of whom shall serve for a term of
19 2 years. The vice chair shall perform the duties of the chairman in the absence of
20 the chairman.

21 “(I) COMPENSATION.—No member shall receive any compensation or
22 other benefits from the Federal government for serving on the Board, except for
23 compensation benefits for injuries under subchapter I of chapter 81 of title 5,
24 United States Code (Federal Employees’ Compensation Act) and except as
25 provided under subparagraph (J).

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

29 “(K) DETAIL OF PERSONNEL FROM THE ADMINISTRATION.—

1 The Administrator shall make available to the Board such staff,
2 information, and administrative services and assistance as may reasonably be
3 required to enable the Board to carry out its responsibilities under this subsection.

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

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

10 “(8) AIR TRAFFIC CONTROL SYSTEM DEFINED.—In this section, the term
11 “air traffic control system” has the meaning such term has under section 40102(a).”

12
13 **SEC. 402. FACILITATION OF NEXT GENERATION AIR TRAFFIC**
14 **SERVICES.**

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

16 “(7) SERVICES BY PRIVATE SECTOR.—In determining what actions to take,
17 by rule or through an agreement or transaction under paragraph (6) or under section
18 44502, to permit non-government providers of communications, navigation, surveillance
19 or other services to provide such services in the National Airspace System, or to require
20 the usage of such services, the Administrator shall consider whether such actions would:

21 (A) promote the safety of life and property;

22 (B) improve the efficiency of the National Airspace System and reduce the
23 regulatory burden upon National Airspace System users, based upon sound
24 engineering principles, user operational requirements, and marketplace demands;

25 (C) encourage competition and provide services to the largest feasible
26 number of users; and

27 (D) take into account the unique role served by general aviation.”

28
29 **SEC. 403. CLARIFICATION OF AUTHORITY TO ENTER INTO REIMBURSABLE**
30 **AGREEMENTS.**
31

32 Section 106(m) is amended in the last sentence by inserting “with or” before “without”.

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SEC. 404. DEFINITION OF AIR NAVIGATION FACILITY.

Section 40102(4) is amended—

(1) by revising paragraph (B) to read “runway lighting and airport surface visual and other navigation aids;”;

(2) in paragraph(C), by striking “weather information, signaling, radio-directional finding, or radio or other electromagnetic communication; and” and inserting “aeronautical and meteorological information to air traffic control facilities or aircraft, supplying communication, navigation or surveillance equipment for air-to-ground or air-to-air applications;”;

(3) in paragraph (D)—

(A) by striking “another structure” and inserting “any structure or equipment”; and

(B) by striking “aircraft.” and inserting “aircraft; and”; and

(4) by adding at the end the following:

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

SEC. 405. IMPROVED MANAGEMENT OF PROPERTY INVENTORY.

Section 40110(a)(2) is amended by striking “compensation; and” and inserting “compensation, and the amount received may be credited to the appropriation current when the amount is received; and”.

SEC. 406. CLARIFICATION TO ACQUISITION REFORM AUTHORITY.

Section 40110(c) is amended by—

(1) by striking paragraph (4); and

(2) by redesignating paragraph(5) as paragraph (4).

SEC. 407. ASSISTANCE TO FOREIGN AVIATION AUTHORITIES.

Section 40113(e) is amended—

(1) in paragraph (1), by--

1 (A) inserting “(public or private)” after the word “authorities”; and

2 (B) striking the period at the end of the first sentence and inserting:

3 “or efficiency. The Administrator is authorized to participate in, and submit
4 offers in response to, competitions to provide these services, and to contract with
5 foreign aviation authorities to provide these services consistent with the
6 provisions under section 106(l)(6) of this title. The Administrator is also
7 authorized, notwithstanding any other provision of law or policy, to accept
8 payments in arrears.”; and

9 (2) in paragraph (3) by striking from “appropriation” through the end of the
10 sentence and inserting “appropriation current when the expenditures are or were paid, or
11 the appropriation current when the amount is received”.

12
13 **SEC. 408. PRESIDENTIAL RANK AWARD PROGRAM.**

14 Section 40122(g)(2) is amended—

15 (1) in paragraph (H) by striking “Board.” and inserting “Board;”; and

16 (2) by inserting at the end the following new subparagraph:

17 “(G) section 4507(b), (c), and (d), relating to Meritorious Executive or
18 Distinguished Executive rank awards, and section 4507a(b) and (c), relating to
19 Meritorious Senior Professional or Distinguished Senior Professional rank-
20 awards, *provided that*, for purposes of applying such provisions to the personnel
21 management system, “agency” means the Department of Transportation, “senior
22 executive” means an Federal Aviation Administration executive, “career
23 appointee” means an Federal Aviation Administration career executive, and
24 “senior career employee” means an Federal Aviation Administration career senior
25 professional; *provided further that* receipt by a career appointee of the rank of
26 Meritorious Executive or Meritorious Senior Professional entitles such individual
27 to a lump-sum payment of an amount equal to 20 percent of annual basic pay,
28 which shall be in addition to the basic pay paid under the Federal Aviation
29 Administration Executive Compensation Plan; *and provided further that* receipt
30 by a career appointee of the rank of Distinguished Executive or Distinguished
31 Senior Professional entitles the individual to a lump-sum payment of an amount

1 equal to 35 percent of annual basic pay, which shall be in addition to the basic pay
2 paid under the Federal Aviation Administration Executive Compensation plan.”.

3
4 **SEC. 409. REALIGNMENT AND CONSOLIDATION OF AVIATION FACILITIES AND**
5 **SERVICES.**

6 (a) Chapter 445 is amended by adding at the end the following new section:

7 **"Sec. 44518. Realignment and consolidation of aviation facilities and services.**

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

12 "(b) DEFINITIONS.--(1) The term 'congressional committees of interest' means the
13 Committee on Commerce, Science and Transportation of the Senate, the Committee on
14 Transportation and Infrastructure of the House of Representatives and the Committees on
15 Appropriations of the Senate and House of Representatives.

16 "(2) The term 'Commission' means the Commission established by subsection (c) of this
17 section.

18 "(3) The term 'realignment' includes any action which relocates functions and personnel
19 positions but does not include a reduction in personnel resulting from workload adjustments.

20 "(c) ESTABLISHMENT OF COMMISSION.--(1) The Secretary may establish an
21 independent commission to be known as the 'Realignment and Consolidation of Aviation
22 Facilities and Services Commission'.

23 "(2) The Commission shall carry out the duties specified for it in this part.

24 "(3) The Commission shall be composed of five members appointed by the Secretary.
25 Such members shall not be considered employees of the federal government.

26 "(4) Members of the Commission shall be appointed for a term of 3 years.

27 "(5) The Commission shall elect a chair from among its members.

28 "(6) A vacancy in the Commission shall be filled in the same manner as the original
29 appointment but the individual appointed to fill the vacancy shall serve only for the unexpired
30 portion of the term for which the individual's predecessor was appointed.

1 "(7) No member shall receive any compensation or other benefits from the Federal
2 government for serving on the Commission, except for compensation benefits for injuries under
3 subchapter I of chapter 81 of title 5, United States Code (Federal Employees' Compensation Act,
4 and except that each member of the Commission shall be paid actual travel expenses and per
5 diem in lieu of subsistence expenses when away from his or her usual place of residence in
6 accordance with section 5703 of title 5, United States Code.

7 "(8) The Administrator of the Federal Aviation Administration shall make available to
8 the Commission such staff, information, and administrative services and assistance as may
9 reasonably be required to enable the Commission to carry out its responsibilities under this
10 paragraph. The Commission may employ experts or consultants on a temporary or intermittent
11 basis with the approval of the Secretary.

12 "(9) The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the
13 Commission.

