

AMENDMENT NO.

CAL. NO.

[STAFF WORKING DRAFT]

April 28, 2008

Purpose: To substitute the text of S. 1300, as reported by the Committee on Commerce, Science, and Transportation, including the managers' amendment thereto.

**IN THE SENATE OF THE UNITED STATES**—110TH Cong., 2D Sess.

**H.R. 2881**, 110TH Congress, 2D Session

APRIL —, 2008

( ) Referred to the Committee on \_\_\_\_\_ and ordered to be printed

( ) Ordered to lie on the table and to be printed

INTENDED to be proposed by Mr. \_\_\_\_\_

Viz: Strike out all after the enacting clause and insert the following:

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

2 (a) SHORT TITLE.—This Act may be cited as the  
3 “Aviation Investment and Modernization Act of 2008”.

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

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

TITLE I—AUTHORIZATIONS AND FINANCING

- Sec. 101. Operations.
- Sec. 102. Air navigation facilities and equipment.

- Sec. 103. Research and development.
- Sec. 104. Airport planning and development and noise compatibility planning and programs.
- Sec. 105. Other aviation programs.
- Sec. 106. Delineation of next generation air transportation system projects.
- Sec. 107. Funding for administrative expenses for airport programs.

#### TITLE II—AIRPORT IMPROVEMENTS

- Sec. 201. Reform of passenger facility charge authority.
- Sec. 202. Passenger facility charge pilot program.
- Sec. 203. Amendments to grant assurances.
- Sec. 204. Government share of project costs.
- Sec. 205. Amendments to allowable costs.
- Sec. 206. Sale of private airport to public sponsor.
- Sec. 207. Pilot program for airport takeover of air navigation facilities.
- Sec. 208. Government share of certain air project costs.
- Sec. 209. Miscellaneous amendments.
- Sec. 210. State block grant program.
- Sec. 211. Airport funding of special studies or reviews.
- Sec. 212. Grant eligibility for assessment of flight procedures.
- Sec. 213. Safety-critical airports.
- Sec. 214. Expanded passenger facility charge eligibility for noise compatibility projects.
- Sec. 215. Environmental mitigation demonstration pilot program.
- Sec. 216. Allowable project costs for airport development program.
- Sec. 217. Glycol recovery vehicles.
- Sec. 218. Research improvement for aircraft.

#### TITLE III—FAA ORGANIZATION AND REFORM

- Sec. 301. Air Traffic Control Modernization Oversight Board.
- Sec. 302. ADS-B support pilot program.
- Sec. 303. Facilitation of next generation air traffic services.
- Sec. 304. Clarification of authority to enter into reimbursable agreements.
- Sec. 305. Clarification to acquisition reform authority.
- Sec. 306. Assistance to other aviation authorities.
- Sec. 307. Presidential rank award program.
- Sec. 308. Next generation facilities needs assessment.
- Sec. 309. Next generation air transportation system planning office.
- Sec. 310. Definition of air navigation facility.
- Sec. 311. Improved management of property inventory.
- Sec. 312. Educational requirements.
- Sec. 313. FAA personnel management system.
- Sec. 314. Rulemaking and report on ADS-B implementation.
- Sec. 315. FAA task force on air traffic control facility conditions.
- Sec. 316. State ADS-B equipage bank pilot program.

#### TITLE IV—AIRLINE SERVICE AND SMALL COMMUNITY AIR SERVICE IMPROVEMENTS

- Sec. 401. Airline contingency service requirements.
- Sec. 402. Publication of customer service data and flight delay history.
- Sec. 403. EAS connectivity program.
- Sec. 404. Extension of final order establishing mileage adjustment eligibility.
- Sec. 405. EAS contract guidelines.

- Sec. 406. Conversion of former EAS airports.
- Sec. 407. EAS reform.
- Sec. 408. Clarification of air carrier fee disputes.
- Sec. 409. Small community air service.
- Sec. 410. Contract tower program.
- Sec. 411. Airfares for members of the armed forces.
- Sec. 412. Expansion of DOT airline consumer complaint investigations.
- Sec. 413. EAS marketing.
- Sec. 414. Extraperimetral and intraperimetral slots at Ronald Reagan Washington National Airport.
- Sec. 415. Establishment of advisory committee for aviation consumer protection.
- Sec. 416. Rural aviation improvement.

#### TITLE V—AVIATION SAFETY

- Sec. 501. Runway safety equipment plan.
- Sec. 502. Aircraft fuel tank safety improvement.
- Sec. 503. Judicial review of denial of airman certificates.
- Sec. 504. Release of data relating to abandoned type certificates and supplemental type certificates.
- Sec. 505. Design organization certificates.
- Sec. 506. FAA access to criminal history records or database systems.
- Sec. 507. Flight crew fatigue.
- Sec. 508. Increasing safety for helicopter emergency medical service operators.
- Sec. 509. Cabin crew communication.
- Sec. 510. Clarification of memorandum of understanding with osha.
- Sec. 511. Acceleration of development and implementation of required navigation performance approach procedures.
- Sec. 512. Enhanced safety for airport operations.
- Sec. 513. Improved safety information.
- Sec. 514. Voluntary disclosure reporting process improvements.
- Sec. 515. Procedural improvements for inspections.
- Sec. 516. Independent review of safety issues.
- Sec. 517. National review team.
- Sec. 518. FAA Academy improvements.
- Sec. 519. Reduction of runway incursions and operational errors.

#### TITLE VI—AVIATION RESEARCH

- Sec. 601. Airport cooperative research program.
- Sec. 602. Reduction of noise, emissions, and energy consumption from civilian aircraft.
- Sec. 603. Production of clean coal fuel technology for civilian aircraft.
- Sec. 604. Advisory committee on future of aeronautics.
- Sec. 605. Research program to improve airfield pavements.
- Sec. 606. Wake turbulence, volcanic ash, and weather research.
- Sec. 607. Incorporation of unmanned aerial systems into FAA plans and policies.
- Sec. 608. Reauthorization of center of excellence in applied research and training in the use of advanced materials in transport aircraft.
- Sec. 609. Pilot program for zero emission airport vehicles.
- Sec. 610. Reduction of emissions from airport power sources.

#### TITLE VII—MISCELLANEOUS

- Sec. 701. General authority.
- Sec. 702. Human intervention management study.
- Sec. 703. Airport program modifications.
- Sec. 704. Miscellaneous program extensions.
- Sec. 705. Extension of competitive access reports.
- Sec. 706. Update on overflights.
- Sec. 707. Technical corrections.
- Sec. 708. FAA technical training and staffing.
- Sec. 709. Commercial air tour operators in national parks.
- Sec. 710. Phaseout of stage 1 and 2 aircraft.
- Sec. 711. Weight restrictions at teterboro airport.
- Sec. 712. Pilot program for redevelopment of airport properties.
- Sec. 713. Air carriage of international mail.
- Sec. 714. Transporting musical instruments.
- Sec. 715. Recycling plans for airports.
- Sec. 716. Consumer information pamphlet.

TITLE VIII—AMERICAN INFRASTRUCTURE INVESTMENT AND  
IMPROVEMENT

- Sec. 800. Short title, etc.

Subtitle A—Airport and Airway Trust Fund Provisions and Related Taxes

- Sec. 801. Extension of taxes funding Airport and Airway Trust Fund.
- Sec. 802. Extension of Airport and Airway Trust Fund expenditure authority.
- Sec. 803. Modification of excise tax on kerosene used in aviation .
- Sec. 804. Air Traffic Control System Modernization Account.
- Sec. 805. Treatment of fractional aircraft ownership programs.
- Sec. 806. Termination of exemption for small aircraft on nonestablished lines.
- Sec. 807. Transparency in passenger tax disclosures.
- Sec. 808. Required funding of new accruals under air carrier pension plans.

Subtitle B—Increased Funding for Highway Trust Fund

- Sec. 811. Replenish emergency spending from Highway Trust Fund.
- Sec. 812. Suspension of transfers from highway trust fund for certain repayments and credit.
- Sec. 813. Taxation of taxable fuels in foreign trade zones.
- Sec. 814. Clarification of penalty for sale of fuel failing to meet EPA regulations.
- Sec. 815. Treatment of qualified alcohol fuel mixtures and qualified biodiesel fuel mixtures as taxable fuels.
- Sec. 816. Calculation of volume of alcohol for fuel credits.
- Sec. 817. Bulk transfer exception not to apply to finished gasoline.
- Sec. 818. Increase and extension of Oil Spill Liability Trust Fund tax.
- Sec. 819. Application of rules treating inverted corporations as domestic corporations to certain transactions occurring after March 20, 2002.
- Sec. 820. Denial of deduction for punitive damages.
- Sec. 821. Motor fuel tax enforcement advisory commission.
- Sec. 822. Highway Trust Fund conforming expenditure amendment.

Subtitle C—Additional Infrastructure Modifications and Revenue Provisions

- Sec. 831. Restructuring of New York Liberty Zone tax credits.

Sec. 832. Participants in government section 457 plans allowed to treat elective deferrals as Roth contributions.

Sec. 833. Increased information return penalties.

Sec. 834. Exemption of certain commercial cargo from harbor maintenance tax.

Sec. 835. Credit to holders of qualified rail infrastructure bonds.

Sec. 836. Repeal of suspension of certain penalties and interest.

Sec. 837. Denial of deduction for certain fines, penalties, and other amounts.

Sec. 838. Revision of tax rules on expatriation.

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

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

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

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

12 **TITLE I—AUTHORIZATIONS AND**  
13 **FINANCING**

14 **SEC. 101. OPERATIONS.**

15 (a) IN GENERAL.—Section 106(k)(1) is amended by  
16 striking subparagraphs (A) through (D) and inserting the  
17 following:

18 “(A) \$8,726,000,000 for fiscal year 2008;

19 “(B) \$8,990,000,000 for fiscal year 2009;

20 “(C) \$9,330,000,000 for fiscal year 2010;

21 and

1                   “(D) \$9,620,000,000 for fiscal year  
2                   2011.”.

3           (b) SAFETY PROJECT.—Section 106(k)(2)(F) is  
4 amended by striking “2007” and inserting “2011”.

5 **SEC. 102. AIR NAVIGATION FACILITIES AND EQUIPMENT.**

6           Section 48101(a) is amended by striking paragraphs  
7 (1) through (4) and inserting the following:

8                   “(1) \$2,572,000,000 for fiscal year 2008;

9                   “(2) \$2,923,000,000 for fiscal year 2009, of  
10                   which \$400,000,000 is derived from the Air Traffic  
11                   Control System Modernization Account of the Air-  
12                   port and Airways Trust Fund;

13                   “(3) \$3,079,000,000 for fiscal year 2010, of  
14                   which \$400,000,000 is derived from the Air Traffic  
15                   Control System Modernization Account of the Air-  
16                   port and Airways Trust Fund; and

17                   “(4) \$3,317,000,000 for fiscal year 2011, of  
18                   which \$400,000,000 is derived from the Air Traffic  
19                   Control System Modernization Account of the Air-  
20                   port and Airways Trust Fund.”.

21 **SEC. 103. RESEARCH AND DEVELOPMENT.**

22           Section 48102 is amended—

23                   (1) by striking subsection (a) and inserting the  
24                   following:

1           “(a) IN GENERAL.—Not more than the following  
2 amounts may be appropriated to the Secretary of Trans-  
3 portation out of the Airport and Airway Trust Fund es-  
4 tablished under section 9502 of the Internal Revenue Code  
5 of 1986 (26 U.S.C. 9502) for conducting civil aviation re-  
6 search and development under sections 44504, 44505,  
7 44507, 44509, and 44511 through 44513 of this title:

8                   “(1) \$140,000,000 for fiscal year 2008.

9                   “(2) \$191,000,000 for fiscal year 2009.

10                   “(3) \$191,000,000 for fiscal year 2010.

11                   “(4) \$194,000,000 for fiscal year 2011.”;

12                   (2) by striking subsections (c) through (h); and

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

14           “(c) RESEARCH GRANTS PROGRAM INVOLVING UN-  
15 DERGRADUATE STUDENTS.—The Administrator of the  
16 Federal Aviation Administration shall establish a program  
17 to utilize undergraduate and technical colleges, including  
18 Historically Black Colleges and Universities, Hispanic  
19 Serving Institutions, tribally controlled colleges and uni-  
20 versities, and Alaska Native and Native Hawaiian serving  
21 institutions in research on subjects of relevance to the  
22 Federal Aviation Administration. Grants may be awarded  
23 under this subsection for—

1           “(1) research projects to be carried out at pri-  
2           marily undergraduate institutions and technical col-  
3           leges;

4           “(2) research projects that combine research at  
5           primarily undergraduate institutions and technical  
6           colleges with other research supported by the Fed-  
7           eral Aviation Administration;

8           “(3) research on future training requirements  
9           on projected changes in regulatory requirements for  
10          aircraft maintenance and power plant licensees; or

11          “(4) research on the impact of new technologies  
12          and procedures, particularly those related to aircraft  
13          flight deck and air traffic management functions,  
14          and on training requirements for pilots and air traf-  
15          fic controllers.”.

16 **SEC. 104. AIRPORT PLANNING AND DEVELOPMENT AND**  
17                   **NOISE COMPATIBILITY PLANNING AND PRO-**  
18                   **GRAMS.**

19          Section 48103 is amended by striking paragraphs (1)  
20 through (4) and inserting the following:

21           “(1) \$3,800,000,000 for fiscal year 2008;

22           “(2) \$3,900,000,000 for fiscal year 2009;

23           “(3) \$4,000,000,000 for fiscal year 2010; and

24           “(4) \$4,100,000,000 for fiscal year 2011.”.



1 **SEC. 105. OTHER AVIATION PROGRAMS.**

2 Section 48114 is amended—

3 (1) by striking “2007” in subsection (a)(1)(A)  
4 and inserting “2011”;

5 (2) by striking “2007,” in subsection (a)(2) and  
6 inserting “2011,”; and

7 (3) by striking “2007” in subsection (c)(2) and  
8 inserting “2011”.

9 **SEC. 106. DELINEATION OF NEXT GENERATION AIR TRANS-**  
10 **PORTATION SYSTEM PROJECTS.**

11 Section 44501(b) is amended—

12 (1) by striking “and” after the semicolon in  
13 paragraph (3);

14 (2) by striking “defense.” in paragraph (4) and  
15 inserting “defense; and”; and

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

17 “(5) a list of projects that are part of the Next  
18 Generation Air Transportation System and do not  
19 have as a primary purpose to operate or maintain  
20 the current air traffic control system.”.

21 **SEC. 107. FUNDING FOR ADMINISTRATIVE EXPENSES FOR**  
22 **AIRPORT PROGRAMS.**

23 (a) IN GENERAL.—Section 48105 is amended to read  
24 as follows:

1 **“§ 48105. Airport programs administrative expenses**

2 “Of the amount made available under section 48103  
3 of this title, the following may be available for administra-  
4 tive expenses relating to the Airport Improvement Pro-  
5 gram, passenger facility charge approval and oversight,  
6 national airport system planning, airport standards devel-  
7 opment and enforcement, airport certification, airport-re-  
8 lated environmental activities (including legal services),  
9 and other airport-related activities (including airport tech-  
10 nology research), to remain available until expended—

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

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

13 “(3) for fiscal year 2010, \$89,000,000; and

14 “(4) for fiscal year 2011, \$93,000,000.”.

15 (b) CONFORMING AMENDMENT.—The chapter anal-  
16 ysis for chapter 481 is amended by striking the item relat-  
17 ing to section 48105 and inserting the following:

“48105. Airport programs administrative expenses.”.

18 **TITLE II—AIRPORT**  
19 **IMPROVEMENTS**

20 **SEC. 201. REFORM OF PASSENGER FACILITY CHARGE AU-**  
21 **THORITY.**

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

24 “(c) PROCEDURAL REQUIREMENTS FOR IMPOSITION  
25 OF PASSENGER FACILITY CHARGE.—

1           “(1) IN GENERAL.—An eligible agency must  
2           submit to those air carriers and foreign air carriers  
3           operating at the airport with a significant business  
4           interest, as defined in paragraph (3), and to the  
5           Secretary and make available to the public annually  
6           a report, in the form required by the Secretary, on  
7           the status of the eligible agency’s passenger facility  
8           charge program, including—

9                   “(A) the total amount of program revenue  
10                   held by the agency at the beginning of the 12  
11                   months covered by the report;

12                   “(B) the total amount of program revenue  
13                   collected by the agency during the period cov-  
14                   ered by the report;

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

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

1           “(E) the level of program revenue the  
2           agency plans to collect during the next 12-  
3           month period covered by the report;

4           “(F) a description of the notice and con-  
5           sultation process with air carriers and foreign  
6           air carriers under paragraph (3), and with the  
7           public under paragraph (4), including a copy of  
8           any adverse comments received and how the  
9           agency responded; and

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

12           “(2) IMPLEMENTATION.—Subject to the re-  
13           quirements of paragraphs (3), (4), (5), and (6), the  
14           eligible agency may implement the planned collection  
15           and use of passenger facility charges in accordance  
16           with its report upon filing the report as required in  
17           paragraph (1).

18           “(3) CONSULTATION WITH CARRIERS FOR NEW  
19           PROJECTS.—

20           “(A) An eligible agency proposing to col-  
21           lect or use passenger facility charge revenue for  
22           a project not previously approved by the Sec-  
23           retary or not included in a report required by  
24           paragraph (1) that was submitted in a prior  
25           year shall provide to air carriers and foreign air

1 carriers operating at the airport reasonable no-  
2 tice, and an opportunity to comment on the  
3 planned collection and use of program revenue  
4 before providing the report required under  
5 paragraph (1). The Secretary shall prescribe by  
6 regulation what constitutes reasonable notice  
7 under this paragraph, which shall at a min-  
8 imum include—

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

14 “(ii) that the notice include a full de-  
15 scription and justification for a proposed  
16 project;

17 “(iii) that the notice include a detailed  
18 financial plan for the proposed project; and

19 “(iv) that the notice include the pro-  
20 posed level for the passenger facility  
21 charge.

22 “(B) An eligible agency providing notice  
23 and an opportunity for comment shall be  
24 deemed to have satisfied the requirements of  
25 this paragraph if the eligible agency provides

1 such notice to air carriers and foreign air car-  
2 riers that have a significant business interest at  
3 the airport. For purposes of this subparagraph,  
4 the term ‘significant business interest’ means  
5 an air carrier or foreign air carrier that—

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

9 “(ii) had at least 25,000 passenger  
10 boardings at the airport in the prior cal-  
11 endar year; or

12 “(iii) provides scheduled service at the  
13 airport.

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

21 “(D) The eligible agency may include, as  
22 part of the notice and comment process, a con-  
23 sultation meeting to discuss the proposed  
24 project or, if applicable, the proposed level for  
25 a passenger facility charge. If the agency pro-

1 provides a consultation meeting, the written com-  
2 ments specified in subparagraph (C) shall be  
3 due not later than 30 days after the meeting.

4 “(4) PUBLIC NOTICE AND COMMENT.—

5 “(A) An eligible agency proposing to col-  
6 lect or use passenger facility charge revenue for  
7 a project not previously approved by the Sec-  
8 retary or not included in a report required by  
9 paragraph (1) that was filed in a prior year  
10 shall provide reasonable notice and an oppor-  
11 tunity for public comment on the planned col-  
12 lection and use of program revenue before pro-  
13 viding the report required in paragraph (1).

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

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

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

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

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

6 “(5) OBJECTIONS.—

7 “(A) Any interested person may file with  
8 the Secretary a written objection to a proposed  
9 project included in a notice under this para-  
10 graph provided that the filing is made within 30  
11 days after submission of the report specified in  
12 paragraph (1).

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

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

24 “(i) the project is not an eligible air-  
25 port related project;



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

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

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

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

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

1           “(6) APPROVAL REQUIREMENT FOR INCREASED  
2 PASSENGER FACILITY CHARGE OR INTERMODAL  
3 GROUND ACCESS PROJECT.—

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

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

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

1 or the increased passenger facility charge. Such  
2 notice and opportunity to comment shall con-  
3 form to the requirements of paragraphs (3) and  
4 (4).

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

12 (b) CONFORMING AMENDMENTS.—

13 (1) REFERENCES.—

14 (A) Section 40117(a) is amended—

15 (i) by striking “FEE” in the heading  
16 for paragraph (5) and inserting  
17 “CHARGE”; and

18 (ii) by striking “fee” each place it ap-  
19 pears in paragraphs (5) and (6) and in-  
20 serting “charge”.

21 (B) Subsections (b), and subsections (d)  
22 through (m), of section 40117 are amended—

23 (i) by striking “fee” or “fees” each  
24 place either appears and inserting  
25 “charge” or “charges”, respectively; and

1 (ii) by striking “FEE” in the sub-  
2 section caption for subsection (l), and  
3 “FEES” in the subsection captions for sub-  
4 sections (e) and (m), and inserting  
5 “CHARGE” and “CHARGES”, respectively.

6 (C) The caption for section 40117 is  
7 amended to read as follows:

8 **“§ 40117. Passenger facility charges”.**

9 (D) The chapter analysis for chapter 401  
10 is amended by striking the item relating to sec-  
11 tion 40117 and inserting the following:

“40117. Passenger facility charges.”.

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

14 (A) by striking “subsection (c) of this sec-  
15 tion to finance a specific” and inserting “sub-  
16 section (c)(6) of this section to finance an inter-  
17 modal ground access”;

18 (B) by striking “specific” in paragraph  
19 (1);

20 (C) by striking paragraph (2) and insert-  
21 ing the following:

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

1 (D) by striking “each of the specific  
2 projects; and” in paragraph (3) and inserting  
3 “the project.”; and

4 (E) by striking paragraph (4).

5 (3) LIMITATIONS ON IMPOSING CHARGES.—Sec-  
6 tion 40117(e)(1) is amended to read as follows: “(1)  
7 An eligible agency may impose a passenger facility  
8 charge only subject to terms the Secretary may pre-  
9 scribe to carry out the objectives of this section.”.

10 (4) LIMITATIONS ON CONTRACTS, LEASES, AND  
11 USE AGREEMENTS.—Section 40117(f)(2) is amended  
12 by striking “long-term”.

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

15 (A) by redesignating paragraph (3) as  
16 paragraph (4); and

17 (B) by inserting after paragraph (2) the  
18 following:

19 “(3) The Secretary may, on complaint of an in-  
20 terested person or on the Secretary’s own initiative,  
21 conduct an investigation into an eligible agency’s col-  
22 lection and use of passenger facility charge revenue  
23 to determine whether a passenger facility charge is  
24 excessive or that passenger facility revenue is not  
25 being used as provided in this section. The Secretary

1 shall prescribe regulations establishing procedures  
2 for complaints and investigations. The regulations  
3 may provide for the issuance of a final agency deci-  
4 sion without resort to an oral evidentiary hearing.  
5 The Secretary shall not accept complaints filed  
6 under this paragraph until after the issuance of reg-  
7 ulations establishing complaint procedures.”.

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

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

12 (B) by striking “date that is 3 years after  
13 the date of issuance of regulations to carry out  
14 this subsection.” in paragraph (7) and inserting  
15 “date of issuance of regulations to carry out  
16 subsection (c) of this section, as amended by  
17 the Aviation Investment and Modernization Act  
18 of 2008.”.

19 (7) PROHIBITION ON APPROVING PFC APPLICA-  
20 TIONS FOR AIRPORT REVENUE DIVERSION.—Section  
21 47111(e) is amended by striking “sponsor” the sec-  
22 ond place it appears in the first sentence and all  
23 that follows and inserting “sponsor. A sponsor shall  
24 not propose collection or use of passenger facility  
25 charges for any new projects under paragraphs (3)

1 through (6) of section 40117(c) unless the Secretary  
2 determines that the sponsor has taken corrective ac-  
3 tion to address the violation and the violation no  
4 longer exists.”.

5 **SEC. 202. PASSENGER FACILITY CHARGE PILOT PROGRAM.**

6 Section 40117 is amended by adding at the end  
7 thereof the following:

8 “(n) ALTERNATIVE PASSENGER FACILITY CHARGE  
9 COLLECTION PILOT PROGRAM.—

10 “(1) IN GENERAL.—The Secretary shall estab-  
11 lish and conduct a pilot program at not more than  
12 6 airports under which an eligible agency may im-  
13 pose a passenger facility charge under this section  
14 without regard to the dollar amount limitations set  
15 forth in paragraph (1) or (4) of subsection (b) if the  
16 participating eligible agency meets the requirements  
17 of paragraph (2).

18 “(2) COLLECTION REQUIREMENTS.—

19 “(A) DIRECT COLLECTION.—An eligible  
20 agency participating in the pilot program—

21 “(i) may collect the charge from the  
22 passenger at the facility, via the Internet,  
23 or in any other reasonable manner; but

1                   “(ii) may not require or permit the  
2                   charge to be collected by an air carrier or  
3                   foreign air carrier for the flight segment.

4                   “(B) PFC COLLECTION REQUIREMENT  
5                   NOT TO APPLY.—Subpart C of part 158 of title  
6                   14, Code of Federal Regulations, does not apply  
7                   to the collection of the passenger facility charge  
8                   imposed by an eligible agency participating in  
9                   the pilot program.”.

10 **SEC. 203. AMENDMENTS TO GRANT ASSURANCES.**

11           Section 47107 is amended—

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

22                   (2) by striking “purpose;” in subsection  
23                   (c)(2)(A)(i) and inserting “purpose, which includes  
24                   serving as noise buffer land;”;



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

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

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

13               “(i) reinvestment in an approved noise compat-  
14               ibility project;

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

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

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

24               “(v) payment to the Secretary for deposit in the  
25               Airport and Airway Trust Fund established under

1 section 9502 of the Internal Revenue Code of 1986  
2 (26 U.S.C. 9502).”.

3 **SEC. 204. GOVERNMENT SHARE OF PROJECT COSTS.**

4 (a) FEDERAL SHARE.—Section 47109 is amended—

5 (1) by striking “subsection (b) or subsection  
6 (c)” in subsection (a) and inserting “subsection (b),  
7 (c), or (e)”; and

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

9 “(e) SPECIAL RULE FOR TRANSITION FROM SMALL  
10 HUB TO MEDIUM HUB STATUS.—If the status of a small  
11 hub primary airport changes to a medium hub primary  
12 airport, the United States Government’s share of allow-  
13 able project costs for the airport may not exceed 95 per-  
14 cent for 2 fiscal years following such change in hub sta-  
15 tus.”.

16 (b) TRANSITIONING AIRPORTS.—Section  
17 47114(f)(3)(B) is amended by striking “year 2004.” and  
18 inserting “years 2008, 2009, 2010, and 2011.”.

19 **SEC. 205. AMENDMENTS TO ALLOWABLE COSTS.**

20 Section 47110 is amended—

21 (1) by striking subsection (d) and inserting the  
22 following:

23 “(d) RELOCATION OF AIRPORT-OWNED FACILI-  
24 TIES.—The Secretary may determine that the costs of re-  
25 locating or replacing an airport-owned facility are allow-

1 able for an airport development project at an airport only  
2 if—

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

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

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

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

14 **SEC. 206. SALE OF PRIVATE AIRPORT TO PUBLIC SPONSOR.**

15 Section 47133(b) is amended—

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

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

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

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

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

24 “(B) funding is provided under this title

25 for the public sponsor’s acquisition; and

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

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

8   **SEC. 207. PILOT PROGRAM FOR AIRPORT TAKEOVER OF**  
9           **AIR NAVIGATION FACILITIES.**

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

12   **“§ 44518. Pilot program for airport takeover of ter-**  
13           **minal area air navigation equipment**

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

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

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

5           “(2) permit the Administrator or a person des-  
6           ignated by the Administrator to conduct inspections  
7           of the air navigation equipment under a schedule es-  
8           tablished by the Administrator; and

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

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

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

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

1           “(d) TREATMENT OF AIRPORT COSTS UNDER PILOT  
2 PROGRAM.—Upon transfer by the Administrator, any  
3 costs incurred by the airport for ownership and mainte-  
4 nance of the equipment transferred under this section  
5 shall be considered a cost of providing airfield facilities  
6 and services under standards and guidelines issued by the  
7 Secretary under section 47129(b)(2) and may be recov-  
8 ered in rates and charges assessed for use of the airfield.

9           “(e) DEFINITIONS.—In this section:

10           “(1) SPONSOR.—The term ‘sponsor’ has the  
11 meaning given that term in section 40102.

12           “(2) TERMINAL AREA AIR NAVIGATION EQUIP-  
13 MENT.—The term ‘terminal area air navigation  
14 equipment’ means an air navigation facility under  
15 section 40102, other than buildings used for air  
16 traffic control functions, that exists to provide ap-  
17 proach and landing guidance to aircraft.

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

23           “(b) CONFORMING AMENDMENT.—The chapter anal-  
24 ysis for chapter 445 is amended by inserting after the item  
25 relating to section 44517 the following:

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

1 **SEC. 208. GOVERNMENT SHARE OF CERTAIN AIR PROJECT**  
2 **COSTS.**

3 Notwithstanding section 47109(a) of title 49, United  
4 States Code, the Federal government’s share of allowable  
5 project costs for a grant made in fiscal year 2008, 2009,  
6 2010, or 2011 under chapter 471 of that title for a project  
7 described in paragraph (2) or (3) of that section shall be  
8 95 percent.

9 **SEC. 209. MISCELLANEOUS AMENDMENTS.**

10 (a) **TECHNICAL CHANGES TO NATIONAL PLAN OF**  
11 **INTEGRATED AIRPORT SYSTEMS.**—Section 47103 is  
12 amended—

13 (1) by striking “each airport to—” in sub-  
14 section (a) and inserting “the airport system to—”;

15 (2) by striking “system in the particular area;”  
16 in subsection (a)(1) and inserting “system, including  
17 connection to the surface transportation network;  
18 and”;

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

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

22 (5) by striking paragraph (2) of subsection (b)  
23 and redesignating paragraph (3) as paragraph (2);

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

5           (7) by striking “status of the” in subsection  
6           (d).

7           (b) UPDATE VETERANS PREFERENCE DEFINI-  
8           TION.—Section 47112(c) is amended—

9           (1) by striking “separated from” in paragraph  
10          (1)(B) and inserting “discharged or released from  
11          active duty in”;

12          (2) by adding at the end of paragraph (1) the  
13          following:

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

23          (3) by striking “veterans and” in paragraph (2)  
24          and inserting “veterans, Afghanistan-Iraq war vet-  
25          erans, and”.



1 (c) ANNUAL REPORT.—Section 47131(a) is amend-  
2 ed—

3 (1) by striking “April 1” and inserting “June  
4 1”; and

5 (2) by striking paragraphs (1) through (4) and  
6 inserting the following:

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

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

10 “(3) an accounting of discretionary and appor-  
11 tioned funds allocated;

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

13 (d) SUNSET OF PROGRAM.—Section 47137 is re-  
14 pealed effective September 30, 2008.

15 (e) CORRECTION TO EMISSION CREDITS PROVI-  
16 SION.—Section 47139 is amended—

17 (1) by striking “47102(3)(F),” in subsection  
18 (a);

19 (2) by striking “47102(3)(F),” in subsection  
20 (b);

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

23 (4) by striking “47103(3)(F), in subsection (b);

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

1 (f) CORRECTION TO SURPLUS PROPERTY AUTHOR-  
2 ITY.—Section 47151(e) is amended by striking “(other  
3 than real property that is subject to section 2687 of title  
4 10, section 201 of the Defense Authorization Amendments  
5 and Base Closure and Realignment Act (10 U.S.C. 2687  
6 note), or section 2905 of the Defense Base Closure and  
7 Realignment Act of 1990 (10 U.S.C. 2687 note),”.

8 (g) AIRPORT CAPACITY BENCHMARK REPORTS; DEF-  
9 INITION OF JOINT USE AIRPORT.—Section 47175 is  
10 amended—

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

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

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

21 (h) CARGO AIRPORTS.—Section 47114(c)(2)(A) is  
22 amended by striking “3.5 percent” and inserting “4.0 per-  
23 cent”.

24 (i) USE OF APPORTIONED AMOUNTS.—Section  
25 47117(e)(1)(A) is amended—

1           (1) by striking “35 percent” in the first sen-  
2           tence and inserting “\$300,000,000”;

3           (2) by striking “and” after “47141,”;

4           (3) by striking “et seq.)” and inserting “et  
5           seq.), and for water quality mitigation projects to  
6           comply with the Act of June 30, 1948 (33 U.S.C.  
7           1251 et seq.) approved in an environmental record  
8           of decision for an airport development project under  
9           this title.”; and

10          (4) by striking “such 35 percent requirement  
11          is” in the second sentence and inserting “the re-  
12          quirements of the preceding sentence are”.

13          (j) USE OF APPORTIONED AMOUNTS.—An amount  
14          apportioned under section 47114 of title 49, United States  
15          Code, or made available under section 47115 of that title,  
16          to the sponsor of a reliever airport the crosswind runway  
17          of which was closed as a result of a Record of Decision  
18          dated September 3, 2004, shall be available for project  
19          costs associated with the establishment of a new crosswind  
20          runway.

21          (k) USE OF PREVIOUS FISCAL YEAR’S APPORTION-  
22          MENT.—Section 47114(c)(1) is amended—

23                 (1) by striking “airport due to an employment  
24                 action, natural disaster, or other event unrelated to  
25                 the demand for air transportation at the affected

1 airport.” in subparagraph (E)(iii) and inserting  
2 “airport—

3 “(I) if it is included in the essential air  
4 service program in the calendar year in which  
5 the passenger boardings fall below 9,700;

6 “(II) if at the airport the total passenger  
7 boardings from large certificated air carriers  
8 (as defined in part 241 of title 14, Code of Fed-  
9 eral Regulations) conducting scheduled plus  
10 nonscheduled service totals 10,000 or more in  
11 the calendar year in which the airport does not  
12 meet the criteria for a primary airport under  
13 section 47102 of this title; or

14 “(III) if the documented interruption to  
15 scheduled service at the airport was equal to 4  
16 percent of the scheduled flights in calendar year  
17 2006, exclusive of cancellations due to severe  
18 weather conditions, and the airport is served by  
19 a single air carrier.”;

20 (2) by redesignating subparagraphs (F) and  
21 (G) as (G) and (H), respectively, and inserting after  
22 subparagraph (E) the following:

23 “(F) For fiscal years 2009 through 2012, with  
24 regard to an airport that meets the criteria de-  
25 scribed in paragraph (E)(iii), if the calendar year

1 passenger boardings for the calculation of apportion-  
2 ments under this section fall below 10,000 passenger  
3 boardings, the Secretary may use the passenger  
4 boardings for the last fiscal year in which passenger  
5 boardings exceeded 10,000 for calculating apportion-  
6 ments.”.

7 (l) Section 47102(3) is amended by adding at the end  
8 the following:

9 “(M) construction of mobile refueler park-  
10 ing within a fuel farm at a nonprimary airport  
11 meeting the requirements of section 112.8 of  
12 title 40, Code of Federal Regulations.”.

13 (m) Section 47115(g)(1) is amended by striking  
14 “of—” and all that follows and inserting “of  
15 \$520,000,000. The amount credited is exclusive of  
16 amounts that have been apportioned in a prior fiscal year  
17 under section 47114 of this title and that remain available  
18 for obligation.”.

19 (n) Section 47114(c) is amended by adding at the  
20 end thereof the following:

21 “(3) AIRPORTS SERVED BY LARGE CERTIFI-  
22 CATED CARRIERS.—

23 “(A) APPORTIONMENT.—The Secretary  
24 shall apportion to the sponsor of an airport that  
25 received scheduled air service from a large cer-

1           tified air carrier (as defined in part 241 of  
2           title 14, Code of Federal Regulations) an  
3           amount equal to the minimum apportionment  
4           specified in paragraph (1) of this subsection.

5           “(B) LIMITATION.—The apportionment  
6           under subparagraph (A) shall be made available  
7           to an airport sponsor only if—

8                   “(i) the large certificated air carrier  
9                   began scheduled air service at the airport  
10                  in May 2006 and ceased scheduled air  
11                  service at the airport in October 2006; and

12                  “(ii) the Secretary determines that  
13                  the airport had more than 10,000 pas-  
14                  senger boardings in the preceding calendar  
15                  year, based on data submitted to the Sec-  
16                  retary under part 241 of title 14, Code of  
17                  Federal Regulations.”.

18           (o) Subparagraph (H) of section 47114(c)(1), as re-  
19           designated by subsection (k)(2) of this section, is amend-  
20           ed—

21                   (1) by striking “FISCAL YEAR 2006” in the sub-  
22                   paragraph heading and inserting “FISCAL YEARS  
23                   2008 THROUGH 2011.—”;

24                   (2) by striking “fiscal year 2006” and inserting  
25                   “each of fiscal years 2008 through 2011”; and

1           (3) by striking clause (i) and inserting the fol-  
2           lowing:

3                   “(i) the average annual passenger  
4                   boardings at the airport for calendar years  
5                   2004 through 2006 were below 10,000 per  
6                   year;”; and

7           (4) by striking “2000 or 2001;” in clause (ii)  
8           and inserting “2003”.

9           (p) Section 47114 is amended by adding at the end  
10          thereof the following:

11          “(g) APPROACH LIGHTING SYSTEM.—Any amount  
12          apportioned for airport 03-02-0133 under the National  
13          Plan of Integrated Airport Systems may be utilized in any  
14          fiscal year for approach lighting systems including a me-  
15          dium intensity approach lighting system with runway  
16          alignment lights.”.

17          **SEC. 210. STATE BLOCK GRANT PROGRAM.**

18          Section 47128 is amended—

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

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

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

4           “(c) PROJECT ANALYSIS AND COORDINATION RE-  
5           QUIREMENTS.—Any Federal agency that must approve, li-  
6           cense, or permit a proposed action by a participating State  
7           shall coordinate and consult with the State. The agency  
8           shall utilize the environmental analysis prepared by the  
9           State, provided it is adequate, or supplement that analysis  
10          as necessary to meet applicable Federal requirements.”;  
11          and

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

13          “(e) PILOT PROGRAM.—The Secretary shall establish  
14          a pilot program for up to 3 States that do not participate  
15          in the program established under subsection (a) that is  
16          consistent with the program under subsection (a).”.

17          **SEC. 211. AIRPORT FUNDING OF SPECIAL STUDIES OR RE-**  
18          **VIEWS.**

19          Section 47173(a) is amended by striking “project.”  
20          and inserting “project, or to conduct special environmental  
21          studies related to a federally funded airport project or for  
22          special studies or reviews to support approved noise com-  
23          patibility measures in a Part 150 program or environ-  
24          mental mitigation in a Federal Aviation Administration  
25          Record of Decision or Finding of No Significant Impact.”.



1 **SEC. 212. GRANT ELIGIBILITY FOR ASSESSMENT OF FLIGHT**  
2 **PROCEDURES.**

3 Section 47504 is amended by adding at the end the  
4 following:

5 “(e) GRANTS FOR ASSESSMENT OF FLIGHT PROCE-  
6 DURES.—

7 “(1) The Secretary is authorized in accordance  
8 with subsection (c)(1) to make a grant to an airport  
9 operator to assist in completing environmental re-  
10 view and assessment activities for proposals to im-  
11 plement flight procedures that have been approved  
12 for airport noise compatibility planning purposes  
13 under subsection (b).

14 “(2) The Administrator of the Federal Aviation  
15 Administration may accept funds from an airport  
16 sponsor, including funds provided to the sponsor  
17 under paragraph (1), to hire additional staff or ob-  
18 tain the services of consultants in order to facilitate  
19 the timely processing, review and completion of envi-  
20 ronmental activities associated with proposals to im-  
21 plement flight procedures submitted and approved  
22 for airport noise compatibility planning purposes in  
23 accordance with this section. Funds received under  
24 this authority shall not be subject to the procedures  
25 applicable to the receipt of gifts by the Adminis-  
26 trator.”.

