

# **SUMMARY OF THE LEGISLATION - H.R. 658, THE 'FAA REAUTHORIZATION AND REFORM ACT OF 2011'**

## **TITLE I--AUTHORIZATIONS**

### *Section 101. Airport Planning and development and noise compatibility planning and programs.*

This section authorizes the following for the FAA's AIP: \$3.1 billion for FY 2011; \$3 billion for each fiscal year 2012 through 2014.

### *Section 102. Air Navigation Facilities and Equipment*

This section authorizes the following for the FAA's F&E account: \$2.7 billion for FY 2011; \$2.6 billion for each fiscal year 2012 through 2014.

### *Section 103. FAA Operations*

This section authorizes the following for the FAA operations account: \$ 9.403 billion for FY 2011; \$9.168 billion for each fiscal year 2012 through 2014.

### *Sec. 104. Funding for aviation programs*

This section modifies the formula that determines the amount to be made available from the Trust Fund each year to fund the FAA. The modification made by this section is necessary to maintain a positive Trust Fund balance despite over-optimistic revenue forecasts by the FAA.

### *Section 105. Delineation of Next Generation Air Transportation System Projects*

This section requires the Administrator to include in the Airway Capitol Investment Plan a list of capital projects that are part of the NextGen system.

### *Section 106. Funding for Administrative Expenses for Airport Programs*

This section would authorize the administrative expenses for the FAA's airports program at a level of \$85.987 million for FY 2011; \$80.6 million for fiscal years 2012 through 2014.

### *Sec. 111 Passenger Facility Charges*

This section defines Passenger Facility Charges and changes the word 'fee' to 'charge' throughout title 49.

### *Section 112. Airport Access Flexibility Program.*

Under current law, PFCs may be used to fund intermodal ground access projects and facilities only if they are on airport property and dedicated 100 percent to airport use. This section creates a pilot program allowing up to five airports to use PFCs to fund ground access projects, applying

more flexible standards than currently in place for airport revenue funding of these projects. The amount of PFC revenues that can be dedicated to these projects is constrained by limiting the percentage of total project costs that may be funded by PFCs to the percentage of individuals using the project to gain access to the airport.

*Section 113. GAO study of alternative means of collecting PFCs*

This section instructs the GAO to conduct a study of alternative means of PFC collection.

*Section 121. Update on Overflights*

This section would direct the FAA to guarantee that existing overflight fees are reasonably related to agency costs for providing air traffic services, and would require the FAA to adjust the fees and begin collection of the appropriate amount. The section would also permit the FAA to periodically modify the fee based on the cost of providing such service.

*Section 122. Registration Fees*

This section requires the Administrator to impose fees to pay for the costs of listed activities in the areas of certification and registration and requires the FAA periodically adjust the fees when cost data reveal that the cost of providing the service is higher or lower.

*Section 131. Airport master plans*

This section adds to goals for airport master and system plans a requirement to consider passenger convenience, airport ground access and access to airport facilities.

*Section 132. AIP Definitions*

This section makes several amendments to the AIP definitions to update and add terms that are used in the AIP. It also allows AIP funds to be used to develop an environmental management system.

*Section 133. Recycling Plans for Airports*

This section requires that airport master plans address the feasibility of solid waste recycling.

*Section 134. Contents of competition plans*

This section removes from the requirements of a competition plan for PFC charges ‘ patterns of air services’ and ‘airfare levels (as compiled by the Department of Transportation) compared to other large airports.’

*Section 135. Grant Assurances*

This section changes two provisions related to required grant assurances for AIP projects. First, a limited exception is allowed to permit an airport owner to use AIP entitlement funds to move or replace a facility when the need to relocate or replace it is beyond the owner's control. Second, the section changes the disposition of proceeds from the sale of land that an airport acquired for a noise compatibility purpose, but no longer needs for that purpose. Lastly this section removes the sunset provision in the competitive access report.

*Section 136. Agreements granting through-the-fence access to general aviation airports*

This Section mandates, subject to the requirements contained in a through-the-fence agreement between a general aviation airport sponsor and a private property owner, that the sponsor of a general aviation airport shall not be considered in violation of a grant assurance or any other law as a condition for the receipt of Federal financial assistance solely because the sponsor entered into an agreement to allow a person who owns residential real property adjacent to the airport access to the airfield of the airport.

*Section 137. Government Share of Project Costs*

This section allows for small-hub airports that have increased operations and are reclassified as medium-hub airports to retain, for two years, their eligibility for up to a 90 percent Federal share of project costs, instead of the 75 percent Federal share of project costs otherwise required for medium-hub airports. This section would add a special rule to reduce the local share of project costs from 10 percent to five percent for certain economically depressed communities.

*Section 138. Allowable Project Costs*

Current law provides that most AIP-eligible projects lose their grant eligibility if development work is undertaken before an AIP grant is awarded. Because most FAA AIP discretionary grants are awarded between July and September, this process disadvantages AIP-eligible projects in states that have shorter construction seasons than other parts of the nation. This section extends project grant eligibility until the end of the fiscal year in which work begins on otherwise AIP-eligible projects if the Secretary makes a number of determinations. This section also adds several new allowable project costs. Finally, it clarifies that while nonprimary airports may use AIP funds for revenue-producing aeronautical facilities; such use is limited to the construction of those facilities.

