

SA 3639. Mr. KAINE (for himself and Mr. WARNER) submitted an amendment intended to be proposed to amendment SA 3464 submitted by Mr. THUNE (for himself and Mr. NELSON) to the bill H.R. 636, to amend the Internal Revenue Code of 1986 to permanently extend increased expensing limitations, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ____ . OBSTRUCTION EVALUATION AERONAUTICAL STUDIES.

The Secretary of Transportation may implement the policy set forth in the notice of proposed policy entitled "Proposal To Consider the Impact of One Engine Inoperative Procedures in Obstruction Evaluation Aeronautical 7 Studies" published by the Department of Transportation on April 28, 2014 (79 Fed. Reg. 23300), only if the policy is adopted pursuant to a notice and comment rule-making.

CELEBRATING THE 144TH ANNIVERSARY OF ARBOR DAY

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of S. Res. 417, submitted earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The senior assistant legislative clerk read as follows:

A resolution (S. Res. 417) celebrating the 144th anniversary of Arbor Day.

There being no objection, the Senate proceeded to consider the resolution.

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, and the motions to reconsider be considered made and laid upon the table with no intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 417) was agreed to.

The preamble was agreed to.

(The resolution, with its preamble, is printed in today's RECORD under "Submitted Resolutions.")

ORDERS FOR TUESDAY, APRIL 12, 2016

Mr. MCCONNELL. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 10 a.m., Tuesday, April 12; that following the prayer and pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, and the time for the two leaders be reserved for their use later in the day; further, that following leader remarks, the Senate be in a period of morning business for 1 hour, with Senators permitted to speak therein for up to 10 minutes each, and with the Democrats controlling the first half and the majority controlling the final half; finally, that following morning business, the Senate resume consideration of H.R. 636.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MCCONNELL. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The senior assistant legislative clerk proceeded to call the roll.

Mr. THUNE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. DAINES). Without objection, it is so ordered.

AMERICA'S SMALL BUSINESS TAX RELIEF ACT OF 2015—Continued

AMENDMENTS NOS. 3476, AS MODIFIED; 3492, AS MODIFIED; 3500; 3526; 3535; 3621; 3620; 3633; 3534; 3623; AND 3567 TO AMENDMENT NO. 3464

Mr. THUNE. Mr. President, I ask unanimous consent that the Senate resume consideration of H.R. 636 and that the following amendments be called up and reported by number: Cassidy amendment No. 3476, as modified; Inhofe amendment No. 3492, as modified; Hoeven amendment No. 3500; Flake amendment No. 3526; Cotton amendment No. 3535; Nelson amendment No. 3621; Booker amendment No. 3620; Nelson amendment No. 3633; Cantwell amendment No. 3534; Whitehouse amendment No. 3623; and Cochran amendment No. 3567.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report the amendments by number.

The senior assistant legislative clerk read as follows:

The Senator from South Dakota [Mr. THUNE], for others, proposes amendments numbered 3476, as modified; 3492, as modified; 3500; 3526; 3535; 3621; 3620; 3633; 3534; 3623; and 3567 en bloc to amendment No. 3464.

The amendments are as follows:

AMENDMENT NO. 3476, AS MODIFIED

(Purpose: To authorize certain flights by Stage 2 airplanes)

At the end of title V, add the following:

SEC. 5032. AUTHORIZATION OF CERTAIN FLIGHTS BY STAGE 2 AIRPLANES.

(a) IN GENERAL.—Notwithstanding section 47534 of title 49, United States Code, not later than 180 days after the date of the enactment of this Act, the Administrator of the Federal Aviation Administration shall initiate a pilot program to permit the operator of a Stage 2 airplane to operate that airplane in nonrevenue service into not more than four medium hub airports or nonhub airports if—

(1) the airport—

(A) is certified under part 139 of title 14, Code of Federal Regulations;

(B) has a runway that—

(i) is longer than 8,000 feet and not less than 200 feet wide; and

(ii) is load bearing with a pavement classification number of not less than 38; and

(C) has a maintenance facility with a maintenance certificate issued under part 145 of such title; and

(2) the operator of the Stage 2 airplane operates not more than 10 flights per month using that airplane.