14 "(d) FAA RECOMMENDATIONS FOR FACILITIES REALIGNMENT AND
15 CONSOLIDATION.—Within six months after the establishment of the Commission by the
16 Secretary, the Administrator, after providing an opportunity for public comment, shall publish
17 the final criteria to be used in making the Administrator's recommendations for the realignment
18 and consolidation of services and facilities under this section. On the basis of such final criteria,
19 the Administrator shall publish in the Federal Register and transmit to the Commission a list of
20 the services and facilities that the Administrator recommends for realignment and consolidation
21 including a justification for each recommendation.

22 "(e) REVIEW AND RECOMMENDATIONS BY THE COMMISSION.—(1) After
23 receiving the recommendations from the Administrator pursuant to subsection (d), the
24 Commission shall opportunity for public comment on such recommendations.

25 (2) Based on its review and analysis of the Administrator's recommendations and any
26 public comment it may receive, the Commission shall make its independent recommendations to
27 the President for realignment and consolidation of aviation services or facilities.

28 “(3) The Commission shall explain and justify in its report submitted to the President any
29 recommendation made by the Commission that is different from the recommendations made by
30 the Administrator pursuant to subsection (d). The Commission shall transmit a copy of such

1 report to the congressional committees of interest on the same date on which it transmits its
2 recommendations to the President under paragraph (2).

3 "(f) REVIEW BY THE PRESIDENT.--(1) The President shall transmit to the
4 Commission and to the Congress a report containing the President's approval or disapproval of
5 the Commission's recommendations.

6 "(2) If the President approves all the recommendations of the Commission, the President
7 shall transmit a copy of such recommendations to the Congress, together with a certification of
8 such approval.

9 "(3) If the President disapproves the recommendations of the Commission, in whole or in
10 part, the President shall transmit to the Commission and the Congress the reasons for that
11 disapproval. The Commission shall consider the President's report and may then transmit to the
12 President a revised list of recommendations for the realignment and consolidation of services and
13 facilities.

14 "(4) If the President approves all of the revised recommendations of the Commission
15 transmitted to the President under paragraph (3), the President shall transmit a copy of such
16 revised recommendations to the Congress, together with a certification of such approval.

17 "(5) If the President does not transmit to the Congress an approval and certification, the
18 process by which agency services and facilities may be selected for realignment or consolidation
19 under this section shall be terminated.

20 "(g) REALIGNMENT AND CONSOLIDATION OF SERVICES FACILITIES.--Subject
21 to paragraph (h), the Administrator shall--

22 "(1) realign or consolidate all FAA services and facilities recommended for
23 realignment or consolidation by the Commission in the report transmitted to the Congress
24 by the President pursuant to subsection (f)(2) or (4);

25 "(2) initiate all such realignments and consolidations no later than two years after
26 the date on which the President transmits a report to the Congress containing the
27 recommendations for such realignments or consolidations; and

28 "(3) complete all such realignments and consolidations no later than the end of the
29 six-year period beginning on the date on which the President transmits the report
30 containing the recommendations for such realignments or consolidations.

1 "(h) CONGRESSIONAL DISAPPROVAL.--(1) The Administrator may not carry out
2 any closure or realignment recommended by the Commission in a report transmitted from the
3 President pursuant to subsection (f)(2) or (4) if a joint resolution is enacted, disapproving such
4 recommendations of the Commission before the earlier of--

5 "(A) the end of the 60 day period beginning on the date on which the President transmits
6 such report; or

7 "(B) the adjournment of Congress sine die for the session during which such report is
8 transmitted.

9 "(2) For purposes of paragraph (1)(A), the days on which either House of Congress is not
10 in session because of an adjournment of more than three days to a day certain shall be excluded
11 in the computation of the 60 day period.

12 "(i) AUTHORIZATION.—(1) There is authorized to be appropriated to the Administrator
13 such sums as may be necessary for the Commission to carry out its duties and for the
14 Administrator to implement the realignment and consolidation of services and facilities as
15 described in subsection (g).

16 "(2) Such sums shall remain available until expended.

17 "(j) EFFECT ON OTHER AUTHORITIES.--Nothing in this section shall affect the
18 authorities provided in section 44503 or the existing authorities or responsibilities of the
19 Administrator under this title to manage the operations of the Federal Aviation Administration,
20 including realigning or consolidating facilities or services."

21 (b) CONFORMING AMENDMENT.—The analysis of chapter 455 is amended by
22 adding at the end the following:

23 "44518. Realignment and consolidation of aviation facilities and services."

24
25 **SEC. 410. OPERATIONAL AND APPROACH PROCEDURES BY THIRD PARTIES**
26 **THROUGH DELEGATION.**

27 Section 44701 is amended by adding at the end the following:

28 "(g) DELEGATION.--Subject to any regulations, supervision, and review that the
29 Administrator may prescribe, the Administrator may delegate to a qualified private person, or to
30 an employee under the supervision of that person, the development, testing and maintenance of
31 flight procedures."

1
2 **SEC. 411. JUDICIAL REVIEW OF DENIAL OF AIRMAN CERTIFICATES.**

3 (a) JUDICIAL REVIEW OF NTSB DECISIONS.--Section 44703(d) is amended by
4 adding at the end the following:

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

11 (b) CONFORMING AMENDMENT.—Section 1153(c) is amended by striking “section
12 44709 or” and inserting “section 44703(d), 44709 or”.

13
14 **SEC. 412. RELEASE OF DATA RELATING TO ABANDONED TYPE CERTIFICATES**
15 **AND SUPPLEMENTAL TYPE CERTIFICATES.**

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

17 “(5) RELEASE OF DATA.—(A) Notwithstanding any other provision of law, the
18 Administrator may designate, without the consent of the owner of record, engineering data in the
19 agency’s possession related to a type certificate or a supplemental type certificate for an aircraft,
20 engine, propeller or appliance, along with any associated supplier approved data for that product
21 as public data, and therefore releasable, upon request, to a person seeking to maintain the
22 airworthiness of such product, if the Administrator determines that:

23 (i) the certificate containing the requested data has been inactive for three years;

24 (ii) the owner of record, or the owner of record’s heir, of the type certificate or
25 supplemental certificate has not been located despite a search of due diligence by the
26 agency; and

27 (iii) the designation of such data as public data will enhance aviation safety.

28 (B) For purposes of this section, “engineering data” means type design drawings and
29 specifications for the entire product, including the original design data, any approved data for
30 any supplemental type certificates, and any approved data for individual parts or components for
31 the particular aeronautical product.”

1
2 **SEC. 413. DESIGN ORGANIZATION CERTIFICATES.**

3 Section 44704(e) is amended--

4 (1) in paragraph (1)—

5 (A) by striking “Beginning 7 years after the date of enactment of this
6 subsection,” and inserting “Effective January 1, 2013,”; and

7 (B) by striking “44701(a) for the type certification of aircraft, aircraft
8 engines, propellers, or appliances.” and inserting “44701.”;

9 (2) in paragraph (2), by striking “testing” and inserting “production”; and

10 (3) by revising paragraph (3) to read as follows:

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

14
15 **SEC. 414. CONTRACT TOWER PROGRAM.**

16 Section 47124(b) is amended

17 (1) in paragraph (1), by striking “(Visual Flight Rules) level I” and inserting
18 “nonapproach control”; and

19 (2) in paragraph (2), by striking “an airport traffic control tower classified as a level I
20 (Visual Flight Rules)” and inserting “a low activity nonapproach control air traffic control”.

21
22 **SEC. 415. ENHANCED OVERSIGHT OF NEXT GENERATION AIR**
23 **TRANSPORTATION SYSTEM JOINT PLANNING AND DEVELOPMENT OFFICE.**

24 Section 709 of Vision 100—Century of Aviation Reauthorization Act (Pub. L. 108-176,
25 Dec. 12, 2003, 117 STAT. 2490, 2582) (49 U.S.C. 40101 note) is amended—

26 (1) in subsection (a)—

27 (A) in paragraph (1), by adding at the end, “The Director of the Office shall be
28 supervised for various purposes by such officer or officers of the Department as the
29 Secretary may specify.

