

AVIATION FUNDING STABILITY ACT OF 2019

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DECEMBER 21, 2020.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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Mr. DEFAZIO, from the Committee on Transportation and Infrastructure, submitted the following

R E P O R T

[To accompany H.R. 1108]

[Including cost estimate of the Congressional Budget Office]

The Committee on Transportation and Infrastructure, to whom was referred the bill (H.R. 1108) to provide for funding from the Airport and Airway Trust Fund for all Federal Aviation Administration activities in the event of a Government shutdown, and for other purposes, having considered the same, reports favorably thereon with an amendment and recommends that the bill as amended do pass.

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The amendment is as follows:

Strike all after the enacting clause and insert the following:

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “Aviation Funding Stability Act of 2019”.

**SEC. 2. FUNDING FOR THE FEDERAL AVIATION ADMINISTRATION IN THE EVENT OF A LAPSE IN APPROPRIATION.**

(a) **IN GENERAL.**—If, with respect to the Federal Aviation Administration, an appropriation measure for a fiscal year is not enacted before the beginning of such fiscal year or a joint resolution making continuing appropriations is not in effect, amounts in the Airport and Airway Trust Fund not otherwise appropriated shall be available to the Administrator for continuing programs, projects, or activities (including the costs of direct loans and loan guarantees) that were conducted with amounts made available for the Federal Aviation Administration, including for the accounts “Federal Aviation Administration—Operations”, “Federal Aviation Administration—Facilities and Equipment”, “Federal Aviation Administration—Research, Engineering, and Development”, and “Federal Aviation Administration—Grants-in-Aid for Airports” in the preceding fiscal year—

(1) in the corresponding appropriation Act for such preceding fiscal year; or

(2) if the corresponding appropriation bill for such preceding fiscal year did not become law, then in a joint resolution making continuing appropriations for such preceding fiscal year.

(b) **RATE FOR OPERATIONS.**—Appropriations and funds made available, and authority granted, for a program, project, or activity for any fiscal year pursuant to this section shall be at a rate for operations not greater than —

(1) the rate for operations provided for in the regular appropriation Act providing for such program, project, or activity for the preceding fiscal year; or

(2) in the absence of such an Act, the rate for operations provided for such program, project, or activity pursuant to a joint resolution making continuing appropriations for such preceding fiscal year.

(c) **AVAILABILITY.**—Appropriations and funds made available, and authority granted, for any fiscal year pursuant to this section for a program, project, or activity shall be available for the period beginning with the first day of a lapse in appropriations and ending with the date on which the applicable regular appropriation bill for such fiscal year becomes law (whether or not such law provides for such program, project, or activity) or a joint resolution making continuing appropriations becomes law, as the case may be.

(d) **TERMS AND CONDITIONS.**—An appropriation or funds made available, or authority granted, for a program, project, or activity for any fiscal year pursuant to this section shall be subject to the terms and conditions imposed with respect to the appropriation made or funds made available for the preceding fiscal year, or authority granted for such program, project, or activity under current law.

(e) **END OF FISCAL YEAR.**—If this section is in effect at the end of a fiscal year, funding levels shall continue as provided in this section for the next fiscal year.

(f) **EXPENDITURES AND OBLIGATIONS.**—Expenditures and obligations made for a program, project, or activity for any fiscal year pursuant to this section shall be charged to the applicable appropriation, fund, or authorization whenever a regular appropriation bill or a joint resolution making continuing appropriations until the end of a fiscal year providing for such program, project, or activity for such period becomes law.

(g) **EXPENDITURE AUTHORITY.**—Section 9502(d)(1)(A) of the Internal Revenue Code of 1986 is amended by striking the semicolon at the end and inserting “or the Aviation Funding Stability Act of 2019;”.

(h) **TERMINATION.**—This section shall not apply to a program, project, or activity during any portion of a fiscal year if any other provision of law (other than an authorization of appropriations)—

(1) makes an appropriation, makes funds available, or grants authority for such program, project, or activity to continue for such period; or

(2) specifically provides that no appropriation shall be made, no funds shall be made available, or no authority shall be granted for such program, project, or activity to continue for such period.

**SEC. 3. AIRPORT PLANNING AND DEVELOPMENT AND NOISE COMPATIBILITY PLANNING AND PROGRAMS.**

Each of paragraphs (3) through (6) of section 48103(a) of title 49, United States Code, is amended by striking “\$3,350,000,000” and inserting “\$4,000,000,000”.

**PURPOSE OF LEGISLATION**

The purpose of H.R. 1108, as amended, is to provide funding from the Airport and Airway Trust Fund (AATF) to ensure continuation of all Federal Aviation Administration (FAA) programs, projects, and activities in the event of a lapse in agency appropria-

tions, and to provide increased Airport Improvement Program (AIP) funding levels for important airport infrastructure projects.