1 **SEC. 213. SAFETY-CRITICAL AIRPORTS.**

2 Section 47118(c) is amended—

3 (1) by striking “or” after the semicolon in  
4 paragraph (1);

5 (2) by striking “delays.” in paragraph (2) and  
6 inserting “delays; or”; and

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

8 “(3) be critical to the safety of commercial,  
9 military, or general aviation in trans-oceanic  
10 flights.”.

11 **SEC. 214. EXPANDED PASSENGER FACILITY CHARGE ELIGI-**  
12 **BILITY FOR NOISE COMPATIBILITY**  
13 **PROJECTS.**

14 Section 40117(b) is amended by adding at the end  
15 the following:

16 “(7) NOISE MITIGATION FOR CERTAIN  
17 SCHOOLS.—

18 “(A) IN GENERAL.—In addition to the  
19 uses specified in paragraphs (1), (4), and (6),  
20 the Secretary may authorize a passenger facility  
21 charge imposed under paragraph (1) or (4) at  
22 a large hub airport that is the subject of an  
23 amended judgment and final order in con-  
24 demnation filed on January 7, 1980, by the Su-  
25 perior Court of the State of California for the  
26 county of Los Angeles, to be used for a project

1 to carry out noise mitigation for a building, or  
2 for the replacement of a relocatable building  
3 with a permanent building, in the noise im-  
4 pacted area surrounding the airport at which  
5 such building is used primarily for educational  
6 purposes, notwithstanding the air easement  
7 granted or any terms to the contrary in such  
8 judgment and final order, if—

9 “(i) the Secretary determines that the  
10 building is adversely affected by airport  
11 noise;

12 “(ii) the building is owned or char-  
13 tered by the school district that was the  
14 plaintiff in case number 986,442 or  
15 986,446, which was resolved by such judg-  
16 ment and final order;

17 “(iii) the project is for a school identi-  
18 fied in 1 of the settlement agreements ef-  
19 fective February 16, 2005, between the  
20 airport and each of the school districts;

21 “(iv) in the case of a project to re-  
22 place a relocatable building with a perma-  
23 nent building, the eligible project costs are  
24 limited to the actual structural construc-  
25 tion costs necessary to mitigate aircraft

1 noise in instructional classrooms to an in-  
2 terior noise level meeting current stand-  
3 ards of the Federal Aviation Administra-  
4 tion; and

5 “(v) the project otherwise meets the  
6 requirements of this section for authoriza-  
7 tion of a passenger facility charge.

8 “(B) ELIGIBLE PROJECT COSTS.—In sub-  
9 paragraph (A)(iv), the term ‘eligible project  
10 costs’ means the difference between the cost of  
11 standard school construction and the cost of  
12 construction necessary to mitigate classroom  
13 noise to the standards of the Federal Aviation  
14 Administration.”.

15 **SEC. 215. ENVIRONMENTAL MITIGATION DEMONSTRATION**  
16 **PILOT PROGRAM.**

17 (a) PILOT PROGRAM.—Subchapter I of chapter 471  
18 is amended by adding at the end thereof the following:

19 **“§ 47143. Environmental mitigation demonstration**  
20 **pilot program**

21 “(a) IN GENERAL.—The Secretary of Transportation  
22 shall carry out a pilot program involving not more than  
23 6 projects at public-use airports under which the Secretary  
24 may make grants to sponsors of such airports from funds  
25 apportioned under paragraph 47117(e)(1)(A) for use at

1 such airports for environmental mitigation demonstration  
2 projects that will measurably reduce or mitigate aviation  
3 impacts on noise, air quality or water quality in the vicin-  
4 ity of the airport. Notwithstanding any other provision of  
5 this subchapter, an environmental mitigation demonstra-  
6 tion project approved under this section shall be treated  
7 as eligible for assistance under this subchapter.

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

10 “(c) SELECTION CRITERIA.—In selecting from  
11 among applicants for participation in the pilot program,  
12 the Secretary may give priority consideration to environ-  
13 mental mitigation demonstration projects that—

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

18 “(2) will be implemented by an eligible consor-  
19 tium.

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

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

4       “(f) IDENTIFYING BEST PRACTICES.—The Adminis-  
5 trator may develop and publish information identifying  
6 best practices for reducing or mitigating aviation impacts  
7 on noise, air quality, or water quality in the vicinity of  
8 airports, based on the projects carried out under the pilot  
9 program.

10       “(g) DEFINITIONS.—In this section:

11           “(1) ELIGIBLE CONSORTIUM.—The term ‘eligi-  
12 ble consortium’ means a consortium that comprises  
13 2 or more of the following entities:

14           “(A) Businesses incorporated in the  
15 United States.

16           “(B) Public or private educational or re-  
17 search organizations located in the United  
18 States.

19           “(C) Entities of State or local governments  
20 in the United States.

21           “(D) Federal laboratories.

22           “(2) ENVIRONMENTAL MITIGATION DEM-  
23 ONSTRATION PROJECT.—The term ‘environmental  
24 mitigation demonstration project’ means a project  
25 that—

1           “(A) introduces new conceptual environ-  
 2           mental mitigation techniques or technology with  
 3           associated benefits, which have already been  
 4           proven in laboratory demonstrations;

5           “(B) proposes methods for efficient adap-  
 6           tation or integration of new concepts to airport  
 7           operations; and

8           “(C) will demonstrate whether new tech-  
 9           niques or technology for environmental mitiga-  
 10          tion identified in research are—

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

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

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

            “47143. Environmental mitigation demonstration pilot program”.

19          **SEC. 216. ALLOWABLE PROJECT COSTS FOR AIRPORT DE-**  
 20                 **VELOPMENT PROGRAM.**

21          Section 47110(c) of title 49, United States Code, is  
 22          amended—

23                   (1) by striking “; or” in paragraph (1) and in-  
 24                   serting a semicolon;

1 (2) by striking “project.” in paragraph (2) and  
2 inserting “project; or”; and

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

4 “(3) necessarily incurred in anticipation of se-  
5 vere weather.”.

6 **SEC. 217. GLYCOL RECOVERY VEHICLES.**

7 Section 47102(3)(G) is amended by inserting “in-  
8 cluding acquiring glycol recovery vehicles,” after “air-  
9 craft,”.

10 **SEC. 218. RESEARCH IMPROVEMENT FOR AIRCRAFT.**

11 Section 44504(b) is amended—

12 (1) by striking “and” after the semicolon in  
13 paragraph (6);

14 (2) by striking “aircraft.” in paragraph (7) and  
15 inserting “aircraft; and”; and

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

17 “(8) to conduct research to support programs  
18 designed to reduce gases and particulates emitted.”.

19 **TITLE III—FAA ORGANIZATION**  
20 **AND REFORM**

21 **SEC. 301. AIR TRAFFIC CONTROL MODERNIZATION OVER-**  
22 **SIGHT BOARD.**

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

24 “(p) AIR TRAFFIC CONTROL MODERNIZATION OVER-  
25 SIGHT BOARD.—



1           “(1) ESTABLISHMENT.—Within 90 days after  
2           the date of enactment of the Aviation Investment  
3           and Modernization Act of 2008, the Secretary shall  
4           establish and appoint the members of an advisory  
5           Board which shall be known as the Air Traffic Con-  
6           trol Modernization Oversight Board.

7           “(2) MEMBERSHIP.—The Board shall be com-  
8           prised of 7 members, who shall consist of—

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

12                   “(B) 1 member who shall have a fiduciary  
13                  responsibility to represent the public interest;  
14                  and

15                   “(C) 4 members representing aviation in-  
16                  terests, as follows:

17                           “(i) 1 representative that is the chief  
18                          executive officer of an airport.

19                           “(ii) 1 representative that is the chief  
20                          executive officer of a passenger or cargo  
21                          air carrier.

22                           “(iii) 1 representative of a labor orga-  
23                          nization representing employees at the  
24                          Federal Aviation Administration that are  
25                          involved with the operation, maintenance

1 or procurement of the air traffic control  
2 system.

3 “(iv) 1 representative with extensive  
4 operational experience in the general avia-  
5 tion community.

6 “(3) APPOINTMENT AND QUALIFICATIONS.—

7 “(A) Members of the Board appointed  
8 under paragraphs (2)(B) and (2)(C) shall be  
9 appointed by the President, by and with the ad-  
10 vice and consent of the Senate.

11 “(B) Members of the Board appointed  
12 under paragraph (2)(B) shall be citizens of the  
13 United States and shall be appointed without  
14 regard to political affiliation and solely on the  
15 basis of their professional experience and exper-  
16 tise in one or more of the following areas and,  
17 in the aggregate, should collectively bring to  
18 bear expertise in—

19 “(i) management of large service or-  
20 ganizations;

21 “(ii) customer service;

22 “(iii) management of large procure-  
23 ments;

24 “(iv) information and communications  
25 technology;

1 “(v) organizational development; and

2 “(vi) labor relations.

3 “(4) FUNCTIONS.—

4 “(A) IN GENERAL.—The Board shall—

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

8 “(ii) review the Administration’s stra-  
9 tegic plan and make recommendations on  
10 the non-safety program portions of the  
11 plan, and provide advice on the safety pro-  
12 grams of the plan;

13 “(iii) review the operational efficiency  
14 of the air traffic control system and make  
15 recommendations on the operational and  
16 performance metrics for that system;

17 “(iv) approve procurements of air  
18 traffic control equipment in excess of  
19 \$100,000,000;

20 “(v) approve by July 31 of each year  
21 the Administrator’s budget request for fa-  
22 cilities and equipment prior to its submis-  
23 sion to the Office of Management and  
24 budget, including which programs are pro-  
25 posed to be funded from the Air Traffic

1 control system Modernization Account of  
2 the Airport and Airway Trust Fund;

3 “(vi) approve the Federal Aviation  
4 Administration’s Capital Investment Plan  
5 prior to its submission to the Congress;

6 “(vii) annually approve the Oper-  
7 ational Evolution Plan;

8 “(viii) approve the Administrator’s se-  
9 lection of a Chief Operating Officer for the  
10 Air Traffic Organization and on the ap-  
11 pointment and compensation of its man-  
12 agers; and

13 “(ix) approve the selection of the head  
14 of the Joint Planning Development Office.

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

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

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

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

12          “(6) ADMINISTRATIVE MATTERS.—

13                 “(A) TERMS OF MEMBERS.—Members of  
14                 the Board appointed under paragraph (2)(B)  
15                 and (2)(C) shall be appointed for a term of 4  
16                 years.

17                 “(B) REAPPOINTMENT.—No individual  
18                 may be appointed to the Board for more than  
19                 8 years total.

20                 “(C) VACANCY.—Any vacancy on the  
21                 Board shall be filled in the same manner as the  
22                 original position. Any member appointed to fill  
23                 a vacancy occurring before the expiration of the  
24                 term for which the member’s predecessor was

1 appointed shall be appointed for a term of 4  
2 years.

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

7 “(E) REMOVAL.—Any member of the  
8 Board appointed under paragraph (2)(B) or  
9 (2)(C) may be removed by the President for  
10 cause.

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

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

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

22 “(I) to affect any other immunity  
23 or protection that may be available to  
24 a member of the Board under applica-

1                   ble law with respect to such trans-  
2                   actions;

3                   “(II) to affect any other right or  
4                   remedy against the United States  
5                   under applicable law; or

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

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

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

19                   “(ii) does not engage in another busi-  
20                   ness related to aviation or aeronautics; and

21                   “(iii) is not a member of any organi-  
22                   zation that engages, as a substantial part  
23                   of its activities, in activities to influence  
24                   aviation-related legislation.

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

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

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

19                   “(K) BOARD RESOURCES.—From re-  
20 sources otherwise available to the Adminis-  
21 trator, the Chairman shall appoint such staff to  
22 assist the board and provide impartial analysis,  
23 and the Administrator shall make available to  
24 the Board such information and administrative  
25 services and assistance, as may reasonably be



1 required to enable the Board to carry out its re-  
2 sponsibilities under this subsection.

3 “(L) QUORUM AND VOTING.—A simple  
4 majority of members of the Board duly ap-  
5 pointed shall constitute a quorum. A majority  
6 vote of members present and voting shall be re-  
7 quired for the Committee to take action.

8 “(7) AIR TRAFFIC CONTROL SYSTEM DE-  
9 FINED.—In this subsection, the term ‘air traffic con-  
10 trol system’ has the meaning given that term in sec-  
11 tion 40102(a).”.

12 **SEC. 302. ADS-B SUPPORT PILOT PROGRAM.**

13 (a) IN GENERAL.—Chapter 445, as amended by sec-  
14 tion 207, is amended by adding at the end the following:

15 **“§ 44519. ADS-B support pilot program**

16 “(a) IN GENERAL.—The Secretary may carry out a  
17 pilot program to support non-Federal acquisition of Na-  
18 tional Airspace System compliant Automatic Dependent  
19 Surveillance-Broadcast (ADS-B) ground stations if—

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

23 “(2) the ground stations provide the required  
24 transmit and receive data formats consistent with

1 the National Airspace System architecture at the ap-  
2 propriate service delivery point; and

3 “(3) the ground stations acquired under this  
4 program are supplemental to ground stations estab-  
5 lished under programs administered by the Adminis-  
6 trator of the Federal Aviation Administration.

7 “(b) PROJECT GRANTS.—

8 “(1) For purposes of carrying out the pilot pro-  
9 gram and notwithstanding the requirements of sec-  
10 tion 47114(d), the Secretary may make a project  
11 grant out of funds apportioned under section  
12 47114(d)(2) to not more than 10 eligible sponsors to  
13 acquire and install ADS-B ground stations in order  
14 to serve any public-use airport.

15 “(2) The Secretary shall establish procurement  
16 procedures applicable to grants issued under this  
17 section. The procedures shall permit the sponsor to  
18 carry out the project using Federal Aviation Admin-  
19 istration contracts. The procedures established by  
20 the Secretary may provide for the direct reimburse-  
21 ment (including administrative costs) of the Admin-  
22 istrator by the sponsor using grant funds under this  
23 section, for the ordering of such equipment and its  
24 installation, or for the direct ordering of such equip-  
25 ment and its installation by the sponsor, using such

1 grant funds, from the suppliers with which the Ad-  
2 ministrator has contracted.

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

7 “(d) DEFINITIONS.—In this section:

8 “(1) ADS-B GROUND STATION.—The term  
9 ‘ADS-B ground station’ means electronic equipment  
10 that provides for ADS-B reception and broadcast  
11 services.

12 “(2) ELIGIBLE SPONSOR.—The term ‘eligible  
13 sponsor’ means a State or any consortium of 2 or  
14 more State or local governments meeting the defini-  
15 tion of a sponsor under section 47102 of this title.”.

16 (b) CONFORMING AMENDMENT.—The chapter anal-  
17 ysis for chapter 445 is amended by inserting after the item  
18 relating to section 44518 the following:

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

19 **SEC. 303. FACILITATION OF NEXT GENERATION AIR TRAF-**  
20 **FIC SERVICES.**

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

23 “(7) AIR TRAFFIC SERVICES.—In determining  
24 what actions to take, by rule or through an agree-  
25 ment or transaction under paragraph (6) or under

1 section 44502, to permit non-government providers  
2 of communications, navigation, surveillance or other  
3 services to provide such services in the National Air-  
4 space System, or to require the usage of such serv-  
5 ices, the Administrator shall consider whether such  
6 actions would—

7 “(A) promote the safety of life and prop-  
8 erty;

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

15 “(C) encourage competition and provide  
16 services to the largest feasible number of users;  
17 and

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

20 **SEC. 304. CLARIFICATION OF AUTHORITY TO ENTER INTO**  
21 **REIMBURSABLE AGREEMENTS.**

22 Section 106(m) is amended by striking “without” in  
23 the last sentence and inserting “with or without”.

1 **SEC. 305. CLARIFICATION TO ACQUISITION REFORM AU-**  
2 **THORITY.**

3 Section 40110(c) is amended—

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

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

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

9 **SEC. 306. ASSISTANCE TO OTHER AVIATION AUTHORITIES.**

10 Section 40113(e) is amended—

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

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

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

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

3 **SEC. 307. PRESIDENTIAL RANK AWARD PROGRAM.**

4 Section 40122(g)(2) is amended—

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

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

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

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

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

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

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

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

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

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

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

1 **SEC. 308. NEXT GENERATION FACILITIES NEEDS ASSESS-**  
2 **MENT.**

3 (a) **FAA CRITERIA FOR FACILITIES REALIGN-**  
4 **MENT.**—Within 9 months after the date of enactment of  
5 this Act, the Administrator of the Federal Aviation Ad-  
6 ministration, after providing an opportunity for public  
7 comment, shall publish final criteria to be used in making  
8 the Administrator’s recommendations for the realignment  
9 of services and facilities to assist in the transition to next  
10 generation facilities and help reduce capital, operating,  
11 maintenance, and administrative costs with no adverse ef-  
12 fect on safety.

13 (b) **REALIGNMENT RECOMMENDATIONS.**—Within 9  
14 months after publication of the criteria, the Administrator  
15 shall publish a list of the services and facilities that the  
16 Administrator recommends for realignment, including a  
17 justification for each recommendation, and a description  
18 of the costs and savings of such transition.

19 (c) **REALIGNMENT DEFINED.**—As used in this sec-  
20 tion, the term “realignment” includes any action which  
21 relocates or reorganizes functions, services, and personnel  
22 positions but does not include a reduction in personnel re-  
23 sulting from workload adjustments.

24 (d) **STUDY BY BOARD.**—The Air Traffic Control  
25 Modernization Oversight Board established by section  
26 106(p) of title 49, United States Code, shall study the Ad-



1 administrator's recommendations for realignment and the  
2 opportunities, risks, and benefits of realigning services and  
3 facilities of the Federal Aviation Administration to help  
4 reduce capital, operating, maintenance, and administrative  
5 costs with no adverse effect on safety.

6 (e) REVIEW AND RECOMMENDATIONS.—

7 (1) After receiving the recommendations from  
8 the Administrator pursuant to subsection (b), the  
9 Board shall provide opportunity for public comment  
10 on such recommendations.

11 (2) Based on its review and analysis of the Ad-  
12 ministrator's recommendations and any public com-  
13 ment it may receive, the Board shall make its inde-  
14 pendent recommendations for realignment of avia-  
15 tion services or facilities and submit its rec-  
16 ommendations in a report to the President, the Sen-  
17 ate Committee on Commerce, Science, and Trans-  
18 portation, and the House of Representatives Com-  
19 mittee on Transportation and Infrastructure.

20 (3) The Board shall explain and justify in its  
21 report any recommendation made by the Board that  
22 is different from the recommendations made by the  
23 Administrator pursuant to subsection (b).

24 (4) The Administrator may not consolidate any  
25 additional approach control facilities into the South-

1           ern California TRACON, or the Memphis TRACON  
2           until the Board's recommendations are completed.

3 **SEC. 309. NEXT GENERATION AIR TRANSPORTATION SYS-**  
4                                   **TEM PLANNING OFFICE.**

5           (a) IMPROVED COOPERATION AND COORDINATION  
6 AMONG PARTICIPATING AGENCIES.—Section 709 of the  
7 Vision 100—Century of Aviation Reauthorization Act (49  
8 U.S.C. 40101 note) is amended—

9                   (1) by inserting “(A)” after “(3)” in subsection  
10           (a)(3);

11                   (2) by inserting after subsection (a)(3) the fol-  
12           lowing:

13                                   “(B) The Administrator of the Federal  
14           Aviation Administration, the Secretary of De-  
15           fense, the Administrator of the National Aero-  
16           nautics and Space Administration, the Sec-  
17           retary of Commerce, the Secretary of Homeland  
18           Security, and the head of any other Department  
19           or Federal agency from which the Secretary of  
20           Transportation requests assistance under sub-  
21           paragraph (A) shall designate an implementa-  
22           tion office to be responsible for—

23                                   “(i) carrying out the Department or  
24           agency's Next Generation Air Transpor-

1                   tation System implementation activities  
2                   with the Office; and

3                   “(ii) liaison and coordination with  
4                   other Departments and agencies involved  
5                   in Next Generation Air Transportation  
6                   System activities; and

7                   “(iii) managing all Next Generation  
8                   Air Transportation System programs for  
9                   the Department or agency, including nec-  
10                  essary budgetary and staff resources, in-  
11                  cluding, for the Federal Aviation Adminis-  
12                  tration, those projects described in section  
13                  44501(b)(5) of title 49, United States  
14                  Code).

15                  “(C) The head of any such Department or  
16                  agency shall ensure that—

17                  “(i) the Department’s or agency’s  
18                  Next Generation Air Transportation Sys-  
19                  tem responsibilities are clearly commu-  
20                  nicated to the designated office; and

21                  “(ii) the performance of supervisory  
22                  personnel in that office in carrying out the  
23                  Department’s or agency’s Next Generation  
24                  Air Transportation System responsibilities

1 is reflected in their annual performance  
2 evaluations and compensation decisions.

3 “(D)(i) Within 6 months after the date of  
4 enactment of the Aviation Investment and Mod-  
5 ernization Act of 2008, the head of each such  
6 Department or agency shall execute a memo-  
7 randum of understanding with the Office and  
8 with the other Departments and agencies par-  
9 ticipating in the Next Generation Air Transpor-  
10 tation System project that—

11 “(I) describes the respective respon-  
12 sibilities of each such Department and  
13 agency, including budgetary commitments;  
14 and

15 “(II) the budgetary and staff re-  
16 sources committed to the project.

17 “(ii) The memorandum shall be revised as  
18 necessary to reflect any changes in such respon-  
19 sibilities or commitments and be reflected in  
20 each Department or agency’s budget request.”;

21 (3) by adding at the end of subsection (a) the  
22 following:

23 “(5) The Director of the Office shall be a voting  
24 member of the Federal Aviation Administration’s Joint

1 Resources Council and the Air Traffic Organization’s Ex-  
2 ecutive Council.”;

3 (4) by striking “beyond those currently included  
4 in the Federal Aviation Administration’s Operational  
5 Evolution Plan” in subsection (b);

6 (5) by striking “research and development road-  
7 map” in subsection (b)(3) and inserting “implemen-  
8 tation plan”;

9 (6) by striking “and” after the semicolon in  
10 subsection (b)(3)(B);

11 (7) by inserting after subsection (b)(3)(C) the  
12 following:

13 “(D) a schedule of rulemakings required to  
14 issue regulations and guidelines for implementa-  
15 tion of the Next Generation Air Transportation  
16 System within a timeframe consistent with the  
17 integrated plan; and”;

18 (8) by inserting “and key technologies” after  
19 “concepts” in subsection (b)(4);

20 (9) by striking “users” in subsection (b)(4) and  
21 inserting “users, an implementation plan,”;

22 (10) by adding at the end of subsection (b) the  
23 following:

24 “Within 6 months after the date of enactment of the Avia-  
25 tion Investment and Modernization Act of 2008, the Ad-

1 administrator shall develop the implementation plan de-  
2 scribed in paragraph (3) of this subsection and shall up-  
3 date it annually thereafter.”; and

4 (11) by striking “2010.” in subsection (e) and  
5 inserting “2011.”.

6 (b) SENIOR POLICY COMMITTEE MEETINGS.—Sec-  
7 tion 710(a) of such Act (49 U.S.C. 40101 note) is amend-  
8 ed by striking “Secretary.” and inserting “Secretary and  
9 shall meet at least once each quarter.”.

10 **SEC. 310. DEFINITION OF AIR NAVIGATION FACILITY.**

11 Section 40102(a)(4) is amended—

12 (1) by striking subparagraph (B) and inserting  
13 the following:

14 “(B) runway lighting and airport surface  
15 visual and other navigation aids;”;

16 (2) by striking “weather information, signaling,  
17 radio-directional finding, or radio or other electro-  
18 magnetic communication; and” in subparagraph (C)  
19 and inserting “aeronautical and meteorological infor-  
20 mation to air traffic control facilities or aircraft,  
21 supplying communication, navigation or surveillance  
22 equipment for air-to-ground or air-to-air applica-  
23 tions;”;

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

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

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

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

9   **SEC. 311. IMPROVED MANAGEMENT OF PROPERTY INVEN-**  
10                   **TORY.**

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

15   **SEC. 312. EDUCATIONAL REQUIREMENTS.**

16           The Administrator of the Federal Aviation Adminis-  
17           tration shall make payments to the Department of De-  
18           fense for the education of dependent children of those  
19           Federal Aviation Administration employees in Puerto Rico  
20           and Guam as they are subject to transfer by policy and  
21           practice and meet the eligibility requirements of section  
22           2164(c) of title 10, United States Code.

23   **SEC. 313. FAA PERSONNEL MANAGEMENT SYSTEM.**

24           Section 40122(a)(2) is amended to read as follows:

25                   “(2) DISPUTE RESOLUTION.—

1           “(A) MEDIATION.—If the Administrator  
2           does not reach an agreement under paragraph  
3           (1) or subsection (g)(2)(C) with the exclusive  
4           bargaining representatives, the services of the  
5           Federal Mediation and Conciliation Service  
6           shall be used to attempt to reach such agree-  
7           ment in accordance with part 1425 of title 29,  
8           Code of Federal Regulations. The Adminis-  
9           trator and bargaining representatives may by  
10          mutual agreement adopt procedures for the res-  
11          olution of disputes or impasses arising in the  
12          negotiation of a collective-bargaining agree-  
13          ment.

14          “(B) BINDING ARBITRATION.—If the serv-  
15          ices of the Federal Mediation and Conciliation  
16          Service under subparagraph (A) does not lead  
17          to an agreement, the Administrator and the  
18          bargaining representatives shall submit their  
19          issues in controversy to the Federal Service Im-  
20          passes Panel in accordance with section 7119 of  
21          title 5. The Panel shall assist the parties in re-  
22          solving the impasse by asserting jurisdiction  
23          and ordering binding arbitration by a private  
24          arbitration board consisting of 3 members in  
25          accordance with section 2471.6(a)(2)(ii) of title



1           5, Code of Federal Regulations. The executive  
2           director of the Panel shall request a list of not  
3           less than 15 names of arbitrators with Federal  
4           sector experience from the director of the Fed-  
5           eral Mediation and Conciliation Service to be  
6           provided to the Administrator and the bar-  
7           gaining representatives. Within 10 days after  
8           receiving the list, the parties shall each select 1  
9           person. The 2 arbitrators shall then select a  
10          third person from the list within 7 days. If the  
11          2 arbitrators are unable to agree on the third  
12          person, the parties shall select the third person  
13          by alternately striking names from the list until  
14          only 1 name remains. If the parties do not  
15          agree on the framing of the issues to be sub-  
16          mitted, the arbitration board shall frame the  
17          issues. The arbitration board shall give the par-  
18          ties a full and fair hearing, including an oppor-  
19          tunity to present evidence in support of their  
20          claims, and an opportunity to present their case  
21          in person, by counsel, or by other representative  
22          as they may elect. Decisions of the arbitration  
23          board shall be conclusive and binding upon the  
24          parties. The arbitration board shall render its  
25          decision within 90 days after its appointment.

1           The Administrator and the bargaining rep-  
2           resentative shall share costs of the arbitration  
3           equally. The arbitration board shall take into  
4           consideration the effect of its arbitration deci-  
5           sions on the Federal Aviation Administration's  
6           ability to attract and retain a qualified work-  
7           force and the Federal Aviation Administration's  
8           budget.

9           “(C) EFFECT.—Upon reaching a voluntary  
10          agreement or at the conclusion of the binding  
11          arbitration under subparagraph (B) above, the  
12          final agreement, except for those matters de-  
13          cided by the arbitration board, shall be subject  
14          to ratification by the exclusive representative, if  
15          so requested by the exclusive representative,  
16          and approval by the head of the agency in ac-  
17          cordance with subsection (g)(2)(C).

18          “(D) ENFORCEMENT.—Enforcement of the  
19          provisions of this paragraph, and any agree-  
20          ment hereunder, shall be in the United States  
21          District Court for the District of Columbia.”.

22   **SEC. 314. RULEMAKING AND REPORT ON ADS-B IMPLEMEN-**  
23                           **TATION.**

24          (a) REPORT.—Within 90 days after the date of enact-  
25          ment of this Act, the Administrator of the Federal Avia-

1 tion Administration shall submit a report to the Senate  
2 Committee on Commerce, Science, and Transportation  
3 and the House of Representatives Committee on Trans-  
4 portation and Infrastructure detailing the Administration  
5 program and schedule for integrating ADS-B technology  
6 into the National Airspace System. The report shall in-  
7 clude—

8 (1) Phase 1 and Phase 2 activity to purchase  
9 and install necessary ADS-B ground stations; and

10 (2) detailed plans and schedules for implemen-  
11 tation of advanced operational procedures and ADS-  
12 B air-to-air applications.

13 (b) RULEMAKING.—Not later than 12 months after  
14 the date of enactment of this Act the Administrator shall  
15 issue guidelines and regulations required for the imple-  
16 mentation of ADS-B, including—

17 (1) the type of avionics (e.g., ADS-B avionics)  
18 required of aircraft for all classes of airspace;

19 (2) a schedule outlining when aircraft will be  
20 required to be equipped with such avionics;

21 (3) the expected costs associated with the avi-  
22 onics; and

23 (4) the expected uses and benefits of the avi-  
24 onics.

1 **SEC. 315. FAA TASK FORCE ON AIR TRAFFIC CONTROL FA-**  
2 **CILITY CONDITIONS.**

3 (a) ESTABLISHMENT.—The Administrator of the  
4 Federal Aviation Administration shall establish a special  
5 task force to be known as the “FAA Task Force on Air  
6 Traffic Control Facility Conditions”.

7 (b) MEMBERSHIP.—

8 (1) COMPOSITION.—The Task Force shall be  
9 composed of 11 members of whom—

10 (A) 7 members shall be appointed by the  
11 Administrator; and

12 (B) 4 members shall be appointed by labor  
13 unions representing employees who work at  
14 field facilities of the Administration.

15 (2) QUALIFICATIONS.—Of the members ap-  
16 pointed by the Administrator under paragraph  
17 (1)(A)—

18 (A) 4 members shall be specialists on toxic  
19 mold abatement, “sick building syndrome,” and  
20 other hazardous building conditions that can  
21 lead to employee health concerns and shall be  
22 appointed by the Administrator in consultation  
23 with the Director of the National Institute for  
24 Occupational Safety and Health; and

25 (B) 2 members shall be specialists on the  
26 rehabilitation of aging buildings.

1           (3) TERMS.—Members shall be appointed for  
2           the life of the Task Force.

3           (4) VACANCIES.—A vacancy in the Task Force  
4           shall be filled in the manner in which the original  
5           appointment was made.

6           (5) TRAVEL EXPENSES.—Members shall serve  
7           without pay but shall receive travel expenses, includ-  
8           ing per diem in lieu of subsistence, in accordance  
9           with subchapter I of chapter 57 of title 5, United  
10          States Code.

11          (c) CHAIRPERSON.—The Administrator shall des-  
12          ignate, from among the individuals appointed under sub-  
13          section (b)(1), an individual to serve as chairperson of the  
14          Task Force.

15          (d) TASK FORCE PERSONNEL MATTERS.—

16                (1) STAFF.—The Task Force may appoint and  
17                fix the pay of such personnel as it considers appro-  
18                priate.

19                (2) STAFF OF FEDERAL AGENCIES.—Upon re-  
20                quest of the Chairperson of the Task Force, the  
21                head of any department or agency of the United  
22                States may detail, on a reimbursable basis, any of  
23                the personnel of that department or agency to the  
24                Task Force to assist it in carrying out its duties  
25                under this section.

1           (3) OTHER STAFF AND SUPPORT.—Upon re-  
2           quest of the Task Force or a panel of the Task  
3           Force, the Administrator shall provide the Task  
4           Force or panel with professional and administrative  
5           staff and other support, on a reimbursable basis, to  
6           the Task Force to assist it in carrying out its duties  
7           under this section.

8           (e) OBTAINING OFFICIAL DATA.—The Task Force  
9           may secure directly from any department or agency of the  
10          United States information (other than information re-  
11          quired by any statute of the United States to be kept con-  
12          fidential by such department or agency) necessary for the  
13          Task Force to carry out its duties under this section.  
14          Upon request of the chairperson of the Task Force, the  
15          head of that department or agency shall furnish such in-  
16          formation to the Task Force.

17          (f) DUTIES.—

18                 (1) STUDY.—The Task Force shall undertake a  
19                 study of—

20                         (A) the conditions of all air traffic control  
21                         facilities across the Nation, including towers,  
22                         centers, and terminal radar air control;

23                         (B) reports from employees of the Admin-  
24                         istration relating to respiratory ailments and  
25                         other health conditions resulting from exposure

1 to mold, asbestos, poor air quality, radiation  
2 and facility-related hazards in facilities of the  
3 Administration;

4 (C) conditions of such facilities that could  
5 interfere with such employees' ability to effec-  
6 tively and safely perform their duties;

7 (D) the ability of managers and super-  
8 visors of such employees to promptly document  
9 and seek remediation for unsafe facility condi-  
10 tions;

11 (E) whether employees of the Administra-  
12 tion who report facility-related illnesses are  
13 treated fairly;

14 (F) utilization of scientifically-approved re-  
15 mediation techniques in a timely fashion once  
16 hazardous conditions are identified in a facility  
17 of the Administration; and

18 (G) resources allocated to facility mainte-  
19 nance and renovation by the Administration.

20 (2) FACILITY CONDITION INDICES.—The Task  
21 Force shall review the facility condition indices of  
22 the Administration for inclusion in the recommenda-  
23 tions under subsection (g).

24 (g) RECOMMENDATIONS.—Based on the results of  
25 the study and review of the facility condition indices under

1 subsection (f), the Task Force shall make recommenda-  
2 tions as it considers necessary to—

3 (1) prioritize those facilities needing the most  
4 immediate attention in order of the greatest risk to  
5 employee health and safety;

6 (2) ensure that the Administration is using sci-  
7 entifically approved remediation techniques in all fa-  
8 cilities; and

9 (3) assist the Administration in making pro-  
10 grammatic changes so that aging air traffic control  
11 facilities do not deteriorate to unsafe levels.

12 (h) REPORT.—Not later than 6 months after the date  
13 on which initial appointments of members to the Task  
14 Force are completed, the Task Force shall submit to the  
15 Administrator, the Committee on Transportation and In-  
16 frastructure of the House of Representatives, and the  
17 Committee on Commerce, Science, and Transportation of  
18 the Senate a report on the activities of the Task Force,  
19 including the recommendations of the Task Force under  
20 subsection (g).

21 (i) IMPLEMENTATION.—Within 30 days after receipt  
22 of the Task Force report under subsection (h), the Admin-  
23 istrator shall submit to the House of Representatives  
24 Committee on Transportation and Infrastructure and the  
25 Senate Committee on Commerce, Science, and Transpor-



1 tation a report that includes a plan and timeline to imple-  
2 ment the recommendations of the Task Force and to align  
3 future budgets and priorities of the Administration ac-  
4 cordingly.

5 (j) TERMINATION.—The Task Force shall terminate  
6 on the last day of the 30-day period beginning on the date  
7 on which the report under subsection (h) is submitted.

8 (k) APPLICABILITY OF THE FEDERAL ADVISORY  
9 COMMITTEE ACT.—The Federal Advisory Committee Act  
10 (5 U.S.C. App.) shall not apply to the Task Force.

11 **SEC. 316. STATE ADS-B EQUIPAGE BANK PILOT PROGRAM.**

12 (a) IN GENERAL.—

13 (1) COOPERATIVE AGREEMENTS.—Subject to  
14 the provisions of this section, the Secretary of  
15 Transportation may enter into cooperative agree-  
16 ments with not to exceed 5 States for the establish-  
17 ment of State ADS-B equipage banks for making  
18 loans and providing other assistance to public enti-  
19 ties for projects eligible for assistance under this  
20 section.

21 (b) FUNDING.—

22 (1) SEPARATE ACCOUNT.—An ADS-B equipage  
23 bank established under this section shall maintain a  
24 separate aviation trust fund account for Federal  
25 funds contributed to the bank under paragraph (2).

1 No Federal funds contributed or credited to an ac-  
2 count of an ADS-B equipage bank established under  
3 this section may be commingled with Federal funds  
4 contributed or credited to any other account of such  
5 bank.

6 (2) AUTHORIZATION.—There are authorized to  
7 be appropriated to the Secretary \$25,000,000 for  
8 each of fiscal years 2009 through 2013.

9 (c) FORMS OF ASSISTANCE FROM ADS-B EQUIPAGE  
10 BANKS.—An ADS-B equipage bank established under this  
11 section may make loans or provide other assistance to a  
12 public entity in an amount equal to all or part of the cost  
13 of carrying out a project eligible for assistance under this  
14 section. The amount of any loan or other assistance pro-  
15 vided for such project may be subordinated to any other  
16 debt financing for the project.

17 (d) QUALIFYING PROJECTS.—Federal funds in the  
18 ADS-B equipage account of an ADS-B equipage bank es-  
19 tablished under this section may be used only to provide  
20 assistance with respect to aircraft ADS-B avionics equi-  
21 page.

22 (e) REQUIREMENTS.—In order to establish an ADS-  
23 B equipage bank under this section, each State estab-  
24 lishing such a bank shall—

1           (1) contribute, at a minimum, in each account  
2 of the bank from non-Federal sources an amount  
3 equal to 50 percent of the amount of each capitaliza-  
4 tion grant made to the State and contributed to the  
5 bank;

6           (2) ensure that the bank maintains on a con-  
7 tinuing basis an investment grade rating on its debt  
8 issuances or has a sufficient level of bond or debt fi-  
9 nancing instrument insurance to maintain the viabil-  
10 ity of the bank;

11           (3) ensure that investment income generated by  
12 funds contributed to an account of the bank will  
13 be—

14                   (A) credited to the account;

15                   (B) available for use in providing loans  
16 and other assistance to projects eligible for as-  
17 sistance from the account; and

18                   (C) invested in United States Treasury se-  
19 curities, bank deposits, or such other financing  
20 instruments as the Secretary may approve to  
21 earn interest to enhance the leveraging of  
22 projects assisted by the bank;

23           (5) ensure that any loan from the bank will  
24 bear interest at or below market interest rates, as

1 determined by the State, to make the project that is  
2 the subject of the loan feasible;

3 (6) ensure that the term for repaying any loan  
4 will not exceed 10 years after the date of the first  
5 payment on the loan; and

6 (7) require the bank to make an annual report  
7 to the Secretary on its status no later than Sep-  
8 tember 30 of each year for which funds are made  
9 available under this section, and to make such other  
10 reports as the Secretary may require by guidelines.

11 **TITLE IV—AIRLINE SERVICE**  
12 **AND SMALL COMMUNITY AIR**  
13 **SERVICE IMPROVEMENTS**

14 **SEC. 401. AIRLINE CONTINGENCY SERVICE REQUIRE-**  
15 **MENTS.**

16 (a) IN GENERAL.—Chapter 417 is amended by add-  
17 ing at the end the following:

18 “SUBCHAPTER IV—AIRLINE CUSTOMER  
19 SERVICE

20 “§ 41781. AIRLINE CONTINGENCY SERVICE RE-  
21 QUIREMENTS.