(b) TERMINATION.—The regulations required by subsection (a) shall terminate on the earlier of—

(1) the date that is 10 years after the date of the enactment of this Act; or

(2) the date on which the Administrator determines that no Stage 2 airplanes remain in service.

(c) DEFINITIONS.—In this section:

(1) MEDIUM HUB AIRPORT; NONHUB AIRPORT.—The terms "medium hub airport" and "nonhub airport" have the meanings given those terms in section 40102 of title 49, United States Code.

(2) STAGE 2 AIRPLANE.—The term "Stage 2 airplane" has the meaning given that term in section 91.851 of title 14, Code of Federal Regulations (as in effect on the day before the date of the enactment of this Act).

AMENDMENT NO. 3492, AS MODIFIED

(Purpose: Relating to the operation of unmanned aircraft systems by owners and operators of critical infrastructure)

On page 84, between lines 10 and 11, insert the following:

"(f) OPERATION BY OWNERS AND OPERATORS OF CRITICAL INFRASTRUCTURE.—

"(1) IN GENERAL.—Any application process established under subsection (a) shall allow for a covered person to apply to the Administrator to operate an unmanned aircraft system to conduct activities described in paragraph (2)—

"(A) beyond the visual line of sight of the individual operating the unmanned aircraft system; and

"(B) operation during the day or at night.

"(2) ACTIVITIES DESCRIBED.—The activities described in this paragraph that a covered person may use an unmanned aircraft system to conduct are the following:

"(A) Activities for which compliance with current law or regulation can be accomplished by the use of manned aircraft, including—

"(i) conducting activities to ensure compliance with Federal or State regulatory, permit, or other requirements, including to conduct surveys associated with applications for permits for new pipeline or pipeline systems construction or maintenance or rehabilitation of existing pipelines or pipeline systems; or

"(ii) conducting activities relating to ensuring compliance with—

"(I) the requirements of part 192 or 195 of title 49, Code of Federal Regulations; or

"(II) any Federal, State, or local governmental or regulatory body or industry best practice pertaining to the construction, ownership, operation, maintenance, repair, or replacement of covered facilities.

"(B) Activities to inspect, repair, construct, maintain, or protect covered facilities, including to respond to a pipeline, pipeline system, or electric energy infrastructure incident, or in response to or in preparation for a natural disaster, man-made disaster, severe weather event, or other incident beyond the control of the covered person that may cause material damage to a covered facility.

"(3) DEFINITIONS.—In this subsection:

"(A) COVERED FACILITY.—The term 'covered facility' means a pipeline, pipeline system, electric energy generation, transmission, or distribution facility (including renewable electric energy), oil or gas production, refining, or processing facility, or other critical infrastructure.

"(B) COVERED PERSON.—The term 'covered person' means a person that—

"(i) owns or operates a covered facility;

"(ii) is the sponsor of a covered facility project;

"(iii) is an association of persons described by clause (i) or (ii) and is seeking programmatic approval for an activity in accordance with this subsection; or

"(iv) is an agent of any person described in clause (i), (ii), or (iii).

“(C) CRITICAL INFRASTRUCTURE.—The term ‘critical infrastructure’ has the meaning given that term in section 2339D of title 18.”.

“(4) DEADLINE.—Within 90 days from the date of enactment of the FAA Reauthorization of 2016 the Administrator must certify to the appropriate Committees of Congress that a process has been established to facilitate applications for operations provided for under this subsection. If the Administrator cannot provide this certification, the Administrator, within 180 days of from the due date of that certification, shall update the process under (a) to provide for such applications.

AMENDMENT NO. 3500

(Purpose: To provide for a 5-year extension of the unmanned aircraft system test site program)

On page 67, line 13, strike “2017” and insert “2022”.