#### BACKGROUND AND NEED FOR LEGISLATION

The Antideficiency Act (31 U.S.C. 1341) generally prohibits a Federal agency from obligating or expending Federal funds in the absence of appropriations. In the event a lapse in appropriations occurs, H.R. 1108, as amended, provides funding from the AATF for all FAA programs, projects, and activities, including the costs of direct loans and loan guarantees, that were conducted with amounts made available to the FAA prior to the lapse. These activities would be funded fully out of the AATF and continue uninterrupted until a new appropriations measure is enacted into law. H.R. 1108, as amended, also increases the authorized level of AIP funding from \$3,350,000,000 to \$4,000,000,000 per year through fiscal year 2023.

This legislation, as amended, is necessary because a lapse in the FAA's appropriations impedes the agency's ability to fulfill its mission to provide for the safe and efficient use of airspace, as well as negatively affects the aviation industry at large. According to the Congressional Research Service, the FAA has been subject to three lapses in appropriations in the past decade—in fiscal years 2014, 2018, and 2019.

The most recent lapse in appropriations, which lasted 34 days between December 21, 2018, and January 25, 2019, led to the furlough of more than 17,000 FAA employees—approximately 40 percent of the agency—at the start of the lapse. More than 14,000 air traffic controllers and other safety-critical FAA employees deemed excepted (not subject to furlough) performed their duties during this period without pay. Other FAA employees were recalled by the agency throughout the lapse and also worked without pay until a new appropriations measure was enacted. Labor organizations representing FAA employees working during this time, including the National Air Traffic Controllers Association and Professional Aviation Safety Specialists, cited fatigue, stressful working conditions, or low morale within their membership as affecting the ability to perform their respective duties. FAA activities suspended or delayed during the lapse in appropriations included: aviation rulemakings; the implementation of Congressional mandates and airspace modernization programs; the certification of aircraft, aviation equipment and products, and simulators; training of new air traffic controllers amidst a staffing shortage; and the issuance of new airport infrastructure grants. The effects of these suspended or delayed activities were felt throughout the U.S. aviation industry.

The AATF is sustained by revenue from aviation-related excise taxes on domestic passenger tickets, commercial fuel, general aviation gasoline, and cargo, among other sources. During a lapse in appropriations, these excise taxes continue to be paid into the AATF, while the FAA is prohibited from accessing the revenue. According to the FAA, the AATF has provided the majority of funding for FAA programs and activities over the past five fiscal years—between 80 and 95 percent of the agency's total funding each fiscal year—with Congress electing to use General Fund appropriations to cover the remaining amount. Notably, there is sufficient AATF revenue and a sufficient unobligated balance to cover 100 percent

of FAA programs and operating costs throughout a lapse in appropriations, with no General Fund contribution required. In fact, the Congressional Budget Office estimates that the AATF will have an uncommitted balance of \$7.7 billion by the end of fiscal year 2019 and projects this to increase each year, assuming there are no changes to current agency authorization levels or rate of General Fund contribution.

H.R. 1108, as amended, will insulate the FAA from the effects of future lapses in appropriations, ensuring the agency and its employees continue their work uninterrupted. It will also provide additional authorized AIP funding levels to support needed airport infrastructure projects.

#### HEARINGS

For the purposes of section 103(i) of H. Res. 6 of the 116th Congress—

(1) The following hearing was used to develop or consider H.R. 1108, as amended:

The Subcommittee on Aviation held a hearing on February 13, 2019, titled, “Putting U.S. Aviation at Risk: The Impacts of the Shutdown.” The purpose of the hearing was to gather stakeholder perspectives on how the 35-day partial shutdown of the Federal Government impacted Federal Aviation Administration (FAA) functions and operations, as well as the U.S. aviation industry and workforce. The Subcommittee received testimony from Mr. Paul M. Rinaldi, President, National Air Traffic Controllers Association, AFL–CIO; Mr. Michael Perrone, National President, Professional Aviation Safety Specialists; Mr. Nicholas E. Calio, President and CEO, Airlines for America; Ms. Sara Nelson, International President, Association of Flight Attendants–CWA; and Mr. Peter J. Bunce, President and CEO, General Aviation Manufacturers Association.

(2) The following related hearing was held:

On March 12, 2019, the Subcommittee on Aviation held a hearing titled, “Looking Forward: Aviation 2050.” The purpose of the hearing was to explore the future of U.S. aviation and the National Airspace System (NAS), including how the NAS is evolving as a result of new aviation and aerospace users and technologies. Witnesses included: Mr. David McBride, Director, Armstrong Flight Research Center, National Aeronautics and Space Administration; Ms. Diana Marina Cooper, Senior Vice President, Policy and Strategy, PrecisionHawk, Inc.; Dr. Eli Dourado, Head, Global Policy and Communications, Boom Supersonic; Dr. Eric Allison, Head, Elevate, Uber Technologies, Inc.; and Mr. Joseph G. DePete, President, Air Line Pilots Association, International.