30 (B) adding at the end the following:

1 **SEC. 502. FAA ACCESS TO CRIMINAL HISTORY RECORDS OR DATABASE**
2 **SYSTEMS.**

3 (a) IN GENERAL.--Chapter 401 is revised by adding new section 40130 to read as
4 follows:

5 **“§ 40130. FAA access to criminal history records or databases systems**

6 “(a) ACCESS TO RECORDS OR DATABASES SYSTEMS.—(1) Notwithstanding
7 section 534 of title 28, United States Code, and the implementing regulations for such section
8 (28 C.F.R. part 20), the Administrator of the Federal Aviation Administration is authorized to
9 access a system of documented criminal justice information maintained by the Department of
10 Justice or by a State but may do so only for the purpose of carrying out its civil and
11 administrative responsibilities to protect the safety and security of the National Airspace System
12 or to support the missions of the Department of Justice, the Department of Homeland Security
13 and other law enforcement agencies. The Administrator shall be subject to the same conditions
14 or procedures established by the Department of Justice or State for access to such an information
15 system by other governmental agencies with access to the system.

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

18 “(b) DESIGNATED EMPLOYEES.—The Administrator shall, by order, designate those
19 employees of the Administration who shall carry out the authority described in subsection (a).
20 Such designated employees may--

21 “(1) have access to and receive criminal history, driver, vehicle, and other law
22 enforcement information contained in the law enforcement databases of the Department
23 of Justice, or of any jurisdiction in a State in the same manner as a police officer
24 employed by a State or local authority of that State who is certified or commissioned
25 under the laws of that State;

26 “(2) use any radio, data link, or warning system of the Federal government and of
27 any jurisdiction in a State that provides information about wanted persons, be-on-the-
28 lookout notices, or warrant status or other officer safety information to which a police
29 officer employed by a State or local authority in that State who is certified or commission
30 under the laws of that State has access and in the same manner as such police officer; or

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

5 “(c) DEFINITION.—For purposes of this section, “system of documented
6 criminal justice information” means any law enforcement databases, systems or
7 communications containing information concerning identification, criminal history,
8 arrests, convictions, arrest warrants, wanted or missing persons, including the National
9 Crime Information Center (NCIC) and its incorporated criminal history databases and the
10 National Law Enforcement Telecommunications System (NLETS).”.

11 (b) CONFORMING AMENDMENT.--The analysis for chapter 401 is amended by
12 adding at the end the following:

13 “40130. FAA access to criminal history records or databases systems.”.

14
15 **SEC. 503. ALLOCATION OF OPERATING AUTHORIZATIONS AT LAGUARDIA**
16 **AIRPORT.**

17 (a) IN GENERAL. —Subchapter I of Chapter 417 of title 49, United States Code, is
18 amended by adding at the end the following:

19 **“Sec. 41724. Allocation of operating authorizations at LaGuardia Airport**

20 “(a) GENERAL AUTHORITY.—(1) Notwithstanding any other provision of law, the
21 Secretary of Transportation and the Administrator of the Federal Aviation Administration may
22 determine that the use of a market based mechanism, such as an auction or congestion pricing, is
23 appropriate to promote the efficient movement of air traffic at LaGuardia Airport. To
24 accomplish this objective, the Administrator shall determine the operational capacity of
25 LaGuardia airport, in accordance with section 40103 of this title.

26 “(2) If the Secretary makes a the determination under subsection (a) that use of a market-
27 based mechanism is appropriate, the Secretary and the Administrator shall permit the Port
28 Authority of New York and New Jersey (Port Authority) to implement a market-based measure
29 for the allocation of operating authorizations at the airport in accordance with subsection (b). If
30 the Port Authority fails to implement such a mechanism within one year of the Secretary’s

1 determination, the Secretary may implement a market-based mechanism at LaGuardia Airport in
2 accordance with section 41725 of this title.

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

9 “(A) placing maximum reliance on competitive market forces;

10 “(B) avoiding unreasonable industry concentration;

11 “(C) encouraging entry into air transportation markets by new and existing air
12 carriers;

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

15 “(E) providing air carriers and the traveling public a stable and predictable
16 schedule for planning future travel.

17 “(2) In developing the terms and conditions for an allocation mechanism, the Secretary
18 may distinguish among classes of aircraft operators and among types of air service.

19 “(c) ESCROW ACCOUNT.—(1) If the Port Authority implements a market-based
20 mechanism under this section and such mechanism produces annual revenue in excess of the
21 annual administrative costs associated with the establishment and administration of the
22 mechanism, the Port Authority shall deposit the excess revenue in an escrow account.
23 Expenditures may be made from the escrow account on eligible airport-related projects, in
24 accordance with section 40117 of this title, or on any other project that the Secretary finds is in
25 the public interest.

26 “(d) RULES OF CONSTRUCTION.—Nothing in this section or in the use of a market-
27 based mechanism authorized by this section shall:

28 “(1) diminish the authority of the Administrator under other provisions of this title to
29 regulate the safe and efficient use of the national airspace, including the withdrawal of operating
30 authorizations obtained under this section when required in the public interest; or

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

3 “(e) TREATMENT AS ADDITIONAL REVENUE.—Expenditures or other financial
4 assistance provided under paragraph (c) shall be in addition to funds that would otherwise be
5 provided under the Airport Improvement Program or any other Federal assistance program.”.

6 “(b) CONFORMING AMENDMENT.—The analysis of subchapter I of chapter 417 is
7 amended by adding at the end the following:

8 “41724. Allocation of operating authorizations at LaGuardia Airport.”.

9
10 **SEC. 504. PILOT PROGRAM FOR MARKET-BASED MECHANISMS AT**
11 **CONGESTED AIRPORTS.**

12 “(a) PILOT PROGRAM.—Subchapter I of chapter 417 of title 49, United States Code, is
13 amended by adding at the end the following:

14 **“§ 41725. Pilot Program to evaluate market-based mechanisms at congested airports**

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

21 “(b) REGIONAL DELAY.—(1) The Secretary may approve the application of an airport
22 owner or operator to participate in the program if the Secretary finds that:

23 “(A) the airport experiences demand exceeding existing capacity in the aggregate
24 or during specific times or dates;

25 “(B) delays at the airport have a significant adverse effect on the regional
26 airspace; and

27 “(C) the market-based mechanism proposed by the airport owner or operator will
28 not result in a disincentive for the airport operator to add capacity where possible.

29 “(2) Once the airport’s participation in the program is approved, the airport owner or
30 operator may implement a market-based mechanism, and, in the case of a congestion fee or

1 auction, establish the method of collecting such revenue. Such fees shall be reasonable and not
2 unjustly discriminatory.

3 “(3) An airport owner or operator may establish or adjust a market-based mechanism
4 under this program only after consultation with the Administrator, air carriers serving the airport,
5 and operators of aircraft based at the airport.

6 “(4) If an auction or congestion fee implemented under this section produces annual
7 revenue in excess of the annual administrative costs associated with the establishment and
8 administration of the fee, the airport owner or operator shall deposit the excess revenue in an
9 escrow account. Expenditures may be made from the escrow account on eligible airport-related
10 projects, in accordance with section 40117 of this title, or on any other project that the Secretary
11 finds is in the public interest.

12 “(c) DELAYS AFFECTING THE NATIONAL SYSTEM.—(1) If the Secretary finds
13 that the capacity constraints at an airport cause significant delays beyond the region in which the
14 airport is located and have negative effects on the National Airspace System, and the owner or
15 operator of such airport has not already adopted a market-based mechanism under paragraph (b),
16 then the Secretary may implement, through rulemaking, a market-based mechanism at the airport
17 under the program to address these effects on the system. If market-based mechanisms are
18 implemented, the Administrator of the Federal Aviation Administration shall establish the
19 method of collecting such fees. Such fees shall be reasonable and not unjustly discriminatory.