*Section 139. Veterans' Preference*

This section amends the definition of "Vietnam-era veteran" and adds veterans from the Afghanistan/Iraq conflict and Persian Gulf War to the definition of those veterans eligible for employment preference on AIP projects.

*Section 140. Standardizing Certification of Disadvantaged Business Enterprises*

This section requires the Secretary to establish a mandatory and standardized training program for airport owners and operators to provide streamlined Disadvantaged Business Enterprises training. The section also allows the training to be implemented by one or more private entities approved by the Secretary.

*Section 141. Special apportionment rules*

This provision would permit the Secretary to apportion to an airport sponsor in a FY an amount equal to the amount equal to the minimum apportionment available to the airport sponsor in the previous FY, if the airport received schedule or unscheduled air service from a large certificated air carrier in the calendar year used to calculate the apportionment; and the airport had more than 10,000 passenger boardings in the calendar year used to calculate the apportionment. This section also continues a special apportionment for airports that remain affected by the decrease in passengers following the terrorist attacks of September 11, 2001.

*Section 142. Apportionments*

The section resets the apportionment trigger.

*Section 143. Marshall Islands, Micronesia, and Palau*

This section makes the sponsors of airports located in the Republic of the Marshall Islands (RMI), the Federated States of Micronesia (FSM) and Palau eligible for AIP discretionary grants and funding from the Small Airport Fund.

*Section 144. Designating current or former military airports*

Current law allows the Secretary to designate current or former military airports eligible for grants, this section adds to the Secretary's consideration in the decision to approve a grant if it preserves or enhances minimum airfield infrastructure facilities at former military airports to support emergency diversionary operations for transoceanic flights in locations in US jurisdiction or control and where there is a lack of airports within the distance required by regulations. This section would also allow up to three General Aviation (GA) airports to participate in the FAA's Military Airport Program.

*Section 145. Contract Tower Program*

This section authorizes the Secretary to extend the Contract Tower Program to other low activity air traffic control towers for which a qualified entity, a State, or a subdivision of the State meeting the requirements set forth by the Secretary has requested to participate in the program. This section makes several other programmatic changes to the program.

*Section 146. Resolution of disputes concerning airport fees*

This section updates current law that addresses the resolution of disputes concerning airport fees by the Secretary to include foreign air carriers in payment by airports under protest.

*Section 147. Sale of private airports to public sponsors*

This section amends current law to facilitate the sale of a private airport, which has in the past received AIP funds for improvement projects, to a state or local government.

*Section 148. Repeal of certain limitations on Metropolitan Washington Airports Authority.*

This section repeals the limitations on the Metropolitan Washington Airports Authority, which oversees both Washington National Airport and Washington Dulles International Airport, to apply for AIP grants and collect PFCs.

*Section 149. Midway Island Airport*

This section provides a four-year extension for the Secretary to enter into a reimbursable agreement with the Secretary of the Interior to provide AIP discretionary funds for airport development projects at Midway Island Airport through FY 2014. Midway Island is critical to the safety of flights over the Pacific Ocean.

*Section 150. Miscellaneous Amendments*

This section makes miscellaneous technical changes to AIP provisions.

*Section 151. Extension of grant authority for compatible land use planning and projects by State and Local governments*

This section extends the sunset date in current law that gives grants to State and local governments for compatible land use planning and projects to September 30, 2014.

*Section 152. Priority review of construction projects in cold weather states*

This section instructs the Administrator to schedule review of construction projects that are prevented by weather from being carried out before May 1 as early as possible.

*Section 153. Study on National Plan of Integrated Systems*

This section requires the Secretary to study of the national plan of integrated airport systems (NPIAS) and to report to Congress on the findings and recommended changes for formulating the NPIAS and methods to determining the amounts apportioned to airports.

*Section 154. Transfers of terminal area Air Navigation equipment of airport sponsors*

This section establishes a pilot program which will allow the Administrator to transfer terminal area air navigation equipment to air sponsors at a specified number of airports. The airport sponsors must assure the Administrator that the sponsors will operate and maintain the equipment, permit inspections by the Administrator, and will replace equipment as needed. This transfer will include all rights, title and interests of the U.S. to the sponsor at no cost to the sponsor.

*Sec. 155. Airport Privatization Program*

Current law contains specific provisions for issuance of exemptions in connection with a transfer of airport operation to a private owner. This section authorizes the Secretary to expand the number of airports from 5 to 10 airports. In addition the section authorizes the Secretary to exempt the selling airport sponsor from the revenue diversion prohibition after the Secretary has consulted the air carrier serving the primary airport and in the case of nonprimary airport with at least 65 percent of owners of aircraft based at that airport. The section removes the requirement that the Secretary has to ensure that the airport fee imposed on air carrier will not increase more than inflation, percent increase on fees in general aviation will not exceed percentage of fees increased imposed on air carriers, and collective bargaining agreements abrogated by sale or lease. Finally the section prohibits an airport from imposing a fee on a domestic or foreign air carrier for a return on investment or recovery of principal with respect to consideration paid to public agency for the lease unless the air carriers approve.

## **Title II – NEXTGEN AIR TRANSPORTATION SYSTEM AND AIR TRAFFIC CONTROL MODERNIZATION**

*Sec. 201. Definitions.*

This sections provides definitions for terms used throughout the section, including, ADS-B, ADS-B Out, ADS-B In, RNAV, and RNP.