#### LEGISLATIVE HISTORY AND CONSIDERATION

H.R. 1108 was introduced in the House on February 8, 2019, by Mr. DeFazio and Mr. Larsen of Washington and referred to the Committee on Transportation and Infrastructure, and in addition to the Committee on Ways and Means. Within the Committee, H.R. 1108 was referred to the Subcommittee on Aviation.

The Subcommittee on Aviation was discharged from further consideration of H.R. 1108 on March 27, 2019.

The Full Committee met in open session to consider H.R. 1108 on March 27, 2019, and ordered the measure to be reported to the House, as amended, favorably by voice vote, with a quorum present. The Committee took the following actions:

An amendment offered by Mr. Graves of Missouri, (#1); was AGREED TO by voice vote.

At the end of the bill add a new section entitled "Sec. \_\_\_\_ Airport Planning and Development and Noise Compatibility Planning and Programs."

#### COMMITTEE VOTES

Clause 3(b) of rule XIII of the Rules of the House of Representatives requires each committee report to include the total number of votes cast for and against on each record vote on a motion to report and on any amendment offered to the measure or matter, and the names of those members voting for and against.

There were no recorded votes taken in connection with consideration of H.R. 1108, as amended.

#### COMMITTEE OVERSIGHT FINDINGS

With respect to the requirements of clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee's oversight findings and recommendations are reflected in this report.

#### NEW BUDGET AUTHORITY AND TAX EXPENDITURES

Clause 3(c)(2) of rule XIII of the Rules of the House of Representatives does not apply where a cost estimate and comparison prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974 has been timely submitted prior to the filing of the report and is included in the report. Such a cost estimate is included in this report.

#### CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

With respect to the requirement of clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 402 of the Congressional Budget Act of 1974, the Committee has received the enclosed cost estimate for H.R. 1108, as amended.

U.S. CONGRESS,  
CONGRESSIONAL BUDGET OFFICE,  
*Washington, DC, May 14, 2019.*

Hon. PETER A. DEFAZIO,  
*Chairman, Committee on Transportation and Infrastructure,  
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 1108, the Aviation Funding Stability Act of 2019.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Megan Carroll.

Sincerely,

KEITH HALL,  
*Director.*

Enclosure.

At a Glance			
H.R. 1108, the Aviation Funding Stability Act of 2019			
As ordered reported by the House Committee on Transportation and Infrastructure on March 27, 2019			
By Fiscal Year, Millions of Dollars	2019	2019-2024	2019-2029
Direct Spending (Outlays)	0	74,804	164,744
Revenues	0	0	0
Deficit Effect	0	74,804	164,744
Spending Subject to Appropriation (Outlays)	0	0	n.e.
Pay-as-you-go procedures apply?	Yes	Mandate Effects	
Increases on-budget deficits in any of the four consecutive 10-year periods beginning in 2030?	> \$5 billion	Contains intergovernmental mandate?	No
		Contains private-sector mandate?	No
n.e. = not estimated			

The bill would

- Provide mandatory funding for the Federal Aviation Administration (FAA) to continue to operate in the event of a lapse in discretionary appropriations
- Increase contract authority for the Grants-in-Aid for Airports program

Estimated budgetary effects would primarily stem from

- Providing the FAA with authority to incur obligations without further legislation

Areas of significant uncertainty include

- Whether the authorities in H.R. 1102—which would result in new direct spending—would be triggered
- The difficulty in predicting the timing and frequency of future lapses in discretionary appropriations

Bill summary: Under current law, most of the Federal Aviation Administration’s spending is subject to appropriation or otherwise controlled by annual appropriation acts. H.R. 1108 would provide funding and other authorities necessary for the FAA to continue to operate in the event of a lapse of discretionary appropriations for its activities. In addition, the bill would provide contract authority for the FAA to provide grants to airports.

Estimated Federal cost: The estimated budgetary effect of H.R. 1108 is shown in Table 1. The costs of the legislation fall within budget function 400 (transportation).