20 “(2) The Administrator may establish or adjust a market-based mechanism under this
21 program only after consultation with the airport owner or operator, air carriers serving the
22 airport, and operators of aircraft based at the airport.

23 “(3) If market-based mechanisms implemented by the Administrator under this section
24 produce annual revenue in excess of the annual administrative costs associated with the
25 establishment and administration of the fee, the Administrator shall deposit the surplus funds in
26 an account established in the Treasury, and designated as the Airspace Congestion Mitigation
27 Account. Such surplus revenue shall be available to the Secretary, as specified in appropriations
28 Acts, until expended, for the following uses:

29 “(A) airport capacity expansion or airport congestion and delay reduction at the
30 airport at which a market based mechanism is implemented;

1 “(B) airport capacity expansion or airport congestion and delay reduction at other
2 congested airports, with priority given to capacity projects in the same region as the
3 airport at which a market based mechanism is implemented;

4 “(C) improvement of ground access to the airports in the vicinity, as defined by
5 the Secretary, if the Secretary finds that it would help relieve congestion at the airport
6 where a market-based mechanism is implemented;

7 “(D) construction, reconstruction or reconfiguration of gates and related areas at
8 the airport where a market-based mechanism is implemented;

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

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

17 “(d) CONFORMANCE WITH REQUIREMENTS.--A market-based mechanism
18 implemented under this pilot program shall be deemed to meet the requirements of section 40116
19 and chapter 471 of this title.

20 “(e) DEFINITION.--For purposes of this section, the term “market-based mechanism”
21 includes the use of auctions, or congestion or peak period pricing under which fees may vary by
22 time of day or day of the week in order to reduce aviation congestion and delays.

23 “(f) EXCLUSION.--An airport subject to the requirements of section 41724 shall not be
24 eligible to participate in this pilot program.”.

25 (b) CONFORMING AMENDMENT.—The analysis of subchapter I of chapter 417 is
26 amended by adding at the end the following:

27 “41725. Pilot Program for market-based mechanisms at congested airports.”.

28
29
30 Title VI—ENVIRONMENTAL STEWARDSHIP AND STREAMLINING

31

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

2 Section 44511(f) is amended—

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

4 and

5 (2) in paragraph (4), by—

6 (A) inserting “pilot” before “program” the first time it appears; and

7 (B) striking “program, including recommendations as to the need for
8 establishing a permanent airport cooperative research program.” and inserting
9 “program.”.

10
11 **SEC. 602. STATE BLOCK GRANT PROGRAM.**

12 Section 47128 is amended—

13 (1) in subsection (a), by striking “regulations” both times it appears and inserting
14 “guidance”;

15 (2) in subsection (b)(4), by striking “grant;” and inserting “grant, including
16 Federal environmental requirements or an agreed upon equivalent;”; and

17 (3) by redesignating subsection (c) as (d) and inserting the following new
18 subsection (c):

19 “(c) ENVIRONMENTAL ANALYSIS AND COORDINATION REQUIREMENTS.--

20 Any Federal agency that must approve, license or permit a proposed action by a participating
21 State shall coordinate and consult with the State. Such agency shall utilize the environmental
22 analysis prepared by the State, provided it is adequate, or supplement that analysis as necessary
23 to meet applicable Federal requirements.”.

24
25 **SEC. 603. AIRPORT FUNDING OF SPECIAL STUDIES OR REVIEWS.**

26 Section 47173(a) is amended by striking “project.” and inserting “project, or to conduct
27 special environmental studies related to a Federally funded airport project or for special studies
28 or reviews to support approved noise compatibility measures in a Part 150 program or
29 environmental mitigation in a Federal Aviation Administration Record of Decision or Finding of
30 No Significant Impact.”.

31

1 **SEC. 604. ENVIRONMENTAL MITIGATION DEMONSTRATION PILOT PROGRAM.**

2 (a) PILOT PROGRAM.—Chapter 471 is amended at the end by adding the following
3 new section:

4 **“§ 47143. Environmental Mitigation Demonstration Pilot Program**

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

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

15 “(c) SELECTION CRITERIA.—In selecting from among applicants for participation in
16 the pilot program, the Secretary may give priority consideration to environmental mitigation
17 demonstration projects that—

18 “(1) will achieve the greatest reductions in aircraft noise, airport emissions, or
19 airport water quality impacts either on an absolute basis, or on a per dollar of funds
20 expended basis; and

21 “(2) will be implemented by an eligible consortium.

22 “(d) UNITED STATES GOVERNMENT’S SHARE.—Notwithstanding any other
23 provision of this subchapter, the United States Government’s share of the costs of a project
24 carried out under this section shall be 50 percent.

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

27 “(f) IDENTIFYING BEST PRACTICES.—The Administrator may develop and publish
28 information identifying best practices for reducing or mitigating aviation impacts on noise, air
29 quality, or water quality in the vicinity of airports, based on the projects carried out under the
30 pilot program.

31 “(g) DEFINITIONS.—In this section--

1 “(1) the term “eligible consortium” means a consortium that comprises two or
2 more of the following entities:

3 “(A) businesses incorporated in the United States;

4 “(B) public or private educational or research organizations located in the
5 United States;

6 “(C) entities of State or local governments in the United States; or

7 “(D) Federal laboratories.

8 “(2) the term “environmental mitigation demonstration project” means a project
9 that:

10 “(A) introduces new conceptual environmental mitigation techniques or
11 technology with associated benefits, which have already been proven in
12 laboratory demonstrations;

13 “(B) proposes methods for efficient adaptation or integration of new
14 concepts to airport operations; and

15 “(C) will demonstrate whether new techniques or technology for
16 environmental mitigation identified in research are—

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

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

20 (b) CONFORMING AMENDMENT.—The analysis for subchapter I of chapter 471 is
21 amended by adding at the end the following:

22 “47143. Environmental mitigation demonstration pilot program.”.

23
24 **SEC. 605. GRANT ELIGIBILITY FOR ASSESSMENT OF FLIGHT PROCEDURES.**

25 Section 47504 is amended by adding at the end the following new subsection:

26 “(e) GRANTS FOR ASSESSMENT OF FLIGHT PROCEDURES.—(1) The
27 Secretary is authorized in accordance with paragraph (c)(1) to make a grant to an airport
28 operator to assist in completing environmental review and assessment activities for
29 proposals to implement flight procedures that have been approved for airport noise
30 compatibility planning purposes under subsection (b).

1 “(2) The Administrator of the Federal Aviation Administration may accept funds
2 from an airport sponsor, including funds provided to the sponsor under paragraph (1), to
3 hire additional staff or obtain the services of consultants in order to facilitate the timely
4 processing, review and completion of environmental activities associated with proposals
5 to implement flight procedures submitted and approved for airport noise compatibility
6 planning purposes in accordance with this section. Funds received under this authority
7 shall not be subject to the procedures applicable to the receipt of gifts by the
8 Administrator.”.

9
10 **SEC. 606. RESEARCH CONSORTIUM FOR LOWER ENERGY, EMISSIONS AND**
11 **NOISE TECHNOLOGY PARTNERSHIP.**

12 (a) ESTABLISHMENT OF CONSORTIUM.--Subchapter I of chapter 475 is amended
13 by adding at the end the following:

14 **“§47512. Research consortium for lower energy, emissions and noise technology**
15 **partnership.**

16 “(a) CLEEN ENGINE TECHNOLOGY PARTNERSHIP.—The Administrator of the
17 Federal Aviation Administration shall enter into a cooperative agreement with the Partnership for
18 AiR Transportation Noise and Emissions Reduction (PARTNER) Center of Excellence for the
19 development, maturing, and certification for Continuous Lower Energy, Emissions and Noise
20 (CLEEN) engine and airframe technology for aircraft over the next ten years.