22 “(a) IN GENERAL.—Not later than 60 days after the  
23 date of enactment of the Aviation Investment and Mod-  
24 ernization Act of 2008, each air carrier shall submit a con-  
25 tingency service plan to the Secretary of Transportation

1 for review and approval. The plan shall require the air  
2 carrier to implement, at a minimum, the following prac-  
3 tices:

4           “(1) PROVISION OF FOOD AND WATER.—If the  
5 departure of a flight of an air carrier is substantially  
6 delayed, or disembarkation of passengers on an ar-  
7 riving flight that has landed is substantially delayed,  
8 the air carrier shall provide—

9           “(A) adequate food and potable water to  
10 passengers on such flight during such delay;  
11 and

12           “(B) adequate restroom facilities to pas-  
13 sengers on such flight during such delay.

14           “(2) RIGHT TO DEPLANE.—

15           “(A) IN GENERAL.—An air carrier shall  
16 develop a plan, that incorporates medical con-  
17 siderations, to ensure that passengers are pro-  
18 vided a clear timeframe under which they will  
19 be permitted to deplane a delayed aircraft. The  
20 air carrier shall provide a copy of the plan to  
21 the Secretary of Transportation, who shall  
22 make the plan available to the public. In the ab-  
23 sence of such a plan, except as provided in sub-  
24 paragraph (B), if more than 3 hours after pas-  
25 sengers have boarded a flight, the aircraft doors

1 are closed and the aircraft has not departed,  
2 the air carrier shall provide passengers with the  
3 option to deplane safely before the departure of  
4 such aircraft. Such option shall be provided to  
5 passengers not less often than once during each  
6 3-hour period that the plane remains on the  
7 ground.

8 “(B) EXCEPTIONS.—Subparagraph (A)  
9 shall not apply—

10 “(i) if the pilot of such flight reason-  
11 ably determines that such flight will depart  
12 not later than 30 minutes after the 3 hour  
13 delay; or

14 “(ii) if the pilot of such flight reason-  
15 ably determines that permitting a pas-  
16 senger to deplane would jeopardize pas-  
17 senger safety or security.

18 “(C) APPLICATION TO DIVERTED  
19 FLIGHTS.—This section applies to aircraft with-  
20 out regard to whether they have been diverted  
21 to an airport other than the original destina-  
22 tion.

23 “(b) POSTING CONSUMER RIGHTS ON WEBSITE.—  
24 An air carrier holding a certificate issued under section  
25 41102 that conducts scheduled passenger air transpor-

1 tation shall publish conspicuously and update monthly on  
2 the Internet website of the air carrier a statement of the  
3 air carrier's customer service policy and of air carrier cus-  
4 tomers' consumer rights under Federal and State law.

5       “(c) REVIEW AND APPROVAL; MINIMUM STAND-  
6 ARDS.—The Secretary of Transportation shall review the  
7 contingency service plan submitted by an air carrier under  
8 subsection (a) and may approve it or disapprove it and  
9 return it to the carrier for modification and resubmittal.  
10 The Secretary may establish minimum standards for such  
11 plans and require air carriers to meet those standards.

12       “(d) AIR CARRIER.—In this section the term ‘air car-  
13 rier’ means an air carrier holding a certificate issued  
14 under section 41102 that conducts scheduled passenger  
15 air transportation.”.

16       (b) REGULATIONS.—Not later than 60 days after the  
17 date of enactment of this Act, the Secretary of Transpor-  
18 tation shall promulgate such regulations as the Secretary  
19 determines necessary to carry out the amendment made  
20 by subsection (a).

21       (c) CONFORMING AMENDMENT.—The chapter anal-  
22 ysis for chapter 417 is amended by adding at the end the  
23 following:

SUBCHAPTER IV. AIRLINE CUSTOMER SERVICE

“41781. Airline contingency service requirements.”.

1 **SEC. 402. PUBLICATION OF CUSTOMER SERVICE DATA AND**  
2 **FLIGHT DELAY HISTORY.**

3 Section 41722 is amended by adding at the end the  
4 following:

5 “(f) CHRONICALLY DELAYED FLIGHTS.—

6 “(1) PUBLICATION OF LIST OF FLIGHTS.—An  
7 air carrier holding a certificate issued under section  
8 41102 that conducts scheduled passenger air trans-  
9 portation shall publish and update monthly on the  
10 Internet website of the air carrier, or provide on re-  
11 quest, a list of chronically delayed flights operated  
12 by the air carrier.

13 “(2) DISCLOSURE TO CUSTOMERS WHEN PUR-  
14 CHASING TICKETS.—An air carrier shall disclose the  
15 following information prominently to an individual  
16 before that individual books transportation on the  
17 air carrier’s Internet website for any flight for which  
18 data is reported to the Department of Transpor-  
19 tation under part 234 of title 14, Code of Federal  
20 Regulations, and for which the air carrier has pri-  
21 mary responsibility for inventory control:

22 “(A) The on-time performance for the  
23 flight if it is a chronically delayed flight.

24 “(B) The cancellation rate for the flight if  
25 it is a chronically canceled flight.



1           “(3) CHRONICALLY DELAYED; CHRONICALLY  
2           CANCELED.—The Secretary of Transportation shall  
3           define the terms ‘chronically delayed flight’ and  
4           ‘chronically canceled flight’ for purposes of this sub-  
5           section.”.

6   **SEC. 403. EAS CONNECTIVITY PROGRAM.**

7           Section 406(a) of the Vision 100—Century of Avia-  
8           tion Reauthorization Act (49 U.S.C. 40101 note) is  
9           amended by striking “may” and inserting “shall”.

10   **SEC. 404. EXTENSION OF FINAL ORDER ESTABLISHING**  
11                           **MILEAGE ADJUSTMENT ELIGIBILITY.**

12           Section 409(d) of the Vision 100—Century of Avia-  
13           tion Reauthorization Act (49 U.S.C. 40101 note) is  
14           amended by striking “September 30, 2007.” and inserting  
15           “September 30, 2011.”.

16   **SEC. 405. EAS CONTRACT GUIDELINES.**

17           Section 41737(a)(1) is amended—

18           (1) by striking “and” after the semicolon in  
19           subparagraph (B);

20           (2) by striking “provided.” in subparagraph (C)  
21           and inserting “provided;”; and

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

23           “(D) include provisions under which the Sec-  
24           retary may encourage carriers to improve air service  
25           to small and rural communities by incorporating fi-

1       nancial incentives in essential air service contracts  
2       based on specified performance goals; and

3               “(E) include provisions under which the Sec-  
4       retary may execute long-term essential air service  
5       contracts to encourage carriers to provide air service  
6       to small and rural communities where it would be in  
7       the public interest to do so.”.

8       **SEC. 406. CONVERSION OF FORMER EAS AIRPORTS.**

9       (a) IN GENERAL.—Section 41745 is amended—

10               (1) by redesignating subsections (c) through (g)  
11       as subsections (d) through (h), respectively; and

12               (2) by inserting after subsection (b) the fol-  
13       lowing:

14       “(c) CONVERSION OF LOST ELIGIBILITY AIR-  
15       PORTS.—

16               “(1) IN GENERAL.—The Secretary shall estab-  
17       lish a program to provide general aviation conversion  
18       funding for airports serving eligible places that the  
19       Secretary has determined no longer qualify for a  
20       subsidy.

21               “(2) GRANTS.—A grant under this sub-  
22       section—

23                       “(A) may not exceed twice the compensa-  
24       tion paid to provide essential air service to the  
25       airport in the fiscal year preceding the fiscal

1           year in which the Secretary determines that the  
2           place served by the airport is no longer an eligi-  
3           ble place; and

4                   “(B) may be used—

5                           “(i) for airport development (as de-  
6                           fined in section 47102(3)) that will en-  
7                           hance general aviation capacity at the air-  
8                           port;

9                           “(ii) to defray operating expenses, if  
10                          such use is approved by the Secretary; or

11                          “(iii) to develop innovative air service  
12                          options, such as on-demand or air taxi op-  
13                          erations, if such use is approved by the  
14                          Secretary.

15                   “(3) AIP REQUIREMENTS.—An airport sponsor  
16                   that uses funds provided under this subsection for  
17                   an airport development project shall comply with the  
18                   requirements of subchapter I of chapter 471 applica-  
19                   ble to airport development projects funded under  
20                   that subchapter with respect to the project funded  
21                   under this subsection.

22                   “(4) LIMITATION.—The sponsor of an airport  
23                   receiving funding under this subsection is not eligi-  
24                   ble for funding under section 41736.”.

1 (b) CONFORMING AMENDMENT.—Section 41745(f),  
2 as redesignated, is amended—

3 (1) by striking “An eligible place” and inserting  
4 “Neither an eligible place, nor a place to which sub-  
5 section (c) applies,”; and

6 (2) by striking “not”.

7 **SEC. 407. EAS REFORM.**

8 Section 41742(a) is amended—

9 (1) by adding at the end of paragraph (1) “Any  
10 amount in excess of \$50,000,000 credited for any  
11 fiscal year to the account established under section  
12 45303(c) shall be obligated for programs under sec-  
13 tion 406 of the Vision 100—Century of Aviation Re-  
14 authorization Act (49 U.S.C. 40101 note) and sec-  
15 tion 41745 of this title. Amounts appropriated pur-  
16 suant to this section shall remain available until ex-  
17 pended.”; and

18 (2) by striking “\$77,000,000” in paragraph (2)  
19 and inserting “\$125,000,000”.

20 **SEC. 408. CLARIFICATION OF AIR CARRIER FEE DISPUTES.**

21 (a) IN GENERAL.—Section 47129 is amended—

22 (1) by striking the section heading and insert-  
23 ing the following:

1 **“§ 47129. Resolution of airport-air carrier and foreign**  
2 **air carrier disputes concerning airport**  
3 **fees” ;**

4 (2) by inserting “AND FOREIGN AIR CARRIER”  
5 after “CARRIER” in the subsection caption for sub-  
6 section (d);

7 (3) by inserting “AND FOREIGN AIR CARRIER”  
8 after “CARRIER” in the paragraph caption for sub-  
9 section (d)(2);

10 (4) by striking “air carrier” each place it ap-  
11 pears and inserting “air carrier or foreign air car-  
12 rier”;

13 (5) by striking “air carrier’s” each place it ap-  
14 pears and inserting “air carrier’s or foreign air car-  
15 rier’s”;

16 (6) by striking “air carriers” and inserting “air  
17 carriers or foreign air carriers”; and

18 (7) by striking “(as defined in section 40102 of  
19 this title)” in subsection (a) and inserting “(as those  
20 terms are defined in section 40102 of this title)”.

21 (b) CONFORMING AMENDMENT.—The chapter anal-  
22 ysis for chapter 471 is amended by striking the item relat-  
23 ing to section 47129 and inserting the following:

“47129. Resolution of airport-air carrier and foreign air carrier disputes con-  
cerning airport fees.”.

1 **SEC. 409. SMALL COMMUNITY AIR SERVICE.**

2 (a) PRIORITIES.—Section 41743(c)(5) is amended—

3 (1) by striking “and” after the semicolon in  
4 subparagraph (D);

5 (2) by striking “fashion.” in subparagraph (E)  
6 and inserting “fashion; and”; and

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

8 “(F) multiple communities cooperate to  
9 submit a region or multistate application to im-  
10 prove air service.”.

11 (b) EXTENSION OF AUTHORIZATION.—Section  
12 41743(e)(2) is amended by striking “2008” and inserting  
13 “2011”.

14 **SEC. 410. CONTRACT TOWER PROGRAM.**

15 (a) COST-BENEFIT REQUIREMENT.—Section  
16 47124(b)(1) is amended—

17 (1) by inserting “(A)” after “(1)”; and

18 (2) by adding at the end the following:

19 “(B) If the Secretary determines that a tower already  
20 operating under this program has a benefit to cost ratio  
21 of less than 1.0, the airport sponsor or State or local gov-  
22 ernment having jurisdiction over the airport shall not be  
23 required to pay the portion of the costs that exceeds the  
24 benefit for a period of 18 months after such determination  
25 is made.

1       “(C) If the Secretary finds that all or part of an  
2 amount made available to carry out the program contin-  
3 ued under this paragraph is not required during a fiscal  
4 year, the Secretary may use during such fiscal year the  
5 amount not so required to carry out the program estab-  
6 lished under paragraph (3) of this section.”.

7       (b) FUNDING.—Subparagraph (E) of section  
8 47124(b)(3) is amended—

9           (1) by striking “and” after “2006,”; and

10           (2) by inserting “\$8,500,000 for fiscal year  
11 2008, \$9,000,000 for fiscal year 2009, \$9,500,000  
12 for fiscal year 2010, and \$10,000,000 for fiscal year  
13 2011” after “2007,”; and

14           (3) by inserting after “paragraph.” the fol-  
15 lowing: “If the Secretary finds that all or part of an  
16 amount made available under this subparagraph is  
17 not required during a fiscal year to carry out this  
18 paragraph, the Secretary may use during such fiscal  
19 year the amount not so required to carry out the  
20 program continued under paragraph (b)(1) of this  
21 section.”.

22       (c) FEDERAL SHARE.—Subparagraph (C) of section  
23 47124(b)(4) is amended by striking “\$1,500,000.” and in-  
24 serting “\$2,000,000.”.

1 (d) SAFETY AUDITS.—Section 41724 is amended by  
2 adding at the end the following:

3 “(c) SAFETY AUDITS.—The Secretary shall establish  
4 uniform standards and requirements for safety assess-  
5 ments of air traffic control towers that receive funding  
6 under this section in accordance with the Administration’s  
7 safety management system.”.

8 **SEC. 411. AIRFARES FOR MEMBERS OF THE ARMED**  
9 **FORCES.**

10 (a) FINDINGS.—The Congress finds that—

11 (1) the Armed Forces is comprised of approxi-  
12 mately 1,400,000 members who are stationed on ac-  
13 tive duty at more than 6,000 military bases in 146  
14 different countries;

15 (2) the United States is indebted to the mem-  
16 bers of the Armed Forces, many of whom are in  
17 grave danger due to their engagement in, or expo-  
18 sure to, combat;

19 (3) military service, especially in the current  
20 war against terrorism, often requires members of the  
21 Armed Forces to be separated from their families on  
22 short notice, for long periods of time, and under  
23 very stressful conditions;

24 (4) the unique demands of military service often  
25 preclude members of the Armed Forces from pur-



1 chasing discounted advance airline tickets in order  
2 to visit their loved ones at home; and

3 (5) it is the patriotic duty of the people of the  
4 United States to support the members of the Armed  
5 Forces who are defending the Nation's interests  
6 around the world at great personal sacrifice.

7 (b) SENSE OF CONGRESS.—It is the sense of Con-  
8 gress that each United States air carrier should—

9 (1) establish for all members of the Armed  
10 Forces on active duty reduced air fares that are  
11 comparable to the lowest airfare for ticketed flights;  
12 and

13 (2) offer flexible terms that allow members of  
14 the Armed Forces on active duty to purchase, mod-  
15 ify, or cancel tickets without time restrictions, fees,  
16 and penalties.

17 **SEC. 412. EXPANSION OF DOT AIRLINE CONSUMER COM-**  
18 **PLAINT INVESTIGATIONS.**

19 (a) IN GENERAL.—【Subject to the availability of ap-  
20 propriations,】 the Secretary of Transportation shall inves-  
21 tigate consumer complaints regarding—

22 (1) flight cancellations;

23 (2) compliance with Federal regulations con-  
24 cerning overbooking seats flights;

1           (3) lost, damaged, or delayed baggage, and dif-  
2           ficulties with related airline claims procedures;

3           (4) problems in obtaining refunds for unused or  
4           lost tickets or fare adjustments;

5           (5) incorrect or incomplete information about  
6           fares, discount fare conditions and availability, over-  
7           charges, and fare increases;

8           (6) the rights of passengers who hold frequent  
9           flier miles, or equivalent redeemable awards earned  
10          through customer-loyalty programs; and

11          (7) deceptive or misleading advertising.

12          (b) BUDGET NEEDS REPORT.—The Secretary shall  
13          provide, as an annex to its annual budget request, an esti-  
14          mate of resources which would have been sufficient to in-  
15          vestigate all such claims the Department of Transpor-  
16          tation received in the previous fiscal year. The annex shall  
17          be transmitted to the Congress when the President sub-  
18          mits the budget of the United States to the Congress  
19          under section 1105 of title 31, United States Code.

20          **SEC. 413. EAS MARKETING.**

21          The Secretary of Transportation shall require all ap-  
22          plications to provide service under subchapter II of chap-  
23          ter 417 of title 49, United States Code, include a mar-  
24          keting plan.

1 **SEC. 414. EXTRAPERIMETAL AND INTRAPERIMETAL SLOTS**  
2 **AT RONALD REAGAN WASHINGTON NA-**  
3 **TIONAL AIRPORT.**

4 (a) **BEYOND PERIMETER EXEMPTIONS.**—Section  
5 41718 (a) is amended by striking “24” and inserting  
6 “36”.

7 (b) **WITHIN PERIMETER EXEMPTIONS.**—Section  
8 41718 (b) is amended by striking “20” and inserting  
9 “28”.

10 (c) **LIMITATIONS.**—Section 41718(c) is amended—

11 (1) by striking “3 operations.” in paragraph (2)  
12 and inserting “5 operations. Operations conducted  
13 by new entrant and limited incumbent air carriers  
14 shall be afforded a scheduling priority over oper-  
15 ations conducted by other air carriers granted ex-  
16 emptions pursuant to section 41718 with the highest  
17 scheduling priority afforded to beyond-perimeter op-  
18 erations conducted by new entrant and limited in-  
19 cumbent air carriers.”;

20 (2) by striking “six” in paragraph (3)(A) and  
21 inserting “8”;

22 (3) by striking “ten” in paragraph (3)(B) and  
23 inserting “12”; and

24 (4) by striking “four” in paragraph (3)(C) and  
25 inserting “8”.

1 **SEC. 415. ESTABLISHMENT OF ADVISORY COMMITTEE FOR**  
2 **AVIATION CONSUMER PROTECTION.**

3 (a) **IN GENERAL.**—The Secretary of Transportation  
4 shall establish an advisory committee for aviation con-  
5 sumer protection to advise the Secretary in carrying out  
6 air passenger service improvements, including those re-  
7 quired by chapter 423 of title 49, United States Code.

8 (b) **MEMBERSHIP.**—The Secretary shall appoint  
9 members of the advisory committee comprised of one rep-  
10 resentative each of—

11 (1) air carriers;

12 (2) airport operators;

13 (3) State or local governments who has exper-  
14 tise in consumer protection matters; and

15 (4) a nonprofit public interest group who has  
16 expertise in consumer protection matters.

17 (c) **VACANCIES.**—A vacancy in the advisory com-  
18 mittee shall be filled in the manner in which the original  
19 appointment was made.

20 (d) **TRAVEL EXPENSES.**—Members of the advisory  
21 committee shall serve without pay but shall receive travel  
22 expenses, including per diem in lieu of subsistence, in ac-  
23 cordance with subchapter I of chapter 57 of title 5, United  
24 States Code.

25 (e) **CHAIRPERSON.**—The Secretary shall designate,  
26 from among the individuals appointed under subsection

1 (b), an individual to serve as chairperson of the advisory  
2 committee.

3 (f) DUTIES.—The duties of the advisory committee  
4 shall include—

5 (1) evaluating existing aviation consumer pro-  
6 tection programs and providing recommendations for  
7 the improvement of such programs, if needed; and

8 (2) providing recommendations to establish ad-  
9 ditional aviation consumer protection programs, if  
10 needed.

11 (g) REPORT.—Not later than February 1 of each of  
12 the first 2 calendar years beginning after the date of en-  
13 actment of this Act, the Secretary shall transmit to Con-  
14 gress a report containing—

15 (1) the recommendations made by the advisory  
16 committee during the preceding calendar year; and

17 (2) an explanation of how the Secretary has im-  
18 plemented each recommendation and, for each rec-  
19 ommendation not implemented, the Secretary's rea-  
20 son for not implementing the recommendation.

21 **SEC. 416. RURAL AVIATION IMPROVEMENT.**

22 (a) COMMUNITIES ABOVE PER PASSENGER SUBSIDY  
23 CAP.—

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

1 **“§ 41749. Essential air service for eligible places**  
2 **above per passenger subsidy cap**

3 “(a) PROPOSALS.—A State or local government may  
4 submit a proposal to the Secretary of Transportation for  
5 compensation for an air carrier to provide air transpor-  
6 tation to a place described in subsection (b).

7 “(b) PLACE DESCRIBED.—A place described in this  
8 subsection is a place—

9 “(1) that is otherwise an eligible place; and

10 “(2) for which the per passenger subsidy ex-  
11 ceeds the dollar amount allowable under this sub-  
12 chapter.

13 “(c) DECISIONS.—Not later than 90 days after re-  
14 ceiving a proposal under subsection (a) for compensation  
15 for an air carrier to provide air transportation to a place  
16 described in subsection (b), the Secretary shall—

17 “(1) decide whether to provide compensation  
18 for the air carrier to provide air transportation to  
19 the place; and

20 “(2) approve the proposal if the State or local  
21 government or a person is willing and able to pay  
22 the difference between—

23 “(A) the per passenger subsidy; and

24 “(B) the dollar amount allowable for such  
25 subsidy under this subchapter.

26 “(d) COMPENSATION PAYMENTS.—

1           “(1) IN GENERAL—The Secretary shall pay  
2           compensation under this section at such time and in  
3           such manner as the Secretary determines is appro-  
4           priate.

5           “(2) DURATION OF PAYMENTS—The Secretary  
6           shall continue to pay compensation under this sec-  
7           tion only as long as—

8                   “(A) the State or local government or per-  
9                   son agreeing to pay compensation under sub-  
10                  section (c)(2) continues to pay such compensa-  
11                  tion; and

12                   “(B) the Secretary decides the compensa-  
13                  tion is necessary to maintain air transportation  
14                  to the place.

15           “(e) REVIEW—

16                   “(1) IN GENERAL—The Secretary shall periodi-  
17                  cally review the type and level of air service provided  
18                  under this section.

19                   “(2) CONSULTATION—The Secretary may make  
20                  appropriate adjustments in the type and level of air  
21                  service to a place under this section based on the re-  
22                  view under paragraph (1) and consultation with the  
23                  affected community and the State or local govern-  
24                  ment or person agreeing to pay compensation under  
25                  subsection (c)(2).

1       “(f) ENDING, SUSPENDING, AND REDUCING AIR  
2 TRANSPORTATION—An air carrier providing air transpor-  
3 tation to a place under this section may end, suspend, or  
4 reduce such air transportation if, not later than 30 days  
5 before ending, suspending, or reducing such air transpor-  
6 tation, the air carrier provides notice of the intent of the  
7 air carrier to end, suspend, or reduce such air transpor-  
8 tation to—

9               “(1) the Secretary;

10              “(2) the affected community; and

11              “(3) the State or local government or person  
12 agreeing to pay compensation under subsection  
13 (c)(2).”.

14              (2) CLERICAL AMENDMENT—The chapter anal-  
15 ysis for chapter 417 is amended by adding after the  
16 item relating to section 41748 the following new  
17 item:

“41749. Essential air service for eligible places above per passenger subsidy  
cap.”.

18              (b) PREFERRED ESSENTIAL AIR SERVICE.—

19              (1) IN GENERAL.—Subchapter II of chapter  
20 417, as amended by subsection (a), is further  
21 amended by adding after section 41749 the fol-  
22 lowing:



1 **“§ 41750. Preferred essential air service**

2       “(a) PROPOSALS.—A State or local government may  
3 submit a proposal to the Secretary of Transportation for  
4 compensation for a preferred air carrier described in sub-  
5 section (b) to provide air transportation to an eligible  
6 place.

7       “(b) PREFERRED AIR CARRIER DESCRIBED—A pre-  
8 ferred air carrier described in this subsection is an air car-  
9 rier that—

10           “(1) submits an application under section  
11 41733(c) to provide air transportation to an eligible  
12 place;

13           “(2) is not the air carrier that submits the low-  
14 est cost bid to provide air transportation to the eligi-  
15 ble place; and

16           “(3) is an air carrier that the affected commu-  
17 nity prefers to provide air transportation to the eligi-  
18 ble place instead of the air carrier that submits the  
19 lowest cost bid.

20       “(c) DECISIONS—Not later than 90 days after receiv-  
21 ing a proposal under subsection (a) for compensation for  
22 a preferred air carrier described in subsection (b) to pro-  
23 vide air transportation to an eligible place, the Secretary  
24 shall—

1           “(1) decide whether to provide compensation  
2           for the preferred air carrier to provide air transpor-  
3           tation to the eligible place; and

4           “(2) approve the proposal if the State or local  
5           government or a person is willing and able to pay  
6           the difference between—

7                   “(A) the rate of compensation the Sec-  
8                   retary would provide to the air carrier that sub-  
9                   mits the lowest cost bid to provide air transpor-  
10                  tation to the eligible place; and

11                  “(B) the rate of compensation the pre-  
12                  ferred air carrier estimates to be necessary to  
13                  provide air transportation to the eligible place.

14           “(d) COMPENSATION PAYMENTS—

15                  “(1) IN GENERAL—The Secretary shall pay  
16                  compensation under this section at such time and in  
17                  such manner as the Secretary determines is appro-  
18                  priate.

19                  “(2) DURATION OF PAYMENTS—The Secretary  
20                  shall continue to pay compensation under this sec-  
21                  tion only as long as—

22                          “(A) the State or local government or per-  
23                          son agreeing to pay compensation under sub-  
24                          section (c)(2) continues to pay such compensa-  
25                          tion; and

1           “(B) the Secretary decides the compensa-  
2           tion is necessary to maintain air transportation  
3           to the eligible place.

4           “(e) REVIEW—

5           “(1) IN GENERAL—The Secretary shall periodi-  
6           cally review the type and level of air service provided  
7           under this section.

8           “(2) CONSULTATION—The Secretary may make  
9           appropriate adjustments in the type and level of air  
10          service to an eligible place under this section based  
11          on the review under paragraph (1) and consultation  
12          with the affected community and the State or local  
13          government or person agreeing to pay compensation  
14          under subsection (c)(2).

15          “(f) ENDING, SUSPENDING, AND REDUCING AIR  
16          TRANSPORTATION—A preferred air carrier providing air  
17          transportation to an eligible place under this section may  
18          end, suspend, or reduce such air transportation if, not  
19          later than 30 days before ending, suspending, or reducing  
20          such air transportation, the preferred air carrier provides  
21          notice of the intent of the preferred air carrier to end,  
22          suspend, or reduce such air transportation to—

23                  “(1) the Secretary;

24                  “(2) the affected community; and

1           “(3) the State or local government or person  
2           agreeing to pay compensation under subsection  
3           (c)(2).”.

4           (2) CLERICAL AMENDMENT—The chapter anal-  
5           ysis for chapter 417, as amended by subsection (a),  
6           is further amended by adding after the item relating  
7           to section 41749 the following new item:

          “41750. Preferred essential air service.’.

8           (c) RESTORATION OF ELIGIBILITY TO A PLACE DE-  
9           TERMINED BY THE SECRETARY TO BE INELIGIBLE FOR  
10          SUBSIDIZED ESSENTIAL AIR SERVICE.—Section 41733  
11          is amended by adding at the end the following new sub-  
12          section:

13          “(f) RESTORATION OF ELIGIBILITY FOR SUBSIDIZED  
14          ESSENTIAL AIR SERVICE—

15                 “(1) IN GENERAL—If the Secretary of Trans-  
16                 portation terminates the eligibility of an otherwise  
17                 eligible place to receive basic essential air service by  
18                 an air carrier for compensation under subsection (c),  
19                 a State or local government may submit to the Sec-  
20                 retary a proposal for restoring such eligibility.

21                 “(2) DETERMINATION BY SECRETARY—If the  
22                 per passenger subsidy required by the proposal sub-  
23                 mitted by a State or local government under para-  
24                 graph (1) does not exceed the per passenger subsidy  
25                 cap provided under this subchapter, the Secretary

1 shall issue an order restoring the eligibility of the  
2 otherwise eligible place to receive basic essential air  
3 service by an air carrier for compensation under  
4 subsection (c).’.

5 (d) OFFICE OF RURAL AVIATION.—

6 (1) ESTABLISHMENT—There is established  
7 within the Office of the Secretary of Transportation  
8 the Office of Rural Aviation.

9 (b) FUNCTIONS—The functions of the Office are—

10 (1) to develop a uniform 4-year contract for air  
11 carriers providing essential air service to commu-  
12 nities under subchapter II of chapter 417 of title 49,  
13 United States Code;

14 (2) to develop a mechanism for comparing ap-  
15 plications submitted by air carriers under section  
16 41733(c) to provide essential air service to commu-  
17 nities, including comparing—

18 (A) estimates from air carriers on—

19 (i) the cost of providing essential air  
20 service; and

21 (ii) the revenues air carriers expect to  
22 receive when providing essential air service;  
23 and

24 (B) estimated schedules for air transpor-  
25 tation; and

1           (3) to select an air carrier from among air car-  
2 riers applying to provide essential air service, based  
3 on the criteria described in paragraph (2).

4           (e) EXTENSION OF AUTHORITY TO MAKE AGREE-  
5 MENTS UNDER THE ESSENTIAL AIR SERVICE PRO-  
6 GRAM.—Section 41743(e)(2) is amended by striking  
7 “2008” and inserting “2011”.

8           (f) ADJUSTMENTS TO COMPENSATION FOR SIGNIFI-  
9 CANTLY INCREASED COSTS—Section 41737 is amended—  
10           (1) by striking “and” after the semicolon in  
11 subsection (a)(1)(B);

12           (2) by striking “provided.” in subsection  
13 (a)(1)(C) and inserting “provided; and”;

14           (3) by adding at the end of subsection (a)(1)  
15 the following:

16           “(D) provide for an adjustment in com-  
17 pensation, for service or transportation to a  
18 place that was an eligible place as of November  
19 1, 2007, to account for significant increases in  
20 fuel costs, in accordance with subsection (e).”;  
21 and

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

23           “(f) FUEL COST SUBSIDY DISREGARD.—Any amount  
24 provided as an adjustment in compensation pursuant to  
25 subsection (a)(1)(D) shall be disregarded for the purpose

1 of determining whether the amount of compensation pro-  
2 vided under this subchapter with respect to an eligible  
3 place exceeds the per passenger subsidy exceeds the dollar  
4 amount allowable under this subchapter.”.

5 (f) CONTINUED ELIGIBILITY.—Notwithstanding any  
6 provision of subchapter II of chapter 417 of title 49,  
7 United States Code, to the contrary, a community that  
8 was receiving service or transportation under that sub-  
9 chapter as an eligible place (as defined in section  
10 41731(a)(1) of such title) as of November 1, 2007, shall  
11 continue to be eligible to receive service or transportation  
12 under that subchapter without regard to whether the per  
13 passenger subsidy required exceeds the per passenger sub-  
14 sidy cap provided under that subchapter.

## 15 **TITLE V—AVIATION SAFETY**

### 16 **SEC. 501. RUNWAY SAFETY EQUIPMENT PLAN.**

17 Not later than December 31, 2008, the Administrator  
18 of the Federal Aviation Administration shall issue a plan  
19 to develop an installation and deployment schedule for sys-  
20 tems the Administration is installing to alert controllers  
21 and flight crews to potential runway incursions. The plan  
22 shall be integrated into the annual Federal Aviation Ad-  
23 ministration operational evolution plan.

1 **SEC. 502. AIRCRAFT FUEL TANK SAFETY IMPROVEMENT.**

2 Not later than December 31, 2008, the Federal Avia-  
3 tion Administration shall issue a final rule regarding the  
4 reduction of fuel tank flammability in transport category  
5 aircraft.

6 **SEC. 503. JUDICIAL REVIEW OF DENIAL OF AIRMAN CER-**  
7 **TIFICATES.**

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

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

20 (b) CONFORMING AMENDMENT.—Section 1153(e) is  
21 amended by striking “section 44709 or” and inserting  
22 “section 44703(d), 44709, or”.



1 **SEC. 504. RELEASE OF DATA RELATING TO ABANDONED**  
2 **TYPE CERTIFICATES AND SUPPLEMENTAL**  
3 **TYPE CERTIFICATES.**

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

6 “(5) RELEASE OF DATA.—

7 “(A) Notwithstanding any other provision of  
8 law, the Administrator may designate, without the  
9 consent of the owner of record, engineering data in  
10 the agency’s possession related to a type certificate  
11 or a supplemental type certificate for an aircraft, en-  
12 gine, propeller or appliance as public data, and  
13 therefore releasable, upon request, to a person seek-  
14 ing to maintain the airworthiness of such product, if  
15 the Administrator determines that—

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

18 “(ii) the owner of record, or the owner of  
19 record’s heir, of the type certificate or supple-  
20 mental certificate has not been located despite  
21 a search of due diligence by the agency; and

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

24 “(B) In this section, the term ‘engineering  
25 data’ means type design drawings and specifications  
26 for the entire product or change to the product, in-

1 including the original design data, and any associated  
2 supplier data for individual parts or components ap-  
3 proved as part of the particular aeronautical product  
4 certificate.”.

5 **SEC. 505. DESIGN ORGANIZATION CERTIFICATES.**

6 Section 44704(e) is amended—

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

10 (2) by striking “testing” in paragraph (2) and  
11 inserting “production”; and

12 (3) by striking paragraph (3) and inserting the  
13 following:

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

18 **SEC. 506. FAA ACCESS TO CRIMINAL HISTORY RECORDS OR**

19 **DATABASE SYSTEMS.**

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

22 **“§ 40130. FAA access to criminal history records or**  
23 **databases systems**

24 “(a) ACCESS TO RECORDS OR DATABASES SYS-  
25 TEMS.—

1           “(1) Notwithstanding section 534 of title 28  
2           and the implementing regulations for such section  
3           (28 C.F.R. part 20), the Administrator of the Fed-  
4           eral Aviation Administration is authorized to access  
5           a system of documented criminal justice information  
6           maintained by the Department of Justice or by a  
7           State but may do so only for the purpose of carrying  
8           out its civil and administrative responsibilities to  
9           protect the safety and security of the National Air-  
10          space System or to support the missions of the De-  
11          partment of Justice, the Department of Homeland  
12          Security, and other law enforcement agencies. The  
13          Administrator shall be subject to the same condi-  
14          tions or procedures established by the Department  
15          of Justice or State for access to such an information  
16          system by other governmental agencies with access  
17          to the system.

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

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

1           “(1) have access to and receive criminal history,  
2 driver, vehicle, and other law enforcement informa-  
3 tion contained in the law enforcement databases of  
4 the Department of Justice, or of any jurisdiction in  
5 a State in the same manner as a police officer em-  
6 ployed by a State or local authority of that State  
7 who is certified or commissioned under the laws of  
8 that State;

9           “(2) use any radio, data link, or warning sys-  
10 tem of the Federal Government and of any jurisdic-  
11 tion in a State that provides information about  
12 wanted persons, be-on-the-lookout notices, or war-  
13 rant status or other officer safety information to  
14 which a police officer employed by a State or local  
15 authority in that State who is certified or commis-  
16 sion under the laws of that State has access and in  
17 the same manner as such police officer; or

18           “(3) receive Federal, State, or local government  
19 communications with a police officer employed by a  
20 State or local authority in that State in the same  
21 manner as a police officer employed by a State or  
22 local authority in that State who is commissioned  
23 under the laws of that State.

24           “(c) SYSTEM OF DOCUMENTED CRIMINAL JUSTICE  
25 INFORMATION DEFINED.—In this section the term ‘sys-

1 tem of documented criminal justice information’ means  
2 any law enforcement databases, systems, or communica-  
3 tions containing information concerning identification,  
4 criminal history, arrests, convictions, arrest warrants, or  
5 wanted or missing persons, including the National Crime  
6 Information Center and its incorporated criminal history  
7 databases and the National Law Enforcement Tele-  
8 communications System.”.

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

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

12 **SEC. 507. FLIGHT CREW FATIGUE.**

13 (a) IN GENERAL.—Within 3 months after the date  
14 of enactment of this Act the Administrator of the Federal  
15 Aviation Administration shall conclude arrangements with  
16 the National Academy of Sciences for a study of pilot fa-  
17 tigue.

18 (b) STUDY.—The study shall include consideration  
19 of—

20 (1) research on fatigue, sleep, and circadian  
21 rhythms;

22 (2) sleep and rest requirements recommended  
23 by the National Transportation Safety Board; and

24 (3) international standards.

1 (c) REPORT.—Within 18 months after initiating the  
2 study, the National Academy shall submit a report to the  
3 Administrator containing its findings and recommenda-  
4 tions, including recommendations with respect to Federal  
5 Aviation Regulations governing flight limitation and rest  
6 requirements.

7 (d) RULEMAKING.—After the Administrator receives  
8 the National Academy’s report, the Federal Aviation Ad-  
9 ministration shall consider the findings of the National  
10 Academy in its rulemaking proceeding on flight time limi-  
11 tations and rest requirements.

12 (e) IMPLEMENTATION OF FLIGHT ATTENDANT FA-  
13 TIGUE STUDY RECOMMENDATIONS.—Within 60 days  
14 after the date of enactment of this Act, the Administrator  
15 of the Federal Aviation Administration shall initiate a  
16 process to carry out the recommendations of the CAMI  
17 study on flight attendant fatigue.

18 **SEC. 508. INCREASING SAFETY FOR HELICOPTER EMER-**  
19 **GENCY MEDICAL SERVICE OPERATORS.**

20 (a) COMPLIANCE WITH 14 CFR PART 135 REGULA-  
21 TIONS.—No later than 18 months after the date of enact-  
22 ment of this Act, all helicopter emergency medical service  
23 operators shall comply with the regulations in part 135  
24 of title 14, Code of Federal Regulations whenever there

1 is a medical crew on board, without regard to whether  
2 there are patients on board the helicopter.

3 (b) IMPLEMENTATION OF FLIGHT RISK EVALUATION  
4 PROGRAM.—Within 60 days after the date of enactment  
5 of this Act, the Federal Aviation Administration shall ini-  
6 tiate, and complete within 18 months, a rulemaking—

7 (1) to create a standardized checklist of risk  
8 evaluation factors based on its Notice 8000.301,  
9 issued in August, 2005; and

10 (2) to require helicopter emergency medical  
11 service operators to use the checklist to determine  
12 whether a mission should be accepted.

13 (c) COMPREHENSIVE CONSISTENT FLIGHT DIS-  
14 PATCH PROCEDURES.—Within 60 days after the date of  
15 enactment of this Act, the Federal Aviation Administra-  
16 tion shall initiate, and complete within 18 months, a rule-  
17 making—

18 (1) to create standardized flight dispatch proce-  
19 dures for helicopter emergency medical service oper-  
20 ators based on the regulations in part 121 of title  
21 14, Code of Federal Regulations; and

22 (2) to require such operators to use those pro-  
23 cedures for flights.

24 (d) IMPROVING SITUATIONAL AWARENESS.—Any  
25 helicopter used for helicopter emergency medical service

1 operations that is ordered, purchased, or otherwise ob-  
2 tained after the date of enactment of this Act shall have  
3 on board an operational terrain awareness and warning  
4 system that meets the technical specifications of section  
5 135.154 of the Federal Aviation Regulations (14 C.F.R.  
6 135.154).

7 (e) IMPROVING THE DATA AVAILABLE TO NTSB IN-  
8 VESTIGATORS AT CRASH SITES.—

9 (1) STUDY.—Within 1 year after the date of  
10 enactment of this Act, the Federal Aviation Admin-  
11 istration shall complete a feasibility study of requir-  
12 ing flight data and cockpit voice recorders on new  
13 and existing helicopters used for emergency medical  
14 service operations. The study shall address, at a  
15 minimum, issues related to survivability, weight, and  
16 financial considerations of such a requirement.

