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S.1300

Aviation Investment and Modernization Act of 2007 (Reported in Senate)

[Omit the part struck through and insert the part printed in *italic*]

A BILL

To amend title 49, United States Code, to authorize appropriations for the Federal Aviation Administration for fiscal years 2008 through 2011, to improve aviation safety and capacity, to modernize the air traffic control system, and for other purposes.

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE- This Act may be cited as the `Aviation Investment and Modernization Act of 2007'.

(b) TABLE OF CONTENTS- The table of contents for 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. Air Traffic Modernization Fund.

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.*

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. Federal Aviation Administration personnel management system.

Sec. 314. Rulemaking and report on ADS-B implementation.

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. Essential air service 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. Extraperimetal and intraperimetal slots at Ronald Reagan Washington National Airport.

TITLE V--AVIATION SAFETY

Sec. 501. Runway incursion reduction.

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 requirements.

Sec. 510. Clarification of Memorandum of Understanding with OSHA.

Sec. 511. Acceleration of development and implementation of required navigation performance approach procedures.

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.

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. Modification of FAA's age-60 standard.

Sec. 707. Update on overflights.

Sec. 708. Technical corrections.

Sec. 709. FAA technical training and staffing.

Sec. 710. Commercial air tour operators in national parks.

Sec. 711. Phaseout of stage 1 and 2 aircraft.

Sec. 712. Weight restrictions at Teterboro Airport.

Sec. 713. Fair and equitable resolution of labor integration issues.

Sec. 714. Pilot program for redevelopment of airport properties.

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

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is

expressed in terms of an amendment to, or a repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 49, United States Code.

SEC. 3. EFFECTIVE DATE.

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

TITLE I--AUTHORIZATIONS AND FINANCING

SEC. 101. OPERATIONS.

Section 106(k)(1) is amended by striking subparagraphs (A) through (D) and inserting the following:

- ` (A) \$8,726,000,000 for fiscal year 2008;
- ` (B) \$8,978,000,000 for fiscal year 2009;
- ` (C) \$9,305,000,000 for fiscal year 2010; and
- ` (D) \$9,590,000,000 for fiscal year 2011.'

SEC. 102. AIR NAVIGATION FACILITIES AND EQUIPMENT.

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

- ` (1) \$2,572,000,000 for fiscal year 2008;
- ` (2) \$2,923,000,000 for fiscal year 2009, of which \$412,000,000 is derived from the surcharge imposed under section 48115;
- ` (3) \$3,079,000,000 for fiscal year 2010, of which \$423,000,000 is derived from the surcharge imposed under section 48115; and
- ` (4) \$3,317,000,000 for fiscal year 2011, of which \$436,000,000 is derived from the surcharge imposed under section 48115.'

SEC. 103. RESEARCH AND DEVELOPMENT.

Section 48102 is amended--

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

` (a) IN GENERAL- Not more than the following amounts may be appropriated to the Secretary of Transportation out of the Airport and Airway Trust Fund established under section 9502 of the Internal Revenue Code of 1986 (26 U.S.C. 9502) for conducting civil aviation research and development under sections 44504, 44505, 44507, 44509, and 44511 through 44513 of this title:

- ` (1) \$140,000,000 for fiscal year 2008.
- ` (2) \$191,000,000 for fiscal year 2009.

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

` (4) \$194,000,000 for fiscal year 2011.';

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

(3) by adding at the end the following:

` (c) RESEARCH GRANTS PROGRAM INVOLVING UNDERGRADUATE STUDENTS- The Administrator of the Federal Aviation Administration shall establish a program to utilize undergraduate and technical colleges, including Historically Black Colleges and Universities, Hispanic Serving Institutions, tribally controlled colleges and universities, and Alaska Native and Native Hawaiian serving institutions in research on subjects of relevance to the Federal Aviation Administration. Grants may be awarded under this subsection for--

` (1) research projects to be carried out at primarily undergraduate institutions and technical colleges;

` (2) research projects that combine research at primarily undergraduate institutions and technical colleges with other research supported by the Federal Aviation Administration;

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

` (4) research on the impact of new technologies and procedures, particularly those related to aircraft flight deck and air traffic management functions, *and* on training requirements for pilots and air traffic controllers.'.

