

**Calendar No. 508**

116TH CONGRESS }  
2d Session }

SENATE

{ REPORT  
116-246 }

ENSURING HEALTH SAFETY IN THE SKIES  
ACT OF 2020

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R E P O R T

OF THE

COMMITTEE ON COMMERCE, SCIENCE, AND  
TRANSPORTATION

ON

S. 3681



AUGUST 6, 2020.—Ordered to be printed

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SENATE COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

ONE HUNDRED SIXTEENTH CONGRESS

SECOND SESSION

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### ENSURING HEALTH SAFETY IN THE SKIES ACT OF 2020

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AUGUST 6, 2020.—Ordered to be printed  
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Mr. WICKER, from the Committee on Commerce, Science, and  
Transportation, submitted the following

### R E P O R T

[To accompany S. 3681]

[Including cost estimate of the Congressional Budget Office]

The Committee on Commerce, Science, and Transportation, to which was referred the bill (S. 3681) to require a joint task force on the operation of air travel during and after the COVID-19 pandemic, and for other purposes, having considered the same, reports favorably thereon with an amendment (in the nature of a substitute) and an amendment to the title and recommends that the bill (as amended) do pass.

#### PURPOSE OF THE BILL

The purpose of this legislation is to direct the Department of Health and Human Services, Department of Homeland Security, and Department of Transportation to establish a joint task force and advisory committee to examine issues arising from continued air travel during the COVID-19 pandemic.

#### BACKGROUND AND NEEDS

S. 3681, the Ensuring Health Safety in the Skies Act of 2020, directs the Department of Health and Human Services, Department of Homeland Security, and Department of Transportation to establish a joint task force to examine issues arising from continued air travel during the coronavirus pandemic. Specifically, the joint task force would be responsible for developing recommended requirements, plans, and guidelines to address logistical, health, safety, and security issues, and the resumption of full operations at air-

ports and increased passenger air travel after the current emergency ends.

As sections of the United States begin phased reopening, the Centers for Disease Control and Prevention (CDC) continue to advise the public that travel increases the probability of contracting and spreading the novel coronavirus, which causes COVID-19.<sup>1</sup> Air travel requires passengers to gather in relatively close proximity in security lines, airport terminals, and onboard the aircraft. These situations can bring passengers into close contact with other people and frequently touched surfaces. According to CDC, most viruses and other germs do not spread easily on aircraft, because of how air circulates and is filtered on aircraft.<sup>2</sup> However, social distancing is difficult on full aircraft.<sup>3</sup> This may increase risk for exposure to the virus that causes COVID-19.<sup>4</sup>

The COVID-19 pandemic has presented a substantial challenge to the aviation industry. Passenger airlines are suffering from government-imposed travel restrictions, the elimination of most non-essential business travel, and overall lack of consumer demand.<sup>5</sup> Compared to 2019, the Transportation Security Administration's Checkpoint Traveler Throughput tracker indicated that the number of air travelers was down 95 percent in April 2020 and 90 percent in May 2020.<sup>6</sup> As a result, airlines are losing revenue while continuing to draw down cash reserves. Based on past experience, many industry experts anticipate that it will take years for airlines to recover from the pandemic.<sup>7</sup> Cargo airlines are also being impacted by the COVID-19 pandemic. Air cargo is often transported under the cabin on passenger aircraft, and complications in the supply chain have arisen due to the decrease in passenger flights.

Airlines are not the only sector of the aviation industry impacted, as airports within the United States have faced numerous financial, logistical, and safety challenges. Most airports that have passenger airline service have implemented new health or cleaning procedures in response to COVID-19. Businesses supporting those airports have lost revenue, which has resulted in thousands of lost jobs at these airports.<sup>8</sup> Many airport infrastructure and maintenance programs have also been deferred. Airports often serve as economic drivers in their communities, and the lack of activity at an airport can likely have rippling effects on local economies. The airline, airport, manufacturing, and other aviation sectors also face challenges in protecting the aviation workforce.