17 (2) RULEMAKING.—Within 2 years after the  
18 date of enactment of this Act, the Federal Aviation  
19 Administration shall complete a rulemaking to re-  
20 quire flight data and cockpit voice recorders on  
21 board such helicopters.

22 **SEC. 509. CABIN CREW COMMUNICATION.**

23 (a) IN GENERAL.—Section 44728 is amended—

24 (1) by redesignating subsection (f) as sub-  
25 section (g); and



1           (2) by inserting after subsection (e) the fol-  
2           lowing:

3           “(f) MINIMUM LANGUAGE SKILLS.—

4           “(1) IN GENERAL.—No certificate holder may  
5           use any person to serve, nor may any person serve,  
6           as a flight attendant under this part, unless that  
7           person has the ability to read, speak, and write  
8           English well enough to—

9                   “(A) read material written in English and  
10                   comprehend the information;

11                   “(B) speak and understand English suffi-  
12                   ciently to provide direction to, and understand  
13                   and answer questions from, English-speaking  
14                   individuals;

15                   “(C) write incident reports and statements  
16                   and log entries and statements; and

17                   “(D) carry out written and oral instruc-  
18                   tions regarding the proper performance of their  
19                   duties.

20           “(2) FOREIGN FLIGHTS.—The requirements of  
21           paragraph (1) do not apply to service as a flight at-  
22           tendant on a flight operated by a certificate holder  
23           solely between points outside the United States.”.

24           (b) ADMINISTRATION.—The Administrator of the  
25           Federal Aviation Administration shall work with certifi-

1 cate holders to which section 44728(f) of title 49, United  
2 States Code, applies to facilitate compliance with the re-  
3 quirements of section 44728(f)(1) of that title.

4 **SEC. 510. CLARIFICATION OF MEMORANDUM OF UNDER-**  
5 **STANDING WITH OSHA.**

6 (a) IN GENERAL.—Within 6 months after the date  
7 of enactment of this Act, the Administrator of the Federal  
8 Aviation Administration shall—

9 (1) establish milestones, in consultation with  
10 the Occupational Safety and Health Administration,  
11 through a report to Congress for the completion of  
12 work begun under the August 2000 memorandum of  
13 understanding between the 2 Administrations and to  
14 address issues needing further action in the Admin-  
15 istrations' joint report in December 2000; and

16 (2) initiate development of a policy statement to  
17 set forth the circumstances in which Occupational  
18 Safety and Health Administration requirements may  
19 be applied to crewmembers while working in the air-  
20 craft cabin.

21 (b) POLICY STATEMENT.—The policy statement to be  
22 developed under subsection (a)(2) shall satisfy the fol-  
23 lowing principles:

24 (1) The establishment of a coordinating body  
25 similar to the Aviation Safety and Health Joint

1 Team established by the August 2000 memorandum  
2 of understanding that includes representatives des-  
3 ignated by both Administrations—

4 (A) to examine the applicability of current  
5 and future Occupational Safety and Health Ad-  
6 ministration regulations;

7 (B) to recommend policies for facilitating  
8 the training of Federal Aviation Administration  
9 inspectors; and

10 (C) to make recommendations that will  
11 govern the inspection and enforcement of safety  
12 and health standards on board aircraft in oper-  
13 ation and all work-related environments.

14 (2) Any standards adopted by the Federal Avia-  
15 tion Administration shall set forth clearly—

16 (A) the circumstances under which an em-  
17 ployer is required to take action to address oc-  
18 cupational safety and health hazards;

19 (B) the measures required of an employer  
20 under the standard; and

21 (C) the compliance obligations of an em-  
22 ployer under the standard.

1 **SEC. 511. ACCELERATION OF DEVELOPMENT AND IMPLE-**  
2 **MENTATION OF REQUIRED NAVIGATION PER-**  
3 **FORMANCE APPROACH PROCEDURES.**

4 (a) IN GENERAL.—The Administrator of the Federal  
5 Aviation Administration shall set a target of achieving a  
6 minimum of 200 Required Navigation Performance proce-  
7 dures each fiscal year through fiscal year 2012, with 25  
8 percent of that target number meeting the low visibility  
9 approach criteria.

10 (b) USE OF THIRD PARTIES.—The Administrator is  
11 authorized to provide third parties the ability to design,  
12 flight check, and implement Required Navigation Per-  
13 formance approach procedures.

14 **SEC. 512. ENHANCED SAFETY FOR AIRPORT OPERATIONS.**

15 From amounts appropriated for fiscal years 2009  
16 through 2011 pursuant to section 48101(a) of title 49,  
17 United States Code, the Secretary shall make available  
18 such sums as may be necessary for use in relocating the  
19 radar facility at National Plan of Integrated Airport Sys-  
20 tems airport number 54-0026 to improve the safety, effi-  
21 ciency, and security of air traffic control, navigation, low  
22 altitude communications and surveillance, and weather.  
23 The Administrator of the Federal Aviation Administration  
24 shall ensure that the radar is relocated before September  
25 30, 2011.

1 **SEC. 513. IMPROVED SAFETY INFORMATION.**

2 Not later than December 31, 2008, the Administrator  
3 of the Federal Aviation Administration shall issue a final  
4 rule in docket No. FAA-2008-0188, *Re-registration and*  
5 *Renewal of Aircraft Registration*. The final rule shall in-  
6 clude—

7 (1) provision for the expiration of a certificate  
8 for an aircraft registered as of the date of enactment  
9 of this Act, with re-registration requirements for  
10 those aircraft that remain eligible for registration;

11 (2) provision for the periodic expiration of all  
12 certificates issued after the effective date of the rule  
13 with a registration renewal process; and

14 (3) other measures to promote the accuracy and  
15 efficient operation and value of the Administration's  
16 aircraft registry.

17 **SEC. 514. VOLUNTARY DISCLOSURE REPORTING PROCESS**  
18 **IMPROVEMENTS.**

19 Within 180 days after the date of enactment of this  
20 Act, the Administrator of the Federal Aviation Adminis-  
21 tration shall—

22 (1) take such action as may be necessary to en-  
23 sure that the Voluntary Disclosure Reporting Proc-  
24 ess requires inspectors—

25 (A) to evaluate corrective action proposed  
26 by an air carrier with respect to a matter dis-

1 closed by that air carrier is sufficiently com-  
2 prehensive in scope and application and applies  
3 to all affected aircraft operated by that air car-  
4 rier before accepting the proposed voluntary  
5 disclosure; and

6 (B) to verify that corrective action so iden-  
7 tified by an air carrier is completed within the  
8 timeframe proposed; and

9 (C) to verify by inspection that the car-  
10 rier's corrective action adequately corrects the  
11 problem that was disclosed; and

12 (2) establish a second level supervisory review  
13 of disclosures under the Voluntary Disclosure Re-  
14 porting Process before any proposed disclosure is ac-  
15 cepted and closed that will ensure that a matter dis-  
16 closed by an air carrier—

17 (A) has not been previously identified by a  
18 Federal Aviation Administration inspector; and

19 (B) has not been previously disclosed by  
20 the carrier in the preceding 5 years.

21 **SEC. 515. PROCEDURAL IMPROVEMENTS FOR INSPEC-**  
22 **TIONS.**

23 (a) **EMPLOYMENT BY INSPECTED AIR CARRIERS.—**  
24 Within 90 days after the date of enactment of this Act,  
25 the Administrator of the Federal Aviation Administration

1 shall initiate a rulemaking proceeding to revise its post-  
2 employment guidance to prohibit an inspector employed  
3 by an air carrier the inspector was responsible for inspect-  
4 ing from representing that air carrier before the Federal  
5 Aviation Administration or participating in negotiations or  
6 other contacts with the Federal Aviation Administration  
7 on behalf of that air carrier for a period of 2 years after  
8 terminating employment by the Federal Aviation Adminis-  
9 tration.

10 (b) INSPECTION TRACKING.—Within 90 days after  
11 the date of enactment of this Act, the Administrator of  
12 the Federal Aviation Administration shall implement a  
13 process for tracking field office review of air carrier com-  
14 pliance with Federal Aviation Administration air worthi-  
15 ness directives. In tracking air worthiness directive compli-  
16 ance, the Administrator shall ensure that—

17 (1) each air carriers under the Administration’s  
18 air transportation oversight system is reviewed for  
19 100 percent compliance on a 5-year cycle;

20 (2) Compliance reviews include physical inspec-  
21 tions at each applicable carrier of a sample of the  
22 aircraft to which the air worthiness certificate ap-  
23 plies; and

24 (3) the appropriate local and regional offices,  
25 and the Administrator, are alerted whenever a car-

1 rier is no longer in compliance with an air worthi-  
2 ness directive.

3 **SEC. 516. INDEPENDENT REVIEW OF SAFETY ISSUES.**

4 Within 30 days after the date of enactment of this  
5 Act, the Comptroller General shall initiate a review and  
6 investigation of air safety issues identified by Federal  
7 Aviation Administration employees and reported to the  
8 Administrator. The Comptroller General shall report the  
9 Government Accountability Office's findings and rec-  
10 ommendations to the Administrator, the Senate Com-  
11 mittee on Commerce, Science, and Transportation, and  
12 the House of Representatives Committee on Transpor-  
13 tation and Infrastructure on an annual basis.

14 **SEC. 517. NATIONAL REVIEW TEAM.**

15 (a) IN GENERAL.—Within 180 days after the date  
16 of enactment of this Act, the Administrator of the Federal  
17 Aviation Administration shall establish a national review  
18 team within the Administration to conduct periodic, ran-  
19 dom reviews of the Administration's oversight of air car-  
20 riers and report annually its findings and recommenda-  
21 tions to the Administrator, the Senate Commerce, Science,  
22 and Transportation Committee, and the House of Rep-  
23 resentatives Committee on Transportation and Infrastruc-  
24 ture.



1 (b) INSPECTOR GENERAL REPORTS.—The Inspector  
2 General of the Department of Transportation shall provide  
3 progress reports to the Senate Committee on Commerce,  
4 Science, and Transportation and the House of Represent-  
5 atives Committee on Transportation and Infrastructure on  
6 the review teams and their effectiveness.

7 (c) ADDITIONAL SAFETY INSPECTORS.—From  
8 amounts appropriated pursuant to section 106(k)(1) of  
9 title 49, United States Code, the Administrator of the  
10 Federal Aviation Administration may hire a net increase  
11 of 200 additional safety inspectors.

12 **SEC. 518. FAA ACADEMY IMPROVEMENTS.**

13 (a) REVIEW.—Within 1 year after the date of enact-  
14 ment of this Act, the Administrator of the Federal Avia-  
15 tion Administration shall conduct a comprehensive review  
16 and evaluation of its Academy and facility training efforts.

17 (b) FACILITY TRAINING PROGRAM.—The Adminis-  
18 trator shall—

19 (1) clarify responsibility for oversight and direc-  
20 tion of the Academy’s facility training program at  
21 the national level;

22 (2) communicate information concerning that  
23 responsibility to facility managers; and

1           (3) establish standards to identify the number  
2           of developmental controllers that can be accommo-  
3           dated at each facility, based on—

4                   (A) the number of available on-the-job-  
5           training instructors;

6                   (B) available classroom space;

7                   (C) the number of available simulators;

8                   (D) training requirements; and

9                   (E) the number of recently placed new per-  
10          sonnel already in training.

11 **SEC. 519. REDUCTION OF RUNWAY INCURSIONS AND OPER-**  
12 **ATIONAL ERRORS.**

13          (a) PLAN.—The Administrator of the Federal Avia-  
14          tion Administration shall develop a plan for the reduction  
15          of runway incursions by reviewing every commercial serv-  
16          ice airport (as defined in section 47102 of title 49, United  
17          States Code) in the United States and initiating action  
18          to improve airport lighting, provide better signage, and  
19          improve runway and taxiway markings.

20          (b) PROCESS.—Within 1 year after the date of enact-  
21          ment of this Act, the Administrator of the Federal Avia-  
22          tion Administration shall develop a process for tracking  
23          and investigating operational errors and runway incur-  
24          sions that includes—

1 (1) identifying the office responsible for estab-  
2 lishing regulations regarding operational errors and  
3 runway incursions;

4 (2) identifying who is responsible for tracking  
5 and investigating operational errors and runway in-  
6 cursions and taking remedial actions;

7 (3) identifying who is responsible for tracking  
8 operational errors and runway incursions, including  
9 a process for lower level employees to report to high-  
10 er supervisory levels; and

11 (4) periodic random audits of the oversight  
12 process.

## 13 **TITLE VI—AVIATION RESEARCH**

### 14 **SEC. 601. AIRPORT COOPERATIVE RESEARCH PROGRAM.**

15 (a) IN GENERAL.—Section 44511(f) is amended—

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

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

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

24 (b) AIRPORT COOPERATIVE RESEARCH PROGRAM.—

25 Not more than \$15,000,000 per year for fiscal years 2008,

1 2009, 2010, and 2011 may be appropriated to the Sec-  
2 retary of Transportation from the amounts made available  
3 each year under subsection (a) for the Airport Cooperative  
4 Research Program under section 44511 of this title, of  
5 which not less than \$5,000,000 per year shall be for re-  
6 search activities related to the airport environment, includ-  
7 ing reduction of community exposure to civil aircraft  
8 noise, reduction of civil aviation emissions, or addressing  
9 water quality issues.

10 **SEC. 602. REDUCTION OF NOISE, EMISSIONS, AND ENERGY**

11 **CONSUMPTION FROM CIVILIAN AIRCRAFT.**

12 (a) ESTABLISHMENT OF RESEARCH PROGRAM.—  
13 From amounts made available under section 48102(a) of  
14 title 49, United States Code, the Administrator of the  
15 Federal Aviation Administration shall establish a research  
16 program related to reducing civilian aircraft source noise  
17 and emissions through grants or other measures author-  
18 ized under section 106(l)(6) of such title, including reim-  
19 bursable agreements with other Federal agencies. The pro-  
20 gram shall include participation of educational and re-  
21 search institutions or private sector entities that have ex-  
22 isting facilities and experience for developing and testing  
23 noise, emissions and energy reduction engine and aircraft  
24 technology, and developing alternative fuels.

1           (b) ESTABLISHING A CONSORTIUM.—Within 6  
2 months after the date of enactment of this Act, the Ad-  
3 ministrator shall designate, using a competitive process,  
4 an institution, entity, or consortium described in sub-  
5 section (a) as a Consortium for Aviation Noise, Emissions,  
6 and Energy Technology Research to perform research in  
7 accordance with this section. The Consortium shall con-  
8 duct the research program in coordination with the Na-  
9 tional Aeronautics and Space Administration and other  
10 relevant agencies.

11           (c) PERFORMANCE OBJECTIVES.—By January 1,  
12 2015, the research program shall accomplish the following  
13 objectives:

14           (1) Certifiable aircraft technology that increases  
15 aircraft fuel efficiency by 25 percent relative to 1997  
16 subsonic aircraft technology.

17           (2) Certifiable engine technology that reduces  
18 landing and takeoff cycle nitrogen oxide emissions  
19 by 50 percent, without increasing other gaseous or  
20 particle emissions, over the International Civil Avia-  
21 tion Organization standard adopted in 2004.

22           (3) Certifiable aircraft technology that reduces  
23 noise levels by 10 dB (30 dB cumulative) relative to  
24 1997 subsonic jet aircraft technology.

1           (4) Determination of the feasibility of use of al-  
2           ternative fuels in aircraft systems, including success-  
3           ful demonstration and quantification of benefits.

4           (5) Determination of the extent to which new  
5           engine and aircraft technologies may be used to ret-  
6           rofit or re-engine aircraft so as to increase the level  
7           of penetration into the commercial fleet.

8 **SEC. 603. PRODUCTION OF CLEAN COAL FUEL TECH-**  
9 **NOLOGY FOR CIVILIAN AIRCRAFT.**

10       (a) ESTABLISHMENT OF RESEARCH PROGRAM.—

11 From amounts made available under section 48102(a) of  
12 title 49, United States Code, the Secretary of Transpor-  
13 tation shall establish a research program related to devel-  
14 oping jet fuel from clean coal through grants or other  
15 measures authorized under section 106(l)(6) of such title,  
16 including reimbursable agreements with other Federal  
17 agencies. The program shall include participation by edu-  
18 cational and research institutions that have existing facili-  
19 ties and experience in the development and deployment of  
20 technology that processes coal to aviation fuel.

21       (b) DESIGNATION OF INSTITUTION AS A CENTER OF  
22 EXCELLENCE.—Within 6 months after the date of enact-  
23 ment of this Act, the Administrator of the Federal Avia-  
24 tion Administration shall designate an institution de-

1 scribed in subsection (a) as a Center of Excellence for  
2 Coal-to-Jet-Fuel Research.

3 **SEC. 604. ADVISORY COMMITTEE ON FUTURE OF AERO-**  
4 **NAUTICS.**

5 (a) ESTABLISHMENT.—There is established an advi-  
6 sory committee to be know as the “Advisory Committee  
7 on the Future of Aeronautics”.

8 (b) MEMBERSHIP.—The Advisory Committee shall  
9 consist of 7 members appointed by the President from a  
10 list of 15 candidates proposed by the Director of the Na-  
11 tional Academy of Sciences.

12 (c) CHAIRPERSON.—The Advisory Committee mem-  
13 bers shall elect 1 member to serve as chairperson of the  
14 Advisory Committee.

15 (d) FUNCTIONS.—The Advisory Committee shall ex-  
16 amine the best governmental and organizational struc-  
17 tures for the conduct of civil aeronautics research and de-  
18 velopment, including options and recommendations for  
19 consolidating such research to ensure continued United  
20 States leadership in civil aeronautics. The Committee shall  
21 consider transferring responsibility for civil aeronautics re-  
22 search and development from the National Aeronautics  
23 and Space Administration to other existing departments  
24 or agencies of the Federal government or to a non-govern-  
25 mental organization such as academic consortia or not-

1 for-profit organizations. In developing its recommenda-  
2 tions, the Advisory Committee shall consider, as appro-  
3 priate, the aeronautics research policies developed pursu-  
4 ant to section 101(d) of Public Law 109–155 and the re-  
5 quirements and priorities for aeronautics research estab-  
6 lished by title IV of Public Law 109–155.

7 (e) REPORT.—Not later than 12 months after the  
8 date on which the full membership of the Advisory Com-  
9 mittee is appointed, the Advisory Committee shall submit  
10 a report to the Senate Committee on Commerce, Science,  
11 and Transportation and the House Committees on Science  
12 and Technology and on Transportation and Infrastructure  
13 on its findings and recommendations. The report may rec-  
14 ommend a rank ordered list of acceptable solutions.

15 (f) TERMINATION.—The Advisory Committee shall  
16 terminate 60 days after the date on which it submits the  
17 report to the Congress.

18 **SEC. 605. RESEARCH PROGRAM TO IMPROVE AIRFIELD**  
19 **PAVEMENTS.**

20 (a) CONTINUATION OF PROGRAM.—The Adminis-  
21 trator of the Federal Aviation Administration shall con-  
22 tinue the program to consider awards to nonprofit con-  
23 crete and asphalt pavement research foundations to im-  
24 prove the design, construction, rehabilitation, and repair



1 of airfield pavements to aid in the development of safer,  
2 more cost effective, and more durable airfield pavements.

3 (b) USE OF GRANTS OR COOPERATIVE AGREE-  
4 MENTS.—The Administrator may use grants or coopera-  
5 tive agreements in carrying out this section.

6 **SEC. 606. WAKE TURBULENCE, VOLCANIC ASH, AND WEATH-**  
7 **ER RESEARCH.**

8 Within 60 days after the date of enactment of this  
9 Act, the Administrator of the Federal Aviation Adminis-  
10 tration shall—

11 (1) initiate evaluation of proposals that would  
12 increase capacity throughout the air transportation  
13 system by reducing existing spacing requirements  
14 between aircraft of all sizes, including research on  
15 the nature of wake vortices;

16 (2) begin implementation of a system to im-  
17 prove volcanic ash avoidance options for aircraft, in-  
18 cluding the development of a volcanic ash warning  
19 and notification system for aviation; and

20 (3) establish research projects on—

21 (A) ground de-icing/anti-icing, ice pellets,  
22 and freezing drizzle;

23 (B) oceanic weather, including convective  
24 weather;

1 (C) en route turbulence prediction and de-  
2 tection; and

3 (D) all hazards during oceanic operations,  
4 where commercial traffic is high and only rudi-  
5 mentary satellite sensing is available, to reduce  
6 the hazards presented to commercial aviation.

7 **SEC. 607. INCORPORATION OF UNMANNED AERIAL SYS-**  
8 **TEMS INTO FAA PLANS AND POLICIES.**

9 (a) RESEARCH.—

10 (1) EQUIPMENT.—Section 44504 is amended—

11 (A) by inserting “unmanned and manned”  
12 in subsection (a) after “improve”;

13 (B) by striking “and” after the semicolon  
14 in subsection (b)(6);

15 (C) by striking “aircraft.” in subsection  
16 (b)(7) and inserting “aircraft; and”; and

17 (D) by adding at the end of subsection (b)  
18 the following:

19 “(8) in conjunction with other Federal agencies  
20 as appropriate, to develop technologies and methods  
21 to assess the risk of and prevent defects, failures,  
22 and malfunctions of products, parts, and processes,  
23 for use in all classes of unmanned aerial systems  
24 that could result in a catastrophic failure.”.

1           (2) HUMAN FACTORS; SIMULATIONS.—Section  
2           44505(b) is amended—

3           (A) by striking “and” after the semicolon  
4           in paragraph (4);

5           (B) by striking “programs.” in paragraph  
6           (5)(C) and inserting “programs; and”; and

7           (C) by adding at the end thereof the fol-  
8           lowing:

9           “(6) to develop a better understanding of the  
10          relationship between human factors and unmanned  
11          aerial systems air safety; and

12          “(7) to develop dynamic simulation models of  
13          integrating all classes of unmanned aerial systems  
14          into the National Air Space.”.

15          (b) NATIONAL ACADEMY OF SCIENCES ASSESS-  
16          MENT.—

17           (1) IN GENERAL.—Within 3 months after the  
18           date of enactment of this Act, the Administrator of  
19           the Federal Aviation Administration shall enter into  
20           an arrangement with the National Academy of  
21           Science for an assessment of unmanned aerial sys-  
22           tems that shall include consideration of—

23           (A) human factors regarding unmanned  
24           aerial systems operation;

1 (B) “detect, sense and avoid technologies”  
2 with respect to both cooperative and non-coop-  
3 erative aircraft;

4 (C) spectrum issues and bandwidth re-  
5 quirements;

6 (D) operation in suboptimal winds and ad-  
7 verse weather conditions;

8 (E) mechanisms for letter others know  
9 where the unmanned aerial system is flying;

10 (F) airworthiness and system redundancy;

11 (G) flight termination systems for safety  
12 and security;

13 (H) privacy issues;

14 (I) technologies for unmanned aerial sys-  
15 tems flight control;

16 (J) technologies for unmanned aerial sys-  
17 tems propulsion;

18 (K) unmanned aerial systems operator  
19 qualifications, medical standards, and training  
20 requirements;

21 (L) unmanned aerial systems maintenance  
22 requirements and training requirements; and

23 (M) any other unmanned aerial systems-re-  
24 lated issue the Administrator believes should be  
25 addressed.

1           (2) REPORT.—Within 12 months after initi-  
2           ating the study, the National Academy shall submit  
3           its report to the Administrator, the Senate Com-  
4           mittee on Commerce, Science, and Transportation,  
5           and the House of Representatives Committee on  
6           Transportation and Infrastructure containing its  
7           findings and recommendations.

8           (c) PILOT PROJECTS.—

9           (1) IN GENERAL.—The Administrator of the  
10          Federal Aviation Administration shall establish 3 2-  
11          year cost-shared pilot projects in sparsely populated,  
12          low-density Class G air traffic airspace to conduct  
13          experiments and collect data in order to accelerate  
14          the safe integration of unmanned aerial systems into  
15          the National Airspace System as follows:

16                (A) 1 project shall address operational  
17                issues required for integration of Category 1  
18                unmanned aerial systems.

19                (B) 1 project shall address operational  
20                issues required for integration of Category 2  
21                unmanned aerial systems.

22                (C) 1 project shall address operational  
23                issues required for integration of Category 3  
24                unmanned aerial systems.

1           (2) USE OF CONSORTIA.—In conducting the  
2 pilot projects, the Administrator shall encourage the  
3 formation of consortia from the public and private  
4 sectors, educational institutions, and non-profit or-  
5 ganization.

6           (3) REPORT.—Within 60 days after completing  
7 the pilot projects, the Administrator shall transmit  
8 a report to the Senate Committee on Commerce,  
9 Science, and Transportation and the House of Rep-  
10 resentatives Committee on Transportation and In-  
11 frastructure setting forth the Administrator’s find-  
12 ings and conclusions concerning the projects.

13           (4) AUTHORIZATION OF APPROPRIATIONS.—  
14 There are authorized to be appropriated to the Ad-  
15 ministrator for fiscal years 2008 and 2009 such  
16 sums as may be necessary to conduct the pilot  
17 projects.

18           (d) FAA TASK LIST.—

19           (1) STREAMLINE UNMANNED AERIAL SYSTEMS  
20 CERTIFICATION PROCESS.—Within 30 days after the  
21 date of enactment of this Act, the Administrator of  
22 the Federal Aviation Administration shall develop  
23 and transmit an unmanned aerial systems “road-  
24 map” to the Senate Committee on Commerce,  
25 Science, and Transportation and the House of Rep-

1        representatives Committee on Transportation and In-  
2        frastructure.

3            (2) UPDATE POLICY STATEMENT.—Within 45  
4        days after the date of enactment of this Act, the Ad-  
5        ministrator shall issue an updated policy statement  
6        on unmanned aerial systems under Docket No.  
7        FAA-2006-25714; Notice No. 07-01.

8            (3) ISSUE NPRM FOR CERTIFICATES.—Within  
9        90 days after the date of enactment of this Act, the  
10       Administrator shall publish a notice of proposed  
11       rulemaking on issuing airworthiness certificates and  
12       experimental certificates to unmanned aerial systems  
13       operators for compensation or hire. The Adminis-  
14       trator shall promulgate a final rule 90 days after the  
15       date on which the notice is published.

16           (4) NOTICE TO CONGRESS ON BASING UN-  
17       MANNED AERIAL SYSTEMS REGULATIONS ON ULTRA-  
18       LIGHT REGULATIONS.—Within 90 days after the  
19       date of enactment of this Act, the Administrator  
20       shall transmit a report to the Senate Committee on  
21       Commerce, Science, and Transportation and the  
22       House of Representatives Committee on Transpor-  
23       tation and Infrastructure on the potential of using  
24       part 103 of title 14, Code of Federal Regulations  
25       (relating to Ultralight Aircraft), as the regulatory

1 basis for regulations on lightweight unmanned aerial  
2 systems.

3 (e) CONSOLIDATED RULEMAKING DEADLINE.—No  
4 later than April 30, 2010, the Federal Aviation Adminis-  
5 tration and other affected Federal agencies shall have ini-  
6 tiated all of the rule makings regarding vehicle design re-  
7 quirements, operational requirements, airworthiness re-  
8 quirements, and flight crew certifications requirements  
9 necessary for integrating all categories of unmanned aerial  
10 systems into the national air space, taking into consider-  
11 ation the recommendations the Administrator receives  
12 from the National Academy of Sciences report under sub-  
13 section (b), the unmanned aerial systems “roadmap” de-  
14 veloped by the Administrator under subsection (d)(1), the  
15 recommendations of the Radio Technical Committee Aero-  
16 nautics Special Committee 203 (RTCA-SC 203), and the  
17 data generated from the 3 pilot projects conducted under  
18 subsection (c).

19 **SEC. 608. REAUTHORIZATION OF CENTER OF EXCELLENCE**  
20 **IN APPLIED RESEARCH AND TRAINING IN**  
21 **THE USE OF ADVANCED MATERIALS IN**  
22 **TRANSPORT AIRCRAFT.**

23 Section 708(b) of the Vision 100—Century of Avia-  
24 tion Reauthorization Act (49 U.S.C. 44504 note) is  
25 amended by striking “\$500,000 for fiscal year 2004” and



1 inserting “\$1,000,000 for each of fiscal years 2008  
2 through 2012”.

3 **SEC. 609. PILOT PROGRAM FOR ZERO EMISSION AIRPORT**  
4 **VEHICLES.**

5 (a) IN GENERAL.—Subchapter I of chapter 471 is  
6 amended by inserting after section 47136 the following:

7 **“§ 47136A. Zero emission airport vehicles and infra-**  
8 **structure**

9 “(a) IN GENERAL.—The Secretary of Transportation  
10 shall establish a pilot program under which the sponsor  
11 of a public-use airport may use funds made available  
12 under section 47117 or section 48103 for use at such air-  
13 ports or passenger facility revenue (as defined in section  
14 40117(a)(6)) to carry out activities associated with the ac-  
15 quisition and operation of zero emission vehicles (as de-  
16 fined in section 88.120-94 of title 40, Code of Federal  
17 Regulations), including the construction or modification of  
18 infrastructure to facilitate the delivery of fuel and services  
19 necessary for the use of such vehicles. Any use of funds  
20 authorized by the preceding sentence shall be considered  
21 to be an authorized use of funds under section 47117 or  
22 section 48103, or an authorized use of passenger facility  
23 revenue (as defined in section 40117(a)(6)), as the case  
24 may be.

1       “(b) LOCATION IN AIR QUALITY NONATTAINMENT  
2 AREAS.—

3               “(1) IN GENERAL.—A public-use airport shall  
4 be eligible for participation in the pilot program only  
5 if the airport is located in an air quality nonattain-  
6 ment area (as defined in section 171(2) of the Clean  
7 Air Act (42 U.S.C. 7501(2))).

8               “(2) SHORTAGE OF CANDIDATES.—If the Sec-  
9 retary receives an insufficient number of applications  
10 from public-use airports located in such areas, then  
11 the Secretary may consider applications from public-  
12 use airports that are not located in such areas.

13       “(c) SELECTION CRITERIA.—In selecting from  
14 among applicants for participation in the program, the  
15 Secretary shall give priority consideration to applicants  
16 that will achieve the greatest air quality benefits measured  
17 by the amount of emissions reduced per dollar of funds  
18 expended under the program.

19       “(d) FEDERAL SHARE.—Notwithstanding any other  
20 provision of this subchapter, the Federal share of the costs  
21 of a project carried out under the program shall be 50  
22 percent.

23       “(e) TECHNICAL ASSISTANCE.—

24               “(1) IN GENERAL.—The sponsor of a public-use  
25 airport carrying out activities funded under the pro-

1       gram may not use more than 10 percent of the  
2       amounts made available under the program in any  
3       fiscal year for technical assistance in carrying out  
4       such activities.

5           “(2) ELIGIBLE CONSORTIUM.—To the max-  
6       imum extent practicable, participants in the program  
7       shall use an eligible consortium (as defined in sec-  
8       tion 5506 of this title) in the region of the airport  
9       to receive technical assistance described in para-  
10      graph (1).

11          “(f) MATERIALS IDENTIFYING BEST PRACTICES.—  
12      The Secretary may develop and make available materials  
13      identifying best practices for carrying out activities funded  
14      under the program based on projects carried out under  
15      section 47136 and other sources.”.

16          (b) REPORT ON EFFECTIVENESS OF PROGRAM.—Not  
17      later than 18 months after the date of enactment of this  
18      section, the Secretary of Transportation shall transmit a  
19      report to the Senate Committee on Commerce, Science,  
20      and Transportation the House of Representatives Com-  
21      mittee on Transportation and Infrastructure containing—

22           (1) an evaluation of the effectiveness of the  
23      pilot program;

1           (2) an identification of all public-use airports  
2           that expressed an interest in participating in the  
3           program; and

4           (3) a description of the mechanisms used by the  
5           Secretary to ensure that the information and know-  
6           how gained by participants in the program is trans-  
7           ferred among the participants and to other inter-  
8           ested parties, including other public-use airports.

9           (c) CONFORMING AMENDMENT.—The chapter anal-  
10          ysis for chapter 471 is amended by inserting after the item  
11          relating to section 47136 the following:

          “47136A. Zero emission airport vehicles and infrastructure”.

12       **SEC. 610. REDUCTION OF EMISSIONS FROM AIRPORT**  
13                               **POWER SOURCES.**

14           (a) IN GENERAL.—Subchapter I of chapter 471 is  
15          amended by inserting after section 47140 the following:  
16       **“§ 47140A. Reduction of emissions from airport power**  
17                               **sources**

18           “(a) IN GENERAL.—The Secretary of Transportation  
19          shall establish a program under which the sponsor of each  
20          airport eligible to receive grants under section 48103 is  
21          encouraged to assess the airport’s energy requirements,  
22          including heating and cooling, base load, back-up power,  
23          and power for on-road airport vehicles and ground support  
24          equipment, in order to identify opportunities to reduce

1 harmful emissions and increase energy efficiency at the  
2 airport.

3 “(b) GRANTS.—The Secretary may make grants  
4 under section 48103 to assist airport sponsors that have  
5 completed the assessment described in subsection (a) to  
6 acquire or construct equipment, including hydrogen equip-  
7 ment and related infrastructure, that will reduce harmful  
8 emissions and increase energy efficiency at the airport. To  
9 be eligible for such a grant, the sponsor of such an airport  
10 shall submit an application to the Secretary, at such time,  
11 in such manner, and containing such information as the  
12 Secretary may require.”.

13 (b) CONFORMING AMENDMENT.—The chapter anal-  
14 ysis for chapter 471 is amended by inserting after the item  
15 relating to section 47140 the following:

“47140A. Reduction of emissions from airport power sources”.

## 16 **TITLE VII—MISCELLANEOUS**

### 17 **SEC. 701. GENERAL AUTHORITY.**

18 (a) THIRD PARTY LIABILITY.—Section 44303(b) is  
19 amended by striking “December 31, 2006,” and inserting  
20 “December 31, 2012,”.

21 (b) EXTENSION OF PROGRAM AUTHORITY.—Section  
22 44310 is amended by striking “March 30, 2008.” and in-  
23 serting “October 1, 2017.”.

1 **SEC. 702. HUMAN INTERVENTION MANAGEMENT STUDY.**

2       Within 6 months after the date of enactment of this  
3 Act, the Administrator of the Federal Aviation Adminis-  
4 tration shall develop a Human Intervention Management  
5 Study program for cabin crews employed by commercial  
6 air carriers in the United States.

7 **SEC. 703. AIRPORT PROGRAM MODIFICATIONS.**

8       The Administrator of the Federal Aviation Adminis-  
9 tration—

10           (1) shall establish a formal, structured certifi-  
11 cation training program for the airport concessions  
12 disadvantaged business enterprise program; and

13           (2) may appoint 3 additional staff to implement  
14 the programs of the airport concessions disadvan-  
15 tagged business enterprise initiative.

16 **SEC. 704. MISCELLANEOUS PROGRAM EXTENSIONS.**

17       (a) **EXTENSION OF METROPOLITAN WASHINGTON**  
18 **AIRPORTS AUTHORITY.**—Section 49108 is amended by  
19 striking “2008,” and inserting “2011,”.

20       (b) **MARSHALL ISLANDS, FEDERATED STATES OF**  
21 **MICRONESIA, AND PALAU.**—Section 47115(j) is amended  
22 by striking “2007,” and inserting “2011,”.

23       (c) **MIDWAY ISLAND AIRPORT.**—Section 186(d) of  
24 the Vision 100—Century of Aviation Reauthorization Act  
25 (17 Stat. 2518) is amended by striking “October 1,  
26 2007,” and inserting “October 1, 2011,”.

1 **SEC. 705. EXTENSION OF COMPETITIVE ACCESS REPORTS.**

2 Section 47107(s) is amended by striking paragraph  
3 (3).

4 **SEC. 706. UPDATE ON OVERFLIGHTS.**

5 (a) IN GENERAL.—Section 45301(b) is amended to  
6 read as follows:

7 “(b) LIMITATIONS.—

8 “(1) IN GENERAL.—In establishing fees under  
9 subsection (a), the Administrator shall ensure that  
10 the fees required by subsection (a) are reasonably  
11 related to the Administration’s costs, as determined  
12 by the Administrator, of providing the services ren-  
13 dered. Services for which costs may be recovered in-  
14 clude the costs of air traffic control, navigation,  
15 weather services, training, and emergency services  
16 which are available to facilitate safe transportation  
17 over the United States, and other services provided  
18 by the Administrator or by programs financed by  
19 the Administrator to flights that neither take off nor  
20 land in the United States. The determination of  
21 such costs by the Administrator is not subject to ju-  
22 dicial review.

23 “(2) ADJUSTMENT OF FEES.—The Adminis-  
24 trator shall adjust the overflight fees established by  
25 subsection (a)(1) by expedited rulemaking and begin  
26 collections under the adjusted fees by October 1,

1       2009. In developing the adjusted overflight fees, the  
2       Administrator shall seek and consider the rec-  
3       ommendations, if any, offered by the Aviation Rule-  
4       making Committee for Overflight Fees that are in-  
5       tended to ensure that overflight fees are reasonably  
6       related to the Administrator's costs of providing air  
7       traffic control and related services to overflights. In  
8       addition, the Administrator may periodically modify  
9       the fees established under this section either on the  
10      Administrator's own initiative or on a recommenda-  
11      tion from the Air Traffic Control Modernization  
12      Board.

13               “(3) COST DATA.—The adjustment of overflight  
14      fees under paragraph (2) shall be based on the costs  
15      to the Administration of providing the air traffic  
16      control and related activities, services, facilities, and  
17      equipment using the available data derived from the  
18      Administration's cost accounting system and cost al-  
19      location system to users, as well as budget and oper-  
20      ational data.

21               “(4) AIRCRAFT ALTITUDE.—Nothing in this  
22      section shall require the Administrator to take into  
23      account aircraft altitude in establishing any fee for  
24      aircraft operations in en route or oceanic airspace.



1           “(5) COSTS DEFINED.—In this subsection, the  
2 term ‘costs’ means those costs associated with the  
3 operation, maintenance, debt service, and overhead  
4 expenses of the services provided and the facilities  
5 and equipment used in such services, including the  
6 projected costs for the period during which the serv-  
7 ices will be provided.

8           “(6) PUBLICATION; COMMENT.—The Adminis-  
9 trator shall publish in the Federal Register any fee  
10 schedule under this section, including any adjusted  
11 overflight fee schedule, and the associated collection  
12 process as a proposed rule, pursuant to which public  
13 comment will be sought and a final rule issued.”.

14           (b) ADMINISTRATIVE PROVISION.—Section  
15 45303(c)(2) is amended to read as follows:

16           “(2) shall be available to the Administrator for  
17 expenditure for purposes authorized by Congress for  
18 the Federal Aviation Administration, however, fees  
19 established by section 45301(a)(1) of title 49 of the  
20 United States Code shall be available only to pay the  
21 cost of activities and services for which the fee is im-  
22 posed, including the costs to determine, assess, re-  
23 view, and collect the fee; and”.

1 **SEC. 707. TECHNICAL CORRECTIONS.**

2 Section 40122(g), as amended by section 307 of this  
3 Act, is further amended—

4 (1) by striking “2302(b), relating to whistle-  
5 blower protection,” in paragraph (2)(A) and insert-  
6 ing “2302,”;

7 (2) by striking “and” after the semicolon in  
8 paragraph (2)(H).

9 (3) by striking “Plan.” in paragraph (2)(I)(iii)  
10 and inserting “Plan; and”;

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

13 “(J) sections 6381 through 6387, relating  
14 to Family and Medical Leave.”; and

15 (5) by adding at the end of paragraph (3)  
16 “Notwithstanding any other provision of law, retro-  
17 active to April 1, 1996, the Board shall have the  
18 same remedial authority over such employee appeals  
19 that it had as of March 31, 1996.”.