*Sec. 202. NextGen Demonstrations and Concepts.*

This section provides direction to the Secretary of Transportation regarding priority for NextGen activities authorized by the legislation.

*Sec. 203. Clarification of Authority to Enter Into Reimbursable Agreements.*

This section clarifies the FAA's authority to enter into reimbursable interagency agreements.

*Sec. 204. Chief NextGen Officer.*

This section requires the Administrator to appoint a Chief NextGen Officer position to be the lead official accountable for NextGen programs. This section also vests in the Chief NextGen Officer the responsibility to develop the NextGen budget for the Administrator.

*Sec. 205. Definition of Air Navigation Facility.*

This section updates and broadens the definition of an air navigation facility to clarify that Facilities and Equipment funding may be used for many capital expenses directly related to the acquisition or improvement of buildings, equipment, and new systems related to NextGen.

*Sec. 206. Clarification to Acquisition Reform Authority.*

This section removes conflicting language and clarifies the FAA's ability to limit competition in response to an emergency, or set-aside procurements for small businesses, disabled veteran-owned businesses or small businesses owned and controlled by socially and economically disadvantaged groups.

*Sec. 207. Assistance to Foreign Aviation Authorities.*

This section clarifies the FAA's current authority to provide air traffic services abroad, whether or not the foreign entity to which such services are provided is private or governmental, and that the FAA may participate in any competition to provide such services.

*Sec. 208. Next Generation Air Transportation System Joint Planning and Development Office.*

This section redesignates the Director of the Joint Planning and Development Office (JPDO) to the status of Associate Administrator for the NextGen within the FAA. The FAA is also required to publish annually a NextGen Implementation Plan and requires NextGen partner agencies to designate senior officials responsible for carrying out NextGen activities. In addition, the JPDO is required to develop an Integrated Work Plan that will outline the activities required by partner agencies to achieve NextGen. Finally, this section requires the JPDO to coordinate NextGen activities with the Office of Management and Budget.

*Sec. 209. Next Generation Air Transportation Senior Policy Committee.*

This section requires the NextGen Senior Policy Committee to meet at least twice each year. It also requires the Secretary to submit an annual report on the status of NextGen partner agencies' progress in implementing the NextGen Integrated Work Plan.

*Sec. 210. Improved Management of Property Inventory.*

This section clarifies that FAA's current authority to purchase and sell property needed for airports and air navigation facilities includes the authority to retain funds associated with disposal of property.

*Sec. 211. Automatic Dependent Surveillance-Broadcast Services.*

This section requires an annual audit by the Department of Transportation Office of Inspector General of the FAA's ADS-B program to assist Congress in creating FAA accountability for implementing the ADS-B program.

*Sec. 212. Expert Review of Enterprise Architecture for NextGen.*

This section requires the National Research Council to review FAA's NextGen technical blueprint, the Enterprise Architecture, to highlight the activities that will be necessary to transition successfully to NextGen, assess technical, cost and schedule risks for software development, and include judgments on how such risks can be mitigated.

*Sec. 213. Acceleration of NextGen Technologies.*

This section directs the Administrator to develop an implementation plan to put in place NextGen navigation procedures to maximize the efficiency and capacity of commercial operations at the top 35 busiest airports in the United States by 2015. The section also directs the Administrator make use of third party developers of navigation procedures and expedited environmental reviews to accelerate their implementation. Finally, the section directs the Administrator to extend the charter of the Performance Based Navigation Aviation Rulemaking Committee to establish priorities for NextGen navigation procedures at other airports.

*Sec. 214. Performance Metrics.*

This section would require the FAA to establish and track NAS performance metrics. The FAA is required to consult with industry stakeholders regarding optimal baselines, make the data available in a public format, and submit an annual report to Congress on the Administration's NextGen progress.

*Sec. 215. Certification Standards and Resources.*

This section would require the FAA to develop a plan within 6 months to accelerate the certification of NextGen technologies.

*Sec. 216. Surface Systems acceleration.*

This section would require the Chief Operating Officer of the Air Traffic Organization to evaluate the Airport Surface Detection Equipment-Model X (ASDE-X) program and associated

technologies, and accelerate implementation. The FAA would also be required to consider expediting the certification of Ground Based Augmentation System (GBAS) technology and develop a plan to utilize GBAS at the 35 OEP airports by September 30, 2012.

*Sec. 217. Inclusion of Stakeholders in Air Traffic Control Modernization Projects.*

This section requires the FAA to establish a process for including qualified employees to serve in a collaborative and expert capacity in the planning, development and deployment of modernization projects, including NextGen.

*Sec. 218. Siting of Wind Farms Near FAA Navigational Aids and Other Assets.*

This section would require the Administrator to survey and assess the leases for critical FAA facility sites and determine how close these facilities are to wind farms or areas suitable for the construction of wind farms. Following the assessment, the FAA would be required to report to Congress and the GAO on its findings and recommendations. This section would also require GAO to assess the potential impact wind farms have on the FAA's navigational aids and methods and restrictions to mitigate the effects of wind farms on navigational aids. Upon receipt of the GAO report, the FAA would be directed to issue guidelines for the construction of wind farms near critical FAA facilities.