TABLE 1.—ESTIMATED BUDGETARY EFFECTS OF H.R. 1108

	By fiscal year, billions of dollars—														2019–2024	2019–2029
	2019	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029					
Increases in Direct Spending																
FAA Accounts That Historically Receive Discretionary Appropriations:																
FAA Operations:																
Estimated Budget Authority .....	0	10.4	10.4	10.4	10.4	10.4	10.4	10.4	10.4	10.4	10.4	10.4	10.4	10.4	52.1	104.1

TABLE 1.—ESTIMATED BUDGETARY EFFECTS OF H.R. 1108—Continued

	By fiscal year, billions of dollars—												
	2019	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2019– 2024	2019– 2029
Estimated Outlays .....	0	9.3	10.1	10.3	10.4	10.4	10.4	10.4	10.4	10.4	10.4	50.5	102.5
Facilities and Equipment:													
Estimated Budget Au- thority .....	0	3.0	3.0	3.0	3.0	3.0	3.0	3.0	3.0	3.0	3.0	15.0	30.0
Estimated Outlays .....	0	0.8	1.6	2.2	2.6	2.8	2.9	2.9	2.9	2.9	2.9	9.9	24.5
Research, Engineering, and Development:													
Estimated Budget Au- thority .....	0	0.2	0.2	0.2	0.2	0.2	0.2	0.2	0.2	0.2	0.2	1.0	1.9
Estimated Outlays .....	0	0.1	0.1	0.2	0.2	0.2	0.2	0.2	0.2	0.2	0.2	0.8	1.7
Grants-in-Aid for Airports:													
Contract Authority .....	0	0.6	0.6	0.6	0.6	0.6	0.6	0.6	0.6	0.6	0.6	3.2	6.5
Estimated Outlays .....	0	0.4	1.9	2.8	3.3	3.7	3.9	4.0	4.0	4.0	4.0	12.1	32.0
Estimated Budget Authority ...	0	0.5	0.5	0.5	0.5	0.5	0.5	0.5	0.5	0.5	0.5	2.5	5.0
Estimated Outlays .....	0	*	0.2	0.3	0.4	0.5	0.5	0.5	0.5	0.5	0.5	1.6	4.1
Total:													
Estimated Budget Au- thority .....	0	14.8	14.8	14.8	14.8	14.8	14.8	14.8	14.8	14.8	14.8	73.8	147.5
Estimated Outlays .....	0	10.5	13.0	15.8	16.9	17.6	17.9	18.0	18.0	18.0	18.0	74.8	164.7

Components may not sum to totals because of rounding; \* = between zero and \$50 million; FAA = Federal Aviation Administration.

**Basis of estimate:** In the event of a lapse in discretionary funding for the FAA, H.R. 1108 would provide mandatory funding for the agency's major activities related to overseeing and regulating civil aviation in amounts equal to those that were in place before the lapse.

Because the bill would make amounts automatically available without further legislation, enacting it would increase direct spending. The cost estimates prepared by CBO do not take into account any possible future legislation. CBO estimates that enacting this provision would increase direct spending outlays by \$165 billion over the 2020–2029 period.

**Direct spending:** CBO estimates that H.R. 1108 would increase mandatory funding (budget authority) for FAA accounts by \$148 billion over the 2020–2029 period—including \$136 billion for FAA accounts that historically receive discretionary appropriations, and nearly \$12 billion for the Grants-in-Aid for Airports account, which currently receives a mix of mandatory and discretionary funding. All told, CBO also estimates that enacting the bill would increase mandatory outlays by \$165 billion over the 2020–2029 period. (Estimated increases in outlays exceed those for budget authority because of the unique budgetary treatment of the Grants-in-Aid for Airports account, as described below.)

**FAA Accounts that Historically Receive Discretionary Appropriations.** CBO estimates that H.R. 1108 would provide mandatory budget authority of \$13.6 billion annually (or \$136 billion over the 2020–2029 period) for three FAA accounts that typically receive discretionary appropriations. That estimate incorporates the assumption that mandatory funding for those accounts would equal the amount enacted for 2019 and consists of:

- \$104 billion for FAA operations, primarily for salaries and expenses related to operating the air traffic control system and carrying out regulatory and safety-related activities;

- \$30 billion for air navigation facilities and equipment, particularly for programs to maintain and modernize infrastructure and systems for communication, navigation, and surveillance related to air travel; and
- Nearly \$2 billion for research activities aimed at developing technologies to enhance the safety, economic competitiveness, and environmental performance of aviation-related infrastructure and systems that comprise the U.S. national airspace.

In 2019, appropriations for operations, facilities and equipment, and research activities totaled \$10.4 billion, \$3 billion, and \$191 million, respectively. If the authority provided under H.R. 1108 were triggered by a lapse in future discretionary appropriations, CBO projects that mandatory funding for those activities in each year over the 2020–2029 period would remain equal to those appropriated amounts. Based on historical spending patterns, CBO estimates that resulting outlays would total \$129 billion over the next 10 years.