21 “(b) PERFORMANCE OBJECTIVE.—The Administrator shall establish the following
22 performance objectives for the program to be completed by 2015:

23 “(1) certifiable aircraft technology that increases aircraft fuel efficiency by 25%
24 relative to 1997 subsonic aircraft technology;

25 “(2) certifiable engine technology that reduces landing and takeoff cycle (LTO)
26 nitrogen oxide emissions by 50 percent, without increasing other gaseous or particle
27 emissions, over the International Civil Aviation Organization (ICAO) standard adopted in
28 2004;

29 “(3) certifiable aircraft technology that reduces noise levels by 10 dB relative to
30 1997 subsonic jet aircraft technology;

1 “(4) determination of the feasibility of use of alternative fuels in aircraft systems,
2 including successful demonstration and quantification of benefits; and

3 “(5) determination of the extent to which new engine and aircraft technologies
4 may be used to retrofit or re-engine aircraft so as to increase the level of penetration into
5 the commercial fleet.

6 “(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be
7 appropriated from the funding provided for the Next Generation Air Transportation System
8 program such sums as necessary to carry out this section.

9 “(d) The Administrator shall publish a progress report on the CLEEN program each year
10 beginning in 2009.”.

11 “(b) CONFORMING AMENDMENT.—The analysis of subchapter I of chapter 475 is
12 amended by adding at the end:

13 “47512. Research consortium for lower energy, emissions and noise technology partnership.”.

15 **SEC. 607. AMENDMENTS TO AIR TOUR MANAGEMENT PROGRAM.**

16 Section 40128 is amended—

17 (1) in subsection (a)--

18 (A) in clause (1)(C), by striking “lands.” and inserting “lands, or a
19 voluntary agreement.”; and

20 (B) by adding at the end the following:

21 “(5) EXEMPTION.—Notwithstanding paragraph (1), units of the national park system
22 that have 50 or fewer commercial air tour flights a year shall be exempt from the requirements of
23 this section, except that the Director may determine at any time that this exemption shall not
24 apply to any park for which the Director determines an air tour management plan or voluntary
25 agreement is necessary to protect park resources and values or park visitor use and enjoyment.
26 The Director shall inform the Administrator in writing of such determinations. The Director and
27 Administrator shall publish an annual list of national parks that fall within the exemption
28 provided by this paragraph. A commercial air tour operator conducting commercial air tours in a
29 national park that is exempt from the requirements of this section shall submit to the
30 Administrator and the Director an annual report of the number of air tour flights it conducts each
31 year in such exempted park.”;

1 (2) in subsection (b), by adding at the end the following new paragraph:

2 “(7) VOLUNTARY AGREEMENTS.—(A) As an alternative to an air tour
3 management plan, for any unit of the national park system, the Director and the Administrator
4 may enter into a voluntary agreement to manage commercial air tour operations over a park unit
5 with any commercial air tour operators that have applied for authority to conduct air tour
6 operations over the park unit, including existing operators that have interim operating authority,
7 and new entrant applicants.

8 “(B) Such voluntary agreement shall address the management issues necessary to protect
9 park resources and visitor use without compromising aviation safety, and may—

10 “(i) include provisions described in paragraph (3)(B) through (E);

11 “(ii) include provisions to insure the stability of and compliance with the
12 voluntary agreement; and

13 “(iii) provide for fees for operating over the park.

14 “(C) The Director and the Administrator shall offer the opportunity for public review of a
15 proposed voluntary agreement, and shall consult with any Indian tribe whose tribal lands are, or
16 may be, overflowed by commercial air tour operators under a voluntary agreement.

17 “(D) Following such public review and consultation, a voluntary agreement may be
18 implemented without further administrative or environmental process.

19 “(E) A voluntary agreement may be rescinded at the discretion of the Director or the
20 Administrator if the Director determines that the agreement is not adequately protecting park
21 resources or visitor experiences, or the Administrator determines that the agreement is adversely
22 affecting aviation safety or the national aviation system. If a voluntary agreement for a park is
23 rescinded, the operators must conform to the requirements for interim operating authority under
24 subsection (c) until an air tour management plan for the park is in effect.”;

25 (3) in subsection (c)—

26 (A) by revising clause (2)(I) to read as follows:

27 “(I) may allow for modifications of the interim operating authority without further
28 environmental process provided that—

29 “(i) adequate information on the operator’s existing and proposed
30 operations is provided to the Administrator and the Director by the operator
31 making the request;

1 “(ii) the Administrator agrees that there would be no adverse impact on
2 aviation safety; and

3 “(iii) the Director agrees, based on professional expertise regarding the
4 protection of the park resources and values and visitor use and enjoyment.”;

5 (B) in paragraph (3)—

6 (i) in clause (A), by striking from “if the Administrator determines”
7 through the end and inserting “without further environmental process provided
8 that—

9 “(i) adequate information on the operator’s proposed operations is
10 provided to the Administrator and the Director by the operator making the
11 request;

12 “(ii) the Administrator agrees that there would be no adverse impact on
13 aviation safety; and

14 “(iii) the Director agrees, based on professional expertise regarding the
15 protection of park resources and values and visitor use and enjoyment.”; and

16 (ii) by striking clause (B) and redesignating clause (C) as (B);

17 (4) by redesignating subsections (d) and (e) as subsections (e) and (f),
18 respectively; and

19 (5) inserting new subsection (d) as follows:

20 “(d) COMMERCIAL AIR TOUR OPERATOR REPORTS.—Each commercial air tour
21 operator providing a commercial air tour over a national park unit under interim operating
22 authority or in accordance with an air tour management plan shall report the number of
23 commercial air tour operations over each park unit and other data requested by the Administrator
24 and Director in order to facilitate administering the provisions of this section. The reports shall
25 be on a frequency and in a format requested by the Administrator and Director, and shall be
26 submitted to both the Administrator and Director or their designees. The Administrator and
27 Director shall jointly issue an initial request for the reports authorized in this subsection no later
28 than three months after the date of enactment of this provision.”.

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SEC. 701. GENERAL AUTHORITY.

(a) IN GENERAL.--Section 44302 is amended—

(1) by repealing subsection (b); and

(2) in subsection (f)(2)—

(A) by striking “paragraph (1)—(A) in” and inserting “paragraph (1), in”; and

(B) by striking “2002; and” and inserting “2002.”; and

(C) by striking paragraph (B).

(b) CONFORMING AMENDMENT.—Section 44303(a) is amended by striking “, or reimburse insurance costs,”.

SEC. 702. EXTENSION OF AUTHORITY TO LIMIT THIRD PARTY LIABILITY OF AIR CARRIERS ARISING OUT OF ACTS OF TERRORISM.

Section 44303(b) is amended by striking “December 31, 2006” and inserting “December 31, 2011”.

SEC. 703. CLARIFICATION OF REINSURANCE AUTHORITY.

Section 44304 is amended in the second sentence by striking “the carrier” and inserting “any insurance carrier”.

SEC. 704. USE OF INDEPENDENT CLAIMS ADJUSTERS.

Section 44308 is amended in subsection (c)(1) in the second sentence by striking “agent” and inserting “agent, or a claims adjuster who is independent of the underwriting agent,”.

SEC. 705. EXTENSION OF PROGRAM AUTHORITY.

Section 44310 is amended by striking “March 30, 2008.” and inserting “March 30, 2013.”.

1 **SEC. 801. EXTENSION OF COMPETITIVE ACCESS REPORTS.**

2 Section 47107(s)(3) is amended by striking “2008” and inserting “2012”.

3
4 **SEC. 802. ESSENTIAL AIR SERVICE REFORM.**

5 (a) DEFINITION.—Section 41731 is amended to read as follows:

6 **“§41731. Definition**

7 “In this subchapter “eligible place” means a place in the United States—

8 “(1) that as of the date of enactment of the Next Generation Air Transportation
9 System Financing Reform Act of 2007, was receiving subsidized Essential Air
10 Service;

11 “(2) that is more than 70 highway miles from the nearest medium or large hub
12 airport; and

13 “(3) at which the subsidy per passenger does not exceed \$200 for a community
14 that is less than 210 miles from the nearest medium or large hub airport.”.