*Sec. 219. Airspace Redesign.*

This section provides funding to accelerate airspace redesign initiatives. This section also directs the Administrator to monitor the noise effects of the New York/New Jersey/Philadelphia Metropolitan Airspace Redesign and report his findings to Congress.

### **Title III – SAFETY**

*Sec. 301. Judicial Review of Denial of Airman Certificates.*

This section allows FAA to seek judicial review of National Transportation Safety Board decisions involving airman certificate denials.

*Sec. 302. Release of Data Relating to Abandoned Type Certificates and Supplemental Type Certificates.*

This section allows the FAA to make aircraft certification data relating to older aircraft available, upon request, to a person seeking to maintain the airworthiness of their aircraft, without the consent of the owner of record, if the FAA first determines that there has been no proprietary interest exercised over the data for three years, the type certificate owner has not been located, and that it enhances safety if the data were made available to aircraft operators to safely maintain

and operate the aircraft. The section also requires FAA to maintain the engineering data in the possession of the Administration.

*Sec. 303. Design and Production Organization Certificates.*

This section directs the FAA to issue Certified Design and Production Organization Certificates to aviation manufacturers in order to streamline the certification process and allow FAA to focus its safety resources on primary safety concerns. This section clarifies that nothing in the section would affect the FAA's authority to revoke the Certified Design and Production Organization Certificates once issued.

*Sec. 304. Aircraft Certification Process Review and Reform.*

This section directs the Administrator to review the current practices for aircraft certification, and to implement reforms to streamline the process and reduce cost burdens based on the findings of the review.

*Sec. 305. Consistency of Regulatory Interpretation.*

This section directs the Administrator to convene an advisory panel to determine the root causes of inconsistent interpretation of regulations by the Administration's Flight Standards Service and Aircraft Certification Service and develop recommendations to improve the consistency of interpreting regulations and report to Congress.

*Sec. 306. Runway Safety.*

This section requires the Administrator to submit a report to Congress containing a plan for the installation and deployment of systems to alert controllers and/or flight crews to potential runway incursions. This section also directs the Administrator to develop a process for tracking and investigating operational errors, losses of standard separation, and runway incursions.

*Sec. 307. Improved Pilot Licenses.*

This section requires the Administrator to issue improved pilot licenses that are tamper-resistant, include a photograph, and are capable of accommodating a digital photograph, a biometric identifier, or any other unique identifier.

*Sec. 308. Flight Attendant Fatigue.*

This section directs the Administrator, acting through the Civil Aerospace Medical Institute (CAMI), to study flight attendant fatigue and report to Congress on the results.

*Sec. 309. Flight Standards Evaluation Program.*

This section directs the Administrator to modify the Flight Standards Evaluation Program to include random audits of air carriers in the agency's oversight. The section requires the Administrator to report to Congress on the Flight Standards Evaluation Program.

*Sec. 310. Cockpit Smoke.*

This section directs the GAO to study and report to Congress on the FAA's oversight activities relating to the use of new technologies to prevent or mitigate the effects of dense continuous smoke in the cockpit of a commercial aircraft.

*Sec. 311. Safety of Air Ambulance Operations.*

This section directs the Administrator to conduct a rulemaking to improve the safety of helicopter air ambulance operations. This section would also require operators to submit to the FAA various data relating to their operations.

*Sec. 312. Off-airport, Low-altitude Aircraft Weather Observation Technology.*

This section directs the Administrator to conduct a review of off-airport, low-altitude aircraft weather reporting needs, an assessment of technical alternatives, an investment analysis, and recommendations for improving weather reporting.

*Sec. 313. Feasibility of Requiring Helicopter Pilots to Use Night Vision Goggles.*

This section directs the Administrator to conduct a study on the feasibility and potential risks of requiring all pilots of helicopters providing air ambulance services to use night vision goggles during nighttime operations.

*Sec. 314. Prohibition on Personal Use of Electronic Devices on Flight Deck.*

This section prohibits the personal use of electronic devices, except for work functions, in the flight deck. The section also requires the Administrator to conduct a study and report to Congress on the sources of distraction for flight crewmembers.

*Sec. 315. Noncertificated Maintenance Providers.*

This provision requires the FAA to conduct a rulemaking to ensure that maintenance work on air carrier aircraft is performed by part 145 repair stations or part 121 air carriers.

*Sec. 316. Inspection of Foreign Repair Stations.*

This section requires the Administrator to inspect foreign repair stations where identified risks warrant inspection. This section also requires drug and alcohol testing for employees of repair stations in accordance with agreements with foreign governments developed by the Department of State.

*Sec. 317. Sunset of Line Check.*

This section sunsets, one year after the date of enactment, the requirement for an additional annual line check evaluation for airline pilots over the age of 60.

*Sec. 321. Definitions.*

This section defines terms relating to the use of Unmanned Aerial Systems (UASs).

*Sec. 322. Commercial Unmanned Aircraft Systems Integration Plan.*

This section requires the Secretary to create a plan for the safe integration of commercial UASs into the National Airspace System. This plan shall recommend a realistic time-frame for UAS integration into the NAS, but by no later than September 30, 2015. The plan is due to Congress within one year of the date of enactment, and rulemaking shall begin no later than 18 months thereafter.

*Sec. 323. Special Rules for Certain Unmanned Aircraft Systems.*

This section requires an assessment of whether certain UASs may operate safely in the NAS prior to completion of the proposed rulemaking in section 321 and the guidance in section 323.