**Grants-in-Aid for Airports:** In addition, CBO estimates that enacting H.R. 1108 would increase mandatory funding for the Grants-in-Aid for Airports account, through which the FAA administers the Airport Improvement Program (AIP). By longstanding convention, that account has a unique budgetary treatment; authorizing laws provide the FAA with contract authority (a mandatory form of budget authority) but outlays of that contract authority are generally considered discretionary because they are controlled by obligation limitations set in annual appropriation acts.<sup>1</sup> In addition, in recent years, the Congress has provided discretionary appropriations for additional AIP grants.

Over the 2020–2029 period, CBO estimates that enacting H.R. 1108 would increase mandatory funding for AIP grants by \$11.5 billion—including \$6.5 billion in additional contract authority and \$5 billion in additional mandatory appropriations. CBO also estimates that mandatory outlays for AIP grants under H.R. 1108 (including outlays of contract authority that, in the absence of this legislation, would be controlled by future annual appropriation acts) would total about \$36 billion over the next 10 years.

*Increases to Contract Authority.* Public Law 115–254 provided contract authority for the AIP totaling \$3.35 billion for each of fiscal years 2020 through 2023. Pursuant to provisions of law that govern CBO’s baseline projections, funding for certain expiring programs—such as contract authority for AIP grants—is assumed to continue beyond the scheduled expiration date for purposes of budget projections. Consistent with that practice, CBO’s baseline incorporates the assumption that AIP contract authority in 2024 and later years will remain at \$3.35 billion.

H.R. 1108 would increase—by \$650 million annually—the amount of contract authority available in fiscal years 2020 through 2023, bringing the total amount of contract authority for those years to \$4 billion. Consistent with CBO’s methodology for projecting contract authority under proposed legislation, we assume that contract authority for AIP would continue to be provided after

<sup>1</sup> Those obligation limitations constrain outlays of underlying mandatory budget authority only during periods when they are in effect.

2023 and would remain at \$4 billion annually. Under that assumption, CBO estimates that contract authority under H.R. 1108 would exceed the amounts of contract authority already projected in the CBO baseline by \$6.5 billion over the 2020–2029 period—including \$2.6 billion in new contract authority that would be provided by the bill through fiscal year 2023 and \$3.9 billion in additional amounts projected over the 2024–2029 period.

Under H.R. 1108, the FAA would be authorized to obligate and spend the full amount of contract authority available for the program through 2023 if provisions of future appropriation laws were to expire. H.R. 1108 would not alter FAA’s underlying authority to spend contract authority in the absence of future appropriation acts, but it would effectively reclassify AIP outlays from discretionary to mandatory. Under H.R. 1108, CBO estimates that mandatory outlays of AIP contract authority would total nearly \$32 billion over the 2020–2029 period. That estimate is based on historical spending patterns for AIP grants. About half of those estimated outlays stem from contract authority that would be available under H.R. 1108 through fiscal year 2023; the remainder would result from contract authority CBO projects for the 2024–2029 period.

*New Mandatory Budget Authority.* For 2019, the Congress provided additional discretionary appropriations for the Grants-in-Aid for Airports account totaling \$500 million. Because H.R. 1108 would provide mandatory funding for that account in the event of a future lapse in discretionary appropriations for the FAA, CBO projects that additional mandatory funding for AIP grants would total \$5 billion over the 2020–2029 period. Based on historical spending patterns, CBO estimates resulting outlays would total \$4 billion over that period (and \$1 billion after 2029).

*Spending subject to appropriation:* Under current law, the Congress has authorized the appropriation of billions of dollars over the 2020–2023 period for the FAA’s major activities. If the authority of H.R. 1108 were triggered by a lapse in discretionary appropriations, resulting increases in mandatory funding under the bill would reduce the need for future appropriations to the FAA for affected activities. However, because H.R. 1108 would not affect the existing authorization levels in place for FAA activities under current law, this estimate does not reflect any potential reductions in authorized spending for the agency.

*Uncertainty:* Whether the authority provided under H.R. 1108 were triggered in the future, and the timing and magnitude of resulting direct spending, would depend on future legislative decisions of the Congress. As a result, CBO’s estimate of additional direct spending under H.R. 1108 is highly uncertain.

For example, if the Congress were to continue to provide discretionary appropriations for the FAA in future years, direct spending under H.R. 1108 would be far less than indicated in this estimate. Historically, lapses in discretionary appropriations have been relatively infrequent and short-lived. CBO has no basis, however, for predicting the timing or duration of future lapses in discretionary funding.

Similarly, because the amount of mandatory budget authority provided under H.R. 1108 would be directly tied to the most recently enacted appropriations, the potential magnitude of direct

spending under the legislation would depend on future funding levels, which CBO cannot predict.