SEC. 104. AIRPORT PLANNING AND DEVELOPMENT AND NOISE COMPATIBILITY PLANNING AND PROGRAMS.

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

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

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

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

` (4) \$4,100,000,000 for fiscal year [Struck out->] 2011.'; [<-Struck out] 2011.'.

SEC. 105. OTHER AVIATION PROGRAMS.

Section 48114 is amended--

(1) by striking `2007' in subsection (a)(1)(A) and inserting `2011';

(2) by striking `2007,' in subsection (a)(2) and inserting `2011,'; and

(3) by striking `2007' in subsection (c)(2) and inserting `2011'.

SEC. 106. AIR TRAFFIC MODERNIZATION FUND.

(a) IN GENERAL- Chapter 481 is amended by adding at the end the following:

` Sec. 48115. Modernization surcharge**` (a) In General-**

` (1) Not later than October 1, 2008, the Administrator of the Federal Aviation Administration shall impose a surcharge of \$25 per flight for air traffic control costs. Except as provided in subsection (b), owners or operators of aircraft in the national airspace system shall pay the surcharges assessed under this section.

` (2) SURCHARGE CREDITED AS OFFSETTING COLLECTIONS- Any surcharge collected under this section shall, subject to appropriation made in advance--

` (A) be deposited in an Air Traffic Modernization Fund which shall be established in the Treasury;

` (B) be credited as offsetting collections to the account established under section 48101 of this title; and

` (C) be available to the Administrator for expenditure only to pay the costs of Next Generation Air Transportation System projects listed in the Capital Investment Plan required by section 44501 and approved by the Air Traffic Control Modernization Oversight Board.

` (3) EFFECT OF LAW ON SURCHARGE COLLECTION- The Administrator may continue to assess and collect and spend surcharges established under this section during any period in which the agency's funding is provided under an Act providing continuing appropriations in lieu of the agency's regular appropriations. The Administrator may not assess or collect a surcharge established under this section for any fiscal year for which no annual appropriations Act is enacted that appropriates at least the amount authorized by section 48101 for that fiscal year less the amount required by section 48116(c).

` (b) Exceptions-

` (1) MILITARY AND ~~[Struck out->] OTHER PUBLIC~~ ~~[<-Struck out] CERTAIN OTHER AIRCRAFT-~~ A surcharge may not be assessed under this section for military aircraft, public aircraft (as defined in section 40102 of this subtitle), air ambulance aircraft, *agricultural aircraft*, or ~~[Struck out->] to~~ ~~[<-Struck out] for~~ military or non-commercial civil aircraft of a foreign government.

` (2) ~~[Struck out->] GENERAL AVIATION EXEMPTIONS~~ ~~[<-Struck out] EXEMPTION APPLICABILITY-~~ A surcharge may not be assessed under this section for--

` (A) piston engined aircraft; or

` (B) turboprop *or turboshaft* aircraft operating outside of controlled airspace.

` (3) FLIGHT PLAN INFORMATION- Any person required to file a flight plan with the Administration, including operators of flights described in paragraphs (1) and (2), shall specify in the plan whether the person is engaged in an operation for compensation or hire, ~~[Struck out->] or~~ ~~[<-Struck out] a general aviation operation,~~ or a military or public aircraft ~~[Struck out->] operation,~~ for ~~[<-Struck out] operation for~~ purposes of this section.

` (4) CANADA TO CANADA FLIGHTS- The Administrator may waive a surcharge that would otherwise be assessed under this chapter for flights that operate in United States-controlled airspace but takeoff and land at an airport in Canada without an

intermediate stop outside Canada, if the Administrator determines that not assessing and collecting the surcharge for such flights would be in the public interest.

[Struck out->] `(5) INTRASTATE FLIGHTS- For the purpose of applying this section to intrastate flights in a State that is not contiguous with another State, a surcharge--
[<-Struck out]

[Struck out->] `(A) may not be assessed for more than 2 intrastate departures for a continuing intrastate flight; and [<-Struck out]

[Struck out->] `(B) may not be applied to a departure from an airport for which basic essential air service is provided under subchapter II of chapter 417 of this title. [<-Struck out]

`(5) INTRASTATE FLIGHTS- For the purpose of applying this section to intrastate flights in a State that is not contiguous with another State, a surcharge may not be applied to any flight that originates or terminates at an airport, or in airspace, that is not controlled by a terminal radar approach control facility or a Combined Center/Radar Approach Control facility or to any flight that originates and terminates at an airport, or in airspace, that is not controlled by a terminal radar approach control facility or a Combined Center/Radar Approach Control facility.