*Sec. 324. Public Unmanned Aircraft Systems.*

This section requires the Secretary to issue guidance on the operation of public unmanned aircraft systems to expedite the issuance of the certificate of authorization process, provide a collaborative process with public agencies, and facilitate the capability of public agencies to develop and use test ranges.

*Sec. 331. Postemployment Restrictions for Flight Standards Inspectors.*

This section establishes a two-year post-service “cooling-off” period for FAA inspectors or persons responsible for oversight of FAA inspectors before they can act as an agent or representative of a certificate holder that they previously had responsibility for while employed at the FAA.

*Sec. 332. Review of Air Transportation Oversight System Database.*

This section requires the FAA to implement monthly reviews of the Air Transportation Oversight System (ATOS) database to ensure that trends in regulatory compliance are identified and appropriate corrective actions are taken.

*Sec. 333. Improved Voluntary Disclosure Reporting System.*

This section requires the FAA to modify the Voluntary Disclosure Reporting Program (VDRP) system to require inspectors to verify that air carriers have implemented comprehensive solutions to correct underlying causes of voluntarily disclosed violations, and confirm, before approving a final report of a violation, that the violation has not been previously discovered by an inspector or self disclosed by an air carrier. This section also directs the DOT Inspector General to review the Administrator's execution of the VDRP program.

*Sec. 334. Aviation Whistleblower Investigation Office.*

This section creates an independent Aviation Safety Whistleblower Investigation Office within the FAA.

*Sec. 335. Duty Periods and Flight Time Limitations Applicable to Flight Crewmembers.*

This section directs the Administrator to initiate rulemakings to require commercial pilots who accept additional flight assignments under Part 91 to count the flying time under the additional flight assignments towards the commercial flight time limitations. The section requires the Administrator to conduct two separate rulemakings for Part 121 and Part 135 flight time limitations.

## **TITLE IV- AIR SERVICE IMPROVEMENTS**

*Section 401. Essential Air Service Marketing*

This section adds, as an additional factor the Secretary shall consider in selecting an air carrier to provide essential air service to a community, whether the air carrier has included a plan in its proposal to market its services to the community.

*Section 402. Notice to communities prior to termination of eligibility for subsidized essential air service*

This section clarifies in law what occurs in practice. It requires the Secretary to notify a community receiving essential air service at least 45 days in advance of any final decision to end EAS payments to that community due to a determination by the Secretary that providing such service requires a subsidy in excess of the per passenger subsidy cap. In addition, the provision requires the Secretary to establish procedures by which each community that is notified of an impending loss of subsidy may work directly with an air carrier to ensure that the air carrier is

able to submit a proposal to the Secretary that does not require a subsidy in excess of the per passenger subsidy cap.

*Section 403. Essential Air service contract guidelines*

This section requires the Secretary to include in the guidelines governing the rate of compensation payable under the EAS program provisions under which the Secretary may: (1) encourage air carriers to improve air service to EAS communities by incorporating in EAS contracts financial incentives based on specified performance goals; and (2) execute long-term EAS contracts to encourage air carriers to provide service to EAS communities if it is in the public interest to do so.

*Section 404. Essential air service reform*

This section authorizes the appropriation of \$98 million in FY 2011, \$60 million in FY 2012, and \$30 million in FY 2013 for the EAS program. These amounts are in addition to the \$50 million per year the EAS program is currently authorized to receive from the FAA's collection of overflight fees. Under this provision, beginning in FY 2014, the EAS program would receive from overflight fees only the amount needed to provide essential air service to eligible communities in Alaska and Hawaii. The section also amends current law to require overflight fees in excess of the amount provided to the EAS program to be used as follows: up to \$6 million per year for the Small Community Air Service Development (SCASD) program, with any amount remaining after that being used for NextGen. Finally, this section authorizes the Secretary to take such actions as may be necessary to administer the EAS program within the amount of funding made available for the program.

*Section 405. Small Community Air Service*

This section adds an additional factor that the Secretary shall consider in selecting communities for participation in the SCASD program. Under this section, in addition to the existing criteria for participation in the program, the Secretary shall give priority to multiple communities that cooperate to submit a regional or multi-state application to improve air service. This section eliminates the general fund authorization of appropriations for the SCASD program, funding it instead through overflight fee collections.

*Section 406. Adjustments to compensation for significantly increased costs.*

This section clarifies that the Secretary may, subject to the availability of funds, make across-the-board increases in subsidy payments to air carriers to compensate such carriers for increased aviation fuel costs. It also requires adjustments to the rate of compensation no later than 90 days after an incumbent carrier files a notice to withdraw and authorizes the Secretary to waive the subsidy-per-passenger cap for a limited time period on a case-by-case basis.

*Section 407. Repeal of EAS local participation program*

This section repeals the EAS local participation program.

*Section 408. Sunset of Essential Air Service Program.*

This section sunsets the EAS program everywhere except Alaska and Hawaii as of October 1, 2014.

*Section 421. Smoking prohibition*

This section prohibits smoking on aircraft in all intrastate, interstate and foreign air transportation for scheduled passenger or non schedule passenger when a flight attendant is required.

*Section 422. Monthly air carrier reports*

This section requires the Secretary to collect and publish data pertaining to cancelled and diverted flights of air carriers.