Pay-As-You-Go considerations: The Statutory Pay-As-You-Go Act of 2010 establishes budget-reporting and enforcement procedures for legislation affecting direct spending or revenues. The net changes in outlays that are subject to those pay-as-you-go procedures are shown in Table 2.

TABLE 2.—CBO'S ESTIMATE OF PAY-AS-YOU-GO EFFECTS OF H.R. 1108

	By fiscal year, millions of dollars—												
	2019	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2019– 2024	2019– 2029
Statutory Pay-As-You-Go Effect .....	0	10,507	13,948	15,784	16,933	17,632	17,892	18,012	18,012	18,012	18,012	74,804	164,744
Net Increase in the Deficit													

Increase in long-term deficits: CBO estimates that enacting H.R. 1108 would increase on-budget deficits by more than \$5 billion in each of the four consecutive 10-year periods beginning in 2030.

Mandates: None.

Estimate prepared by: Federal costs: Megan Carroll; Mandates: Jon Sperl.

Estimate reviewed by: Kim P. Cawley, Chief, Natural and Physical Cost Estimates Unit; H. Samuel Papenfuss, Deputy Assistant Director for Budget Analysis; Theresa Gullo, Assistant Director for Budget Analysis.

#### PERFORMANCE GOALS AND OBJECTIVES

With respect to the requirement of clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the performance goal and objective of this legislation is to provide the financial stability needed for the FAA to continue all programs, projects, and activities, and all agency employees to receive compensation for performing their duties, should a lapse in appropriations occur in the future.

#### DUPLICATION OF FEDERAL PROGRAMS

Pursuant to clause 3(c)(5) of rule XIII of the Rules of the House of Representatives, the Committee finds that no provision of H.R. 1108, as amended, establishes or reauthorizes a program of the federal government known to be duplicative of another federal program, a program that was included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111–139, or a program related to a program identified in the most recent Catalog of Federal Domestic Assistance.

#### CONGRESSIONAL EARMARKS, LIMITED TAX BENEFITS, AND LIMITED TARIFF BENEFITS

In compliance with clause 9 of rule XXI of the Rules of the House of Representatives, this bill, as reported, contains no congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(e), 9(f), or 9(g) of the rule XXI.

#### FEDERAL MANDATES STATEMENT

The Committee adopts as its own the estimate of federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act (Public Law 104–4).

#### PREEMPTION CLARIFICATION

Section 423 of the Congressional Budget Act of 1974 requires the report of any Committee on a bill or joint resolution to include a statement on the extent to which the bill or joint resolution is intended to preempt state, local, or tribal law. The Committee finds that H.R. 1108, as amended, does not preempt any state, local, or tribal law.

ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act were created by this legislation, as amended.

APPLICABILITY TO LEGISLATIVE BRANCH

The Committee finds that the legislation, as amended, does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act (Public Law 104-1).

SECTION-BY-SECTION ANALYSIS OF THE LEGISLATION

*Section 1. Short title*

This section provides that this bill may be cited as the “Aviation Funding Stability Act of 2019.”

*Sec. 2. Funding for the Federal Aviation Administration in the event of a lapse in appropriation*

In the event of a lapse in appropriations, this section makes available amounts from the AATF not otherwise appropriated for the FAA to continue all programs, projects, or activities conducted with amounts made available for the agency in the preceding fiscal year, under the same terms and conditions and at a rate not greater than the rate for operations in the preceding fiscal year appropriations measure. This section limits the availability of these funds to the period beginning with the first day of the lapse and ending with the date of enactment of a regular or continuing appropriations measure.

*Sec. 3. Airport planning and development and noise compatibility planning and programs*

This section increases the authorized level of AIP funding from \$3,350,000,000 to \$4,000,000,000 per year through fiscal year 2023.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (new matter is printed in italics and existing law in which no change is proposed is shown in roman):

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, and existing law in which no change is proposed is shown in roman):

**INTERNAL REVENUE CODE OF 1986**

\* \* \* \* \*

## Subtitle I—TRUST FUND CODE

\* \* \* \* \*

### CHAPTER 98—TRUST FUND CODE

\* \* \* \* \*

#### Subchapter A—ESTABLISHMENT OF TRUST FUNDS

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##### § 9502. Airport and Airway Trust Fund

(a) CREATION OF TRUST FUND.—There is established in the Treasury of the United States a trust fund to be known as the “Airport and Airway Trust Fund”, consisting of such amounts as may be appropriated, credited, or paid into the Airport and Airway Trust Fund as provided in this section, section 9503(c)(5), or section 9602(b).