20 **SEC. 708. FAA TECHNICAL TRAINING AND STAFFING.**

21 (a) STUDY.—

22 (1) IN GENERAL.—The Comptroller General  
23 shall conduct a study of the training of airway  
24 transportation systems specialists of the Federal  
25 Aviation Administration that includes—

1 (A) an analysis of the type of training pro-  
2 vided to such specialists;

3 (B) an analysis of the type of training that  
4 such specialists need to be proficient in the  
5 maintenance of the latest technologies;

6 (C) actions that the Administration has  
7 undertaken to ensure that such specialists re-  
8 ceive up-to-date training on such technologies;

9 (D) the amount and cost of training pro-  
10 vided by vendors for such specialists;

11 (E) the amount and cost of training pro-  
12 vided by the Administration after developing in-  
13 house training courses for such specialists;

14 (F) the amount and cost of travel required  
15 of such specialists in receiving training; and

16 (G) a recommendation regarding the most  
17 cost-effective approach to providing such train-  
18 ing.

19 (2) REPORT.—Within 1 year after the date of  
20 enactment of this Act, the Comptroller General shall  
21 transmit a report on the study containing the Comp-  
22 troller General's findings and recommendations to  
23 the Senate Committee on Commerce, Science, and  
24 Transportation and the House of Representatives  
25 Committee on Transportation and Infrastructure.

1 (b) STUDY BY NATIONAL ACADEMY OF SCIENCES.—

2 (1) IN GENERAL.—Not later than 90 days after  
3 the date of enactment of this Act, the Administrator  
4 of the Federal Aviation Administration shall con-  
5 tract with the National Academy of Sciences to con-  
6 duct a study of the assumptions and methods used  
7 by the Federal Aviation Administration to estimate  
8 staffing needs for Federal Aviation Administration  
9 air traffic controllers, system specialists, and engi-  
10 neers to ensure proper maintenance, certification,  
11 and operation of the National Airspace System. The  
12 National Academy of Sciences shall consult with the  
13 Exclusive Bargaining Representative certified under  
14 section 7111 of title 5, United States Code, and the  
15 Administration (including the Civil Aeronautical  
16 Medical Institute) and examine data entailing  
17 human factors, traffic activity, and the technology at  
18 each facility.

19 (2) CONTENTS.—The study shall include—

20 (A) recommendations for objective staffing  
21 standards that maintain the safety of the Na-  
22 tional Airspace System; and

23 (B) the approximate length of time for de-  
24 veloping such standards.

1           (3) REPORT.—Not later than 24 months after  
2           executing a contract under subsection (a), the Na-  
3           tional Academy of Sciences shall transmit a report  
4           containing its findings and recommendations to the  
5           Congress.

6           (c) SAFETY STAFFING MODEL.—Within 18 months  
7           after the date of enactment of this Act, the Administrator  
8           of the Federal Aviation Administration shall develop a  
9           staffing model for aviation safety inspectors. In developing  
10          the model, the Administrator shall consult with represent-  
11          atives of the aviation safety inspectors and other inter-  
12          ested parties.

13 **SEC. 709. COMMERCIAL AIR TOUR OPERATORS IN NA-**  
14 **TIONAL PARKS.**

15          (a) SECRETARY OF THE INTERIOR AND OVER-  
16          FLIGHTS OF NATIONAL PARKS.—

17               (1) Section 40128 is amended—

18                       (A) by striking paragraph (8) of subsection  
19                       (f);

20                       (B) by striking “Director” each place it  
21                       appears and inserting “Secretary of the Inte-  
22                       rior”;

23                       (C) by striking “National Park Service” in  
24                       subsection (a)(2)(B)(vi) and inserting “Depart-  
25                       ment of the Interior”; and

1 (D) by striking “National Park Service” in  
2 subsection (b)(4)(C) and inserting “Department  
3 of the Interior”.

4 (2) The National Parks Air Tour Management  
5 Act of 2000 (49 U.S.C. 40128 note) is amended—

6 (A) by striking “Director” in section  
7 804(b) and inserting “Secretary of the Inte-  
8 rior”;

9 (B) in section 805—

10 (i) by striking “Director of the Na-  
11 tional Park Service” in subsection (a) and  
12 inserting “Secretary of the Interior”;

13 (ii) by striking “Director” each place  
14 it appears and inserting “Secretary of the  
15 Interior”;

16 (iii) by striking “National Park Serv-  
17 ice” each place it appears in subsection (b)  
18 and inserting “Department of the Inte-  
19 rior”;

20 (iv) by striking “National Park Serv-  
21 ice” in subsection (d)(2) and inserting  
22 “Department of the Interior”; and

23 (C) in section 807—

1 (i) by striking “National Park Serv-  
2 ice” in subsection (a)(1) and inserting  
3 “Department of the Interior”; and

4 (ii) by striking “Director of the Na-  
5 tional Park Service” in subsection (b) and  
6 inserting “Secretary of the Interior”.

7 (b) ALLOWING OVERFLIGHTS IN CASE OF AGREE-  
8 MENT.—Paragraph (1) of subsection (a) of section 40128  
9 is amended—

10 (1) by striking “and” in subparagraph (B);

11 (2) by striking “lands.” in subparagraph (C)  
12 and inserting “lands; and”; and

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

14 “(D) in accordance with a voluntary agree-  
15 ment between the commercial air tour operator  
16 and appropriate representatives of the national  
17 park or tribal lands, as the case may be.”.

18 (c) ADDITIONAL EXEMPTIONS TO AIR TOUR MAN-  
19 AGEMENT PLANS.—Subsection (a) of section 40128 is fur-  
20 ther amended by adding at the end the following:

21 “(5) WAIVER FOR NATIONAL PARKS WITH 100  
22 OR FEWER COMMERCIAL AIR TOUR OPERATIONS PER  
23 YEAR.—

24 “(A) IN GENERAL.—Subject to subpara-  
25 graph (B), and without further administrative

1 or environmental process, the Secretary may  
2 waive the requirements of this section with re-  
3 spect to a national park over which 100 or  
4 fewer commercial air tour operations are con-  
5 ducted in a year.

6 “(B) EXCEPTION TO WAIVER IF NEC-  
7 ESSARY TO PROTECT PARK RESOURCES.—

8 “(i) IN GENERAL.—The Secretary  
9 may not waive the requirements of this  
10 section if the Secretary determines that an  
11 air tour management plan is necessary to  
12 protect park resources and values.

13 “(ii) NOTICE AND PUBLICATION.—  
14 The Secretary shall inform the Adminis-  
15 trator in writing of the determinations  
16 under clause (i), and the Secretary and the  
17 Administrator shall publish in the Federal  
18 Register a list of the national parks that  
19 fall under this subparagraph.

20 “(6) WAIVER WITH RESPECT TO VOLUNTARY  
21 AGREEMENTS.—

22 “(A) IN GENERAL.—The Secretary may  
23 waive the requirements of this section if a com-  
24 mercial air tour operator enters into a vol-  
25 untary agreement with a national park to man-



1           age commercial air tour operations over the na-  
2           tional park.

3           “(B) PURPOSE OF VOLUNTARY AGREE-  
4           MENTS.—A voluntary agreement described in  
5           subparagraph (A) shall seek to protect park re-  
6           sources and visitor experiences without compro-  
7           mising aviation safety, and may—

8                   “(i) include provisions described in  
9                   subparagraph (B) through (E) of sub-  
10                  section (b)(3);

11                   “(ii) include provisions to ensure the  
12                   stability of, and compliance with, the provi-  
13                   sions of the voluntary agreement; and

14                   “(iii) set forth a fee schedule for oper-  
15                   ating over the national park.

16           “(C) CONSULTATION.—Before entering  
17           into a voluntary agreement described in sub-  
18           paragraph (A), a national park shall consult  
19           with any Indian tribe over whose tribal lands a  
20           commercial air tour operator may conduct com-  
21           mercial air tour operations pursuant to the vol-  
22           untary agreement.

23           “(D) REVIEW AND APPROVAL BY THE SEC-  
24           RETARY AND THE ADMINISTRATOR.—

1           “(i) REVIEW.—Before executing a vol-  
2           untary agreement described in subpara-  
3           graph (A), a national park shall submit the  
4           voluntary agreement to the Secretary and  
5           the Administrator for review and approval.

6           “(ii) APPROVAL.—Not later than 60  
7           days after receiving the agreement from  
8           the national park, the Secretary and the  
9           Administrator shall inform the national  
10          park of the determination of the Secretary  
11          and the Administrator regarding the ap-  
12          proval of the agreement.

13          “(E) RESCISSION OF VOLUNTARY AGREE-  
14          MENT.—

15               “(i) BY THE SECRETARY.—The Sec-  
16               retary may rescind a voluntary agreement  
17               described in subparagraph (A) if the Sec-  
18               retary determines that the agreement does  
19               not adequately protect park resources or  
20               visitor experiences.

21               “(ii) BY THE ADMINISTRATOR.—The  
22               Administrator may rescind a voluntary  
23               agreement described in subparagraph (A)  
24               if the Administrator determines that the  
25               agreement adversely affects aviation safety

1 or the management of the national air-  
2 space system.

3 “(iii) EFFECT OF RESCISSION.—If the  
4 Secretary or the Administrator rescinds a  
5 voluntary agreement described in subpara-  
6 graph (A), the commercial air tour oper-  
7 ator that was a party to the agreement  
8 shall operate under the requirements for  
9 interim operating authority of subsection  
10 (c) until an air tour management plan for  
11 the national park becomes effective.”.

12 (d) MODIFICATION OF INTERIM OPERATING AU-  
13 THORITY.—Subsection (c)(2)(I) of section 40128 is  
14 amended to read as follows:

15 “(I) may allow for modifications of the in-  
16 terim operating authority without further envi-  
17 ronmental process, if—

18 “(i) adequate information on the ex-  
19 isting and proposed operations of the com-  
20 mercial air tour operator is provided to the  
21 Administrator and the Secretary by the op-  
22 erator seeking operating authority;

23 “(ii) the Administrator determines  
24 that the modifications would not adversely

1 affect aviation safety or the management  
2 of the national airspace system; and

3 “(iii) the Secretary agrees that the  
4 modifications would not adversely affect  
5 park resources and visitor experiences.”.

6 (e) REPORTING REQUIREMENTS FOR COMMERCIAL  
7 AIR TOUR OPERATORS.—

8 (1) IN GENERAL.—Not later than 90 days after  
9 the date of the enactment of this Act, and annually  
10 thereafter, each commercial air tour conducting com-  
11 mercial air tour operations over a national park shall  
12 report to the Administrator of the Federal Aviation  
13 Administration and the Secretary of the Interior  
14 on—

15 (A) the number of commercial air tour op-  
16 erations conducted by such operator over the  
17 national park each day;

18 (B) any relevant characteristics of com-  
19 mercial air tour operations, including the  
20 routes, altitudes, duration, and time of day of  
21 flights; and

22 (C) such other information as the Adminis-  
23 trator and the Secretary may determine nec-  
24 essary to administer the provisions of the Na-

1           tional Parks Air Tour Management Act of 2000  
2           (49 U.S.C. 40128 note).

3           (2) **FORMAT.**—The report required by para-  
4           graph (1) shall be submitted in such form as the Ad-  
5           ministrators and the Secretary determine to be ap-  
6           propriate.

7           (3) **EFFECT OF FAILURE TO REPORT.**—The Ad-  
8           ministrators shall rescind the operating authority of  
9           a commercial air tour operator that fails to file a re-  
10          port not later than 180 days after the date for the  
11          submittal of the report described in paragraph (1).

12          (4) **AUDIT OF REPORTS.**—Not later than 2  
13          years after the date of the enactment of this Act,  
14          and at such times thereafter as the Inspector Gen-  
15          eral of the Department of Transportation determines  
16          necessary, the Inspector General shall audit the re-  
17          ports required by paragraph (1).

18          (f) **COLLECTION OF FEES FROM AIR TOUR OPER-**  
19          **ATIONS.**—

20          (1) **IN GENERAL.**—The Secretary of the Inte-  
21          rior may assess a fee in an amount determined by  
22          the Secretary under paragraph (2) on a commercial  
23          air tour operator conducting commercial air tour op-  
24          erations over a national park.

1           (2) AMOUNT OF FEE.—In determining the  
2 amount of the fee assessed under paragraph (1), the  
3 Secretary shall consider the cost of developing air  
4 tour management plans for each national park.

5           (3) EFFECT OF FAILURE TO PAY FEE.—The  
6 Administrator of the Federal Aviation Administra-  
7 tion shall revoke the operating authority of a com-  
8 mercial air tour operator conducting commercial air  
9 tour operations over any national park, including the  
10 Grand Canyon National Park, that has not paid the  
11 fee assessed by the Secretary under paragraph (1)  
12 by the date that is 180 days after the date on which  
13 the Secretary determines the fee shall be paid.

14           (g) AUTHORIZATION OF APPROPRIATIONS FOR AIR  
15 TOUR MANAGEMENT PLANS.—

16           (1) IN GENERAL.—There are authorized to be  
17 appropriated \$10,000,000 to the Secretary of the  
18 Interior for the development of air tour management  
19 plans under section 40128(b) of title 49, United  
20 States Code.

21           (2) USE OF FUNDS.—The funds authorized to  
22 be appropriated by paragraph (1) shall be used to  
23 develop air tour management plans for the national  
24 parks the Secretary determines would most benefit  
25 from such a plan.

1 (h) GUIDANCE TO DISTRICT OFFICES ON COMMER-  
2 CIAL AIR TOUR OPERATORS.—The Administrator of the  
3 Federal Aviation Administration shall provide to the Ad-  
4 ministration’s district offices clear guidance on the ability  
5 of commercial air tour operators to obtain—

6 (1) increased safety certifications;

7 (2) exemptions from regulations requiring safe-  
8 ty certifications; and

9 (3) other information regarding compliance  
10 with the requirements of this Act and other Federal  
11 and State laws and regulations.

12 (i) OPERATING AUTHORITY OF COMMERCIAL AIR  
13 TOUR OPERATORS.—

14 (1) TRANSFER OF OPERATING AUTHORITY.—

15 (A) IN GENERAL.—Subject to subpara-  
16 graph (B), a commercial air tour operator that  
17 obtains operating authority from the Adminis-  
18 trator under section 40128 of title 49, United  
19 States Code, to conduct commercial air tour op-  
20 erations may transfer such authority to another  
21 commercial air tour operator at any time.

22 (B) NOTICE.—Not later than 30 days be-  
23 fore the date on which a commercial air tour  
24 operator transfers operating authority under  
25 subparagraph (A), the operator shall notify the

1 Administrator and the Secretary of the intent  
2 of the operator to transfer such authority.

3 (C) REGULATIONS.—Not later than 180  
4 days after the date of the enactment of this  
5 Act, the Administrator shall prescribe regula-  
6 tions to allow transfers of operating authority  
7 described in subparagraph (A).

8 (2) TIME FOR DETERMINATION REGARDING OP-  
9 ERATING AUTHORITY.—Notwithstanding any other  
10 provision of law, the Administrator shall determine  
11 whether to grant a commercial air tour operator op-  
12 erating authority under section 40128 of title 49,  
13 United States Code, not later than 180 days after  
14 the earlier of the date on which—

15 (A) the operator submits an application; or

16 (B) an air tour management plan is com-  
17 pleted for the national park over which the op-  
18 erator seeks to conduct commercial air tour op-  
19 erations.

20 (3) INCREASE IN INTERIM OPERATING AUTHOR-  
21 ITY.—The Administrator and the Secretary may in-  
22 crease the interim operating authority while an air  
23 tour management plan is being developed for a park  
24 if—



1 (A) the Secretary determines that such an  
2 increase does not adversely impact park re-  
3 sources or visitor experiences; and

4 (B) the Administrator determines that  
5 granting interim operating authority does not  
6 adversely affect aviation safety or the manage-  
7 ment of the national airspace system.

8 (4) ENFORCEMENT OF OPERATING AUTHOR-  
9 ITY.—The Administrator is authorized and directed  
10 to enforce the requirements of this Act and any  
11 agency rules or regulations related to operating au-  
12 thority.

13 **SEC. 710. PHASEOUT OF STAGE 1 AND 2 AIRCRAFT.**

14 (a) IN GENERAL.—Subchapter II of chapter 475 is  
15 amended by adding at the end the following:

16 **“§47534. Prohibition on operating certain aircraft**  
17 **weighing 75,000 pounds or less not com-**  
18 **plying with Stage 3 noise levels**

19 “(a) PROHIBITION.—Except as provided in sub-  
20 section (b), (c), or (d), a person may not operate a civil  
21 subsonic turbojet with a maximum weight of 75,000  
22 pounds or less to or from an airport in the United States  
23 unless the Secretary of Transportation finds that the air-  
24 craft complies with stage 3 noise levels.

1           “(b) EXCEPTION.—Subsection (a) shall not apply to  
2 aircraft operated only outside the 48 contiguous States.

3           “(c) OPT-OUT.—Subsection (a) shall not apply at an  
4 airport where the airport operator has notified the Sec-  
5 retary that it wants to continue to permit the operation  
6 of civil subsonic turbojets with a maximum weight of  
7 75,000 pounds or less that do not comply with stage 3  
8 noise levels. The Secretary shall post the notices received  
9 under this subsection on its website or in another place  
10 easily accessible to the public.

11           “(d) LIMITATION.—The Secretary shall permit a per-  
12 son to operate Stage 1 and Stage 2 aircraft with a max-  
13 imum weight of 75,000 pounds or less to or from an air-  
14 port in the contiguous 48 States in order—

15           “(1) to sell, lease, or use the aircraft outside  
16 the 48 contiguous States;

17           “(2) to scrap the aircraft;

18           “(3) to obtain modifications to the aircraft to  
19 meet stage 3 noise levels;

20           “(4) to perform scheduled heavy maintenance  
21 or significant modifications on the aircraft at a  
22 maintenance facility located in the contiguous 48  
23 states;

1           “(5) to deliver the aircraft to an operator leas-  
2           ing the aircraft from the owner or return the air-  
3           craft to the lessor;

4           “(6) to prepare or park or store the aircraft in  
5           anticipation of any of the activities described in  
6           paragraphs (1) through (5); or

7           “(7) to divert the aircraft to an alternative air-  
8           port in the 48 contiguous States on account of  
9           weather, mechanical, fuel air traffic control or other  
10          safety reasons while conducting a flight in order to  
11          perform any of the activities described in paragraphs  
12          (1) through (6).

13          “(e) STATUTORY CONSTRUCTION.—Nothing in the  
14          section may be construed as interfering with, nullifying,  
15          or otherwise affecting determinations made by the Federal  
16          Aviation Administration, or to be made by the Administra-  
17          tion, with respect to applications under part 161 of title  
18          14, Code of Federal Regulations, that were pending on  
19          the date of enactment of the Aircraft Noise Reduction Act  
20          of 2006.”.

21          (b) CONFORMING AMENDMENTS.—

22                 (1) Section 47531 is amended by striking  
23                 “47529, or 47530” and inserting “47529, 47530, or  
24                 47534”.

1           (2) Section 47532 is amended by striking  
2           “47528-47531” and inserting “47528 through  
3           47531 or 47534”.

4           (3) The chapter analysis for chapter 475 is  
5           amended by inserting after the item relating to sec-  
6           tion 47533 the following:

          “47534. Prohibition on operating certain aircraft weighing 75,000 pounds or  
          less not complying with stage 3 noise levels”.

7           (c) EFFECTIVE DATE.—The amendments made by  
8           this section shall take effect 5 years after the date of en-  
9           actment of this Act.

10   **SEC. 711. WEIGHT RESTRICTIONS AT TETERBORO AIRPORT.**

11           On and after the date of the enactment of this Act,  
12           the Administrator of the Federal Aviation Administration  
13           is prohibited from taking actions designed to challenge or  
14           influence weight restrictions or prior permission rules at  
15           Teterboro Airport in Teterboro, New Jersey.

16   **SEC. 712. PILOT PROGRAM FOR REDEVELOPMENT OF AIR-**  
17                                   **PORT PROPERTIES.**

18           (a) IN GENERAL.—Within 1 year after the date of  
19           enactment of this Act, the Administrator of the Federal  
20           Aviation Administration shall establish a pilot program at  
21           up to 4 public-use airports for airport sponsors that have  
22           submitted a noise compatibility program to the Federal  
23           Aviation Administration, from funds apportioned under  
24           section 47504 or section 40117 of title 49, United States

1 Code, in partnership with affected neighboring local juris-  
2 dictions, to support joint planning, engineering design,  
3 and environmental permitting for the assembly and rede-  
4 velopment of property purchased with noise mitigation  
5 funds or passenger facility charge funds, to encourage air-  
6 port-compatible land uses and generate economic benefits  
7 to the local airport authority and adjacent community.

8 (b) NOISE COMPATABILITY MEASURES.—Section  
9 47504(a)(2) is amended—

10 (1) by striking “and” after the semicolon in  
11 subparagraph (D);

12 (2) by striking “operations.” in subparagraph  
13 (E) and inserting “operations;”; and

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

15 “(F) joint comprehensive land use planning in-  
16 cluding master plans, traffic studies, environmental  
17 evaluation and economic and feasibility studies, with  
18 neighboring local jurisdictions undertaking commu-  
19 nity redevelopment in the area where the land or  
20 other property interests acquired by the airport op-  
21 erator pursuant to this subsection is located, to en-  
22 courage and enhance redevelopment opportunities  
23 that reflect zoning and uses that will prevent the in-  
24 troduction of additional incompatible uses and en-  
25 hance redevelopment potential; and

1           “(G) utility upgrades and other site preparation  
2           efforts.”.

3           (c) GRANT REQUIREMENTS.—The Administrator  
4 may not make a grant under subsection (a) unless the  
5 grant is made—

6           (1) to enable the airport operator and local ju-  
7           risdictions undertaking the community redevelop-  
8           ment effort to expedite redevelopment efforts;

9           (2) subject to a requirement that the local juris-  
10          diction governing the property interests in question  
11          has adopted zoning regulations that permit airport  
12          compatible redevelopment; and

13          (3) subject to a requirement that, in deter-  
14          mining the part of the proceeds from disposing of  
15          the land that is subject to repayment or reinvest-  
16          ment under section 47107(c)(2)(A) of title 49,  
17          United States Code, the total amount of the grant  
18          issued under this section shall be added to the  
19          amount of any grants issued for acquisition of land.

20          (d) DEMONSTRATION GRANTS.—

21          (1) IN GENERAL.—The Administrator shall pro-  
22          vide grants under subsection (a) for demonstration  
23          projects distributed geographically and targeted to  
24          airports that demonstrate—

1 (A) a readiness to implement cooperative  
2 land use management and redevelopment plans  
3 with the adjacent community; and

4 (B) the probability of clear economic ben-  
5 efit to the local community and financial return  
6 to the airport through the implementation of  
7 the redevelopment plan.

8 (2) FEDERAL SHARE.—

9 (A) Notwithstanding any other provision of  
10 law, the Federal share of the allowable costs of  
11 a project carried out under the pilot program  
12 shall be 80 percent.

13 (B) In determining the allowable costs, the  
14 Administrator shall deduct from the total costs  
15 of the activities described in subsection (a) that  
16 portion of the costs which is equal to that por-  
17 tion of the total property to be redeveloped  
18 under this section that is not owned or to be ac-  
19 quired by the airport operator pursuant to the  
20 noise compatibility program or that is not  
21 owned by the affected neighboring local juris-  
22 dictions or other public entities.

23 (3) MAXIMUM AMOUNT.—Not more than  
24 \$5,000,000 in funds made available under section  
25 47117(e) of title 49, United States Code, may be ex-

1           pended under the pilot program at any single public-  
2           use airport.

3           (4) EXCEPTION.—Amounts paid to the Admin-  
4           istrator under subsection (c)(3)—

5                   (A) shall be in addition to amounts author-  
6                   ized under section 48203 of title 49, United  
7                   States Code;

8                   (B) shall not be subject to any limitation  
9                   on grant obligations for any fiscal year; and

10                   (C) shall remain available until expended.

11           (e) USE OF PASSENGER REVENUE.—An airport  
12           sponsor that owns or operates an airport participating in  
13           the pilot program may use passenger facility revenue col-  
14           lected under section 40117 of title 49, United States Code,  
15           to pay any project cost described in subsection (a) that  
16           is not financed by a grant under the program.

17           (f) SUNSET.—This section, other than the amend-  
18           ments made by subsections (b), shall not be in effect after  
19           September 30, 2011.

20           (g) REPORT TO CONGRESS.—The Administrator shall  
21           report to Congress within 18 months after making the  
22           first grant under this section on the effectiveness of this  
23           program on returning Part 150 lands to productive use.



1 **SEC. 713. AIR CARRIAGE OF INTERNATIONAL MAIL.**

2 (a) CONTRACTING AUTHORITY.—Section 5402 of  
3 title 39, United States Code, is amended by striking sub-  
4 sections (b) and (c) and inserting the following:

5 “(b) INTERNATIONAL MAIL.—

6 “(1) IN GENERAL.—

7 “(A) Except as otherwise provided in this  
8 subsection, the Postal Service may contract for  
9 the transportation of mail by aircraft between  
10 any of the points in foreign air transportation  
11 only with certificated air carriers. A contract  
12 may be awarded to a certificated air carrier to  
13 transport mail by air between any of the points  
14 in foreign air transportation that the Secretary  
15 of Transportation has authorized the carrier to  
16 serve either directly or through a code-share re-  
17 lationship with one or more foreign air carriers.

18 “(B) If the Postal Service has sought of-  
19 fers or proposals from certificated air carriers  
20 to transport mail in foreign air transportation  
21 between points, or pairs of points within a geo-  
22 graphic region or regions, and has not received  
23 offers or proposals that meet Postal Service re-  
24 quirements at a fair and reasonable price from  
25 at least 2 such carriers, the Postal Service may  
26 seek offers or proposals from foreign air car-

1           riers. Where service in foreign air transpor-  
2           tation meeting the Postal Service's require-  
3           ments is unavailable at a fair and reasonable  
4           price from at least 2 certificated air carriers, ei-  
5           ther directly or through a code-share relation-  
6           ship with one or more foreign air carriers, the  
7           Postal Service may contract with foreign air  
8           carriers to provide the service sought if, when  
9           the Postal Service seeks offers or proposals  
10          from foreign air carriers, it also seeks an offer  
11          or proposal to provide that service from any  
12          certificated air carrier providing service between  
13          those points, or pairs of points within a geo-  
14          graphic region or regions, on the same terms  
15          and conditions that are being sought from for-  
16          eign air carriers.

17                 “(C) For purposes of this subsection, the  
18                 Postal Service shall use a methodology for de-  
19                 termining fair and reasonable prices for the  
20                 Postal Service designated region or regions de-  
21                 veloped in consultation with, and with the con-  
22                 currence of, certificated air carriers rep-  
23                 resenting at least 51 percent of available ton  
24                 miles in the markets of interest.

1           “(D) For purposes of this subsection, ceil-  
2           ing prices determined pursuant to the method-  
3           ology used under subparagraph (C) shall be  
4           presumed to be fair and reasonable if they do  
5           not exceed the ceiling prices derived from—

6                   “(i) a weighted average based on mar-  
7                   ket rate data furnished by the Inter-  
8                   national Air Transport Association or a  
9                   subsidiary unit thereof; or

10                   “(ii) if such data are not available  
11                   from those sources, such other neutral,  
12                   regularly updated set of weighted average  
13                   market rates as the Postal Service, with  
14                   the concurrence of certificated air carriers  
15                   representing at least 51 percent of avail-  
16                   able ton miles in the markets of interest,  
17                   may designate.

18           “(E) If, for purposes of subparagraph  
19           (D)(ii), concurrence cannot be attained, then  
20           the most recently available market rate data de-  
21           scribed in this subparagraph shall continue to  
22           apply for the relevant market or markets.

23           “(2) CONTRACT PROCESS.—The Postal Service  
24           shall contract for foreign air transportation as set

1       forth in paragraph (1) through an open procurement  
2       process that will provide—

3               “(A) potential offerors with timely notice  
4               of business opportunities in sufficient detail to  
5               allow them to make a proposal;

6               “(B) requirements, proposed terms and  
7               conditions, and evaluation criteria to potential  
8               offerors; and

9               “(C) an opportunity for unsuccessful  
10              offerors to receive prompt feedback upon re-  
11              quest.

12             “(3) EMERGENCY OR UNANTICIPATED CONDI-  
13             TIONS; INADEQUATE LIFT SPACE.—The Postal Serv-  
14             ice may enter into contracts to transport mail by air  
15             in foreign air transportation with a certificated air  
16             carrier or a foreign air carrier without complying  
17             with the requirements of paragraphs (b)(1) and (2)  
18             if—

19               “(A) emergency or unanticipated condi-  
20               tions exist that make it impractical for the  
21               Postal Service to comply with such require-  
22               ments; or

23               “(B) its demand for lift exceeds the space  
24               available to it under existing contracts and—

1           “(i) there is insufficient time available  
2           to seek additional lift using procedures  
3           that comply with those requirements with-  
4           out compromising the Postal Service’s  
5           service commitments to its own customers;  
6           and

7           “(ii) the Postal Service first offers  
8           any certificated air carrier holding a con-  
9           tract to carry mail between the relevant  
10          points the opportunity to carry such excess  
11          volumes under the terms of its existing  
12          contract.

13          “(c) GOOD FAITH EFFORT REQUIRED.—The Postal  
14          Service and potential offerors shall put a good-faith effort  
15          into resolving disputes concerning the award of contracts  
16          made under subsection (b).”.

17          (b) CONFORMING AMENDMENTS TO TITLE 49.—

18                 (1) Section 41901(a) is amended by striking  
19                 “39.” and inserting “39, and in foreign air trans-  
20                 portation under section 5402(b) and (c) of title 39.”.

21                 (2) Section 41901(b)(1) is amended by striking  
22                 “in foreign air transportation or”.

23                 (3) Section 41902 is amended—

24                         (A) by striking “in foreign air transpor-  
25                         tation or” in subsection (a);

1 (B) by striking subsection (b) and insert-  
2 ing the following:

3 “(b) STATEMENTS ON PLACES AND SCHEDULES.—

4 Every air carrier shall file with the United States Postal  
5 Service a statement showing—

6 “(1) the places between which the carrier is au-  
7 thorized to transport mail in Alaska;

8 “(2) every schedule of aircraft regularly oper-  
9 ated by the carrier between places described in para-  
10 graph (1) and every change in each schedule; and

11 “(3) for each schedule, the places served by the  
12 carrier and the time of arrival at, and departure  
13 from, each such place.”;

14 (C) by striking “subsection (b)(3)” each  
15 place it appears in subsections (c)(1) and (d)  
16 and inserting “subsection (b)(2)”;

17 (D) by striking subsections (e) and (f).

18 (4) Section 41903 is amended by striking “in  
19 foreign air transportation or” each place it appears.

20 (5) Section 41904 is amended—

21 (A) by striking “**to or in foreign**  
22 **countries**” in the section heading;

23 (B) by striking “to or in a foreign coun-  
24 try” and inserting “between two points outside  
25 the United States”; and

1 (C) by insertring after “transportation.”  
2 the following: “Nothing in this section shall af-  
3 fect the authority of the Postal Service to make  
4 arrangements with noncitizens for the carriage  
5 of mail in foreign air transportation under sub-  
6 sections 5402(b) and (c) of title 39.”.

7 (6) Section 41910 is amended by striking the  
8 first sentence and inserting “The United States  
9 Postal Service may weigh mail transported by air-  
10 craft between places in Alaska and make statistical  
11 and administrative computations necessary in the in-  
12 terest of mail service.”.

13 (7) Chapter 419 is amended—

14 (A) by striking sections 41905, 41907,  
15 41908, and 41911; and

16 (B) redesignating sections 41906, 41909,  
17 41910, and 49112 as sections 41905, 41906,  
18 41907, and 41908, respectively.

19 (8) The chapter analysis for chapter 419 is  
20 amended by redesignating the items relating to sec-  
21 tions 41906, 41909, 41910, and 49112 as relating  
22 to sections 41905, 41906, 41907, and 41908, re-  
23 spectively.

24 (9) Section 101(f) of title 39, United States  
25 Code, is amended by striking “mail and shall make

1 a fair and equitable distribution of mail business to  
2 carriers providing similar modes of transportation  
3 services to the Postal Service.” and inserting  
4 “mail.”.

5 (9) Subsections (b) and (c) of section 3401 of  
6 title 39, United States Code, are amended—

7 (A) by striking “at rates fixed and deter-  
8 mined by the Secretary of Transportation in ac-  
9 cordance with section 41901 of title 49” and in-  
10 serting “or, for carriage of mail in foreign air  
11 transportation, other air carriers, air taxi oper-  
12 ators or foreign air carriers as permitted by  
13 section 5402 of this title”;

14 (B) by striking “at rates not to exceed  
15 those so fixed and determined for scheduled  
16 United States air carriers”;

17 (C) by striking “scheduled” each place it  
18 appears and inserting “certificated”; and

19 (D) by striking the last sentence in each  
20 such subsection.

21 (10) Section 5402(a) of title 39, United States  
22 Code, is amended—

23 (A) by inserting “ ‘foreign air carrier’.  
24 ” after “ ‘interstate air transportation’, ” in  
25 paragraph (2);



1 (B) by redesignating paragraphs (7)  
2 through (23) as paragraphs (8) through (24)  
3 and inserting after paragraph (6) the following:

4 “(7) the term ‘certificated air carrier’ means an  
5 air carrier that holds a certificate of public conven-  
6 ience and necessity issued under section 41102(a) of  
7 title 49;” and

8 (C) by redesignating paragraphs (9)  
9 through (24), as redesignated, as paragraphs  
10 (10) through (25), respectively, and inserting  
11 after paragraph (8) the following:

12 “(9) the term ‘code-share relationship’ means a  
13 relationship pursuant to which any certificated air  
14 carrier or foreign air carrier’s designation code is  
15 used to identify a flight operated by another air car-  
16 rier or foreign air carrier;”.

17 (c) EFFECTIVE DATE.—The amendments made by  
18 this section shall take effect on October 1, 2008.

19 **SEC. 714. TRANSPORTING MUSICAL INSTRUMENTS.**

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

22 **“§ 41724. Musical instruments**

23 “(a) IN GENERAL.—

24 “(1) SMALL INSTRUMENTS AS CARRY-ON BAG-  
25 GAGE.—An air carrier providing air transportation

1 shall permit a passenger to carry a violin, guitar, or  
2 other musical instrument in the aircraft cabin with-  
3 out charge if—

4 “(A) the instrument can be stowed safely  
5 in a suitable baggage compartment in the air-  
6 craft cabin or under a passenger seat; and

7 “(B) there is space for such stowage at the  
8 time the passenger boards the aircraft.

9 “(2) LARGER INSTRUMENTS AS CARRY-ON BAG-  
10 GAGE.—An air carrier providing air transportation  
11 shall permit a passenger to carry a musical instru-  
12 ment that is too large to meet the requirements of  
13 paragraph (1) in the aircraft cabin without charge  
14 if—

15 “(A) the instrument is contained in a case  
16 or covered so as to avoid injury to other pas-  
17 sengers;

18 “(B) the weight of the instrument, includ-  
19 ing the case or covering, does not exceed 165  
20 pounds;

21 “(C) the instrument can be secured by a  
22 seat belt to avoid shifting during flight;

23 “(D) the instrument does not restrict ac-  
24 cess to, or use of, any required emergency exit,  
25 regular exit, or aisle;

1           “(E) the instrument does not obscure any  
2           passenger’s view of any illuminated exit, warn-  
3           ing, or other informational sign;

4           “(F) neither the instrument nor the case  
5           contains any object not otherwise permitted to  
6           be carried in an aircraft cabin because of a law  
7           or regulation of the United States; and

8           “(G) the passenger wishing to carry the in-  
9           strument in the aircraft cabin has purchased an  
10          additional seat to accommodate the instrument.

11          “(3) LARGE INSTRUMENTS AS CHECKED BAG-  
12          GAGE.—An air carrier shall transport as baggage,  
13          without charge, a musical instrument that is the  
14          property of a passenger traveling in air transpor-  
15          tation that may not be carried in the aircraft cabin  
16          if—

17                 “(A) the sum of the length, width, and  
18                 height measured in inches of the outside linear  
19                 dimensions of the instrument (including the  
20                 case) does not exceed 120 inches; and

21                 “(B) the weight of the instrument does not  
22                 exceed 100 pounds.

23          “(b) REGULATIONS.—The Secretary may prescribe  
24          such regulations as may be necessary or appropriate to  
25          implement subsection (a).”.

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

“41724. Musical instruments”.

4 (c) EFFECTIVE DATE.—The amendments made by  
5 this section shall take effect 30 days after the date of en-  
6 actment of this Act.

7 **SEC. 715. RECYCLING PLANS FOR AIRPORTS.**

8 (a) AIRPORT PLANNING.—section 47102(5) is  
9 amended by striking “planning.” and inserting “planning  
10 and a plan for recycling and minimizing the generation  
11 of airport solid waste, consistent with applicable State and  
12 local recycling laws, including the cost of a waste audit.”.

13 (b) MASTER PLAN.—Section 47106(a) is amended—

14 (1) by striking “and” at the end of paragraph

15 (4);

16 (2) by striking “proposed.” in paragraph (5)

17 and inserting “proposed; and”; and

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

19 “(6) if the project is for an airport that has an  
20 airport master plan, the master plan addresses—

21 “(A) the feasibility of solid waste recycling  
22 at the airport;

23 “(B) minimizing the generation of solid  
24 waste at the airport;

1           “(C) operation and maintenance require-  
2           ments;

3           “(D) the review of waste management con-  
4           tracts;

5           “(E) the potential for cost savings or the  
6           generation of revenue; and

7           “(F) training and education require-  
8           ments.”.

9   **SEC. 716. CONSUMER INFORMATION PAMPHLET.**

10        Within 6 months after the date of enactment of this  
11    Act, the Secretary of Transportation shall develop and  
12    make available to the public in written and electronic form  
13    a consumer and parental information pamphlet that in-  
14    cludes—

15           (1) a summary of the unaccompanied minor  
16    policies of major air carriers serving United States  
17    airports;

18           (2) a summary of such carriers’ policies per-  
19    taining to passenger air travel by children aged 17  
20    and under;

21           (3) recommendations to parents about who the  
22    appropriate authorities are to notify if a minor is  
23    traveling unsupervised and without parental consent  
24    on a major air carrier; and

1 (4) any additional recommendations the Sec-  
2 retary deems appropriate or necessary.

3 **TITLE VIII—AMERICAN INFRA-**  
4 **STRUCTURE INVESTMENT**  
5 **AND IMPROVEMENT**

6 **SECTION 800. SHORT TITLE, ETC.**

7 (a) SHORT TITLE; AMENDMENT OF 1986 CODE.—  
8 This title may be cited as the “American Infrastructure  
9 Investment and Improvement Act of 2008”.

10 (b) AMENDMENT OF 1986 CODE.—Except as other-  
11 wise expressly provided, whenever in this title an amend-  
12 ment or repeal is expressed in terms of an amendment  
13 to, or repeal of, a section or other provision, the reference  
14 shall be considered to be made to a section or other provi-  
15 sion of the Internal Revenue Code of 1986.

16 **Subtitle A—Airport and Airway**  
17 **Trust Fund Provisions and Re-**  
18 **lated Taxes**

19 **SEC. 801. EXTENSION OF TAXES FUNDING AIRPORT AND**  
20 **AIRWAY TRUST FUND.**

21 (a) FUEL TAXES.—Subparagraph (B) of section  
22 4081(d)(2) is amended by striking “June 30, 2008” and  
23 inserting “September 30, 2011”.