For passenger flights that continue to operate, airlines have faced challenges in providing flight attendants, pilots, and their other workers with appropriate resources to protect themselves

<sup>1</sup>Centers for Disease Control and Prevention, "Travel: Frequently Asked Questions and Answers" (<https://www.cdc.gov/coronavirus/2019-ncov/travelers/faqs.html>) (accessed Jul. 2, 2020).

<sup>2</sup>Ibid.

<sup>3</sup>Ibid.

<sup>4</sup>Ibid.

<sup>5</sup>Rachel Y. Tang, "COVID-19 and Funding Civil Aviation," Congressional Research Service, Mar. 23, 2020 (<https://www.crs.gov/Reports/IN11267?source=IAP>) (accessed Jul. 2, 2020).

<sup>6</sup>"Impact of COVID-19; Data Updates," Airlines for America, Apr. 30, 2020 (<https://www.airlines.org/dataset/impact-of-covid19-data-updates/>) (accessed Jul. 2, 2020).

<sup>7</sup>Brianna Gurciullo, "Absent Vaccine, Airline Industry May Be Gutted for Years," *Politico*, Apr. 27, 2020 (<https://www.politico.com/news/2020/04/27/vaccine-airline-coronavirus-212551>) (accessed Jul. 9, 2020).

<sup>8</sup>Sam Mintz, "Aviation's New Normal," *Politico*, Apr. 24, 2020 (<https://www.politico.com/newsletters/morning-transportation/2020/04/24/aviations-new-normal-787113>) (accessed Jul. 9, 2020).

from possibly infected passengers. Some airline employees have raised concerns with the frequency and thoroughness of aircraft cleaning, availability of personal protective equipment (PPE), and availability of sick leave should an employee fall ill. Most airlines have begun to require passengers to wear masks when flying in an effort to reduce the spread of COVID–19 and have implemented modified boarding processes and seating arrangements.<sup>9</sup> There are similar concerns for airport workers regarding facility cleaning, PPE availability, and provision of sick leave.

#### SUMMARY OF PROVISIONS

S. 3681 would do the following:

- Require the establishment of a joint task force that includes representatives from the Department of Transportation, the Department of Homeland Security, the Department of Health and Human Services, the Federal Aviation Administration, the Transportation Security Administration, U.S. Customs and Border Protection, the Centers for Disease Control and Prevention, the Occupational Safety and Health Administration, the National Institute for Occupational Safety and Health, the Pipeline and Hazardous Materials Safety Administration, the Department of State, and the Environmental Protection Agency. The joint task force would:
  - Develop recommended requirements, plans, and guidelines to address the health, safety, security, and logistical issues related to continuation of air travel during and after the COVID–19 health emergency.
  - Consult, as practicable, with relevant international entities and operators, including the International Civil Aviation Organization.
- Require the Secretary of Transportation to chair the joint task force and the Secretary of Health and Human Services to serve as the vice-chair.
- Require the joint task force to consider the consensus recommendations of the advisory committee, conduct cost-benefit evaluations, consider funding constraints, and use risk-based decision-making when making its recommendations.
- Require the joint task force to brief Congress on initial recommendations to ensure safe air travel before the COVID–19 pandemic ends and during the immediate period after the disease subsides, as soon as practicable, but not later than 6 months after establishment. Within 18 months, the task force would submit a final report to Congress detailing all of its recommendations.
- Require the Secretary of Transportation, in consultation with the Secretary of Homeland Security and the Secretary of Health and Human Services, to establish an advisory committee with representatives from airports, airlines, aircraft manufacturers, labor unions representing aviation workers, public health experts, consumer and passenger rights organizations, privacy and civil liberty organizations, the manufactur-

<sup>9</sup>Brianna Gurciullo, “Absent Vaccine, Airline Industry May Be Gutted for Years,” *Politico*, Apr. 27, 2020 (<https://www.politico.com/news/2020/04/27/vaccine-airline-coronavirus-212551>) (accessed Jul. 2, 2020).

ers of passenger screening technologies, and trade associations representing air carrier and airport operators.