(b) TRANSFERS TO AIRPORT AND AIRWAY TRUST FUND.—There are hereby appropriated to the Airport and Airway Trust Fund amounts equivalent to—

- (1) the taxes received in the Treasury under—
  - (A) section 4041(c) (relating to aviation fuels),
  - (B) section 4043 (relating to surtax on fuel used in aircraft part of a fractional ownership program),
  - (C) sections 4261 and 4271 (relating to transportation by air), and
  - (D) section 4081 with respect to aviation gasoline and kerosene to the extent attributable to the rate specified in section 4081(a)(2)(C), and

(2) the amounts determined by the Secretary of the Treasury to be equivalent to the amounts of civil penalties collected under section 47107(m) of title 49, United States Code.

There shall not be taken into account under paragraph (1) so much of the taxes imposed by section 4081 as are determined at the rate specified in section 4081(a)(2)(B).

(c) APPROPRIATION OF ADDITIONAL SUMS.—There are hereby authorized to be appropriated to the Airport and Airway Trust Fund such additional sums as may be required to make the expenditures referred to in subsection (d) of this section.

(d) EXPENDITURES FROM AIRPORT AND AIRWAY TRUST FUND.—

(1) AIRPORT AND AIRWAY PROGRAM.—Amounts in the Airport and Airway Trust Fund shall be available, as provided by appropriation Acts, for making expenditures before October 1, 2023, to meet those obligations of the United States—

- (A) incurred under title I of the Airport and Airway Development Act of 1970 or of the Airport and Airway Development Act Amendments of 1976 or of the Aviation Safety and Noise Abatement Act of 1979 or under the Fiscal Year 1981 Airport Development Authorization Act or the provisions of the Airport and Airway Improvement Act of 1982 or the Airport and Airway Safety and Capacity Expansion

Act of 1987 or the Federal Aviation Administration Research, Engineering, and Development Authorization Act of 1990 or the Aviation Safety and Capacity Expansion Act of 1990 or the Airport and Airway Safety, Capacity, Noise Improvement, and Intermodal Transportation Act of 1992 or the Airport Improvement Program Temporary Extension Act of 1994 or the Federal Aviation Administration Authorization Act of 1994 or the Federal Aviation Reauthorization Act of 1996 or the provisions of the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999 providing for payments from the Airport and Airway Trust Fund or the Interim Federal Aviation Administration Authorization Act or section 6002 of the 1999 Emergency Supplemental Appropriations Act, Public Law 106–59, or the Wendell H. Ford Aviation Investment and Reform Act for the 21st Century or the Aviation and Transportation Security Act or the Vision 100—Century of Aviation Reauthorization Act or any joint resolution making continuing appropriations for the fiscal year 2008 or the Department of Transportation Appropriations Act, 2008 or the Airport and Airway Extension Act of 2008 or the Federal Aviation Administration Extension Act of 2008 or the Federal Aviation Administration Extension Act of 2008, Part II or the Federal Aviation Administration Extension Act of 2009 or any joint resolution making continuing appropriations for the fiscal year 2010 or the Fiscal Year 2010 Federal Aviation Administration Extension Act or the Fiscal Year 2010 Federal Aviation Administration Extension Act, Part II or the Federal Aviation Administration Extension Act of 2010 or the Airport and Airway Extension Act of 2010 or the Airport and Airway Extension Act of 2010, Part II or the Airline Safety and Federal Aviation Administration Extension Act of 2010 or the Airport and Airway Extension Act of 2010, Part III or the Airport and Airway Extension Act of 2010, Part IV or the Airport and Airway Extension Act of 2011 or the Airport and Airway Extension Act of 2011, Part II or the Airport and Airway Extension Act of 2011, Part III or the Airport and Airway Extension Act of 2011, Part IV or the Airport and Airway Extension Act of 2011, Part V or the Airport and Airway Extension Act of 2012 or the FAA Modernization and Reform Act of 2012 or the Airport and Airway Extension Act of 2015 or the Airport and Airway Extension Act of 2016 or the FAA Extension, Safety, and Security Act of 2016 or the Disaster Tax Relief and Airport and Airway Extension Act of 2017 or the Airport and Airway Extension Act of 2018 or the Airport and Airway Extension Act of 2018, Part II or the FAA Reauthorization Act of 2018[;] or the *Aviation Funding Stability Act of 2019*;

(B) heretofore or hereafter incurred under part A of subtitle VII of title 49, United States Code, which are attributable to planning, research and development, construction, or operation and maintenance of—

- (i) air traffic control,
- (ii) air navigation,

(iii) communications, or  
 (iv) supporting services,  
 for the airway system; or

(C) for those portions of the administrative expenses of the Department of Transportation which are attributable to activities described in subparagraph (A) or (B).

Any reference in subparagraph (A) to an Act shall be treated as a reference to such Act and the corresponding provisions (if any) of title 49, United States Code, as such Act and provisions were in effect on the date of the enactment of the last Act referred to in subparagraph (A).