24 (b) TICKET TAXES.—

1           (1) PERSONS.—Clause (ii) of section  
2           4261(j)(1)(A) is amended by striking “June 30,  
3           2008” and inserting “September 30, 2011”.

4           (2) PROPERTY.—Clause (ii) of section  
5           4271(d)(1)(A) is amended by striking “June 30,  
6           2008” and inserting “September 30, 2011”.

7           (c) EFFECTIVE DATE.—The amendments made by  
8           this section shall take effect on July 1, 2008.

9   **SEC. 802. EXTENSION OF AIRPORT AND AIRWAY TRUST**  
10                           **FUND EXPENDITURE AUTHORITY.**

11           (a) IN GENERAL.—Paragraph (1) of section 9502(d)  
12           is amended—

13                   (1) by striking “July 1, 2008” in the matter  
14                   preceding subparagraph (A) and inserting “October  
15                   1, 2011”, and

16                   (2) by striking the semicolon at the end of sub-  
17                   paragraph (A) and inserting “or the Aviation Invest-  
18                   ment and Modernization Act of 2008;”.

19           (b) CONFORMING AMENDMENT.—Paragraph (2) of  
20           section 9502(e) is amended by striking “July 1, 2008”  
21           and inserting “October 1, 2011”.

22           (c) EFFECTIVE DATE.—The amendments made by  
23           this section shall take effect on July 1, 2008.

1 **SEC. 803. MODIFICATION OF EXCISE TAX ON KEROSENE**  
2 **USED IN AVIATION.**

3 (a) RATE OF TAX ON AVIATION-GRADE KER-  
4 OSENE.—

5 (1) IN GENERAL.—Subparagraph (A) of section  
6 4081(a)(2) (relating to rates of tax) is amended by  
7 striking “and” at the end of clause (ii), by striking  
8 the period at the end of clause (iii) and inserting “,  
9 and”, and by adding at the end the following new  
10 clause:

11 “(iv) in the case of aviation-grade ker-  
12 osene, 35.9 cents per gallon.”.

13 (2) FUEL REMOVED DIRECTLY INTO FUEL  
14 TANK OF AIRPLANE USED IN NONCOMMERCIAL AVIA-  
15 TION.—Subparagraph (C) of section 4081(a)(2) is  
16 amended to read as follows:

17 “(C) TAXES IMPOSED ON FUEL USED IN  
18 COMMERCIAL AVIATION.—In the case of avia-  
19 tion-grade kerosene which is removed from any  
20 refinery or terminal directly into the fuel tank  
21 of an aircraft for use in commercial aviation by  
22 a person registered for such use under section  
23 4101, the rate of tax under subparagraph  
24 (A)(iv) shall be 4.3 cents per gallon.”.



1           (3) EXEMPTION FOR AVIATION-GRADE KER-  
2           OSENE REMOVED INTO AN AIRCRAFT.—Subsection  
3           (e) of section 4082 is amended—

4                   (A) by striking “kerosene” and inserting  
5                   “aviation-grade kerosene”,

6                   (B)       by       striking       “section  
7                   4081(a)(2)(A)(iii)” and inserting “section  
8                   4081(a)(2)(A)(iv)”, and

9                   (C) by striking “KEROSENE” in the head-  
10                  ing and inserting “AVIATION-GRADE KER-  
11                  OSENE”.

12           (4) CONFORMING AMENDMENTS.—

13                   (A) Clause (iii) of section 4081(a)(2)(A) is  
14                   amended by inserting “other than aviation-  
15                   grade kerosene” after “kerosene”.

16                   (B) The following provisions are each  
17                   amended by striking “kerosene” and inserting  
18                   “aviation-grade kerosene”:

19                           (i) Section 4081(a)(3)(A)(ii).

20                           (ii) Section 4081(a)(3)(A)(iv).

21                           (iii) Section 4081(a)(3)(D).

22                   (C) Section 4081(a)(3)(D) is amended—

23                           (i) by striking “paragraph (2)(C)(i)”  
24                   in clause (i) and inserting “paragraph  
25                   (2)(C)”, and

1 (ii) by striking “paragraph (2)(C)(ii)”  
2 in clause (ii) and inserting “paragraph  
3 (2)(A)(iv)”.

4 (D) Section 4081(a)(4) is amended—

5 (i) in the heading by striking “KER-  
6 OSENE” and inserting “AVIATION-GRADE  
7 KEROSENE”, and

8 (ii) by striking “paragraph (2)(C)(i)”  
9 and inserting “paragraph (2)(C)”.

10 (E) Section 4081(d)(2) is amended by  
11 striking “(a)(2)(C)(ii)” and inserting  
12 “(a)(2)(A)(iv)”.

13 (b) RETAIL TAX ON AVIATION FUEL.—

14 (1) EXEMPTION FOR PREVIOUSLY TAXED  
15 FUEL.—Paragraph (2) of section 4041(c) is amend-  
16 ed by inserting “at the rate specified in subsection  
17 (a)(2)(A)(iv) thereof” after “section 4081”.

18 (2) RATE OF TAX.—Paragraph (3) of section  
19 4041(c) is amended to read as follows:

20 “(3) RATE OF TAX.—The rate of tax imposed  
21 by this subsection shall be the rate of tax in effect  
22 under section 4081(a)(2)(A)(iv) (4.3 cents per gallon  
23 with respect to any sale or use for commercial avia-  
24 tion).”.

1 (c) REFUNDS RELATING TO AVIATION-GRADE KER-  
2 OSENE.—

3 (1) KEROSENE USED IN COMMERCIAL AVIA-  
4 TION.—Clause (ii) of section 6427(l)(4)(A) is  
5 amended by striking “specified in section 4041(e) or  
6 4081(a)(2)(A)(iii), as the case may be,” and insert-  
7 ing “so imposed”.

8 (2) KEROSENE USED IN AVIATION.—Paragraph  
9 (4) of section 6427(l) is amended—

10 (A) by striking subparagraph (B) and re-  
11 designating subparagraph (C) as subparagraph  
12 (B), and

13 (B) by amending subparagraph (B), as re-  
14 designated by subparagraph (A), to read as fol-  
15 lows:

16 “(B) PAYMENTS TO ULTIMATE, REG-  
17 ISTERED VENDOR.—With respect to any ker-  
18 osene used in aviation (other than kerosene to  
19 which paragraph (6) applies), if the ultimate  
20 purchaser of such kerosene waives (at such time  
21 and in such form and manner as the Secretary  
22 shall prescribe) the right to payment under  
23 paragraph (1) and assigns such right to the ul-  
24 timate vendor, then the Secretary shall pay  
25 (without interest) the amount which would be

1           paid under paragraph (1) to such ultimate ven-  
2           dor, but only if such ultimate vendor—

3                   “(i) is registered under section 4101,  
4                   and

5                   “(ii) meets the requirements of sub-  
6                   paragraph (A), (B), or (D) of section  
7                   6416(a)(1).”.

8           (3) AVIATION-GRADE KEROSENE NOT USED IN  
9           AVIATION.—Subsection (1) of section 6427 is amend-  
10          ed by redesignating paragraph (5) as paragraph (6)  
11          and by inserting after paragraph (4) the following  
12          new paragraph:

13                   “(5) REFUNDS FOR AVIATION-GRADE KER-  
14                   ROSENE NOT USED IN AVIATION.—If tax has been im-  
15                   posed under section 4081 at the rate specified in  
16                   section 4081(a)(2)(A)(iv) and the fuel is used other  
17                   than in an aircraft, the Secretary shall pay (without  
18                   interest) to the ultimate purchaser of such fuel an  
19                   amount equal to the amount of tax imposed on such  
20                   fuel reduced by the amount of tax that would be im-  
21                   posed under section 4041 if no tax under section  
22                   4081 had been imposed.”.

23           (4) CONFORMING AMENDMENTS.—

1 (A) Section 4082(d)(2)(B) is amended by  
2 striking “6427(l)(5)(B)” and inserting  
3 “6427(l)(6)(B)”.

4 (B) Section 6427(i)(4) is amended—

5 (i) by striking “(4)(C)” the first two  
6 places it occurs and inserting “(4)(B)”,  
7 and

8 (ii) by striking “, (l)(4)(C)(ii), and”  
9 and inserting “and”.

10 (C) The heading of section 6427(l) is  
11 amended by striking “DIESEL FUEL AND KER-  
12 OSENE” and inserting “DIESEL FUEL, KER-  
13 OSENE, AND AVIATION FUEL”.

14 (D) Section 6427(l)(1) is amended by  
15 striking “paragraph (4)(C)(i)” and inserting  
16 “paragraph (4)(B)”.

17 (E) Section 6427(l)(4) is amended—

18 (i) by striking “KEROSENE USED IN  
19 AVIATION” in the heading and inserting  
20 “AVIATION-GRADE KEROSENE USED IN  
21 COMMERCIAL AVIATION”, and

22 (ii) in subparagraph (A)—

23 (I) by striking “kerosene” and  
24 inserting “aviation-grade kerosene”,

1 (II) by striking “KEROSENE  
2 USED IN COMMERCIAL AVIATION” in  
3 the heading and inserting “IN GEN-  
4 ERAL”.

5 (d) TRANSFERS TO THE AIRPORT AND AIRWAY  
6 TRUST FUND.—

7 (1) IN GENERAL.—Subparagraph (C) of section  
8 9502(b)(1) is amended to read as follows:

9 “(C) section 4081 with respect to aviation  
10 gasoline and aviation-grade kerosene, and”.

11 (2) TRANSFERS ON ACCOUNT OF CERTAIN RE-  
12 FUNDS.—

13 (A) IN GENERAL.—Subsection (d) of sec-  
14 tion 9502 is amended—

15 (i) in paragraph (2) by striking  
16 “(other than subsection (1)(4) thereof”,  
17 and

18 (ii) in paragraph (3) by striking  
19 “(other than payments made by reason of  
20 paragraph (4) of section 6427(l))”.

21 (B) CONFORMING AMENDMENTS.—

22 (i) Section 9503(b)(4) is amended by  
23 striking “or” at the end of subparagraph  
24 (C), by striking the period at the end of  
25 subparagraph (D) and inserting a comma,

1 and by inserting after subparagraph (D)  
2 the following:

3 “(E) section 4081 to the extent attrib-  
4 utable to the rate specified in clause (ii) or (iv)  
5 of section 4081(a)(2)(A), or

6 “(F) section 4041(c).”.

7 (ii) Section 9503(e) is amended by  
8 striking the last paragraph (relating to  
9 transfers from the Trust Fund for certain  
10 aviation fuel taxes).

11 (iii) Section 9502(a) is amended—

12 (I) by striking “appropriated,  
13 credited, or paid into” and inserting  
14 “appropriated or credited to”, and

15 (II) by striking “, section  
16 9503(e)(7),”.

17 (e) EFFECTIVE DATE.—The amendments made by  
18 this section shall apply to fuels removed, entered, or sold  
19 after December 31, 2008.

20 (f) FLOOR STOCKS TAX.—

21 (1) IMPOSITION OF TAX.—In the case of avia-  
22 tion fuel which is held on January 1, 2009, by any  
23 person, there is hereby imposed a floor stocks tax on  
24 aviation fuel equal to—

1 (A) the tax which would have been imposed  
2 before such date on such fuel had the amend-  
3 ments made by this section been in effect at all  
4 times before such date, reduced by

5 (B) the sum of—

6 (i) the tax imposed before such date  
7 on such fuel under section 4081 of the In-  
8 ternal Revenue Code of 1986, as in effect  
9 on such date, and

10 (ii) in the case of kerosene held exclu-  
11 sively for such person's own use, the  
12 amount which such person would (but for  
13 this clause) reasonably expect (as of such  
14 date) to be paid as a refund under section  
15 6427(l) of such Code with respect to such  
16 kerosene.

17 (2) LIABILITY FOR TAX AND METHOD OF PAY-  
18 MENT.—

19 (A) LIABILITY FOR TAX.—A person hold-  
20 ing aviation fuel on January 1, 2009, shall be  
21 liable for such tax.

22 (B) TIME AND METHOD OF PAYMENT.—  
23 The tax imposed by paragraph (1) shall be paid  
24 at such time and in such manner as the Sec-  
25 retary of the Treasury shall prescribe.



1           (3) TRANSFER OF FLOOR STOCK TAX REVE-  
2           NUES TO TRUST FUNDS.—For purposes of deter-  
3           mining the amount transferred to the Airport and  
4           Airway Trust Fund, the tax imposed by this sub-  
5           section shall be treated as imposed by section  
6           4081(a)(2)(A)(iv) of the Internal Revenue Code of  
7           1986.

8           (4) DEFINITIONS.—For purposes of this sub-  
9           section—

10           (A) AVIATION FUEL.—The term “aviation  
11           fuel” means aviation-grade kerosene and avia-  
12           tion gasoline, as such terms are used within the  
13           meaning of section 4081 of the Internal Rev-  
14           enue Code of 1986.

15           (B) HELD BY A PERSON.—Aviation fuel  
16           shall be considered as held by a person if title  
17           thereto has passed to such person (whether or  
18           not delivery to the person has been made).

19           (C) SECRETARY.—The term “Secretary”  
20           means the Secretary of the Treasury or the  
21           Secretary’s delegate.

22           (5) EXCEPTION FOR EXEMPT USES.—The tax  
23           imposed by paragraph (1) shall not apply to any  
24           aviation fuel held by any person exclusively for any  
25           use to the extent a credit or refund of the tax is al-

1 lowable under the Internal Revenue Code of 1986  
2 for such use.

3 (6) EXCEPTION FOR CERTAIN AMOUNTS OF  
4 FUEL.—

5 (A) IN GENERAL.—No tax shall be im-  
6 posed by paragraph (1) on any aviation fuel  
7 held on January 1, 2009, by any person if the  
8 aggregate amount of such aviation fuel held by  
9 such person on such date does not exceed 2,000  
10 gallons. The preceding sentence shall apply only  
11 if such person submits to the Secretary (at the  
12 time and in the manner required by the Sec-  
13 retary) such information as the Secretary shall  
14 require for purposes of this subparagraph.

15 (B) EXEMPT FUEL.—For purposes of sub-  
16 paragraph (A), there shall not be taken into ac-  
17 count any aviation fuel held by any person  
18 which is exempt from the tax imposed by para-  
19 graph (1) by reason of paragraph (6).

20 (C) CONTROLLED GROUPS.—For purposes  
21 of this subsection—

22 (i) CORPORATIONS.—

23 (I) IN GENERAL.—All persons  
24 treated as a controlled group shall be  
25 treated as 1 person.

1 (II) CONTROLLED GROUP.—The  
2 term “controlled group” has the  
3 meaning given to such term by sub-  
4 section (a) of section 1563 of the In-  
5 ternal Revenue Code of 1986; except  
6 that for such purposes the phrase  
7 “more than 50 percent” shall be sub-  
8 stituted for the phrase “at least 80  
9 percent” each place it appears in such  
10 subsection.

11 (ii) NONINCORPORATED PERSONS  
12 UNDER COMMON CONTROL.—Under regula-  
13 tions prescribed by the Secretary, prin-  
14 ciples similar to the principles of subpara-  
15 graph (A) shall apply to a group of per-  
16 sons under common control if 1 or more of  
17 such persons is not a corporation.

18 (7) OTHER LAWS APPLICABLE.—All provisions  
19 of law, including penalties, applicable with respect to  
20 the taxes imposed by section 4081 of the Internal  
21 Revenue Code of 1986 on the aviation fuel involved  
22 shall, insofar as applicable and not inconsistent with  
23 the provisions of this subsection, apply with respect  
24 to the floor stock taxes imposed by paragraph (1) to

1 the same extent as if such taxes were imposed by  
2 such section.

3 **SEC. 804. AIR TRAFFIC CONTROL SYSTEM MODERNIZATION**  
4 **ACCOUNT.**

5 (a) IN GENERAL.—Section 9502 (relating to the Air-  
6 port and Airway Trust Fund) is amended by adding at  
7 the end the following new subsection:

8 “(g) ESTABLISHMENT OF AIR TRAFFIC CONTROL  
9 SYSTEM MODERNIZATION ACCOUNT.—

10 “(1) CREATION OF ACCOUNT.—There is estab-  
11 lished in the Airport and Airway Trust Fund a sepa-  
12 rate account to be known as the ‘Air Traffic Control  
13 System Modernization Account’ consisting of such  
14 amounts as may be transferred or credited to the  
15 Air Traffic Control System Modernization Account  
16 as provided in this subsection or section 9602(b).

17 “(2) TRANSFERS TO AIR TRAFFIC CONTROL  
18 SYSTEM MODERNIZATION ACCOUNT.—On October 1,  
19 2008, and annually thereafter, the Secretary shall  
20 transfer to the Air Traffic Control System Mod-  
21 ernization Account from amounts appropriated to  
22 the Airport and Airway Trust Fund under sub-  
23 section (b) which are attributable to taxes on avia-  
24 tion-grade kerosene an amount equal to  
25 \$400,000,000.

1           “(3) EXPENDITURES FROM ACCOUNT.—  
2       Amounts in the Air Traffic Control System Mod-  
3       ernization Account shall be available subject to ap-  
4       propriation for expenditures relating to the mod-  
5       ernization of the air traffic control system (including  
6       facility and equipment account expenditures).”.

7       (b) CONFORMING AMENDMENT.—Section 9502(d)(1)  
8       is amended by striking “Amounts” and inserting “Except  
9       as provided in subsection (g), amounts”.

10       (c) EFFECTIVE DATE.—The amendments made by  
11       this section shall take effect on the date of the enactment  
12       of this Act.

13       **SEC. 805. TREATMENT OF FRACTIONAL AIRCRAFT OWNER-**  
14                               **SHIP PROGRAMS.**

15       (a) FUEL SURTAX.—

16               (1) IN GENERAL.—Subchapter B of chapter 31  
17       is amended by adding at the end the following new  
18       section:

19       **“SEC. 4043. SURTAX ON FUEL USED IN AIRCRAFT PART OF**  
20                               **A FRACTIONAL OWNERSHIP PROGRAM.**

21       “(a) IN GENERAL.—There is hereby imposed a tax  
22       on any liquid used during any calendar quarter by any  
23       person as a fuel in an aircraft which is—

24               “(1) registered in the United States, and

1           “(2) part of a fractional ownership aircraft pro-  
2           gram.

3           “(b) AMOUNT OF TAX.—The rate of tax imposed by  
4           subsection (a) is 14.1 cents per gallon.

5           “(c) FRACTIONAL OWNERSHIP AIRCRAFT PRO-  
6           GRAM.—For purposes of this section—

7           “(1) IN GENERAL.—The term ‘fractional owner-  
8           ship aircraft program’ means a program under  
9           which—

10           “(A) a single fractional ownership program  
11           manager provides fractional ownership program  
12           management services on behalf of the fractional  
13           owners,

14           “(B) 2 or more airworthy aircraft are part  
15           of the program,

16           “(C) there are 1 or more fractional owners  
17           per program aircraft, with at least 1 program  
18           aircraft having more than 1 owner,

19           “(D) each fractional owner possesses at  
20           least a minimum fractional ownership interest  
21           in 1 or more program aircraft,

22           “(E) there exists a dry-lease exchange ar-  
23           rangement among all of the fractional owners,  
24           and

1           “(F) there are multi-year program agree-  
2           ments covering the fractional ownership, frac-  
3           tional ownership program management services,  
4           and dry-lease aircraft exchange aspects of the  
5           program.

6           “(2) MINIMUM FRACTIONAL OWNERSHIP INTER-  
7           EST.—The term ‘minimum fractional ownership in-  
8           terest’ means, with respect to each type of aircraft—

9                   “(A) a fractional ownership interest equal  
10                  to or greater than  $\frac{1}{16}$  of at least 1 subsonic,  
11                  fixed wing or powered lift program aircraft, or

12                   “(B) a fractional ownership interest equal  
13                  to or greater than  $\frac{1}{32}$  of a least 1 rotorcraft  
14                  program aircraft.

15           “(3) DRY-LEASE EXCHANGE ARRANGEMENT.—  
16           A ‘dry-lease aircraft exchange’ means an agreement,  
17           documented by the written program agreements,  
18           under which the program aircraft are available, on  
19           an as needed basis without crew, to each fractional  
20           owner.

21           “(d) TERMINATION.—This section shall not apply to  
22           liquids used as a fuel in an aircraft after September 30,  
23           2011.”.

24           (2) CONFORMING AMENDMENT.—Section  
25           4082(e) is amended by inserting “(other than an

1 aircraft described in section 4043(a))” after “an air-  
2 craft”.

3 (3) TRANSFER OF REVENUES TO AIRPORT AND  
4 AIRWAY TRUST FUND.—Section 9502(b)(1) is  
5 amended by redesignating subparagraphs (B) and  
6 (C) as subparagraphs (C) and (D), respectively, and  
7 by inserting after subparagraph (A) the following  
8 new subparagraph:

9 “(B) section 4043 (relating to surtax on  
10 fuel used in aircraft part of a fractional owner-  
11 ship program),”.

12 (4) CLERICAL AMENDMENT.—The table of sec-  
13 tions for subchapter B of chapter 31 is amended by  
14 adding at the end the following new item:

“Sec. 4043. Surtax on fuel used in aircraft part of a fractional ownership pro-  
gram.”.

15 (b) FRACTIONAL OWNERSHIP PROGRAMS TREATED  
16 AS NON-COMMERCIAL AVIATION.—Subsection (b) of sec-  
17 tion 4083 is amended by adding at the end the following  
18 new sentence: “Such term shall not include the use of any  
19 aircraft which is part of a fractional ownership aircraft  
20 program (as defined by section 4043(c)).”.

21 (c) EXEMPTION FROM TAX ON TRANSPORTATION OF  
22 PERSONS.—Section 4261, as amended by this Act, is  
23 amended by redesignating subsection (j) as subsection (k)



1 and by inserting after subsection (i) the following new sub-  
2 section:

3 “(j) EXEMPTION FOR AIRCRAFT IN FRACTIONAL  
4 OWNERSHIP AIRCRAFT PROGRAMS.—No tax shall be im-  
5 posed by this section or section 4271 on any air transpor-  
6 tation by an aircraft which is part of a fractional owner-  
7 ship aircraft program (as defined by section 4043(c)).”.

8 (d) EFFECTIVE DATES.—

9 (1) SUBSECTION (a).—The amendments made  
10 by subsections (a) shall apply to fuel used after De-  
11 cember 31, 2008.

12 (2) SUBSECTION (b).—The amendment made  
13 by subsection (b) shall apply to uses of aircraft after  
14 December 31, 2008.

15 (3) SUBSECTION (c).—The amendments made  
16 by subsection (c) shall apply to taxable transpor-  
17 tation provided after December 31, 2008.

18 **SEC. 806. TERMINATION OF EXEMPTION FOR SMALL AIR-**  
19 **CRAFT ON NONESTABLISHED LINES.**

20 (a) IN GENERAL.—Section 4281 is amended to read  
21 as follows:

22 **“SEC. 4281. SMALL AIRCRAFT OPERATED SOLELY FOR**  
23 **SIGHTSEEING.**

24 “The taxes imposed by sections 4261 and 4271 shall  
25 not apply to transportation by an aircraft having a max-

1 imum certificated takeoff weight of 6,000 pounds or less  
2 at any time during which such aircraft is being operated  
3 on a flight the sole purpose of which is sightseeing. For  
4 purposes of the preceding sentence, the term ‘maximum  
5 certificated takeoff weight’ means the maximum such  
6 weight contained in the type certificate or airworthiness  
7 certificate.”.

8 (b) CONFORMING AMENDMENT.—The item relating  
9 to section 4281 in the table of sections for part III of  
10 subchapter C of chapter 33 is amended by striking “on  
11 nonestablished lines” and inserting “operated solely for  
12 sightseeing”.

13 (c) EFFECTIVE DATE.—The amendments made by  
14 this section shall apply to taxable transportation provided  
15 after December 31, 2008.

16 **SEC. 807. TRANSPARENCY IN PASSENGER TAX DISCLO-**  
17 **SURES.**

18 (a) IN GENERAL.—Section 7275 (relating to penalty  
19 for offenses relating to certain airline tickets and adver-  
20 tising) is amended—

21 (1) by redesignating subsection (c) as sub-  
22 section (d),

23 (2) by striking “subsection (a) or (b)” in sub-  
24 section (d), as so redesignated, and inserting “sub-  
25 section (a), (b), or (c)”, and

1           (3) by inserting after subsection (b) the fol-  
2           lowing new subsection:

3           “(c) NON-TAX CHARGES.—

4           “(1) IN GENERAL.—In the case of transpor-  
5           tation by air for which disclosure on the ticket or  
6           advertising for such transportation of the amounts  
7           paid for passenger taxes is required by subsection  
8           (a)(2) or (b)(1)(B), it shall be unlawful for the dis-  
9           closure of the amount of such taxes on such ticket  
10          or advertising to include any amounts not attrib-  
11          utable to the taxes imposed by subsection (a), (b),  
12          or (c) of section 4261.

13          “(2) INCLUSION IN TRANSPORTATION COST.—

14          Nothing in this subsection shall prohibit the inclu-  
15          sion of amounts not attributable to the taxes im-  
16          posed by subsection (a), (b), or (c) of section 4261  
17          in the disclosure of the amount paid for transpor-  
18          tation as required by subsection (a)(1) or (b)(1)(A),  
19          or in a separate disclosure of amounts not attrib-  
20          utable to such taxes.”.

21          (b) EFFECTIVE DATE.—The amendments made by  
22          this section shall apply to taxable transportation provided  
23          after December 31, 2008.

1 **SEC. 808. REQUIRED FUNDING OF NEW ACCRUALS UNDER**  
2 **AIR CARRIER PENSION PLANS.**

3 (a) IN GENERAL.—Section 402(a) of the Pension  
4 Protection Act of 2006, as amended by section 6615(a)  
5 of the U. S. Troop Readiness, Veterans' Care, Katrina Re-  
6 covery, and Iraq Accountability Appropriations Act, 2007  
7 (Public Law 110–28), is amended—

8 (1) in paragraph (2)—

9 (A) by striking “to its first taxable year  
10 beginning in 2008”,

11 (B) by striking “for such taxable year”  
12 and inserting “for its first plan year beginning  
13 in 2008”, and

14 (C) by striking “and by using, in deter-  
15 mining the funding target for each of the 10  
16 plan years during such period, an interest rate  
17 of 8.25 percent (rather than the segment rates  
18 calculated on the basis of the corporate bond  
19 yield curve)”, and

20 (2) by adding at the end the following new  
21 flush matter:

22 “If the plan sponsor of an eligible plan elects the applica-  
23 tion of paragraph (2), the plan sponsor may also elect,  
24 in determining the funding target for each of the 10 plan  
25 years during the period described in paragraph (2), to use  
26 an interest rate of 8.25 percent (rather than the segment

1 rates calculated on the basis of the corporate bond yield  
2 curve). Notwithstanding the preceding sentence, in the  
3 case of any plan year of the eligible plan for which such  
4 8.25 percent interest rate is used, the minimum required  
5 contribution under section 303 of such Act and section  
6 430 of such Code shall in no event be less than the target  
7 normal cost of the plan for such plan year (as determined  
8 under section 303(b) of such Act and section 430(b) of  
9 such Code). A plan sponsor may revoke the election to use  
10 the 8.25 percent interest rate and if the revocation is  
11 made, the revocation shall apply to the plan year for which  
12 made and all subsequent plan years and the plan sponsor  
13 may not elect to use the 8.25 percent interest rate for any  
14 subsequent plan year.”.

15 (b) EFFECTIVE DATE.—The amendments made by  
16 this section shall take effect as if included in the provisions  
17 of the Pension Protection Act of 2006 to which such  
18 amendments relate.

19 **Subtitle B—Increased Funding for**  
20 **Highway Trust Fund**

21 **SEC. 811. REPLENISH EMERGENCY SPENDING FROM HIGH-**  
22 **WAY TRUST FUND.**

23 (a) IN GENERAL.—Section 9503(b) is amended—  
24 (1) by adding at the end the following new  
25 paragraph:

1           “(7) EMERGENCY SPENDING REPLENISH-  
2           MENT.—There is hereby appropriated to the High-  
3           way Trust Fund \$3,400,000,000.”, and

4           (2) by striking “AMOUNTS EQUIVALENT TO  
5           CERTAIN TAXES AND PENALTIES” in the heading  
6           and inserting “CERTAIN AMOUNTS”.

7           (b) EFFECTIVE DATE.—The amendments made by  
8           this section shall take effect on the date of the enactment  
9           of this Act.

10 **SEC. 812. SUSPENSION OF TRANSFERS FROM HIGHWAY**  
11 **TRUST FUND FOR CERTAIN REPAYMENTS**  
12 **AND CREDIT.**

13           Section 9503(c)(2) is amended by adding at the end  
14           the following new subparagraph:

15           “(D) TEMPORARY SUSPENSION.—This  
16           paragraph shall not apply to 85 percent of the  
17           amounts estimated by the Secretary to be at-  
18           tributable to the 6-month period beginning on  
19           the date of the enactment of the American In-  
20           frastructure Investment and Improvement Act  
21           of 2008.”.

22 **SEC. 813. TAXATION OF TAXABLE FUELS IN FOREIGN**  
23 **TRADE ZONES.**

24           (a) TAX IMPOSED ON REMOVALS AND ENTRIES IN  
25           FOREIGN TRADE ZONES.—

1           (1) IN GENERAL.—Subsection (a) of section  
2           4083 (relating to definitions) is amended by adding  
3           at the end the following new paragraph:

4           “(4) UNITED STATES.—The term ‘United  
5           States’ includes any foreign trade zone or bonded  
6           warehouse located in the United States.”.

7           (2) CONFORMING AMENDMENT.—Section  
8           4081(a)(1)(A) (relating to imposition of tax) is  
9           amended—

10           (A) in clause (i), by inserting “in the  
11           United States” after “refinery”; and

12           (B) in clause (ii), by inserting “in the  
13           United States” after “terminal”.

14           (b) TREATMENT OF TAXABLE FUEL IN FOREIGN  
15           TRADE ZONES.—Paragraph (2) of section 81c(a) of title  
16           19, United States Code, is amended by inserting “(other  
17           than the provisions relating to taxable fuel (as defined  
18           under section 4083(a) of the Internal Revenue Code of  
19           1986))” after “thereunder”.

20           (c) EFFECTIVE DATES.—

21           (1) SUBSECTION (a).—The amendments made  
22           by subsection (a) shall apply to removals and entries  
23           after December 31, 2008.

1           (2) SUBSECTION (b).—The amendment made  
2           by subsection (b) shall take effect on January 1,  
3           2009.

4   **SEC. 814. CLARIFICATION OF PENALTY FOR SALE OF FUEL**  
5                           **FAILING TO MEET EPA REGULATIONS.**

6           (a) IN GENERAL.—Subsection (a) of section 6720A  
7           (relating to penalty with respect to certain adulterated  
8           fuels) is amended by striking “applicable EPA regulations  
9           (as defined in section 45H(c)(3))” and inserting “the re-  
10          quirements for diesel fuel under section 211 of the Clean  
11          Air Act, as determined by the Secretary,”.

12          (b) EFFECTIVE DATE.—The amendments made by  
13          this section shall apply to any transfer, sale, or holding  
14          out for sale or resale occurring after the date of the enact-  
15          ment of this Act.

16   **SEC. 815. TREATMENT OF QUALIFIED ALCOHOL FUEL MIX-**  
17                           **TURES AND QUALIFIED BIODIESEL FUEL MIX-**  
18                           **TURES AS TAXABLE FUELS.**

19          (a) IN GENERAL.—

20                  (1) QUALIFIED ALCOHOL FUEL MIXTURES.—  
21          Paragraph (2) of section 4083(a) (relating to gaso-  
22          line) is amended—

23                          (A) by striking “and” at the end of sub-  
24                  paragraph (A),



1 (B) by redesignating subparagraph (B) as  
2 subparagraph (C), and

3 (C) by inserting after subparagraph (A)  
4 the following new subparagraph:

5 “(B) includes any qualified mixture (as de-  
6 fined in section 40(b)(1)(B)) which is a mixture  
7 of alcohol and special fuel, and”.

8 (2) QUALIFIED BIODIESEL FUEL MIXTURES.—

9 Subparagraph (A) of section 4083(a)(3) (relating to  
10 diesel fuel) is amended by striking “and” at the end  
11 of clause (ii), by redesignating clause (iii) as clause  
12 (iv), and inserting after clause (ii) the following new  
13 clause:

14 “(iii) any qualified biodiesel mixture  
15 (as defined in section 40A(b)(1)(B)), and”.

16 (b) EFFECTIVE DATE.—The amendments made by  
17 this section shall apply to fuels removed, entered, or sold  
18 after December 31, 2008.

19 **SEC. 816. CALCULATION OF VOLUME OF ALCOHOL FOR**  
20 **FUEL CREDITS.**

21 (a) IN GENERAL.—Paragraph (4) of section 40(d)  
22 (relating to volume of alcohol) is amended by striking “5  
23 percent” and inserting “2 percent”.

24 (b) CONFORMING AMENDMENT FOR EXCISE TAX  
25 CREDIT.—Section 6426(b) (relating to alcohol fuel mix-

1 ture credit) is amended by redesignating paragraph (5)  
2 as paragraph (6) and by inserting after paragraph (4) the  
3 following new paragraph:

4           “(5) VOLUME OF ALCOHOL.—For purposes of  
5 determining under subsection (a) the number of gal-  
6 lons of alcohol with respect to which a credit is al-  
7 lowable under subsection (a), the volume of alcohol  
8 shall include the volume of any denaturant (includ-  
9 ing gasoline) which is added under any formulas ap-  
10 proved by the Secretary to the extent that such de-  
11 naturants do not exceed 2 percent of the volume of  
12 such alcohol (including denaturants).”.

13       (c) EFFECTIVE DATE.—The amendments made by  
14 this section shall apply to fuel sold or used after December  
15 31, 2008.

16 **SEC. 817. BULK TRANSFER EXCEPTION NOT TO APPLY TO**  
17 **FINISHED GASOLINE.**

18       (a) IN GENERAL.—Subparagraph (B) of section  
19 4081(a)(1) (relating to tax on removal, entry, or sale) is  
20 amended by adding at the end the following new clause:

21           “(iii) EXCEPTION FOR FINISHED GAS-  
22           OLINE.—Clause (i) shall not apply to any  
23           finished gasoline.”.

24       (b) EXCEPTION TO TAX ON FINISHED GASOLINE FOR  
25 PRIOR TAXABLE REMOVALS.—Paragraph (1) of section

1 4081(a) is amended by adding at the end the following  
2 new subparagraph:

3           “(C) EXEMPTION FOR PREVIOUSLY TAXED  
4           FINISHED GASOLINE.—The tax imposed by this  
5           paragraph shall not apply to the removal of  
6           gasoline described in subparagraph (B)(iii)  
7           from any terminal if there was a prior taxable  
8           removal or entry of such fuel under clause (i),  
9           (ii), or (iii) of subparagraph (A). The preceding  
10          sentence shall not apply to the volume of any  
11          product added to such gasoline at the terminal  
12          unless there was a prior taxable removal or  
13          entry of such product under clause (i), (ii), or  
14          (iii) of subparagraph (A).”.

15          (c) EFFECTIVE DATE.—The amendment made by  
16 this section shall apply to fuel removed, entered, or sold  
17 after December 31, 2008.

18 **SEC. 818. INCREASE AND EXTENSION OF OIL SPILL LIABIL-**  
19 **ITY TRUST FUND TAX.**

20          (a) INCREASE IN RATE.—

21                  (1) IN GENERAL.—Section 4611(c)(2)(B) (re-  
22                  lating to rates) is amended by striking “5 cents”  
23                  and inserting “10 cents”.

24                  (2) EFFECTIVE DATE.—The amendment made  
25                  by this subsection shall apply on and after the first

1 day of the first calendar quarter beginning more  
2 than 60 days after the date of the enactment of this  
3 Act.

4 (b) EXTENSION.—

5 (1) IN GENERAL.—Section 4611(f) (relating to  
6 application of Oil Spill Liability Trust Fund financ-  
7 ing rate) is amended by striking paragraphs (2) and  
8 (3) and inserting the following new paragraph:

9 “(2) TERMINATION.—The Oil Spill Liability  
10 Trust Fund financing rate shall not apply after Sep-  
11 tember 30, 2018.”.

12 (2) CONFORMING AMENDMENT.—Section  
13 4611(f)(1) is amended by striking “paragraphs (2)  
14 and (3)” and inserting “paragraph (2)”.

15 (3) EFFECTIVE DATE.—The amendments made  
16 by this subsection shall take effect on the date of the  
17 enactment of this Act.

18 **SEC. 819. APPLICATION OF RULES TREATING INVERTED**  
19 **CORPORATIONS AS DOMESTIC CORPORA-**  
20 **TIONS TO CERTAIN TRANSACTIONS OCCUR-**  
21 **RING AFTER MARCH 20, 2002.**

22 (a) IN GENERAL.—Section 7874(b) (relating to in-  
23 verted corporations treated as domestic corporations) is  
24 amended to read as follows:

1           “(b) INVERTED CORPORATIONS TREATED AS DO-  
2 MESTIC CORPORATIONS.—

3           “(1) IN GENERAL.—Notwithstanding section  
4 7701(a)(4), a foreign corporation shall be treated for  
5 purposes of this title as a domestic corporation if  
6 such corporation would be a surrogate foreign cor-  
7 poration if subsection (a)(2) were applied by sub-  
8 stituting ‘80 percent’ for ‘60 percent’.

9           “(2) SPECIAL RULE FOR CERTAIN TRANS-  
10 ACTIONS OCCURRING AFTER MARCH 20, 2002.—

11           “(A) IN GENERAL.—If—

12                   “(i) paragraph (1) does not apply to  
13 a foreign corporation, but

14                   “(ii) paragraph (1) would apply to  
15 such corporation if, in addition to the sub-  
16 stitution under paragraph (1), subsection  
17 (a)(2) were applied by substituting ‘March  
18 20, 2002’ for ‘March 4, 2003’ each place  
19 it appears,

20 then paragraph (1) shall apply to such corpora-  
21 tion but only with respect to taxable years of  
22 such corporation beginning after the date of the  
23 enactment of the American Infrastructure In-  
24 vestment and Improvement Act of 2008.

1           “(B) SPECIAL RULES.—Subject to such  
2 rules as the Secretary may prescribe, in the  
3 case of a corporation to which paragraph (1)  
4 applies by reason of this paragraph—

5           “(i) the corporation shall be treated,  
6 as of the close of its first taxable year end-  
7 ing after the date of the enactment of the  
8 American Infrastructure Investment and  
9 Improvement Act of 2008, as having trans-  
10 ferred all of its assets, liabilities, and earn-  
11 ings and profits to a domestic corporation  
12 in a transaction with respect to which no  
13 tax is imposed under this title,

14           “(ii) the bases of the assets trans-  
15 ferred in the transaction to the domestic  
16 corporation shall be the same as the bases  
17 of the assets in the hands of the foreign  
18 corporation, subject to any adjustments  
19 under this title for built-in losses,

20           “(iii) the basis of the stock of any  
21 shareholder in the domestic corporation  
22 shall be the same as the basis of the stock  
23 of the shareholder in the foreign corpora-  
24 tion for which it is treated as exchanged,  
25 and

1                   “(iv) the transfer of any earnings and  
2                   profits by reason of clause (i) shall be dis-  
3                   regarded in determining any deemed divi-  
4                   dend or foreign tax creditable to the do-  
5                   mestic corporation with respect to such  
6                   transfer.