#### LEGISLATIVE HISTORY

S. 3681 was introduced on May 11, 2020, by Senator Markey (for himself and Senator Blumenthal) and was referred to the Committee on Commerce, Science, and Transportation of the Senate. On May 20, 2020, the Committee met in open Executive Session and, by voice vote, ordered S. 3681 reported favorably with an amendment (in the nature of a substitute).

#### *Hearing*

On May 6, 2020, the Committee held a hearing entitled “The State of the Aviation Industry: Examining the Impact of the COVID–19 Pandemic.” This hearing provided an update on the status of the aviation industry, challenges resulting from the COVID–19 pandemic, and oversight of the implementation of the Coronavirus Aid, Relief, and Economic Security (CARES) Act.<sup>10</sup> The witnesses included representatives of the Aerospace Industries Association, Airlines for America, American Association of Airport Executives, and the University of Washington.

#### ESTIMATED COSTS

In accordance with paragraph 11(a) of rule XXVI of the Standing Rules of the Senate and section 403 of the Congressional Budget Act of 1974, the Committee provides the following cost estimate, prepared by the Congressional Budget Office:

<b>S. 3681, Ensuring Health Safety in the Skies Act of 2020</b>			
As ordered reported by the Senate Committee on Commerce, Science, and Transportation on May 20, 2020			
By Fiscal Year, Millions of Dollars	2020	2020-2025	2020-2030
Direct Spending (Outlays)	0	0	0
Revenues	0	0	0
Increase or Decrease (-) in the Deficit	0	0	0
Spending Subject to Appropriation (Outlays)	*	1	not estimated
Statutory pay-as-you-go procedures apply?	No	<b>Mandate Effects</b>	
Increases on-budget deficits in any of the four consecutive 10-year periods beginning in 2031?	No	Contains intergovernmental mandate?	No
		Contains private-sector mandate?	No
* = between zero and \$500,000.			

S. 3681 would require the Departments of Health and Human Services, Homeland Security, and Transportation to establish a joint task force on air travel during and after the COVID–19 public health emergency. The task force would consist of representatives from various federal agencies, and would develop policy rec-

<sup>10</sup> Public Law 116–136.

ommendations to address issues related to airport and air carrier operations during and after the coronavirus pandemic.

The bill also would require those departments to establish a joint federal advisory committee that would assist the task force with developing recommendations. Committee members would include public health experts, representatives of industry groups and related businesses, and other interested parties.

The task force would be required to report to the Congress within 18 months of enactment, and the task force and advisory committee would terminate 30 days after that report.

Based on the cost of similar activities, CBO estimates that implementing S. 3681 would cost \$1 million over the 2020–2025 period; such spending would be subject to the availability of appropriated funds.

The CBO staff contact for this estimate is Aaron Krupkin. The estimate was reviewed by H. Samuel Papenfuss, Deputy Director of Budget Analysis.

#### REGULATORY IMPACT STATEMENT

In accordance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee provides the following evaluation of the regulatory impact of the legislation, as reported:

##### *Number of Persons Covered*

S. 3681, as amended, would require a joint task force and advisory committee to examine issues arising from continued air travel during the COVID–19 pandemic. The joint task force would be required to make recommendations for any actions needed to ensure the continued safe operation of the air transportation system, but does not authorize any new regulations upon any individuals or businesses.

##### *Economic Impact*

S. 3681, as amended, is not expected to have a negative impact on the Nation’s economy.

##### *Privacy*

S. 3681, as amended, is not expected to impact the personal privacy of individuals.

##### *Paperwork*

S. 3681, as amended, would not create increases in paperwork burdens other than requiring the task force to produce a final report to Congress of its recommendations.