`(6) TRAINING FLIGHTS- The Administrator may grant an exemption from a surcharge imposed under this subsection to an individual intending to conduct training flights. An individual seeking such an exemption shall submit a request to the Administrator in such form and manner as the Administrator may require.

`(c) Administrative Provisions-

`(1) SURCHARGES PAYABLE TO THE ADMINISTRATOR- Surcharges assessed and amounts collected under this section are payable to the Administrator. The Administrator may refund any surcharge, or portion thereof, paid by mistake in excess of the amount required. The Administrator may enter into agreements with other Federal agencies to collect surcharges assessed under this section on behalf of the Administration.

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

`(3) FAILURE TO PAY REQUIRED SURCHARGES- If the Administrator determines that any person has failed to pay surcharges when due under this section, or to comply with any limitation or condition on payment under this section, or has failed to provide the Administration with the correct information in the person's flight plan or by other means regarding the nature of the flight, including whether the person engaged in an operation for compensation or hire or general aviation operation, the Administrator may--

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

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

` (C) offset any amount of surcharges owed by withholding any payment otherwise owed or due to the person by the Secretary or the Administrator; or

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

` (4) ACTION WHEN FUTURE PAYMENT IN JEOPARDY- If the Administrator reasonably determines that an aircraft owner or operator will not pay its required surcharges when due, the Administrator may change the required payment schedule for such person.

` (d) EFFECT ON PREVIOUS PROVISIONS- Unless otherwise specified, nothing in this section shall be construed as affecting fees previously authorized and established under chapter 453.

` (e) ADMINISTRATION OF SURCHARGE- The requirements applicable to developing and issuing rules under [~~Struck out->~~] title 5, United States Code, [~~<-Struck out~~] *subchapter II of chapter 5 of title 5* shall not apply to the actions of the Secretary or the Administrator under this section.

` (f) DEFINITIONS- In this section:

` (1) AGRICULTURAL AIRCRAFT- *The term 'agricultural aircraft' means an aircraft used to make aerial applications for agricultural, forestry, or public health purposes.*

` [~~Struck out->~~] (1) [~~<-Struck out~~] (2) AIR AMBULANCE AIRCRAFT- The term 'air ambulance aircraft' means--

` (A) rotorcraft which are engaged in an operation to provide emergency medical services; or

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

` [~~Struck out->~~] (2) [~~<-Struck out~~] (3) FLIGHT- The term 'flight' means a takeoff and landing by an aircraft.

` Sec. 48116. Leveraged financing for next generation air traffic control system

` (a) In General-

` (1) In order to support the transition to the Next Generation Air Transportation System, in fiscal years 2009 through 2025 the Secretary of Transportation is authorized to issue obligations to finance capital investments in the facilities and equipment account of the air traffic control system to be owned and operated by the Federal Aviation Administration.

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

` (b) CONDITIONS AND LIMIT ON INDEBTEDNESS- Obligations issued under this section shall be in such forms and denominations, bear such maturities, and shall be subject to such terms and conditions as may be prescribed by the Secretary. The aggregate amount of all such obligations shall not exceed \$5,000,000,000.

` (c) REPAYMENT- The Secretary of Transportation shall use revenues derived from the

surcharges authorized by section 48115 in the amounts required to repay such obligations with interest, and such payments shall have first priority in the use of surcharges collected during this period. Beginning in 2009, any surcharges required to repay obligations shall be collected notwithstanding section 48115(a)(3). These amounts shall not be treated as discretionary offsetting collections, but shall be treated as offsetting receipts and shall only be used to repay the obligations incurred under paragraph (1).

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

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

(b) DELINEATION OF NEXT GENERATION AIR TRANSPORTATION SYSTEM PROJECTS-
Section 44501(b) is amended--

(1) by striking `and' after the semicolon in paragraph (3);

(2) by striking `defense.' in paragraph (4) and inserting `defense; and'; and

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

`(5) a list of projects that are part of the Next Generation Air Transportation [Struck out->] System.'.

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