7                   “(C) REGULATIONS.—The Secretary may  
8                   prescribe such regulations as may be necessary  
9                   or appropriate to carry out this paragraph, in-  
10                  cluding regulations to prevent the avoidance of  
11                  the purposes of this paragraph.”.

12                  (b) EFFECTIVE DATE.—The amendment made by  
13                  this section shall apply to taxable years beginning after  
14                  the date of the enactment of this Act.

15   **SEC. 820. DENIAL OF DEDUCTION FOR PUNITIVE DAMAGES.**

16                  (a) DISALLOWANCE OF DEDUCTION.—

17                   (1) IN GENERAL.—Section 162(g) (relating to  
18                   treble damage payments under the antitrust laws) is  
19                   amended—

20                   (A) by redesignating paragraphs (1) and  
21                   (2) as subparagraphs (A) and (B), respectively,

22                   (B) by striking “If” and inserting:

23                   “(1) TREBLE DAMAGES.—If”, and

24                   (C) by adding at the end the following new  
25                   paragraph:

1           “(2) PUNITIVE DAMAGES.—No deduction shall  
2           be allowed under this chapter for any amount paid  
3           or incurred for punitive damages in connection with  
4           any judgment in, or settlement of, any action. This  
5           paragraph shall not apply to punitive damages de-  
6           scribed in section 104(c).”.

7           (2) CONFORMING AMENDMENT.—The heading  
8           for section 162(g) is amended by inserting “OR PU-  
9           NITIVE DAMAGES” after “LAWS”.

10          (b) INCLUSION IN INCOME OF PUNITIVE DAMAGES  
11          PAID BY INSURER OR OTHERWISE.—

12           (1) IN GENERAL.—Part II of subchapter B of  
13          chapter 1 (relating to items specifically included in  
14          gross income) is amended by adding at the end the  
15          following new section:

16          **“SEC. 91. PUNITIVE DAMAGES COMPENSATED BY INSUR-**  
17                  **ANCE OR OTHERWISE.**

18          “Gross income shall include any amount paid to or  
19          on behalf of a taxpayer as insurance or otherwise by rea-  
20          son of the taxpayer’s liability (or agreement) to pay puni-  
21          tive damages.”.

22           (2) REPORTING REQUIREMENTS.—Section 6041  
23          (relating to information at source) is amended by  
24          adding at the end the following new subsection:



1           “(h) SECTION TO APPLY TO PUNITIVE DAMAGES  
2 COMPENSATION.—This section shall apply to payments by  
3 a person to or on behalf of another person as insurance  
4 or otherwise by reason of the other person’s liability (or  
5 agreement) to pay punitive damages.”.

6           (3) CONFORMING AMENDMENT.—The table of  
7 sections for part II of subchapter B of chapter 1 is  
8 amended by adding at the end the following new  
9 item:

“Sec. 91. Punitive damages compensated by insurance or otherwise.”.

10          (c) EFFECTIVE DATE.—The amendments made by  
11 this section shall apply to damages paid or incurred on  
12 or after the date of the enactment of this Act.

13 **SEC. 821. MOTOR FUEL TAX ENFORCEMENT ADVISORY**  
14 **COMMISSION.**

15          (a) IN GENERAL.—Section 11141 of the Safe, Ac-  
16 countable, Flexible, Efficient Transportation Equity Act:  
17 A Legacy for Users is amended to read as follows:

18 **“SEC. 11141. MOTOR FUEL TAX ENFORCEMENT ADVISORY**  
19 **COMMISSION.**

20          “(a) ESTABLISHMENT.—There is established a Motor  
21 Fuel Tax Enforcement Advisory Commission (in this sec-  
22 tion referred to as the ‘Commission’).

23          “(b) MEMBERSHIP.—

24                  “(1) APPOINTMENT.—The Commission shall be  
25 composed of 14 members, of which—

1           “(A) 1 shall be appointed by the Adminis-  
2           trator of the Federal Highway Administration  
3           as a representative of the Federal Highway Ad-  
4           ministration,

5           “(B) 1 shall be appointed by the Inspector  
6           General for the Department of Transportation  
7           as a representative the Office of Inspector Gen-  
8           eral for the Department of Transportation,

9           “(C) 1 shall be appointed by the Secretary  
10          of Transportation as a representative of the De-  
11          partment of Transportation,

12          “(D) 1 shall be appointed by the Secretary  
13          of Homeland Security to be a representative of  
14          the Department of Homeland Security,

15          “(E) 1 shall be appointed by the Secretary  
16          of Defense to be a representative of the Depart-  
17          ment of Defense,

18          “(F) 1 shall be appointed by the Attorney  
19          General to be a representative of the Depart-  
20          ment of Justice,

21          “(G) 2 shall be appointed by the Chairman  
22          of the Committee on Finance of the Senate,

23          “(H) 2 shall be appointed by the Ranking  
24          Member of the Committee on Finance of the  
25          Senate,

1           “(I) 2 shall be appointed by Chairman of  
2           the Committee on Ways and Means of the  
3           House of Representatives, and

4           “(J) 2 shall be appointed by Ranking  
5           Member of the Committee on Ways and Means  
6           of the House of Representatives.

7           “(2) QUALIFICATION FOR CERTAIN MEM-  
8           BERS.—Of the members appointed under subpara-  
9           graphs (G), (H), (I) and (J)—

10           “(A) at least 1 shall be representative from  
11           the Federation of State Tax Administrators,

12           “(B) at least 1 shall be a representative  
13           from any State department of transportation,

14           “(C) at least 1 shall be a representative  
15           from the retail fuel industry, and

16           “(D) at least 1 shall be a representative  
17           from industries relating to fuel distribution  
18           (such a refiners, distributors, pipeline opera-  
19           tors, and terminal operators).

20           “(3) TERMS.—Members shall be appointed for  
21           the life of the Commission.

22           “(4) VACANCIES.—A vacancy in the Commis-  
23           sion shall be filled in the manner in which the origi-  
24           nal appointment was made.

1           “(5) TRAVEL EXPENSES.—Members of the  
2 Commission shall serve without pay but shall receive  
3 travel expenses, including per diem in lieu of subsist-  
4 ence, in accordance with sections 5702 and 5703 of  
5 title 5, United States Code.

6           “(6) CHAIRMAN.—The Chairman of the Com-  
7 mission shall be elected by the members.

8           “(c) DUTIES.—

9           “(1) IN GENERAL.—The Commission shall—

10           “(A) review motor fuel revenue collections,  
11 historical and current;

12           “(B) review the progress of investigations;

13           “(C) develop and review legislative pro-  
14 posals with respect to motor fuel taxes;

15           “(D) monitor the progress of administra-  
16 tive regulation projects relating to motor fuel  
17 taxes;

18           “(E) evaluate and make recommendations  
19 to the President and Congress regarding—

20           “(i) the effectiveness of existing Fed-  
21 eral enforcement programs regarding  
22 motor fuel taxes,

23           “(ii) enforcement personnel allocation,  
24 and

1                   “(iii) proposals for regulatory  
2                   projects, legislation, and funding.

3                   “(2) REPORT.—Not later than September 30,  
4                   2009, the Commission shall submit to Congress a  
5                   final report that contains a detailed statement on  
6                   the findings and conclusions of the Commission, to-  
7                   gether with recommendations for such legislation  
8                   and administrative action as the Commission con-  
9                   siders appropriate or necessary.

10                  “(d) POWERS.—

11                  “(1) HEARINGS.—The Commission may hold  
12                  such hearings for the purpose of carrying out this  
13                  Act, sit and act at such times and places, take such  
14                  testimony, and receive such evidence as the Commis-  
15                  sion considers advisable to carry out this Act. The  
16                  Commission may administer oaths and affirmations  
17                  to witnesses appearing before the Commission.

18                  “(2) OBTAINING DATA.—The Commission may  
19                  secure directly from any department or agency of  
20                  the United States, information (other than informa-  
21                  tion required by any law to be kept confidential by  
22                  such department or agency) necessary for the Com-  
23                  mission to carry out its duties under this section.  
24                  Upon request of the Commission, the head of that  
25                  department or agency shall furnish such noncon-

1       fiducial information to the Commission. The Com-  
2       mission shall also gather evidence through such  
3       means as it may determine appropriate, including  
4       through holding hearings and soliciting comments by  
5       means of Federal Register notices.

6           “(3) POSTAL SERVICES.—The Commission may  
7       use the United States mails in the same manner and  
8       under the same conditions as other departments and  
9       agencies of the Federal Government.

10          “(4) GIFTS.—The Commission may accept,  
11       hold, administer, and utilize gifts, donations, and re-  
12       quests of property, both real and personal, for the  
13       purposes of aiding or facilitating the work of the  
14       Commission. Gifts and bequests of money, and the  
15       proceeds from the sale of any other property re-  
16       ceived as gifts or bequests, shall be deposited in the  
17       Treasury in a separate fund and shall be disbursed  
18       upon order of the Commission. For purposes of Fed-  
19       eral income, estate, and gift taxation, property ac-  
20       cepted under this section shall be considered as a  
21       gift or bequest to or for the use of the United  
22       States.

23          “(e) SUPPORT SERVICES.—

24           “(1) ADMINISTRATIVE SUPPORT SERVICES.—  
25       Upon the request of the Commission, the Secretary

1 of Transportation shall provide to the Commission  
2 administrative support services necessary to enable  
3 the Commission to carry out its duties under this  
4 Act.

5 “(2) DETAIL OF GOVERNMENT EMPLOYEES.—  
6 Any Federal Government employee may be detailed  
7 to the Commission without reimbursement, and such  
8 detail shall be without interruption or loss of civil  
9 service status or privilege.

10 “(3) VOLUNTARY SERVICES.—

11 “(A) IN GENERAL.—Notwithstanding the  
12 provisions of section 1342 of title 31, United  
13 States Code, the Commission is authorized to  
14 accept and utilize the services of volunteers  
15 serving without compensation. The Commission  
16 may reimburse such volunteers for local travel  
17 and office supplies, and for other travel ex-  
18 penses, including per diem in lieu of subsistence  
19 as authorized by section 5703, United States  
20 Code.

21 “(B) TREATMENT OF VOLUNTEERS.—A  
22 person providing volunteer services to the Com-  
23 mission shall be considered an employee of the  
24 Federal Government in the performance of

1           those services for the purposes of the following  
2           provisions of law:

3                   “(i) chapter 81 of title 5, United  
4                   States Code, relating to compensation for  
5                   work-related injuries;

6                   “(ii) chapter 171 of title 28, United  
7                   States Code, relating to tort claims; and

8                   “(iii) chapter 11 of title 18, United  
9                   States Code, relating to conflicts of inter-  
10                  est.

11               “(4) CONSULTATION.—Upon request of the  
12               Commission, representatives of the Department of  
13               the Treasury and the Internal Revenue Service shall  
14               be available for consultation to assist the Commis-  
15               sion in carrying out its duties under this section.

16               “(5) COOPERATION.—The staff of the Depart-  
17               ment of Transportation, the Department of Home-  
18               land Security, the Department of Justice, and the  
19               Department of Defense shall cooperate with the  
20               Commission as necessary.

21               “(f) INAPPLICABILITY OF FEDERAL ADVISORY COM-  
22               MITTEE ACT.—The Federal Advisory Committee Act (5  
23               U.S.C. App.) shall not apply to the Commission.

24               “(g) TERMINATION.—



1           “(1) IN GENERAL.—The Commission shall ter-  
2           minate on the date that is 90 days after the date on  
3           which the Commission submits the report required  
4           under subsection (c)(2).

5           “(2) RECORDS.—Not later than the date on  
6           which the Commission terminates, the Commission  
7           shall transmit all records of the Commission to the  
8           National Archives.”.

9           (b) EFFECTIVE DATE.—The amendment made by  
10          this section shall take effect on the date of the enactment  
11          of this Act.

12       **SEC. 822. HIGHWAY TRUST FUND CONFORMING EXPENDI-**  
13                               **TURE AMENDMENT.**

14          (a) IN GENERAL.—Subsections (c)(1) and (e)(3) of  
15          section 9503 are each amended by inserting “, as amended  
16          by An Act to authorize additional funds for emergency re-  
17          pairs and reconstruction of the Interstate I-35 bridge lo-  
18          cated in Minneapolis, Minnesota, that collapsed on August  
19          1, 2007, to waive the \$100,000,000 limitation on emer-  
20          gency relief funds for those emergency repairs and recon-  
21          struction, and for other purposes,” after “Users”.

22          (b) EFFECTIVE DATE.—The amendments made by  
23          this section shall take effect as if included in the enact-  
24          ment of An Act to authorize additional funds for emer-  
25          gency repairs and reconstruction of the Interstate I-35

1 bridge located in Minneapolis, Minnesota, that collapsed  
2 on August 1, 2007, to waive the \$100,000,000 limitation  
3 on emergency relief funds for those emergency repairs and  
4 reconstruction, and for other purposes.

5 **Subtitle C—Additional Infrastructure**  
6 **Modifications and Revenue**  
7 **Provisions**

8 **SEC. 831. RESTRUCTURING OF NEW YORK LIBERTY ZONE**  
9 **TAX CREDITS.**

10 (a) IN GENERAL.—Part I of subchapter Y of chapter  
11 1 is amended by redesignating section 1400L as 1400K  
12 and by adding at the end the following new section:

13 **“SEC. 1400L. NEW YORK LIBERTY ZONE TAX CREDITS.**

14 “(a) IN GENERAL.—In the case of a New York Lib-  
15 erty Zone governmental unit, there shall be allowed as a  
16 credit against any taxes imposed for any payroll period  
17 by section 3402 for which such governmental unit is liable  
18 under section 3403 an amount equal to so much of the  
19 portion of the qualifying project expenditure amount allo-  
20 cated under subsection (b)(3) to such governmental unit  
21 for the calendar year as is allocated by such governmental  
22 unit to such period under subsection (b)(4).

23 “(b) QUALIFYING PROJECT EXPENDITURE  
24 AMOUNT.—For purposes of this section—

1           “(1) IN GENERAL.—The term ‘qualifying  
2 project expenditure amount’ means, with respect to  
3 any calendar year, the sum of—

4           “(A) the total expenditures paid or in-  
5 curred during such calendar year by all New  
6 York Liberty Zone governmental units and the  
7 Port Authority of New York and New Jersey  
8 for any portion of qualifying projects located  
9 wholly within the City of New York, New York,  
10 and

11           “(B) any such expenditures—

12           “(i) paid or incurred in any preceding  
13 calendar year which begins after the date  
14 of enactment of this section, and

15           “(ii) not previously allocated under  
16 paragraph (3).

17           “(2) QUALIFYING PROJECT.—The term ‘quali-  
18 fying project’ means any transportation infrastruc-  
19 ture project, including highways, mass transit sys-  
20 tems, railroads, airports, ports, and waterways, in or  
21 connecting with the New York Liberty Zone (as de-  
22 fined in section 1400K(h)), which is designated as a  
23 qualifying project under this section jointly by the  
24 Governor of the State of New York and the Mayor  
25 of the City of New York, New York.

1           “(3) GENERAL ALLOCATION.—

2                   “(A) IN GENERAL.—The Governor of the  
3 State of New York and the Mayor of the City  
4 of New York, New York, shall jointly allocate to  
5 each New York Liberty Zone governmental unit  
6 the portion of the qualifying project expenditure  
7 amount which may be taken into account by  
8 such governmental unit under subsection (a) for  
9 any calendar year in the credit period.

10                   “(B) AGGREGATE LIMIT.—The aggregate  
11 amount which may be allocated under subpara-  
12 graph (A) for all calendar years in the credit  
13 period shall not exceed \$2,000,000,000.

14                   “(C) ANNUAL LIMIT.—

15                           “(i) IN GENERAL.—The aggregate  
16 amount which may be allocated under sub-  
17 paragraph (A) for any calendar year in the  
18 credit period shall not exceed the sum of—

19                                   “(I) the applicable limit, plus

20                                   “(II) the aggregate amount au-  
21 thorized to be allocated under this  
22 paragraph for all preceding calendar  
23 years in the credit period which was  
24 not so allocated.

1                   “(ii) APPLICABLE LIMIT.—For pur-  
2                   poses of clause (i), the applicable limit for  
3                   any calendar year in the credit period is  
4                   \$169,000,000 and in the case of any cal-  
5                   endar year after 2020, zero.

6                   “(D) UNALLOCATED AMOUNTS AT END OF  
7                   CREDIT PERIOD.—If, as of the close of the cred-  
8                   it period, the amount under subparagraph (B)  
9                   exceeds the aggregate amount allocated under  
10                  subparagraph (A) for all calendar years in the  
11                  credit period, the Governor of the State of New  
12                  York and the Mayor of the City of New York,  
13                  New York, may jointly allocate to New York  
14                  Liberty Zone governmental units for any cal-  
15                  endar year in the 5-year period following the  
16                  credit period an amount equal to—

17                               “(i) the lesser of—

18                                       “(I) such excess, or

19                                       “(II) the qualifying project ex-  
20                                       penditure amount for such calendar  
21                                       year, reduced by

22                                       “(ii) the aggregate amount allocated  
23                                       under this subparagraph for all preceding  
24                                       calendar years.

1           “(4) ALLOCATION TO PAYROLL PERIODS.—  
2       Each New York Liberty Zone governmental unit  
3       which has been allocated a portion of the qualifying  
4       project expenditure amount under paragraph (3) for  
5       a calendar year may allocate such portion to payroll  
6       periods beginning in such calendar year as such gov-  
7       ernmental unit determines appropriate.

8           “(c) CARRYOVER OF UNUSED ALLOCATIONS.—

9           “(1) IN GENERAL.—Except as provided in para-  
10       graph (2), if the amount allocated under subsection  
11       (b)(3) to a New York Liberty Zone governmental  
12       unit for any calendar year exceeds the aggregate  
13       taxes imposed by section 3402 for which such gov-  
14       ernmental unit is liable under section 3403 for peri-  
15       ods beginning in such year, such excess shall be car-  
16       ried to the succeeding calendar year and added to  
17       the allocation of such governmental unit for such  
18       succeeding calendar year. No amount may be carried  
19       under the preceding sentence to a calendar year  
20       after 2025.

21           “(2) REALLOCATION.—If a New York Liberty  
22       Zone governmental unit does not use an amount al-  
23       located to it under subsection (b)(3) within the time  
24       prescribed by the Governor of the State of New York  
25       and the Mayor of the City of New York, New York,

1       then such amount shall after such time be treated  
2       for purposes of subsection (b)(3) in the same man-  
3       ner as if it had never been allocated.

4       “(d) DEFINITIONS AND SPECIAL RULES.—For pur-  
5       poses of this section—

6               “(1) CREDIT PERIOD.—The term ‘credit period’  
7       means the 12-year period beginning on January 1,  
8       2009.

9               “(2) NEW YORK LIBERTY ZONE GOVERN-  
10       MENTAL UNIT.—The term ‘New York Liberty Zone  
11       governmental unit’ means—

12                       “(A) the State of New York,

13                       “(B) the City of New York, New York, and

14                       “(C) any agency or instrumentality of such  
15       State or City.

16               “(3) TREATMENT OF FUNDS.—Any expenditure  
17       for a qualifying project taken into account for pur-  
18       poses of the credit under this section shall be consid-  
19       ered State and local funds for the purpose of any  
20       Federal program.

21               “(4) TREATMENT OF CREDIT AMOUNTS FOR  
22       PURPOSES OF WITHHOLDING TAXES.—For purposes  
23       of this title, a New York Liberty Zone governmental  
24       unit shall be treated as having paid to the Secretary,  
25       on the day on which wages are paid to employees,

1 an amount equal to the amount of the credit allowed  
2 to such entity under subsection (a) with respect to  
3 such wages, but only if such governmental unit de-  
4 ducts and withholds wages for such payroll period  
5 under section 3401 (relating to wage withholding).

6 “(e) REPORTING.—The Governor of the State of New  
7 York and the Mayor of the City of New York, New York,  
8 shall jointly submit to the Secretary an annual report—

9 “(1) which certifies—

10 “(A) the qualifying project expenditure  
11 amount for the calendar year, and

12 “(B) the amount allocated to each New  
13 York Liberty Zone governmental unit under  
14 subsection (b)(3) for the calendar year, and

15 “(2) includes such other information as the  
16 Secretary may require to carry out this section.

17 “(f) GUIDANCE.—The Secretary may prescribe such  
18 guidance as may be necessary or appropriate to ensure  
19 compliance with the purposes of this section.

20 “(g) TERMINATION.—No credit shall be allowed  
21 under subsection (a) for any calendar year after 2025.”.

22 (b) TERMINATION OF SPECIAL ALLOWANCE AND EX-  
23 PENSING.—Section 1400K(b)(2)(A)(v), as redesignated by  
24 subsection (a), is amended by striking “the termination  
25 date” and inserting “the date of the enactment of the



1 American Infrastructure Investment and Improvement  
2 Act of 2008 or the termination date if pursuant to a bind-  
3 ing contract in effect on such enactment date”.

4 (c) CONFORMING AMENDMENTS.—

5 (1) Section 38(c)(3)(B) is amended by striking  
6 “section 1400L(a)” and inserting “section  
7 1400K(a)”.

8 (2) Section 168(k)(2)(D)(ii) is amended by  
9 striking “section 1400L(c)(2)” and inserting  
10 “1400K(c)(2)”.

11 (3) The table of sections for part I of sub-  
12 chapter Y of chapter 1 is amended by striking  
13 “1400L” and inserting “1400K”.

14 (d) EFFECTIVE DATES.—

15 (1) IN GENERAL.—Except as provided in para-  
16 graph (2), the amendments made by this section  
17 shall apply to periods beginning after December 31,  
18 2008.

19 (2) TERMINATION OF SPECIAL ALLOWANCE  
20 AND EXPENSING.—The amendment made by sub-  
21 section (b) shall take effect on the date of the enact-  
22 ment of this Act.

1 **SEC. 832. PARTICIPANTS IN GOVERNMENT SECTION 457**  
2 **PLANS ALLOWED TO TREAT ELECTIVE DE-**  
3 **FERRALS AS ROTH CONTRIBUTIONS.**

4 (a) **IN GENERAL.**—Section 402A(e)(1) (defining ap-  
5 plicable retirement plan) is amended by striking “and” at  
6 the end of subparagraph (A), by striking the period at  
7 the end of subparagraph (B) and inserting “, and”, and  
8 by adding at the end the following:

9 “(C) an eligible deferred compensation  
10 plan (as defined in section 457(b)) of an eligible  
11 employer described in section 457(e)(1)(A).”.

12 (b) **ELECTIVE DEFERRALS.**—Section 402A(e)(2) (de-  
13 fining elective deferral) is amended to read as follows:

14 “(2) **ELECTIVE DEFERRAL.**—The term ‘elective  
15 deferral’ means—

16 “(A) any elective deferral described in sub-  
17 paragraph (A) or (C) of section 402(g)(3), and

18 “(B) any elective deferral of compensation  
19 by an individual under an eligible deferred com-  
20 pensation plan (as defined in section 457(b)) of  
21 an eligible employer described in section  
22 457(e)(1)(A).”.

23 (c) **EFFECTIVE DATE.**—The amendments made by  
24 this section shall apply to taxable years beginning after  
25 December 31, 2008.

1 **SEC. 833. INCREASED INFORMATION RETURN PENALTIES.**

2 (a) FAILURE TO FILE CORRECT INFORMATION RE-  
3 TURNS.—

4 (1) IN GENERAL.—Section 6721(a)(1) (relating  
5 to imposition of penalty) is amended—

6 (A) by striking “\$50” and inserting  
7 “\$250”, and

8 (B) by striking “\$250,000” and inserting  
9 “\$3,000,000”.

10 (2) REDUCTION WHERE CORRECTION IN SPECI-  
11 FIED PERIOD.—

12 (A) CORRECTION WITHIN 30 DAYS.—Sec-  
13 tion 6721(b)(1) is amended—

14 (i) by striking “\$15” and inserting  
15 “\$50”,

16 (ii) by striking “in lieu of \$50” and  
17 inserting “in lieu of \$250”, and

18 (iii) by striking “\$75,000” and insert-  
19 ing “\$500,000”.

20 (B) FAILURES CORRECTED ON OR BEFORE  
21 AUGUST 1.—Section 6721(b)(2) is amended—

22 (i) by striking “\$30” and inserting  
23 “\$100”,

24 (ii) by striking “\$50” and inserting  
25 “\$250”, and

1 (iii) by striking “\$150,000” and in-  
2 serting “\$1,500,000”.

3 (3) LOWER LIMITATION FOR PERSONS WITH  
4 GROSS RECEIPTS OF NOT MORE THAN \$5,000,000.—  
5 Section 6721(d)(1) is amended—

6 (A) in subparagraph (A)—

7 (i) by striking “\$100,000” and insert-  
8 ing “\$1,000,000”, and

9 (ii) by striking “\$250,000” and in-  
10 serting “\$3,000,000”,

11 (B) in subparagraph (B)—

12 (i) by striking “\$25,000” and insert-  
13 ing “\$175,000”, and

14 (ii) by striking “\$75,000” and insert-  
15 ing “\$500,000”, and

16 (C) in subparagraph (C)—

17 (i) by striking “\$50,000” and insert-  
18 ing “\$500,000”, and

19 (ii) by striking “\$150,000” and in-  
20 serting “\$1,500,000”.

21 (4) PENALTY IN CASE OF INTENTIONAL DIS-  
22 REGARD.—Section 6721(e) is amended—

23 (A) by striking “\$100” in paragraph (2)  
24 and inserting “\$500”,

1 (B) by striking “\$250,000” in paragraph  
2 (3)(A) and inserting “\$3,000,000”.

3 (b) FAILURE TO FURNISH CORRECT PAYEE STATE-  
4 MENTS.—

5 (1) IN GENERAL.—Section 6722(a) is amend-  
6 ed—

7 (A) by striking “\$50” and inserting  
8 “\$250”, and

9 (B) by striking “\$100,000” and inserting  
10 “\$1,000,000”.

11 (2) PENALTY IN CASE OF INTENTIONAL DIS-  
12 REGARD.—Section 6722(c) is amended—

13 (A) by striking “\$100” in paragraph (1)  
14 and inserting “\$500”, and

15 (B) by striking “\$100,000” in paragraph  
16 (2)(A) and inserting “\$1,000,000”.

17 (c) FAILURE TO COMPLY WITH OTHER INFORMA-  
18 TION REPORTING REQUIREMENTS.—Section 6723 is  
19 amended—

20 (1) by striking “\$50” and inserting “\$250”,  
21 and

22 (2) by striking “\$100,000” and inserting  
23 “\$1,000,000”.

1 (d) EFFECTIVE DATE.—The amendments made by  
2 this section shall apply with respect to information returns  
3 required to be filed on or after January 1, 2009.

4 **SEC. 834. EXEMPTION OF CERTAIN COMMERCIAL CARGO**  
5 **FROM HARBOR MAINTENANCE TAX.**

6 (a) IN GENERAL.—Section 4462 is amended—

7 (1) by redesignating subsection (i) as subsection  
8 (j), and

9 (2) by inserting after subsection (h) the fol-  
10 lowing new subsection:

11 “(i) EXEMPTION FOR CERTAIN CARGO TRANS-  
12 PORTED ON THE GREAT LAKES SAINT LAWRENCE SEA-  
13 WAY SYSTEM.—

14 “(1) IN GENERAL.—No tax shall be imposed  
15 under section 4461(a) with respect to—

16 “(A) commercial cargo (other than bulk  
17 cargo) loaded at a port in the United States lo-  
18 cated in the Great Lakes Saint Lawrence Sea-  
19 way System and unloaded at another port in  
20 the United States located in such system, and

21 “(B) commercial cargo (other than bulk  
22 cargo) unloaded at a port in the United States  
23 located in the Great Lakes Saint Lawrence Sea-  
24 way System which was loaded at a port in Can-  
25 ada located in such system.

1           “(2) BULK CARGO.—For purposes of this sub-  
2           section, the term ‘bulk cargo’ shall have the meaning  
3           given such term by section 53101(1) of title 46,  
4           United States Code (as in effect on the date of the  
5           enactment of this section).

6           “(3) GREAT LAKES SAINT LAWRENCE SEAWAY  
7           SYSTEM.—For purposes of this subsection, the term  
8           ‘Great Lakes Saint Lawrence Seaway System’  
9           means the waterway between Duluth, Minnesota and  
10          Sept. Iles, Quebec, encompassing the five Great  
11          Lakes, their connecting channels, and the Saint  
12          Lawrence River.”.

13          (b) EFFECTIVE DATE.—The amendments made by  
14          this section shall take effect on the date of the enactment  
15          of this Act.

16          **SEC. 835. CREDIT TO HOLDERS OF QUALIFIED RAIL INFRA-**  
17                                       **STRUCTURE BONDS.**

18          (a) IN GENERAL.—Subpart H of part IV of sub-  
19          chapter A of chapter 1 (relating to credits against tax)  
20          is amended by adding at the end the following new section:

21          **“SEC. 54A. CREDIT TO HOLDERS OF QUALIFIED RAIL IN-**  
22                                       **FRASTRUCTURE BONDS.**

23               “(a) ALLOWANCE OF CREDIT.—If a taxpayer holds  
24          a qualified rail infrastructure bond on 1 or more credit  
25          allowance dates of the bond occurring during any taxable

1 year, there shall be allowed as a credit against the tax  
2 imposed by this chapter for the taxable year an amount  
3 equal to the sum of the credits determined under sub-  
4 section (b) with respect to such dates.

5 “(b) AMOUNT OF CREDIT.—

6 “(1) IN GENERAL.—The amount of the credit  
7 determined under this subsection with respect to any  
8 credit allowance date for a qualified rail infrastruc-  
9 ture bond is 25 percent of the annual credit deter-  
10 mined with respect to such bond.

11 “(2) ANNUAL CREDIT.—The annual credit de-  
12 termined with respect to any qualified rail infra-  
13 structure bond is the product of—

14 “(A) the credit rate determined by the Sec-  
15 retary under paragraph (3) for the day on  
16 which such bond was sold, multiplied by

17 “(B) the outstanding face amount of the  
18 bond.

19 “(3) DETERMINATION.—For purposes of para-  
20 graph (2), with respect to any qualified rail infra-  
21 structure bond, the Secretary shall determine daily  
22 or cause to be determined daily a credit rate which  
23 shall apply to the first day on which there is a bind-  
24 ing, written contract for the sale or exchange of the  
25 bond. The credit rate for any day is the credit rate



1       which the Secretary or the Secretary's designee esti-  
2       mates will permit the issuance of qualified rail infra-  
3       structure bonds with a specified maturity or redemp-  
4       tion date, without discount and without interest cost  
5       to the qualified issuer.

6               “(4) CREDIT ALLOWANCE DATE.—For purposes  
7       of this section, the term ‘credit allowance date’  
8       means—

9                       “(A) March 15,

10                      “(B) June 15,

11                      “(C) September 15, and

12                      “(D) December 15.

13       Such term also includes the last day on which the  
14       bond is outstanding.

15               “(5) SPECIAL RULE FOR ISSUANCE AND RE-  
16       DEMPTION.—In the case of a bond which is issued  
17       during the 3-month period ending on a credit allow-  
18       ance date, the amount of the credit determined  
19       under this subsection with respect to such credit al-  
20       lowance date shall be a ratable portion of the credit  
21       otherwise determined based on the portion of the 3-  
22       month period during which the bond is outstanding.  
23       A similar rule shall apply when the bond is redeemed  
24       or matures.

1           “(c) LIMITATION BASED ON AMOUNT OF TAX.—The  
2 credit allowed under subsection (a) for any taxable year  
3 shall not exceed the excess of—

4           “(1) the sum of the regular tax liability (as de-  
5 fined in section 26(b)) plus the tax imposed by sec-  
6 tion 55, over

7           “(2) the sum of the credits allowable under this  
8 part (other than this subpart, subpart C, and section  
9 1400N(l)).

10          “(d) QUALIFIED RAIL INFRASTRUCTURE BOND.—  
11 For purposes of this section—

12           “(1) IN GENERAL.—The term ‘qualified rail in-  
13 frastructure bond’ means any bond issued as part of  
14 an issue if—

15           “(A) the bond is issued by a qualified  
16 issuer pursuant to an allocation by the Sec-  
17 retary to such issuer of a portion of the na-  
18 tional qualified rail infrastructure bond annual  
19 limitation under subsection (f)(2) by not later  
20 than the end of the calendar year following the  
21 year of such allocation,

22           “(B) 95 percent or more of the proceeds of  
23 such issue are to be used for capital expendi-  
24 tures incurred for 1 or more qualified projects,

1           “(C) the qualified issuer designates such  
2           bond for purposes of this section and the bond  
3           is in registered form, and

4           “(D) the issue meets the requirements of  
5           subsection (h).

6           “(2) QUALIFIED PROJECT; SPECIAL USE  
7           RULES.—

8           “(A) IN GENERAL.—The term ‘qualified  
9           project’ means a project eligible under section  
10          26101(b) of title 49, United States Code (deter-  
11          mined without regard to paragraph (2) thereof),  
12          which the Secretary determines was selected  
13          using the criteria of subsection (c) of such sec-  
14          tion 26101 by the Secretary of Transportation,  
15          that makes a substantial contribution to im-  
16          proving a rail transportation corridor for inter-  
17          city passenger rail use.

18          “(B) CERTIFICATION REQUIRED REGARD-  
19          ING CERTAIN PROJECTS.—The Secretary shall  
20          not consider a project to be a qualified project  
21          unless an applicant certifies to the Secretary  
22          that—

23                 “(i) if a project involves a rail trans-  
24                 portation corridor which includes the use  
25                 of rights-of-way owned by a freight rail-

1 road, the applicant has entered into a writ-  
2 ten agreement with such freight railroad  
3 regarding the use of the rights-of-way and  
4 has received assurances that collective bar-  
5 gaining agreements between such freight  
6 railroad and its employees (including terms  
7 regarding the contracting of work per-  
8 formed on such corridor) shall remain in  
9 full force and effect during the term of  
10 such written agreement,

11 “(ii) any person which provides rail-  
12 road transportation over infrastructure im-  
13 proved or acquired pursuant to this sec-  
14 tion, is a rail carrier as defined by section  
15 10102 of title 49, United States Code, and

16 “(iii) the applicant shall, with respect  
17 to improvements to rail infrastructure  
18 made pursuant to this section, comply with  
19 the standards applicable to construction  
20 work in such title 49, in the same manner  
21 in which the National Railroad Passenger  
22 Corporation is required to comply with  
23 such standards.

24 “(C) REFINANCING RULES.—For purposes  
25 of paragraph (1)(B), a qualified project may be

1           refinanced with proceeds of a qualified rail in-  
2           frastructure bond only if the indebtedness being  
3           refinanced (including any obligation directly or  
4           indirectly refinanced by such indebtedness) was  
5           originally incurred after the date of the enact-  
6           ment of this section.

7           “(D) REIMBURSEMENT.—For purposes of  
8           paragraph (1)(B), a qualified rail infrastructure  
9           bond may be issued to reimburse for amounts  
10          paid after the date of the enactment of this sec-  
11          tion with respect to a qualified project, but only  
12          if—

13                 “(i) prior to the payment of the origi-  
14                 nal expenditure, the issuer declared its in-  
15                 tent to reimburse such expenditure with  
16                 the proceeds of a qualified rail infrastruc-  
17                 ture bond,

18                 “(ii) not later than 60 days after pay-  
19                 ment of the original expenditure, the quali-  
20                 fied issuer adopts an official intent to re-  
21                 imburse the original expenditure with such  
22                 proceeds, and

23                 “(iii) the reimbursement is made not  
24                 later than 18 months after the date the  
25                 original expenditure is paid.

1                   “(E) TREATMENT OF CHANGES IN USE.—

2                   For purposes of paragraph (1)(B), the proceeds  
3                   of an issue shall not be treated as used for a  
4                   qualified project to the extent that a qualified  
5                   issuer takes any action within its control which  
6                   causes such proceeds not to be used for a quali-  
7                   fied project. The Secretary shall prescribe regu-  
8                   lations specifying remedial actions that may be  
9                   taken (including conditions to taking such re-  
10                  medial actions) to prevent an action described  
11                  in the preceding sentence from causing a bond  
12                  to fail to be a qualified rail infrastructure bond.

13                  “(e) MATURITY LIMITATIONS.—

14                  “(1) DURATION OF TERM.—A bond shall not be  
15                  treated as a qualified rail infrastructure bond if the  
16                  maturity of such bond exceeds the maximum term  
17                  determined by the Secretary under paragraph (2)  
18                  with respect to such bond.

19                  “(2) MAXIMUM TERM.—During each calendar  
20                  month, the Secretary shall determine the maximum  
21                  term permitted under this paragraph for bonds  
22                  issued during the following calendar month. Such  
23                  maximum term shall be the term which the Sec-  
24                  retary estimates will result in the present value of  
25                  the obligation to repay the principal on the bond

1 being equal to 50 percent of the face amount of such  
2 bond. Such present value shall be determined with-  
3 out regard to the requirements of paragraph (3) and  
4 using as a discount rate the average annual interest  
5 rate of tax-exempt obligations having a term of 10  
6 years or more which are issued during the month. If  
7 the term as so determined is not a multiple of a  
8 whole year, such term shall be rounded to the next  
9 highest whole year.

10 “(3) RATABLE PRINCIPAL AMORTIZATION RE-  
11 QUIRED.—A bond shall not be treated as a qualified  
12 rail infrastructure bond unless it is part of an issue  
13 which provides for an equal amount of principal to  
14 be paid by the qualified issuer during each 12-month  
15 period that the issue is outstanding (other than the  
16 first 12-month period).

17 “(f) ANNUAL LIMITATION ON AMOUNT OF BONDS  
18 DESIGNATED.—

19 “(1) NATIONAL ANNUAL LIMITATION.—There is  
20 a national qualified rail infrastructure bond annual  
21 limitation for each calendar year. Such limitation is  
22 \$900,000,000 for 2009, 2010, and 2011, and, ex-  
23 cept as provided in paragraph (3), zero thereafter.

24 “(2) ALLOCATION BY SECRETARY.—The na-  
25 tional qualified rail infrastructure bond annual limi-

1       tation for a calendar year shall be allocated by the  
2       Secretary among qualified projects in such manner  
3       as the Secretary determines appropriate.

4           “(3) CARRYOVER OF UNUSED LIMITATION.—If  
5       for any calendar year, the national qualified rail in-  
6       frastructure bond annual limitation for such year ex-  
7       ceeds the amount of bonds allocated during such  
8       year, such limitation for the following calendar year  
9       shall be increased by the amount of such excess. Any  
10      carryforward of a limitation may be carried only to  
11      the first 2 years following the unused limitation  
12      year. For purposes of the preceding sentence, a limi-  
13      tation shall be treated as used on a first-in first-out  
14      basis.

15          “(g) CREDIT TREATED AS INTEREST.—For purposes  
16      of this title, the credit determined under subsection (a)  
17      shall be treated as interest which is includible in gross in-  
18      come.

19          “(h) SPECIAL RULES RELATING TO EXPENDI-  
20      TURES.—

21           “(1) IN GENERAL.—An issue shall be treated as  
22      meeting the requirements of this subsection if, as of  
23      the date of issuance, the qualified issuer reasonably  
24      expects—



1           “(A) at least 95 percent of the proceeds of  
2           the issue are to be spent for 1 or more qualified  
3           projects within the 5-year period beginning on  
4           the date of issuance of the qualified rail infra-  
5           structure bond,

6           “(B) a binding commitment with a third  
7           party to spend at least 10 percent of the pro-  
8           ceeds of the issue will be incurred within the 6-  
9           month period beginning on the date of issuance  
10          of the qualified rail infrastructure bond, and

11          “(C) such projects will be completed with  
12          due diligence and the proceeds from the sale of  
13          the issue will be spent with due diligence.