*Section 423. Flight operations at Reagan Washington National Airport*

This section increases the beyond perimeter exempted slots at National Airport from 24 to 34, offset by a reduction of 10 slots within the perimeter that are currently available but unused. This section also limits operations per hour to no more than 67 flights. Scheduling priorities are afforded to new entrant and limited incumbent air carriers for the beyond perimeter exemptions.

*Section 424. Musical Instruments*

This section directs that air carriers shall allow a passenger to carry a musical instrument in the passenger compartment of an air craft if it meets carry-on requirements and the aircraft has space. Musical instruments may be checked baggage should the sum of width, height, length not exceed 150 inches, weigh over 165, or exceed size and weight restrictions for that aircraft.

*Section 425. Passenger air service improvements*

This section requires that no later than 90 days after the date of enactment, air carriers using aircraft with more than 30 seats participating in commercial air transport at medium- or large-hub airports and each operator of a medium or large-hub airport to file emergency contingency plans with the Secretary for review and approval. These plans must detail how the air carrier will provide food, water, restroom facilities, cabin ventilation, and medical treatment for passengers

onboard an aircraft that is on the ground for an extended period of time without access to the terminal. Air carriers and airports must detail in their plan how they will allow passengers to deplane following excessive delays, including how facilities and gates will be shared. Further, air carriers and airports must provide a sterile area following excessive tarmac delays for passengers with have not yet clear US Customs and Border Protection.

This section also requires the Secretary to take actions to notify the public of the Department's consumer complaints hotline number and Internet Web site. In addition, this section requires air carriers providing scheduled air transportation using any aircraft with 30 or more passenger capacity to include on their Internet website consumer complaints hotline information for DOT and the air carrier. Air carriers are required to include a hotline telephone number on carrier signs displayed at airport ticket counters, and on any electronic confirmation of the purchase of a passenger ticket. This section also provides for passenger information on the use of insecticides on aircraft.

#### *Section 426. Airfares for members of the Armed Forces*

This section states that it is the sense of Congress that each U.S. air carrier should establish for active duty members of the Armed Services, reduced air fares that are comparable to the lowest airfare for ticketed flights, and eliminate to the maximum extent possible advanced purchase requirements; offer flexible terms that allow for such members to purchase, modify, or cancel tickets without time restrictions, fees and penalties; and waive baggage and excess weight fees.

#### *Section 427. Review of air carrier flight delays, cancellations and associated causes*

This section directs the DOT IG to conduct a review of air carrier flight delays, cancellations, and associated causes to update its 2000 report. The report is due one year from the date of enactment.

#### *Section 428. Denied boarding compensation*

This section requires the Secretary no later than 6 months after enactment, and every two years following to evaluate the amount provided for denied boarding compensation and issue a regulation to adjust such compensation as necessary.

#### *Section 429. Compensation for delayed baggage*

This section directs the GAO to study delays in the delivery of checked baggage to air carrier passengers, assess options and examine impact of establishing and make minimum standards to compensate a passenger in the case of unreasonable delays

#### *Section 430. Schedule reduction*

This section requires the FAA to commence schedule reduction meetings if aircraft operations of air carriers exceed hourly benchmarks and are likely to have a significant adverse effect on the national or regional airspace system. If there is no agreement to reduce schedules, then the FAA shall take action necessary to ensure reduction is implemented.

*Section 431. DOT airline consumer complaint investigations*

Allows the DOT to investigate additional consumer complaints.

*Section 432. Study of operators regulated under part 135*

This section requires the Administrator, along with interested parties, to conduct a study of Part 135 operators, and issue reports.

## **TITLE V- ENVIRONMENTAL STEWARDSHIP AND STREAMLINING**

*Sec. 501 Overflights of national parks*

This section makes several changes to commercial air tour operations over national parks. This section exempts parks with 50 or fewer annual air tour flights, with a provision for the National Park Service (NPS) director to withdraw an exemption on a park-specific basis based on concerns regarding the protection of park resources or visitor experiences. This section also allows the Director and the Administrator to enter into a voluntary agreement with a commercial air tour operator as an alternative to an air tour management plan. This section provides more flexibility to the FAA and NPS to increase the number of operations or to allow new entrant air tour operators under interim operating authority conditions before an air tour management plan has been established at a park. The additional interim operating flexibility includes considerations by the NPS of the environmental impacts on park resources and by the FAA of impacts on aviation safety and the ATC system. Commercial air tour operators must report the number of commercial air tours over parks.

*Section 502. State block grant program*

This section codifies current practice that state participants in the AIP State Block Grant Program have the responsibility and authority to comply with environmental requirements for projects at non-commercial service airports within the State Block Grant Program, and that other Federal agencies must recognize state environmental review analyses for Federal approvals, licenses, or permits related to these projects.

*Section 503. NextGen environmental efficiency projects streamlining*

This section incorporates NextGen environmental efficiency projects into projects that are subject to streamlined environmental review in section 47171.

*Section 504. Airport funding of special studies or reviews*

This section allows the FAA to accept funds from airport sponsors to conduct special environmental studies for ongoing federally-funded airport projects, or studies to support approved airport noise compatibility measures or environmental mitigation commitments in an agency record of decision or a finding of no significant impact or timely processing, review and completion of environmental activities associated with new or amended flight procedures.