15 (b) ESSENTIAL AIR SERVICE.—Section 41732 is amended to read as follows

16 **“§41732. Essential air service**

17 “Essential air service provided under section 41733 of this title is transportation of
18 passengers and cargo to a destination airport and at a level of service comparable to what
19 the community received on the date of enactment of the Next Generation Air
20 Transportation System Financing Reform Act of 2007.”.

21 (c) AVAILABILITY OF COMPENSATION.—Section 41733 is amended to read as follows:

22 **“§41733. Selection criteria and availability of compensation**

23 “(a) AVAILABILITY OF COMPENSATION.—

24 “(1) If the Secretary decides that essential air service under §41732 will not be
25 provided to an eligible place without compensation, the Secretary shall provide notice
26 that any air carrier may apply to provide essential air service to the place for
27 compensation under this section. In selecting an applicant, the Secretary may
28 consider, among other factors—

29 “(A) the demonstrated reliability of the applicant in providing air service;

30 “(B) the contractual and marketing arrangements the applicant has made with
31 an air carrier(s) to ensure service beyond the destination airport;

1 “(C) the interline arrangements that the applicant has made with a larger
2 carrier to allow passengers and cargo of the applicant at the destination airport to
3 be transported by the carrier(s) through one reservation, ticket, and baggage
4 check-in;

5 “(D) the preferences of the actual and potential users of air service at the
6 eligible place, giving substantial weight to the views of the elected officials
7 representing the users; and

8 “(E) the relative subsidy costs to the United States Government based on the
9 applicants’ proposals.

10 “(2) Under guidelines prescribed under section 41737 of this subchapter, the
11 Secretary shall pay the rate of compensation for providing essential air service under
12 this section and section 41734 of this subchapter.

13 “(b) COMPENSATION PAYMENTS.—The Secretary shall pay compensation under this
14 section at times and in the way the Secretary decides is appropriate. The Secretary shall
15 end payment of compensation to an air carrier for providing essential air service to an
16 eligible place when the Secretary decides the compensation is no longer necessary to
17 maintain essential air service to the place.

18 “(c) REVIEW.—The Secretary shall review periodically the level of essential air
19 service for each eligible place. Based on the review and consultations with the interested
20 community and the appropriate State authority of the State in which the community is
21 located, the Secretary may make appropriate adjustments in the level of service.
22 However, the level of service that is subsidized will not be more than that which a
23 community is receiving as of the date of enactment of the Next Generation Air
24 Transportation System Financing Reform Act of 2007.”.

25 (d) ENDING, SUSPENDING OR REDUCING ESSENTIAL AIR SERVICE.—Section 41734 is
26 amended to read as follows:

27 “**§41734. Ending, suspending, and reducing essential air service**

28 “(a) NOTICE REQUIRED.—An air carrier may end, suspend, or reduce air transportation
29 to an eligible place below the level of essential air service established for that place under
30 this subchapter only after giving the Secretary of Transportation, the appropriate State

1 authority, and the affected communities at least 90 days' notice before ending,
2 suspending, or reducing that air service.

3 “(b) CONTINUATION OF SERVICE FOR 30 DAYS AFTER NOTICE PERIOD.—If at the end of
4 the notice period under subsection (a) of this section the Secretary has not found another
5 air carrier to provide essential air service to the eligible place, the Secretary shall require
6 the carrier providing notice to continue to provide essential air service to the place for an
7 additional 30-day period or until another air carrier begins to provide essential air service
8 to the place, whichever occurs first.

9 “(c) CONTINUATION OF SERVICE FOR ADDITIONAL 30-DAY PERIODS.—If at the end of
10 the 30-day period under subsection (b) of this section the Secretary decides another air
11 carrier will not provide essential air service to the place on a continuing basis, the
12 Secretary shall require the air carrier providing service to continue to provide service for
13 additional 30-day periods until another air carrier begins providing service on a
14 continuing basis. At the end of each 30-day period, the Secretary shall decide if another
15 air carrier will provide service on a continuing basis.

16 “(d) CONTINUATION OF COMPENSATION AFTER NOTICE PERIOD.—If an air carrier
17 receiving compensation under this subchapter for providing essential air service to an
18 eligible place is required to continue to provide service to the place under this section
19 after the 90-day notice period under subsection (a) of this section, the Secretary shall
20 continue to pay that compensation after the last day of that period. The Secretary shall
21 pay the compensation until the Secretary finds another air carrier to provide the service to
22 the place or the 180th day after the carrier filed notice to suspend service, whichever is
23 earlier. If, after the 180th day, the Secretary has not found another air carrier to provide
24 the service, the carrier required to continue to provide that service shall receive
25 compensation sufficient to pay for the fully allocated actual cost to the air carrier of
26 performing the essential air service that was being provided when the 90-day notice was
27 given under subsection (a) of this section plus a reasonable return on investment that is
28 equal to 5 percent of operating costs.

29 “(e) FINDING REPLACEMENT SERVICE PROVIDERS.—When the Secretary requires an
30 air carrier to continue to provide essential air service to an eligible place, the Secretary

1 shall promptly issue a request for proposals to find another air carrier to provide at least
2 the essential air service set forth in section 41732 to the place on a continuing basis.”.

3 (e) COMPENSATION GUIDELINES.—Section 41737 is amended to read as follows:

4 **“§41737. Compensation guidelines, limitations, and claims**

5 “(a) COMPENSATION GUIDELINES.—

6 “(1) The Secretary of Transportation shall prescribe guidelines governing the rate
7 of compensation payable under this subchapter. The guidelines shall be used to
8 determine the reasonable amount of compensation required to ensure the continuation
9 of air service or air transportation under this subchapter. The guidelines shall—

10 “(A) provide for a reduction in compensation when an air carrier does not
11 provide service or transportation agreed to be provided;

12 “(B) consider amounts needed by an air carrier to promote public use of the
13 service or transportation for which compensation is being paid; and

14 “(C) include expense elements based on representative costs of air carriers
15 providing scheduled air transportation of passengers, property, and mail on
16 equipment of the type the Secretary decides is appropriate for providing the
17 service or transportation for which compensation is being provided.

18 “(2) Promotional amounts described in paragraph (1)(B) of this subsection shall
19 be a special, segregated element of the compensation provided to a carrier under this
20 subchapter.

21 “(b) CLAIMS.—Not later than 15 days after receiving a written claim from an air
22 carrier for compensation under this subchapter, the Secretary shall—

23 “(1) pay or deny the United States Government's share of a claim; and

24 “(2) if denying the claim, notify the person of the denial and the reasons for the
25 denial.

26 “(c) AUTHORITY TO MAKE AGREEMENTS AND INCUR OBLIGATIONS.—The Secretary
27 may make agreements and incur obligations from the Airport and Airway Trust Fund
28 established under section 9502 of the Internal Revenue Code of 1986 (26 USC 9502) to
29 pay compensation under this subchapter. An agreement by the Secretary under this
30 subsection is a contractual obligation of the Government to pay the Government's share
31 of the compensation.

1 “(d) ELIGIBILITY DETERMINATIONS.—

2 “(1) In making all determinations on eligibility for compensation under this
3 subchapter, the Secretary shall rank all compensated points in their order of relative
4 decreasing driving distance from the nearest large or medium hub airport. The term
5 “driving distance” means the shortest driving distance as determined by the Federal
6 Highway Administration.

7 “(2) If the funds appropriated under Section 41742 are not sufficient to pay for
8 service to all of the eligible places, the Secretary shall provide subsidy first to the
9 eligible communities that do not have highway access to a medium or large hub
10 airport, then to the most isolated community, as determined under paragraph (1), that
11 requires compensation and then the next most isolated community requiring
12 compensation, and so on, in order, until the Secretary has obligated not more than the
13 amount authorized to be appropriated from the Airport and Airway Trust Fund under
14 49 USC § 48203(b), which shall remain available until expended.”.