#### CONGRESSIONALLY DIRECTED SPENDING

In compliance with paragraph 4(b) of rule XLIV of the Standing Rules of the Senate, the Committee provides that no provisions contained in the bill, as reported, meet the definition of congressionally directed spending items under the rule.

## SECTION-BY-SECTION ANALYSIS

*Section 1. Short title.*

This section would provide that the bill may be cited as the “Ensuring Health Safety in the Skies Act of 2020”.

*Section 2. Definitions.*

This section would define the terms “Advisory Committee”, “air travel”, “COVID–19 public health emergency”, and “Joint Task Force”.

*Section 3. Joint Task Force on Air Travel During and After the COVID–19 Public Health Emergency.*

This section would direct the establishment of a Joint Task Force on Air Travel During and After the COVID–19 Public Health Emergency (Joint Task Force) by the Secretary of Transportation, the Secretary of Homeland Security, and the Secretary of Health and Human Services. The Joint Task Force would develop recommended requirements, plans, and guidelines to address the health, safety, security and logistical issues related to continuation of air travel during and after the COVID–19 health emergency. The section would provide direction to the Joint Task Force in developing its recommendations. Furthermore, this section would require the Joint Task Force, when developing its recommendations, to consider cost-benefit evaluations, consider funding constraints, and use risk-based decision making. The Joint Task Force would consult with relevant international entities and operators, including the International Civil Aviation Organization, with the goal of maximizing harmonization efforts for air travel. The Joint Task Force would be chaired by the Secretary of Transportation and vice chaired by the Secretary of Health and Human Services, or their respective designees, and include representatives from the Departments of Transportation, Homeland Security, Health and Human Services, the Federal Aviation Administration, the Transportation Security Administration, U.S. Customs and Border Protection, the Centers for Disease Control and Prevention, the Occupational Safety and Health Administration, the National Institute for Occupational Safety and Health, the Pipeline and Hazardous Materials Safety Administration, the Department of State, and the Environmental Protection Agency.

*Section 4. Joint Federal Advisory Committee.*

This section would establish a Federal Advisory Committee (Advisory Committee) to advise the Joint Task Force that would be comprised of representatives from airports, air carriers, aviation manufacturers, labor organizations representing aviation industry workers (including, but not limited to, pilots, flight attendants, engineers, maintenance, mechanics, air traffic controllers, and safety inspectors), security screening personnel, consumer and air passenger rights organizations, public health experts, privacy and civil liberty organizations, manufacturers and integrators of air passenger screening and identity verification technologies, trade associations representing air carriers (including, but not limited to, major air carriers, low cost carriers, regional air carriers, cargo air carriers, and foreign air carriers), and trade associations rep-

representing airport operators (including, but not limited to, large hub, medium hub, small hub, nonhub primary, and nonprimary commercial service airports), as designated by the appropriate Secretary. Any vacancy on the Advisory Committee would be filled in the same manner as the original appointment and not affect the Advisory Committee's responsibilities. The Advisory Committee would develop and submit policy recommendations to the Joint Task Force. Not later than 14 days after the Advisory Committee submits policy recommendations to the Joint Task Force, the Secretary of Transportation would publish the policy recommendations on a publicly accessible website.

*Section 5. Briefings and Reports.*

This section would provide that as soon as practicable, but not later than 6 months after the Joint Task Force is established, the Joint Task Force would begin providing preliminary briefings to Congress on the status of the development of the recommended requirements, plans, and guidelines. The Joint Task Force would submit a final report to Congress not later than 18 months after the date of enactment of this Act. This report would include all of the recommended requirements, plans, and guidelines and description of any actions taken by the Federal Government as a result of the recommendations by the Joint Task Force, as well as any consensus policy recommendations submitted by the advisory committee, and any action taken by the Joint Task Force in response to such recommendations.

*Section 6. Termination.*

This section would provide that the Joint Task Force and Advisory Committee would terminate 30 days after the date on which the Joint Task Force submits the final report.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, the Committee states that the bill as reported would make no change to existing law.