14          “(2) EXTENSION OF PERIOD.—Upon submis-  
15          sion of a request prior to the expiration of the period  
16          described in paragraph (1)(A), the Secretary may  
17          extend such period if the qualified issuer establishes  
18          that the failure to satisfy the 5-year requirement is  
19          due to reasonable cause and the related projects will  
20          continue to proceed with due diligence.

21          “(3) FAILURE TO SPEND REQUIRED AMOUNT  
22          OF BOND PROCEEDS WITHIN 5 YEARS.—To the ex-  
23          tent that less than 95 percent of the proceeds of  
24          such issue are expended by the close of the 5-year  
25          period beginning on the date of issuance (or if an

1 extension has been obtained under paragraph (2), by  
2 the close of the extended period), the qualified issuer  
3 shall redeem all of the nonqualified bonds within 90  
4 days after the end of such period. For purposes of  
5 this paragraph, the amount of the nonqualified  
6 bonds required to be redeemed shall be determined  
7 in the same manner as under section 142.

8 “(i) SPECIAL RULES RELATING TO ARBITRAGE.—A  
9 bond which is part of an issue shall not be treated as a  
10 qualified rail infrastructure bond unless, with respect to  
11 the issue of which the bond is a part, the qualified issuer  
12 satisfies the arbitrage requirements of section 148 with  
13 respect to proceeds of the issue.

14 “(j) SPECIAL RULES RELATING TO POOL BONDS.—  
15 No portion of a pooled financing bond may be allocable  
16 to loan unless the borrower has entered into a written loan  
17 commitment for such portion prior to the issue date of  
18 such issue.

19 “(k) OTHER DEFINITIONS AND SPECIAL RULES.—  
20 For purposes of this section—

21 “(1) BOND.—The term ‘bond’ includes any ob-  
22 ligation.

23 “(2) POOLED FINANCING BOND.—The term  
24 ‘pooled financing bond’ shall have the meaning given  
25 such term by section 149(f)(4)(A).

1           “(3) QUALIFIED ISSUER.—The term ‘qualified  
2 issuer’ means 1 or more States or an interstate com-  
3 pact of States.

4           “(4) STATE.—The term ‘State’ includes the  
5 District of Columbia and any possession of the  
6 United States.

7           “(5) S CORPORATIONS AND PARTNERSHIPS.—In  
8 the case of a qualified rail infrastructure bond held  
9 by an S corporation or partnership, the allocation of  
10 the credit allowed by this section to the shareholders  
11 of the corporation or partners of such partnership  
12 shall be treated as a distribution.

13           “(6) BONDS HELD BY REGULATED INVEST-  
14 MENT COMPANIES.—If any qualified rail infrastruc-  
15 ture bond is held by a regulated investment com-  
16 pany, the credit determined under subsection (a)  
17 shall be allowed to shareholders of such company  
18 under procedures prescribed by the Secretary.

19           “(7) REPORTING.—Issuers of qualified rail in-  
20 frastructure bonds shall submit reports similar to  
21 the reports required under section 149(e).

22           “(8) TERMINATION.—This section shall not  
23 apply with respect to any bond issued after Decem-  
24 ber 31, 2013.”.

1 (b) REPORTING.—Subsection (d) of section 6049 (re-  
2 lating to returns regarding payments of interest) is  
3 amended by adding at the end the following new para-  
4 graph:

5 “(9) REPORTING OF CREDIT ON QUALIFIED  
6 RAIL INFRASTRUCTURE BONDS.—

7 “(A) IN GENERAL.—For purposes of sub-  
8 section (a), the term ‘interest’ includes amounts  
9 includible in gross income under section 54A(g)  
10 and such amounts shall be treated as paid on  
11 the credit allowance date (as defined in section  
12 54A(b)(4)).

13 “(B) REPORTING TO CORPORATIONS,  
14 ETC.—Except as otherwise provided in regula-  
15 tions, in the case of any interest described in  
16 subparagraph (A), subsection (b)(4) shall be  
17 applied without regard to subparagraphs (A),  
18 (H), (I), (J), (K), and (L)(i) of such subsection.

19 “(C) REGULATORY AUTHORITY.—The Sec-  
20 retary may prescribe such regulations as are  
21 necessary or appropriate to carry out the pur-  
22 poses of this paragraph, including regulations  
23 which require more frequent or more detailed  
24 reporting.”.

25 (c) CONFORMING AMENDMENTS.—

1           (1) The table of sections for subpart H of part  
2           IV of subchapter A of chapter 1 is amended by add-  
3           ing at the end the following new item:

          “Sec. 54A. Credit to holders of qualified rail infrastructure bonds.”.

4           (2) Section 54(c)(2) is amended by inserting “,  
5           section 54A,” after “subpart C”.

6           (d) **ISSUANCE OF REGULATIONS.**—The Secretary of  
7           Treasury shall issue regulations required under section  
8           54A of the Internal Revenue Code of 1986 (as added by  
9           this section) not later than 120 days after the date of the  
10          enactment of this Act.

11          (e) **EFFECTIVE DATE.**—The amendments made by  
12          this section shall apply to bonds issued after the date of  
13          the enactment of this Act.

14          **SEC. 836. REPEAL OF SUSPENSION OF CERTAIN PENALTIES**  
15   **AND INTEREST.**

16          (a) **IN GENERAL.**—Section 6404 is amended by strik-  
17          ing subsection (g).

18          (b) **EFFECTIVE DATE.**—

19            (1) **IN GENERAL.**—Except as provided in para-  
20            graph (2), the amendments made by this section  
21            shall apply to notices provided by the Secretary of  
22            the Treasury, or his delegate after the date which is  
23            6 months after the date of the enactment of the  
24            Small Business and Work Opportunity Tax Act of  
25            2007.

1 (2) EXCEPTION FOR CERTAIN TAXPAYERS.—

2 The amendments made by this section shall not  
3 apply to any taxpayer with respect to whom a sus-  
4 pension of any interest, penalty, addition to tax, or  
5 other amount is in effect on the date which is 6  
6 months after the date of the enactment of the Small  
7 Business and Work Opportunity Tax Act of 2007.

8 **SEC. 837. DENIAL OF DEDUCTION FOR CERTAIN FINES,**  
9 **PENALTIES, AND OTHER AMOUNTS.**

10 (a) IN GENERAL.—Subsection (f) of section 162 (re-  
11 lating to trade or business expenses) is amended to read  
12 as follows:

13 “(f) FINES, PENALTIES, AND OTHER AMOUNTS.—

14 “(1) IN GENERAL.—Except as provided in para-  
15 graph (2), no deduction otherwise allowable shall be  
16 allowed under this chapter for any amount paid or  
17 incurred (whether by suit, agreement, or otherwise)  
18 to, or at the direction of, a government or entity de-  
19 scribed in paragraph (4) in relation to—

20 “(A) the violation of any law, or

21 “(B) an investigation or inquiry into the  
22 potential violation of any law which is initiated  
23 by such government or entity.

24 “(2) EXCEPTION FOR AMOUNTS CONSTITUTING  
25 RESTITUTION OR PAID TO COME INTO COMPLIANCE

1 WITH LAW.—Paragraph (1) shall not apply to any  
2 amount which—

3 “(A) the taxpayer establishes—

4 “(i) constitutes restitution (or remedi-  
5 ation of property) for damage or harm  
6 caused by, or which may be caused by, the  
7 violation of any law or the potential viola-  
8 tion of any law, or

9 “(ii) is paid to come into compliance  
10 with any law which was violated or in-  
11 volved in the investigation or inquiry, and

12 “(B) is identified as an amount described  
13 in clause (i) or (ii) of subparagraph (A), as the  
14 case may be, in the court order or settlement  
15 agreement, except that the requirement of this  
16 subparagraph shall not apply in the case of any  
17 settlement agreement which requires the tax-  
18 payer to pay or incur an amount not greater  
19 than \$1,000,000.

20 A taxpayer shall not meet the requirements of sub-  
21 paragraph (A) solely by reason an identification  
22 under subparagraph (B). This paragraph shall not  
23 apply to any amount paid or incurred as reimburse-  
24 ment to the government or entity for the costs of  
25 any investigation or litigation unless such amount is

1       paid or incurred for a cost or fee regularly charged  
2       for any routine audit or other customary review per-  
3       formed by the government or entity.

4           “(3) EXCEPTION FOR AMOUNTS PAID OR IN-  
5       CURRED AS THE RESULT OF CERTAIN COURT OR-  
6       DERS.—Paragraph (1) shall not apply to any  
7       amount paid or incurred by order of a court in a  
8       suit in which no government or entity described in  
9       paragraph (4) is a party.

10          “(4) CERTAIN NONGOVERNMENTAL REGU-  
11       LATORY ENTITIES.—An entity is described in this  
12       paragraph if it is—

13           “(A) a nongovernmental entity which exer-  
14       cises self-regulatory powers (including imposing  
15       sanctions) in connection with a qualified board  
16       or exchange (as defined in section 1256(g)(7)),  
17       or

18           “(B) to the extent provided in regulations,  
19       a nongovernmental entity which exercises self-  
20       regulatory powers (including imposing sanc-  
21       tions) as part of performing an essential gov-  
22       ernmental function.

23          “(5) EXCEPTION FOR TAXES DUE.—Paragraph  
24       (1) shall not apply to any amount paid or incurred  
25       as taxes due.”.



1 (b) REPORTING OF DEDUCTIBLE AMOUNTS.—

2 (1) IN GENERAL.—Subpart B of part III of  
3 subchapter A of chapter 61 is amended by inserting  
4 after section 6050V the following new section:

5 **“SEC. 6050W. INFORMATION WITH RESPECT TO CERTAIN**  
6 **FINES, PENALTIES, AND OTHER AMOUNTS.**

7 “(a) REQUIREMENT OF REPORTING.—

8 “(1) IN GENERAL.—The appropriate official of  
9 any government or entity which is described in sec-  
10 tion 162(f)(4) which is involved in a suit or agree-  
11 ment described in paragraph (2) shall make a return  
12 in such form as determined by the Secretary setting  
13 forth—

14 “(A) the amount required to be paid as a  
15 result of the suit or agreement to which para-  
16 graph (1) of section 162(f) applies,

17 “(B) any amount required to be paid as a  
18 result of the suit or agreement which con-  
19 stitutes restitution or remediation of property,  
20 and

21 “(C) any amount required to be paid as a  
22 result of the suit or agreement for the purpose  
23 of coming into compliance with any law which  
24 was violated or involved in the investigation or  
25 inquiry.

1           “(2) SUIT OR AGREEMENT DESCRIBED.—

2                   “(A) IN GENERAL.—A suit or agreement is  
3 described in this paragraph if—

4                           “(i) it is—

5                                   “(I) a suit with respect to a vio-  
6 lation of any law over which the gov-  
7 ernment or entity has authority and  
8 with respect to which there has been  
9 a court order, or

10                                   “(II) an agreement which is en-  
11 tered into with respect to a violation  
12 of any law over which the government  
13 or entity has authority, or with re-  
14 spect to an investigation or inquiry by  
15 the government or entity into the po-  
16 tential violation of any law over which  
17 such government or entity has author-  
18 ity, and

19                                   “(ii) the aggregate amount involved in  
20 all court orders and agreements with re-  
21 spect to the violation, investigation, or in-  
22 quiry is \$600 or more.

23                   “(B) ADJUSTMENT OF REPORTING  
24 THRESHOLD.—The Secretary may adjust the  
25 \$600 amount in subparagraph (A)(ii) as nec-

1           essary in order to ensure the efficient adminis-  
2           tration of the internal revenue laws.

3           “(3) TIME OF FILING.—The return required  
4           under this subsection shall be filed not later than—

5                   “(A) 30 days after the date on which a  
6                   court order is issued with respect to the suit or  
7                   the date the agreement is entered into, as the  
8                   case may be, or

9                   “(B) the date specified by the Secretary.

10          “(b) STATEMENTS TO BE FURNISHED TO INDIVID-  
11          UALS INVOLVED IN THE SETTLEMENT.—Every person re-  
12          quired to make a return under subsection (a) shall furnish  
13          to each person who is a party to the suit or agreement  
14          a written statement showing—

15                   “(1) the name of the government or entity, and

16                   “(2) the information supplied to the Secretary  
17          under subsection (a)(1).

18          The written statement required under the preceding sen-  
19          tence shall be furnished to the person at the same time  
20          the government or entity provides the Secretary with the  
21          information required under subsection (a).

22          “(c) APPROPRIATE OFFICIAL DEFINED.—For pur-  
23          poses of this section, the term ‘appropriate official’ means  
24          the officer or employee having control of the suit, inves-

1 tigation, or inquiry or the person appropriately designated  
2 for purposes of this section.”.

3 (2) CONFORMING AMENDMENT.—The table of  
4 sections for subpart B of part III of subchapter A  
5 of chapter 61 is amended by inserting after the item  
6 relating to section 6050V the following new item:

“Sec. 6050W. Information with respect to certain fines, penalties, and other  
amounts.”.

7 (c) EFFECTIVE DATE.—The amendments made by  
8 this section shall apply to amounts paid or incurred on  
9 or after the date of the enactment of this Act, except that  
10 such amendments shall not apply to amounts paid or in-  
11 curred under any binding order or agreement entered into  
12 before such date. Such exception shall not apply to an  
13 order or agreement requiring court approval unless the ap-  
14 proval was obtained before such date.

15 **SEC. 838. REVISION OF TAX RULES ON EXPATRIATION.**

16 (a) IN GENERAL.—Subpart A of part II of sub-  
17 chapter N of chapter 1 is amended by inserting after sec-  
18 tion 877 the following new section:

19 **“SEC. 877A. TAX RESPONSIBILITIES OF EXPATRIATION.**

20 “(a) GENERAL RULES.—For purposes of this sub-  
21 title—

22 “(1) MARK TO MARKET.—All property of a cov-  
23 ered expatriate shall be treated as sold on the day

1 before the expatriation date for its fair market  
2 value.

3 “(2) RECOGNITION OF GAIN OR LOSS.—In the  
4 case of any sale under paragraph (1)—

5 “(A) notwithstanding any other provision  
6 of this title, any gain arising from such sale  
7 shall be taken into account for the taxable year  
8 of the sale, and

9 “(B) any loss arising from such sale shall  
10 be taken into account for the taxable year of  
11 the sale to the extent otherwise provided by this  
12 title, except that section 1091 shall not apply to  
13 any such loss.

14 Proper adjustment shall be made in the amount of  
15 any gain or loss subsequently realized for gain or  
16 loss taken into account under the preceding sen-  
17 tence, determined without regard to paragraph (3).

18 “(3) EXCLUSION FOR CERTAIN GAIN.—

19 “(A) IN GENERAL.—The amount which  
20 would (but for this paragraph) be includible in  
21 the gross income of any individual by reason of  
22 paragraph (1) shall be reduced (but not below  
23 zero) by \$600,000.

24 “(B) ADJUSTMENT FOR INFLATION.—

1                   “(i) IN GENERAL.—In the case of any  
2                   taxable year beginning in a calendar year  
3                   after 2008, the dollar amount in subpara-  
4                   graph (A) shall be increased by an amount  
5                   equal to—

6                                 “(I) such dollar amount, multi-  
7                                 plied by

8                                 “(II) the cost-of-living adjust-  
9                                 ment determined under section 1(f)(3)  
10                                for the calendar year in which the tax-  
11                                able year begins, by substituting ‘cal-  
12                                endar year 2007’ for ‘calendar year  
13                                1992’ in subparagraph (B) thereof.

14                               “(ii) ROUNDING.—If any amount as  
15                                adjusted under clause (i) is not a multiple  
16                                of \$1,000, such amount shall be rounded  
17                                to the nearest multiple of \$1,000.

18                   “(b) ELECTION TO DEFER TAX.—

19                               “(1) IN GENERAL.—If the taxpayer elects the  
20                                application of this subsection with respect to any  
21                                property treated as sold by reason of subsection (a),  
22                                the time for payment of the additional tax attrib-  
23                                utable to such property shall be extended until the  
24                                due date of the return for the taxable year in which  
25                                such property is disposed of (or, in the case of prop-

1 erty disposed of in a transaction in which gain is not  
2 recognized in whole or in part, until such other date  
3 as the Secretary may prescribe).

4 “(2) DETERMINATION OF TAX WITH RESPECT  
5 TO PROPERTY.—For purposes of paragraph (1), the  
6 additional tax attributable to any property is an  
7 amount which bears the same ratio to the additional  
8 tax imposed by this chapter for the taxable year  
9 solely by reason of subsection (a) as the gain taken  
10 into account under subsection (a) with respect to  
11 such property bears to the total gain taken into ac-  
12 count under subsection (a) with respect to all prop-  
13 erty to which subsection (a) applies.

14 “(3) TERMINATION OF EXTENSION.—The due  
15 date for payment of tax may not be extended under  
16 this subsection later than the due date for the re-  
17 turn of tax imposed by this chapter for the taxable  
18 year which includes the date of death of the expa-  
19 triate (or, if earlier, the time that the security pro-  
20 vided with respect to the property fails to meet the  
21 requirements of paragraph (4), unless the taxpayer  
22 corrects such failure within the time specified by the  
23 Secretary).

24 “(4) SECURITY.—

1           “(A) IN GENERAL.—No election may be  
2           made under paragraph (1) with respect to any  
3           property unless adequate security is provided  
4           with respect to such property.

5           “(B) ADEQUATE SECURITY.—For purposes  
6           of subparagraph (A), security with respect to  
7           any property shall be treated as adequate secu-  
8           rity if—

9                   “(i) it is a bond which is furnished to,  
10                  and accepted by, the Secretary, which is  
11                  conditioned on the payment of tax (and in-  
12                  terest thereon), and which meets the re-  
13                  quirements of section 6325, or

14                  “(ii) it is another form of security for  
15                  such payment (including letters of credit)  
16                  that meets such requirements as the Sec-  
17                  retary may prescribe.

18           “(5) WAIVER OF CERTAIN RIGHTS.—No elec-  
19           tion may be made under paragraph (1) unless the  
20           taxpayer makes an irrevocable waiver of any right  
21           under any treaty of the United States which would  
22           preclude assessment or collection of any tax imposed  
23           by reason of this section.



1           “(6) ELECTIONS.—An election under paragraph  
2           (1) shall only apply to property described in the elec-  
3           tion and, once made, is irrevocable.

4           “(7) INTEREST.—For purposes of section 6601,  
5           the last date for the payment of tax shall be deter-  
6           mined without regard to the election under this sub-  
7           section.

8           “(c) EXCEPTION FOR CERTAIN PROPERTY.—Sub-  
9           section (a) shall not apply to—

10           “(1) any deferred compensation item (as de-  
11           fined in subsection (d)(4)),

12           “(2) any specified tax deferred account (as de-  
13           fined in subsection (e)(2)), and

14           “(3) any interest in a nongrantor trust (as de-  
15           fined in subsection (f)(3)).

16           “(d) TREATMENT OF DEFERRED COMPENSATION  
17           ITEMS.—

18           “(1) WITHHOLDING ON ELIGIBLE DEFERRED  
19           COMPENSATION ITEMS.—

20           “(A) IN GENERAL.—In the case of any eli-  
21           gible deferred compensation item, the payor  
22           shall deduct and withhold from any taxable  
23           payment to a covered expatriate with respect to  
24           such item a tax equal to 30 percent thereof.

1           “(B) TAXABLE PAYMENT.—For purposes  
2           of subparagraph (A), the term ‘taxable pay-  
3           ment’ means with respect to a covered expa-  
4           triate any payment to the extent it would be in-  
5           cludible in the gross income of the covered ex-  
6           patriate if such expatriate continued to be sub-  
7           ject to tax as a citizen or resident of the United  
8           States. A deferred compensation item shall be  
9           taken into account as a payment under the pre-  
10          ceding sentence when such item would be so in-  
11          cludible.

12          “(2) OTHER DEFERRED COMPENSATION  
13          ITEMS.—In the case of any deferred compensation  
14          item which is not an eligible deferred compensation  
15          item—

16                 “(A)(i) with respect to any deferred com-  
17                 pensation item to which clause (ii) does not  
18                 apply, an amount equal to the present value of  
19                 the covered expatriate’s accrued benefit shall be  
20                 treated as having been received by such indi-  
21                 vidual on the day before the expatriation date  
22                 as a distribution under the plan, and

23                 “(ii) with respect to any deferred com-  
24                 pensation item referred to in paragraph (4)(D),  
25                 the rights of the covered expatriate to such item

1 shall be treated as becoming transferable and  
2 not subject to a substantial risk of forfeiture on  
3 the day before the expatriation date,

4 “(B) no early distribution tax shall apply  
5 by reason of such treatment, and

6 “(C) appropriate adjustments shall be  
7 made to subsequent distributions from the plan  
8 to reflect such treatment.

9 “(3) ELIGIBLE DEFERRED COMPENSATION  
10 ITEMS.—For purposes of this subsection, the term  
11 ‘eligible deferred compensation item’ means any de-  
12 ferred compensation item with respect to which—

13 “(A) the payor of such item is—

14 “(i) a United States person, or

15 “(ii) a person who is not a United  
16 States person but who elects to be treated  
17 as a United States person for purposes of  
18 paragraph (1) and meets such require-  
19 ments as the Secretary may provide to en-  
20 sure that the payor will meet the require-  
21 ments of paragraph (1), and

22 “(B) the covered expatriate—

23 “(i) notifies the payor of his status as  
24 a covered expatriate, and

1                   “(ii) makes an irrevocable waiver of  
2                   any right to claim any reduction under any  
3                   treaty with the United States in with-  
4                   holding on such item.

5                   “(4) DEFERRED COMPENSATION ITEM.—For  
6                   purposes of this subsection, the term ‘deferred com-  
7                   pensation item’ means—

8                   “(A) any interest in a plan or arrangement  
9                   described in section 219(g)(5),

10                   “(B) any interest in a foreign pension plan  
11                   or similar retirement arrangement or program,

12                   “(C) any item of deferred compensation,  
13                   and

14                   “(D) any property, or right to property,  
15                   which the individual is entitled to receive in  
16                   connection with the performance of services to  
17                   the extent not previously taken into account  
18                   under section 83 or in accordance with section  
19                   83.

20                   “(5) EXCEPTION.—Paragraphs (1) and (2)  
21                   shall not apply to any deferred compensation item  
22                   which is attributable to services performed outside  
23                   the United States while the covered expatriate was  
24                   not a citizen or resident of the United States.

25                   “(6) SPECIAL RULES.—

1           “(A) APPLICATION OF WITHHOLDING  
2 RULES.—Rules similar to the rules of sub-  
3 chapter B of chapter 3 shall apply for purposes  
4 of this subsection.

5           “(B) APPLICATION OF TAX.—Any item  
6 subject to the withholding tax imposed under  
7 paragraph (1) shall be subject to tax under sec-  
8 tion 871.

9           “(C) COORDINATION WITH OTHER WITH-  
10 HOLDING REQUIREMENTS.—Any item subject to  
11 withholding under paragraph (1) shall not be  
12 subject to withholding under section 1441 or  
13 chapter 24.

14       “(e) TREATMENT OF SPECIFIED TAX DEFERRED AC-  
15 COUNTS.—

16           “(1) ACCOUNT TREATED AS DISTRIBUTED.—In  
17 the case of any interest in a specified tax deferred  
18 account held by a covered expatriate on the day be-  
19 fore the expatriation date—

20           “(A) the covered expatriate shall be treat-  
21 ed as receiving a distribution of his entire inter-  
22 est in such account on the day before the expa-  
23 triation date,

24           “(B) no early distribution tax shall apply  
25 by reason of such treatment, and

1           “(C) appropriate adjustments shall be  
2           made to subsequent distributions from the ac-  
3           count to reflect such treatment.

4           “(2) SPECIFIED TAX DEFERRED ACCOUNT.—  
5           For purposes of paragraph (1), the term ‘specified  
6           tax deferred account’ means an individual retirement  
7           plan (as defined in section 7701(a)(37)) other than  
8           any arrangement described in subsection (k) or (p)  
9           of section 408, a qualified tuition program (as de-  
10          fined in section 529), a Coverdell education savings  
11          account (as defined in section 530), a health savings  
12          account (as defined in section 223), and an Archer  
13          MSA (as defined in section 220).

14          “(f) SPECIAL RULES FOR NONGRANTOR TRUSTS.—

15                 “(1) IN GENERAL.—In the case of a distribu-  
16                 tion (directly or indirectly) of any property from a  
17                 nongrantor trust to a covered expatriate—

18                         “(A) the trustee shall deduct and withhold  
19                         from such distribution an amount equal to 30  
20                         percent of the taxable portion of the distribu-  
21                         tion, and

22                         “(B) if the fair market value of such prop-  
23                         erty exceeds its adjusted basis in the hands of  
24                         the trust, gain shall be recognized to the trust

1           as if such property were sold to the expatriate  
2           at its fair market value.

3           “(2) TAXABLE PORTION.—For purposes of this  
4           subsection, the term ‘taxable portion’ means, with  
5           respect to any distribution, that portion of the dis-  
6           tribution which would be includible in the gross in-  
7           come of the covered expatriate if such expatriate  
8           continued to be subject to tax as a citizen or resi-  
9           dent of the United States.

10          “(3) NONGRANTOR TRUST.—For purposes of  
11          this subsection, the term ‘nongrantor trust’ means  
12          the portion of any trust that the individual is not  
13          considered the owner of under subpart E of part I  
14          of subchapter J. The determination under the pre-  
15          ceding sentence shall be made immediately before  
16          the expatriation date.

17          “(4) SPECIAL RULES RELATING TO WITH-  
18          HOLDING.—For purposes of this subsection—

19                 “(A) rules similar to the rules of sub-  
20                 section (d)(6) shall apply, and

21                 “(B) the covered expatriate shall be treat-  
22                 ed as having waived any right to claim any re-  
23                 duction under any treaty with the United  
24                 States in withholding on any distribution to  
25                 which paragraph (1)(A) applies.

1           “(g) DEFINITIONS AND SPECIAL RULES RELATING  
2 TO EXPATRIATION.—For purposes of this section—

3                   “(1) COVERED EXPATRIATE.—

4                           “(A) IN GENERAL.—The term ‘covered ex-  
5 patriate’ means an expatriate who meets the re-  
6 quirements of subparagraph (A), (B), or (C) of  
7 section 877(a)(2).

8                           “(B) EXCEPTIONS.—An individual shall  
9 not be treated as meeting the requirements of  
10 subparagraph (A) or (B) of section 877(a)(2)  
11 if—

12                                   “(i) the individual—

13   “(I) became at birth a citizen of  
14 the United States and a citizen of an-  
15 other country and, as of the expatria-  
16 tion date, continues to be a citizen of,  
17 and is taxed as a resident of, such  
18 other country, and

19   “(II) has been a resident of the  
20 United States (as defined in section  
21 7701(b)(1)(A)(ii)) for not more than  
22 10 taxable years during the 15-tax-  
23 able year period ending with the tax-  
24 able year during which the expatria-  
25 tion date occurs, or



1                   “(ii)(I) the individual’s relinquishment  
2                   of United States citizenship occurs before  
3                   such individual attains age 18½, and

4                   “(II) the individual has been a resi-  
5                   dent of the United States (as so defined)  
6                   for not more than 10 taxable years before  
7                   the date of relinquishment.

8                   “(C) COVERED EXPATRIATES ALSO SUB-  
9                   JECT TO TAX AS CITIZENS OR RESIDENTS.—In  
10                  the case of any covered expatriate who is sub-  
11                  ject to tax as a citizen or resident of the United  
12                  States for any period beginning after the expa-  
13                  triation date, such individual shall not be treat-  
14                  ed as a covered expatriate during such period  
15                  for purposes of subsections (d)(1) and (f) and  
16                  section 2801.

17                  “(2) EXPATRIATE.—The term ‘expatriate’  
18                  means—

19                         “(A) any United States citizen who relin-  
20                         quishes his citizenship, and

21                         “(B) any long-term resident of the United  
22                         States who ceases to be a lawful permanent  
23                         resident of the United States (within the mean-  
24                         ing of section 7701(b)(6)).

1           “(3) EXPATRIATION DATE.—The term ‘expa-  
2           triation date’ means—

3                   “(A) the date an individual relinquishes  
4           United States citizenship, or

5                   “(B) in the case of a long-term resident of  
6           the United States, the date on which the indi-  
7           vidual ceases to be a lawful permanent resident  
8           of the United States (within the meaning of  
9           section 7701(b)(6)).

10           “(4) RELINQUISHMENT OF CITIZENSHIP.—A  
11           citizen shall be treated as relinquishing his United  
12           States citizenship on the earliest of—

13                   “(A) the date the individual renounces his  
14           United States nationality before a diplomatic or  
15           consular officer of the United States pursuant  
16           to paragraph (5) of section 349(a) of the Immi-  
17           gration and Nationality Act (8 U.S.C.  
18           1481(a)(5)),

19                   “(B) the date the individual furnishes to  
20           the United States Department of State a signed  
21           statement of voluntary relinquishment of  
22           United States nationality confirming the per-  
23           formance of an act of expatriation specified in  
24           paragraph (1), (2), (3), or (4) of section 349(a)

1 of the Immigration and Nationality Act (8  
2 U.S.C. 1481(a)(1)–(4)),

3 “(C) the date the United States Depart-  
4 ment of State issues to the individual a certifi-  
5 cate of loss of nationality, or

6 “(D) the date a court of the United States  
7 cancels a naturalized citizen’s certificate of nat-  
8 uralization.

9 Subparagraph (A) or (B) shall not apply to any indi-  
10 vidual unless the renunciation or voluntary relin-  
11 quishment is subsequently approved by the issuance  
12 to the individual of a certificate of loss of nationality  
13 by the United States Department of State.

14 “(5) LONG-TERM RESIDENT.—The term ‘long-  
15 term resident’ has the meaning given to such term  
16 by section 877(e)(2).

17 “(6) EARLY DISTRIBUTION TAX.—The term  
18 ‘early distribution tax’ means any increase in tax im-  
19 posed under section 72(t), 220(e)(4), 223(f)(4),  
20 409A(a)(1)(B), 529(c)(6), or 530(d)(4).

21 “(h) OTHER RULES.—

22 “(1) TERMINATION OF DEFERRALS, ETC.—In  
23 the case of any covered expatriate, notwithstanding  
24 any other provision of this title—

1           “(A) any time period for acquiring prop-  
2           erty which would result in the reduction in the  
3           amount of gain recognized with respect to prop-  
4           erty disposed of by the taxpayer shall terminate  
5           on the day before the expatriation date, and

6           “(B) any extension of time for payment of  
7           tax shall cease to apply on the day before the  
8           expatriation date and the unpaid portion of  
9           such tax shall be due and payable at the time  
10          and in the manner prescribed by the Secretary.

11          “(2) STEP-UP IN BASIS.—Solely for purposes of  
12          determining any tax imposed by reason of subsection  
13          (a), property which was held by an individual on the  
14          date the individual first became a resident of the  
15          United States (within the meaning of section  
16          7701(b)) shall be treated as having a basis on such  
17          date of not less than the fair market value of such  
18          property on such date. The preceding sentence shall  
19          not apply if the individual elects not to have such  
20          sentence apply. Such an election, once made, shall  
21          be irrevocable.

22          “(3) COORDINATION WITH SECTION 684.—If the  
23          expatriation of any individual would result in the  
24          recognition of gain under section 684, this section  
25          shall be applied after the application of section 684.

1       “(i) REGULATIONS.—The Secretary shall prescribe  
2 such regulations as may be necessary or appropriate to  
3 carry out the purposes of this section.”.

4       (b) TAX ON GIFTS AND BEQUESTS RECEIVED BY  
5 UNITED STATES CITIZENS AND RESIDENTS FROM EXPA-  
6 TRIATES.—

7           (1) IN GENERAL.—Subtitle B (relating to estate  
8 and gift taxes) is amended by inserting after chapter  
9 14 the following new chapter:

10       **“CHAPTER 15—GIFTS AND BEQUESTS**  
11                           **FROM EXPATRIATES**

“Sec. 2801. Imposition of tax.

12       **“SEC. 2801. IMPOSITION OF TAX.**

13       “(a) IN GENERAL.—If, during any calendar year, any  
14 United States citizen or resident receives any covered gift  
15 or bequest, there is hereby imposed a tax equal to the  
16 product of—

17           “(1) the highest rate of tax specified in the  
18 table contained in section 2001(c) as in effect on the  
19 date of such receipt (or, if greater, the highest rate  
20 of tax specified in the table applicable under section  
21 2502(a) as in effect on the date), and

22           “(2) the value of such covered gift or bequest.

1           “(b) TAX TO BE PAID BY RECIPIENT.—The tax im-  
2 posed by subsection (a) on any covered gift or bequest  
3 shall be paid by the person receiving such gift or bequest.

4           “(c) EXCEPTION FOR CERTAIN GIFTS.—Subsection  
5 (a) shall apply only to the extent that the value of covered  
6 gifts and bequests received by any person during the cal-  
7 endar year exceeds \$10,000.

8           “(d) TAX REDUCED BY FOREIGN GIFT OR ESTATE  
9 TAX.—The tax imposed by subsection (a) on any covered  
10 gift or bequest shall be reduced by the amount of any gift  
11 or estate tax paid to a foreign country with respect to such  
12 covered gift or bequest.

13           “(e) COVERED GIFT OR BEQUEST.—

14                 “(1) IN GENERAL.—For purposes of this chap-  
15 ter, the term ‘covered gift or bequest’ means—

16                         “(A) any property acquired by gift directly  
17 or indirectly from an individual who, at the  
18 time of such acquisition, is a covered expatriate,  
19 and

20                         “(B) any property acquired directly or in-  
21 directly by reason of the death of an individual  
22 who, immediately before such death, was a cov-  
23 ered expatriate.

1           “(2) EXCEPTIONS FOR TRANSFERS OTHERWISE  
2           SUBJECT TO ESTATE OR GIFT TAX.—Such term shall  
3           not include—

4                   “(A) any property shown on a timely filed  
5                   return of tax imposed by chapter 12 which is a  
6                   taxable gift by the covered expatriate, and

7                   “(B) any property included in the gross es-  
8                   tate of the covered expatriate for purposes of  
9                   chapter 11 and shown on a timely filed return  
10                  of tax imposed by chapter 11 of the estate of  
11                  the covered expatriate.

12           “(3) TRANSFERS IN TRUST.—

13                   “(A) DOMESTIC TRUSTS.—In the case of a  
14                   covered gift or bequest made to a domestic  
15                   trust—

16                           “(i) subsection (a) shall apply in the  
17                           same manner as if such trust were a  
18                           United States citizen, and

19                           “(ii) the tax imposed by subsection (a)  
20                           on such gift or bequest shall be paid by  
21                           such trust.

22           “(B) FOREIGN TRUSTS.—

23                   “(i) IN GENERAL.—In the case of a  
24                   covered gift or bequest made to a foreign  
25                   trust, subsection (a) shall apply to any dis-

1           tribution attributable to such gift or be-  
2           quest from such trust (whether from in-  
3           come or corpus) to a United States citizen  
4           or resident in the same manner as if such  
5           distribution were a covered gift or bequest.

6           “(ii) DEDUCTION FOR TAX PAID BY  
7           RECIPIENT.—There shall be allowed as a  
8           deduction under section 164 the amount of  
9           tax imposed by this section which is paid  
10          or accrued by a United States citizen or  
11          resident by reason of a distribution from a  
12          foreign trust, but only to the extent such  
13          tax is imposed on the portion of such dis-  
14          tribution which is included in the gross in-  
15          come of such citizen or resident.

16          “(iii) ELECTION TO BE TREATED AS  
17          DOMESTIC TRUST.—Solely for purposes of  
18          this section, a foreign trust may elect to be  
19          treated as a domestic trust. Such an elec-  
20          tion may be revoked with the consent of  
21          the Secretary.

22          “(f) COVERED EXPATRIATE.—For purposes of this  
23          section, the term ‘covered expatriate’ has the meaning  
24          given to such term by section 877A(g)(1).”.



1           (2) CLERICAL AMENDMENT.—The table of  
2 chapters for subtitle B is amended by inserting after  
3 the item relating to chapter 14 the following new  
4 item:

“CHAPTER 15. GIFTS AND BEQUESTS FROM EXPATRIATES.”.

5           (c) DEFINITION OF TERMINATION OF UNITED  
6 STATES CITIZENSHIP.—

7           (1) IN GENERAL.—Section 7701(a) is amended  
8 by adding at the end the following new paragraph:

9           “(50) TERMINATION OF UNITED STATES CITI-  
10 ZENSHIP.—

11           “(A) IN GENERAL.—An individual shall  
12 not cease to be treated as a United States citi-  
13 zen before the date on which the individual’s  
14 citizenship is treated as relinquished under sec-  
15 tion 877A(g)(4).

16           “(B) DUAL CITIZENS.—Under regulations  
17 prescribed by the Secretary, subparagraph (A)  
18 shall not apply to an individual who became at  
19 birth a citizen of the United States and a citi-  
20 zen of another country.”.

21           (2) CONFORMING AMENDMENTS.—

22           (A) Paragraph (1) of section 877(e) is  
23 amended to read as follows:

24           “(1) IN GENERAL.—Any long-term resident of  
25 the United States who ceases to be a lawful perma-

1       nent resident of the United States (within the mean-  
2       ing of section 7701(b)(6)) shall be treated for pur-  
3       poses of this section and sections 2107, 2501, and  
4       6039G in the same manner as if such resident were  
5       a citizen of the United States who lost United States  
6       citizenship on the date of such cessation or com-  
7       mencement.”.

8               (B) Paragraph (6) of section 7701(b) is  
9               amended by adding at the end the following  
10              flush sentence:

11       “An individual shall cease to be treated as a lawful  
12       permanent resident of the United States if such in-  
13       dividual commences to be treated as a resident of a  
14       foreign country under the provisions of a tax treaty  
15       between the United States and the foreign country,  
16       does not waive the benefits of such treaty applicable  
17       to residents of the foreign country, and notifies the  
18       Secretary of the commencement of such treatment.”.

19               (C) Section 7701 is amended by striking  
20              subsection (n) and by redesignating subsections  
21              (o) and (p) as subsections (n) and (o), respec-  
22              tively.

23       (d) INFORMATION RETURNS.—Section 6039G is  
24       amended—

1 (1) by inserting “or 877A” after “section  
2 877(b)” in subsection (a), and

3 (2) by inserting “or 877A” after “section  
4 877(a)” in subsection (d).

5 (e) CLERICAL AMENDMENT.—The table of sections  
6 for subpart A of part II of subchapter N of chapter 1  
7 is amended by inserting after the item relating to section  
8 877 the following new item:

“Sec. 877A. Tax responsibilities of expatriation.”.

9 (f) EFFECTIVE DATE.—

10 (1) IN GENERAL.—Except as provided in this  
11 subsection, the amendments made by this section  
12 shall apply to expatriates (as defined in section  
13 877A(g) of the Internal Revenue Code of 1986, as  
14 added by this section) whose expatriation date (as so  
15 defined) is on or after the date of the enactment of  
16 this Act.

17 (2) GIFTS AND BEQUESTS.—Chapter 15 of the  
18 Internal Revenue Code of 1986 (as added by sub-  
19 section (b)) shall apply to covered gifts and bequests  
20 (as defined in section 2801 of such Code, as so  
21 added) received on or after the date of the enact-  
22 ment of this Act, regardless of when the transferor  
23 expatriated.

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