*Section 505. Noise compatibility programs*

Current law requires operators applying for noise compatibility programs to state the measures they have taken or propose to take to reduce existing noncompatible uses and prevent introducing additional noncompatible uses in the area. This section adds as one of the measures, conducting land use planning jointly with neighboring local jurisdictions for community redevelopment of land or property interests of the airport operator to encourage and enhance redevelopment opportunities.

*Section 506. Grant eligibility for assessment of flight procedures*

This section encourages the implementation of environmentally-beneficial aircraft flight procedures at airports by supporting, with AIP assistance, the environmental review of airport-proposed procedures that are approved by the FAA under the Airport Noise Compatibility Planning program. This section also allows the FAA to accept funds, including AIP and PFC, from an airport sponsor to hire staff or obtain services to provide environmental reviews for new flight procedures that have been approved for airport noise compatibility planning purposes.

*Section 507. Determination of fair market value of residential properties*

This section directs the Secretary to ensure that property appraisals conducted disregard any decrease or increase in fair market value due to the project for which the property is to be acquired.

*Section 508. Prohibition on operating certain aircraft weighing 75,000 pounds or less not complying with stage 3 noise levels*

This section requires that, after December 31, 2014, all civil subsonic jet aircraft under 75,000 pounds must meet stage 3 noise levels within the 48 contiguous states, with some exceptions for temporary operations.

*Section 509. Aircraft departure queue management pilot program*

This section authorizes a pilot program at five public-use airports to design, develop, and test new air traffic flow management technology to better manage the flow of aircraft on the ground and reduce ground holds and idling times for aircraft.

*Section 510. High performance, sustainable and cost effective air traffic control facilities*

This section authorizes the FAA Administrator to implement sustainable practices for incorporation of energy efficient measures in the construction and major renovation of air traffic control facilities in order to reduce energy consumption, improve environmental performance and reduce the cost of maintenance.

*Section 511. Sense of Congress*

It is the sense of Congress that the European Union should not extend its emissions trading proposal to international civil aviation without working through the ICAO.

*Section 512. Aviation Noise complaints*

This section requires all large hub airports to list on their internet websites a number in which individuals may call to report airport noise any airport receiving 25 or more complaints in a year is required to annually submit to the FAA the number and summary of noise complaints received, which the FAA Administrator shall make available to the public electronically.

## **Title VI – FAA EMPLOYEES AND ORGANIZATION**

*Sec. 601. Federal Aviation Administration personnel management system.*

The section establishes a new dispute resolution and binding arbitration process for FAA employees.

*Sec. 602. Presidential rank award program.*

In 1996, the FAA reformed its personnel system under special authority provided by Congress, which exempted the FAA from many requirements of the Federal government's personnel system, including the Presidential Rank Award Program. This section would allow the FAA's executives and senior professionals to participate in the program.

*Sec. 603. FAA Technical Training and Staffing.*

This section requires the Administrator to study to assess the adequacy of FAA's technical training strategy and improvement plan for airway transportation systems specialists. The study is due within one year of the date of enactment to the congressional committees of jurisdiction. This section also requires the NAS to conduct a study to assess FAA assumptions and methods used to determine FAA systems specialist staffing needs to ensure proper maintenance and certification of the NAS in the most cost effective manner. While conducting this study, the

Academy shall interview interested parties, including labor, government and industry representatives. The Academy shall submit a report to Congress one year after contracted.

*Sec. 604. Safety critical staffing*

The section requires the FAA to implement, to the extent practicable and in the most cost effective manner, the staffing model for aviation safety inspectors by October 1, 2011, following the recommendations outlined in the 'Staffing Standards for Aviation Safety Inspectors' report issued by the Academy in 2007. The FAA shall consult with interested parties, including aviation safety inspectors.

*Sec. 605. FAA air traffic controller staffing*

This section directs the FAA to enter into an arrangement with the Academy to conduct a study of the air traffic controller standard used by the FAA to estimate staffing needs for FAA air traffic controllers to ensure the safe operation of the national airspace system in the most cost effective manner. The Academy shall transmit a report not later than 2 years after the date of enactment to the appropriate committees of jurisdiction.

*Sec. 606. Air traffic control specialist qualification training.*

This section authorizes the Administrator to appoint qualified air traffic control specialist candidates for placement directly in airport traffic control facilities.

*Sec. 607. Assessment of training programs for air traffic controllers*

This section requires the Administrator to conduct a study to assess the adequacy of training programs for air traffic controllers, including the FAA's technical training strategy and improvement plan. The Administrator shall submit to Congress, within 180 days of enactment, a report on the results of this study.

*Sec. 608. Collegiate training initiative study*

This section requires the Administrator to conduct a study on training options for graduates of the Collegiate Training Initiative (CTI). The report is required to be submitted to Congress 180 days after the date of enactment.

*Sec. 609. FAA facility conditions*

This section requires the GAO to conduct a study of the conditions of a sampling of FAA facilities and make recommendations and issue a report to the FAA and to Congress.

*Sec. 610. Front line manager staffing.*

This section would require the FAA Administrator to commission an independent study on front line manager staffing requirements in air traffic control facilities.

## **TITLE VII: AVIATION INSURANCE**

### *Section 701. General Authority*

Current law requires the FAA to provide U.S. airlines aviation insurance from the first dollar of loss at capped premium rates. This section extends this requirement until September 30, 2013. This requirement then becomes discretionary until December 31, 2013.