(2) TRANSFERS FROM AIRPORT AND AIRWAY TRUST FUND ON ACCOUNT OF CERTAIN REFUNDS.—The Secretary of the Treasury shall pay from time to time from the Airport and Airway Trust Fund into the general fund of the Treasury amounts equivalent to the amounts paid after August 31, 1982, in respect of fuel used in aircraft, under section 6420 (relating to amounts paid in respect of gasoline used on farms), 6421 (relating to amounts paid in respect of gasoline used for certain non-highway purposes), or 6427 (relating to fuels not used for taxable purposes) (other than subsection (l)(4) thereof).

(3) TRANSFERS FROM THE AIRPORT AND AIRWAY TRUST FUND ON ACCOUNT OF CERTAIN SECTION 34 CREDITS.—The Secretary of the Treasury shall pay from time to time from the Airport and Airway Trust Fund into the general fund of the Treasury amounts equivalent to the credits allowed under section 34 (other than payments made by reason of paragraph (4) of section 6427(l)) with respect to fuel used after August 31, 1982. Such amounts shall be transferred on the basis of estimates by the Secretary of the Treasury, and proper adjustments shall be made in amounts subsequently transferred to the extent prior estimates were in excess of or less than the credits allowed.

(4) TRANSFERS FOR REFUNDS AND CREDITS NOT TO EXCEED TRUST FUND REVENUES ATTRIBUTABLE TO FUEL USED.—The amounts payable from the Airport and Airway Trust Fund under paragraph (2) or (3) shall not exceed the amounts required to be appropriated to such Trust Fund with respect to fuel so used.

(5) TRANSFERS FROM AIRPORT AND AIRWAY TRUST FUND ON ACCOUNT OF REFUNDS OF TAXES ON TRANSPORTATION BY AIR.—The Secretary of the Treasury shall pay from time to time from the Airport and Airway Trust Fund into the general fund of the Treasury amounts equivalent to the amounts paid after December 31, 1995, under section 6402 (relating to authority to make credits or refunds) or section 6415 (relating to credits or refunds to persons who collected certain taxes) in respect of taxes under sections 4261 and 4271.

(6) TRANSFERS FROM THE AIRPORT AND AIRWAY TRUST FUND ON ACCOUNT OF CERTAIN AIRPORTS.—The Secretary of the Treasury may transfer from the Airport and Airway Trust Fund to the Secretary of Transportation or the Administrator of the Federal Aviation Administration an amount to make a payment to an airport affected by a diversion that is the subject of an administrative action under paragraph (3) or a civil

action under paragraph (4) of section 47107(m) of title 49, United States Code.

(e) LIMITATION ON TRANSFERS TO TRUST FUND.—

(1) IN GENERAL.—Except as provided in paragraph (2), no amount may be appropriated or credited to the Airport and Airway Trust Fund on and after the date of any expenditure from the Airport and Airway Trust Fund which is not permitted by this section. The determination of whether an expenditure is so permitted shall be made without regard to—

(A) any provision of law which is not contained or referenced in this title or in a revenue Act; and

(B) whether such provision of law is a subsequently enacted provision or directly or indirectly seeks to waive the application of this subsection.

(2) EXCEPTION FOR PRIOR OBLIGATIONS.—Paragraph (1) shall not apply to any expenditure to liquidate any contract entered into (or for any amount otherwise obligated) before October 1, 2023, in accordance with the provisions of this section.

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**TITLE 49, UNITED STATES CODE**

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**SUBTITLE VII—AVIATION PROGRAMS**

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**PART C—FINANCING**

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**CHAPTER 481—AIRPORT AND AIRWAY TRUST FUND AUTHORIZATIONS**

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**§ 48103. Airport planning and development and noise compatibility planning and programs**

(a) IN GENERAL.—There shall be available to the Secretary of Transportation out of the Airport and Airway Trust Fund established under section 9502 of the Internal Revenue Code of 1986 to make grants for airport planning and airport development under section 47104, airport noise compatibility planning under section 47505(a)(2), and carrying out noise compatibility programs under section 47504(c)—

- (1) \$3,350,000,000 for fiscal year 2018;
- (2) \$3,350,000,000 for fiscal year 2019;
- (3) ~~[\$3,350,000,000]~~ \$4,000,000,000 for fiscal year 2020;
- (4) ~~[\$3,350,000,000]~~ \$4,000,000,000 for fiscal year 2021;
- (5) ~~[\$3,350,000,000]~~ \$4,000,000,000 for fiscal year 2022; and
- (6) ~~[\$3,350,000,000]~~ \$4,000,000,000 for fiscal year 2023.

(b) AVAILABILITY OF AMOUNTS.—Amounts made available under subsection (a) shall remain available until expended.

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