15 (e) AUTHORIZATION.—Section 41742 is amended to read as follows:

16 **“§41742. Essential Air Service authorization**

17 “Beginning in fiscal year 2009, \$50,000,000 is authorized and shall be made available
18 immediately for obligation and expenditure to the Secretary of Transportation out of the
19 Airport and Airway Trust Fund established under section 9502 of the Internal Revenue
20 Code of 1986 (26 U.S.C. 9502), to carry out the essential air service program under this
21 subchapter for each fiscal year. Such amount shall remain available until expended.”.

22 (g) REPEALED PROVISIONS.—

23 (1) Sections 41735, 41736, 41745, 41747 and 41748 are repealed.

24 (2) Subchapter III of chapter 417 is repealed.

25 (h) CONFORMING AMENDMENTS.—

26 (1) The analysis to chapter 417 is amended by striking the items relating to
27 sections 41735, 41736, 41745, 41747 and 41748.

28 (2) The analysis to chapter 417 is amended by striking all of the items relating to
29 subchapter III.

30 (3) Section 41738 is amended by deleting “or air transportation to a place
31 designated under 41736”.

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SEC. 803. TERMINATION OF DOT AUTHORITY TO SET INTERNATIONAL MAIL RATES.

(a) ELIMINATION OF INTERNATIONAL MAIL RATE SETTING AUTHORITY.—Section 41901(b)(1) is amended by striking “in foreign air transportation or”.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall become effective 16 months after the date of enactment of this Act.

SEC. 804. AIR CARRIAGE OF INTERNATIONAL MAIL.

(a) ELIMINATION OF REQUIREMENT TO FILE CONTRACT.—Section 5402(b) of title 39, United States Code, is amended by striking the last three sentences.

(b) ELIMINATION OF SCHEDULES FOR MAIL TRANSPORTATION.—Section 41902 is amended—

(1) in subsection (a) by striking “in foreign air transportation or”;

(2) by revising subsection (b) to read as follows:

“(b) STATEMENTS ON PLACES AND SCHEDULES. Every air carrier shall file with the United States Postal Service a statement showing—

“(1) the places between which the carrier is authorized to transport mail in Alaska;

“(2) every schedule of aircraft regularly operated by the carrier between places described in clause (1) of this subsection and every change in each schedule; and

“(3) for each schedule, the places served by the carrier and the time of arrival at, and departure from, each place.”;

(3) by deleting subsections (e) and (f).

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall become effective 16 months after the date of enactment of this Act.

SEC. 805. CONTENTS OF COMPETITION PLANS.

Section 47106(f)(2) is amended—

(1) by striking “patterns of air service.”;

(2) by inserting “and” before “whether”; and

1 (3) by striking “, and airfare levels (as compiled by the Department of
2 Transportation) compared to other large airports”.

3
4 **SEC. 806. AIRPORT PRIVATIZATION.**

5 Section 47134 is amended—

6 (1) in the first sentence of subsection (b), by striking “5 airports” and inserting
7 “15 airports”;

8 (2) by revising paragraph (b)(1)(A) to read as follows:

9 “(1) USE OF REVENUES.—

10 “(A) IN GENERAL.—The Secretary may grant an exemption to a sponsor from
11 the provisions of section 47107(b) and 47133 of this title (and any other law,
12 regulation, or grant assurance) to the extent necessary to permit the sponsor to
13 recover from the sale or lease of the airport such amount as may be approved by
14 the Secretary after the sponsor has consulted—

15 “(i) in the case of a primary airport, with each air carrier and foreign air
16 carrier serving the airport as determined by the Secretary; or

17 “(ii) in the case of a non-primary airport, with at least 65 percent of the
18 owners of aircraft based at that airport, as determined by the Secretary.”;

19 (3) by striking subparagraph (b)(1)(C);

20 (4) in subsection (c), by—

21 (A) striking paragraphs (4), (5) and (9) and redesignating paragraphs (6)
22 through (8) as paragraphs (4) through (6) respectively; and

23 (B) adding a new paragraph (7) at the end to read as follows:

24 “(7) No part of a fee charged to an air carrier or a foreign air carrier may
25 include a return on investment or recovery of principal with respect to
26 consideration paid to the public agency for the lease or sale of the airport unless
27 such part of the fee is approved by the air carrier or foreign air carrier.”; and

28 (5) by striking paragraph (d) and redesignating paragraphs (e) through (m) as (d)
29 through (l) respectively.

30
31 **SEC. 807. CLARIFICATION OF AIR CARRIER FEE DISPUTES.**

1 Section 47129 is amended—

2 (1) by inserting “and foreign air carrier” after “air carrier” in the section heading,
3 in the heading for subsection (d), and in the paragraph heading for paragraph (d)(2);

4 (2) by striking “air carrier” each place it appears in text, and inserting “air carrier
5 or foreign air carrier”;

6 (3) by striking “air carrier’s” each place it appears and inserting “air carrier’s or
7 foreign air carrier’s”;

8 (4) by striking “air carriers” each place it appears and inserting “air carriers or
9 foreign air carriers”; and

10 (5) by striking “(as defined in section 40102 of this title)” in subsection (a) and
11 inserting “(as those terms are defined in section 40102 of this title)”.

12
13 **SEC. 808. AMENDMENTS TO CHAPTER 415.**

14 (a) IN GENERAL.—Chapter 415 is amended—

15 (1) by revising section 41501 to read as follows:

16 **“§ 41501. Establishing reasonable prices, classifications, rules and practices for
17 foreign air transportation.**

18 “Every air carrier and foreign air carrier shall establish, comply with, and enforce
19 reasonable prices, classifications, rules and practices related to foreign air
20 transportation.”.

21 (2) by revising section 41502 to read as follows:

22 **“§ 41502. Establishing joint prices for through routes with other carriers**

23 “An air carrier, including an indirect air carrier, may establish reasonable joint prices
24 and through service with another carrier.”.

25 (3) by repealing sections 41503, 41505, 41506, 41508 and 41510.

26 (4) by revising section 41504(a) to read as follows:

27 “(a) FILING AND CONTENTS.—In the way prescribed by regulation by the Secretary of
28 Transportation, any air carrier or foreign air carrier providing foreign air transportation
29 between places designated by the Secretary, and any air carrier or foreign air carrier
30 granted immunity from the antitrust laws for the coordination of prices pursuant to
31 section 41308 of this title, shall file with the Secretary, publish, and keep open to public

1 inspection, tariffs showing the prices for the foreign air transportation provided by the
 2 carrier or provided by the carrier and another air carrier or foreign air carrier in which
 3 through service and joint prices have been established. A tariff—

4 “(1) shall contain—

5 “(A) to the extent the Secretary requires by regulation, a description of the
 6 classifications, rules, and practices related to the foreign air transportation;

7 “(B) a statement of the prices in money of the United States; and

8 “(C) other information the Secretary requires by regulation; and

9 “(2) may contain—

10 “(A) a statement of the prices in money that is not money of the United States;

11 and

12 “(B) information that is required under the laws of a foreign country in or to
 13 which the air carrier or foreign air carrier is authorized to operate.”; and

14 (5) by striking subsection 41509(e) and redesignating subsections 41509(f) and
 15 (g) as 41509(e) and (f) respectively.

16 (b) CONFORMING AMENDMENTS.—

17 (1) The analysis for chapter 415 is amended by striking the items relating to
 18 sections 41503, 41505, 41506, 41508, and 41510;

19 (2) Section 40109(c) is amended by striking “41505.”;

20 (3) Section 41110(a)(2)(B) is amended—

21 (A) by striking “41503.”;

22 (B) by striking “41506.”; and

23 (C) by striking “41510.”

24 (4) Section 46301 is amended by striking “41505.”.