### *Section 702. Extension of authority to limit third-party liability of air carriers arising out of acts of terrorism*

Current law allows the Secretary to limit an airline's third-party liability to \$100 million and also prohibits punitive damages against either an airline or the Federal Government for any cause resulting from a terrorist event. This section extends the expiration date of this authority, to December 31, 2013.

### *Section 703. Clarification of reinsurance authority*

This section amends the reinsurance section in title 49 to clarify that the DOT may, as a risk mitigation technique, purchase reinsurance from commercial reinsurers to supplement payment of claims from the aviation insurance revolving fund.

### *Section 704. Use of independent claims adjusters*

This section provides that the FAA may use commercial insurance carriers to underwrite insurance and adjust claims. It also provides the FAA with explicit authority to use claims adjusters independent of an insurance underwriting agent. Having the flexibility to use an independent claims adjuster should, depending on the circumstances of a claim, avoid potential conflict of interest between a commercial insurance company acting as a claims adjuster for the FAA and its role as a provider of other insurance to an airline. This section may also expedite claims in the United States and foreign jurisdictions.

## **TITLE VIII- MISCELLANEOUS**

### *Section 801. Disclosure of Data to Federal Agencies in Interest of National Security.*

This section clarifies that the FAA has limited authority to release data and reports that are pulled from the FAA's systems of records, which are subject to the Privacy Act, to other Federal agencies in the interest of national security.

### *Section 802. FAA access to criminal history records and database systems*

This section provides statutory authority for the FAA to continue to access the NCIC and related state criminal history databases so that the FAA may continue to perform its critical safety and security functions.

*Section 803. Civil penalties technical amendments*

This section applies civil penalties to violations of chapter 451 on Alcohol and Controlled Substance Testing.

*Section 804. Realignment and consolidation of FAA services and facilities*

This section establishes a fair and open process and sets a timeline for the consolidation and realignment FAA facilities to reduce costs and facilitate the NextGen efforts without adversely affecting safety.

*Section 805. Limiting access to flight decks of all-cargo aircraft*

This section requires the FAA, within 180 days of the date of enactment, to assess the feasibility of developing a physical means, or a combination of physical and procedural means, to prohibit individuals, other than authorized flight crewmembers, from accessing the flight decks of all-cargo aircraft.

*Section 806. Consolidation or elimination of obsolete, redundant, or otherwise unnecessary reports; use of electronic media format*

This section orders the FAA to submit to Congress no later than 2 years after date of enactment and every 2 years thereafter, a report listing all obsolete, redundant or unnecessary reports FAA is required by law to submit or publish that the Administrator recommends eliminating or consolidating, and a cost savings that would result.

*Section 807. Prohibition on use of certain funds*

This section prohibits the Secretary from using funds available in this act to name, rename, designate or redesignate any project or programs authorized in this act after an individual who is currently serving in Congress.

*Section 808. Study on aviation fuel prices*

This section requires the GAO to conduct a study and report to Congress on the impact of aviation fuel price increases on the Airport Trust Fund and the aviation industry in general.

*Section 809. Wind turbine lighting*

This section directs the Administrator to study lighting for wind turbines.

*Section 810. Air-rail code sharing study*

This section directs the GAO to conduct a study regarding existing airline and intercity passenger rail code sharing arrangements and the effects of the increasing intermodal connectivity of airline and intercity passenger rail facilities and systems to improve passenger travel.

*Section 811. D.C. Metropolitan Area Special Flight Rules Area*

This section requires the Administrator, in consultation with the Secretary of Homeland Security and the Secretary of Defense, to submit a report to Congress that outlines changes to the D.C. Metropolitan Area Special Flight Rules Area that will decrease operational impacts and improve general aviation access to airports in the region.

*Section 812. FAA review and reform*

This section requires the Administrator to undertake a thorough review of each program, office, and organization with the Administration, including the Air Traffic Organization, to identify: 1.) duplicative positions, programs, roles, or offices; 2.) wasteful practices; 3.) redundant, obsolete, or unnecessary functions; 4.) inefficient processes; and 5.) ineffectual or outdated policies. This section also authorizes the Administrator to undertake such actions as may be necessary to address the Administrator's findings.

## **Title IX – NATIONAL MEDIATION BOARD**

*Sec. 901. Authority of the Inspector General.*

This section vests in the Inspector General of the United States Department of Transportation specific authority to conduct audits and evaluate the National Mediation Board's programs and expenditures.

*Sec. 902. Evaluation and Audit of the National Mediation Board.*

This section directs the GAO to conduct audits and evaluate the National Mediation Board's programs and expenditures.

*Sec. 903. Repeal of Rule.*

In May 2010, the National Mediation Board (NMB) changed union election procedures that had been in place for 75 years. The previous and long-standing election procedures required that a majority of *all* airline workers vote in favor of union representation to gain union certification. The rule changes allow union certification where only a majority of the employees who actually vote in the election vote for certification. Effective January 1, 2011, this section repeals the rule

prescribed by the National Mediation Board published on May 11, 2010 relating to representation election procedures.

## **Title X – COMMERCIAL SPACE TRANSPORTATION**

*Sec. 1001. Space flight passengers.*

This section reclassifies individuals transported in commercial space transportation as passengers.