25
 26
 27 TITLE IX—INTERNAL REVENUE CODE AMENDMENTS

28
 29 **SEC. 901. AMENDMENT OF 1986 CODE.**

30 Except as otherwise expressly provided, whenever in this Title an amendment or
 31 repeal is expressed in terms of an amendment to, or a repeal of, a section or other

1 provision, the reference shall be considered to be made to a section or other provision of
2 the Internal Revenue Code of 1986.

3
4 **SEC. 902. MODIFICATIONS TO TAX ON AVIATION FUEL.**

5 (a) IN GENERAL.--Effective October 1, 2008, section 4081(a)(2) (relating to
6 rates of tax) is amended--

7 (1) in paragraph (A) by inserting before the comma at the end of
8 subparagraph (A)(ii) ", except that the rate of tax imposed on and after October 1,
9 2008, shall be 70.0 cents per gallon";

10 (2) by revising paragraph (C) to read as follows:

11 "(C) TAXES IMPOSED ON FUEL USED IN AVIATION.--In the case of
12 kerosene for use in aviation, the rate of tax under subparagraph (A)(iii) shall be--

13 "(i) in the case of use for commercial aviation by a person registered for
14 such use under section 4101 and in which the fuel is removed from any refinery
15 or terminal directly into the fuel tank of an aircraft, 4.3 cents per gallon, except
16 that the rate of tax imposed on and after October 1, 2008, shall be 13.6 cents per
17 gallon; and

18 "(ii) in the case of use for aviation not described in clause (i), 21.8 cents
19 per gallon, except that the rate of tax imposed on and after October 1, 2008, shall
20 be 70.0 cents per gallon in a case in which the fuel is removed from any refinery
21 or terminal directly into the fuel tank of an aircraft."; and

22 (3) by inserting at the end the following:

23 "(E) INFLATION ADJUSTMENT OF TAX RATES.--In the case of
24 taxable events in a calendar year after 2009, the amount per gallon specified in
25 subparagraph (C)(i) shall be increased by an amount equal to such amount,
26 multiplied by the cost-of-living adjustment determined under section 1(f)(3) for
27 such calendar year by substituting "2008" for "1992" in subparagraph (B) thereof.
28 Any increase determined under the preceding sentence shall be rounded to the
29 nearest tenth of a cent.

30 "(F) ADJUSTMENT OF TAX RATES TO REFLECT COST IMPOSED
31 ON THE SYSTEM.--In the case of taxable events in a calendar year after 2009,

1 the amount per gallon specified in subparagraphs (A)(ii) and (C)(ii) in excess of
2 the rate specified in (C)(i) shall be an amount based on the costs, as defined in
3 section 45305(b)(6), imposed by operators who use fuel on which such taxes are
4 paid as determined by the Federal Aviation Administration's cost allocation
5 system, and shall be increased or decreased once every two years as necessary to
6 cover such costs by an amount determined by the Federal Aviation
7 Administration. Any increase or decrease determined under the preceding
8 sentence shall be rounded to the nearest tenth of a cent.”.

9 (b) CONFORMING CHANGES TO FUEL TAX RATE PROVISIONS.

10 (1) TAX RATES UNDER SECTION 4081(d)(2).--Effective October 1, 2007,
11 section 4081(d)(2) (relating to aviation fuel tax termination) is amended to read as
12 follows:

13 "(2) AVIATION FUELS.--The rates of tax specified in subsection
14 (a)(2)(A)(ii), (a)(2)(C)(i), and (a)(2)(C)(ii) shall be 0.00 cents per gallon after
15 September 30, 2017."

16 (2) TAX RATES UNDER SECTION 4041.--Effective October 1, 2008, section
17 4041(c)(3) (relating to certain liquids used as a fuel in aviation) is amended by inserting
18 before the period at the end of paragraph (3) ", except that the rate of tax imposed on and
19 after October 1, 2008, shall be the rate, after adjustment for inflation under 4081(a)(2)(E),
20 applicable under section 4081(a)(2)(C)(i) with respect to any fuel sold for use or used for
21 commercial aviation, and under section 4081(a)(2)(A)(ii) or 4081(a)(2)(C)(ii) with
22 respect to any other fuel sold for use or used in aircraft."

23 (c) FUEL TAX REFUND LIMITATIONS.—Effective October 1, 2008, section
24 6427(l) is amended—

25 (1) in subsection (l)(4), by inserting before the period at the end of subsection
26 (l)(4)(A)(ii) "and, on and after October 1, 2008, so much of the rate of tax specified in
27 section 4081(a)(2)(A)(iii) as does not exceed the tax specified in section 4081(a)(2)(C)(i),
28 after adjustment for inflation under 4081(a)(2)(E)"; and

29 (2) in subsection (l)(5), by inserting before the period at the end of subsection
30 (l)(5)(A)(ii) "and, on and after October 1, 2008, so much of the rate of tax specified in

1 section 4081(a)(2)(A)(iii) as does not exceed the tax specified in section
2 4081(a)(2)(C)(ii), after adjustment for inflation under 4081(a)(2)(E).".

3
4 **SEC. 903. MODIFICATIONS TO TAX ON TRANSPORTATION OF PERSONS**
5 **BY AIR.**

6 (a) ONE-YEAR EXTENSION OF CURRENT TAXES.—(1) Section
7 4261(j)(1)(ii) (relating to imposition of tax on persons) is amended by striking
8 “September 30, 2007,” and inserting “September 30, 2008”.

9 (2) Section 4271(d)(1)(A)(ii) (relating to imposition of tax on property) is
10 amended by striking “September 30, 2007,” and inserting “September 30, 2008”.

11 (b) MODIFICATIONS TO TAXES.--Effective October 1, 2008, section 4261
12 (relating to imposition of tax) is amended--

13 (1) in subsection (c),

14 (A) by inserting before the period at the end of subsection (c)(1) ", except
15 that the rate of tax imposed for transportation beginning on and after October 1,
16 2008, shall be \$6.39”;

17 (B) by amending subsection (c)(2) to read as follows:

18 “(2) EXCEPTION FOR CERTAIN TRANSPORTATION.--This
19 subsection shall not apply to any transportation that consumes fuel taxed under
20 section 4081(a)(2)(C)(i).”;

21 (C) by inserting after "In any case" in subsection (c)(3) "involving
22 transportation beginning before October 1, 2008, and"; and

23 (D) by inserting before the period at the end of subsection (e)(4)(B)(ii) ",
24 except that the last nonindexed year is 2009 in the case of the dollar amounts
25 contained in subsection (c) that apply to taxable events in a calendar year after
26 2009.”; and

27 (2) by amending subsection (j) to insert the following at the end:

28 "(3) EXTENSION OF TAXABLE PERIOD IN THE CASE OF
29 INTERNATIONAL TRAVEL FACILITIES.--Notwithstanding paragraph (1), the
30 taxes imposed by subsection (c) of this section shall apply to--

1 “(A) transportation beginning during the period beginning on
2 March 7, 1997, and ending on September 30, 2017; and

3 “(B) amounts paid during such period for transportation beginning
4 after such period.”.

5
6 **SEC. 904. EXTENSION OF AIRPORT AND AIRWAY TRUST FUND**
7 **EXPENDITURE AUTHORITY.**

8 (a) IN GENERAL.--Paragraph (1) of section 9502(d) of the Internal
9 Revenue Code of 1986 (relating to expenditures from Airport and Airway Trust
10 Fund) is amended--

11 (1) by striking “October 1, 2007” and inserting “October 1, 2017”; and
12 (2) by inserting before the semicolon at the end of subparagraph (A) the
13 following: “, or the Next Generation Air Transportation System Financing Reform Act of
14 2007”.

15 (b) CONFORMING AMENDMENT.--Paragraph (2) of section 9502(f) of the
16 Internal Revenue Code of 1986 is amended by striking “October 1, 2007”
17 and inserting “October 1, 2017”.

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21 * * *