AMENDMENT NO. 3526

(Purpose: To establish an airspace management advisory committee)

At the end of subtitle E of title II, add the following:

SEC. 2506. AIRSPACE MANAGEMENT ADVISORY COMMITTEE.

(a) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, the Administrator shall establish an advisory committee to carry out the duties described in subsection (b).

(b) DUTIES.—The advisory committee shall—

(1) conduct a review of the practices and procedures of the Federal Aviation Administration for developing proposals with respect to changes in regulations, policies, or guidance of the Federal Aviation Administration relating to airspace that affect airport operations, airport capacity, the environment, or communities in the vicinity of airports, including—

(A) an assessment of the extent to which there is consultation, or a lack of consultation, with respect to such proposals—

(i) between and among the affected elements of the Federal Aviation Administration, including the Air Traffic Organization, the Office of Airports, the Flight Standards Service, the Office of NextGen, and the Office of Energy and Environment; and

(ii) between the Federal Aviation Administration and affected entities, including airports, aircraft operators, communities, and State and local governments;

(2) recommend revisions to such practices and procedures to improve communications and coordination between and among affected elements of the Federal Aviation Administration and with other affected entities with respect to proposals described in paragraph (1) and the potential effects of such proposals;

(3) conduct a review of the management by the Federal Aviation Administration of systems and information used to evaluate data relating to obstructions to air navigation or navigational facilities under part 77 of title 14, Code of Federal Regulations; and

(4) make recommendations to ensure that the data described in paragraph (3) is publicly accessible and streamlined to ensure developers, airport operators, and other interested parties may obtain relevant information concerning potential obstructions when working to preserve and create a safe and efficient navigable airspace.

(c) MEMBERSHIP.—The membership of the advisory committee established under subsection (a) shall include representatives of—

(1) air carriers, including passenger and cargo air carriers;

(2) general aviation, including business aviation and fixed wing aircraft and rotocraft;

(3) airports of various sizes and types;

(4) air traffic controllers; and

(5) State aviation officials.

(d) REPORT REQUIRED.—Not later than one year after the establishment of the advisory committee under subsection (a), the advisory committee shall submit to Congress a report on the actions taken by the advisory committee to carry out the duties described in subsection (b).

AMENDMENT NO. 3535

(Purpose: To clarify the provision relating to airports that enter into certain leases with components of the Armed Forces)

On page 46, line 15, insert after “National Guard” the following: “, without regard to whether that component operates aircraft at the airport”.

AMENDMENT NO. 3621

(Purpose: To secure aircraft avionics systems)

At the appropriate place, insert the following:

SEC. ____ . SECURING AIRCRAFT AVIONICS SYSTEMS.

(a) IN GENERAL.—The Administrator of the Federal Aviation Administration shall consider revising Federal Aviation Administration regulations regarding airworthiness certification—

(1) to address cybersecurity for avionics systems, including software components; and

(2) to require that aircraft avionics systems used for flight guidance or aircraft control be secured against unauthorized access via passenger in-flight entertainment systems through such means as the Administrator determines appropriate to protect the avionics systems from unauthorized external and internal access.

(b) CONSIDERATION.—The Administrator’s consideration and any action taken under subsection (a) shall be in accordance with the recommendations of the Aircraft Systems Information Security Protection Working Group under section 5029(d) of this Act.

On page 354, between lines 16 and 17, insert the following:

(3) IN-FLIGHT ENTERTAINMENT SYSTEMS REVIEW.—As part of its review under subparagraphs (A) and (B) of paragraph (2), the working group shall review the cybersecurity risks of in-flight entertainment systems to consider whether such systems can and should be isolated and separate from systems required for safe flight and operations, including reviewing standards for air gaps or other means determined appropriate.

On page 354, line 17, strike “(3)” and insert “(4)”.

On page 354, line 23, strike “(4)” and insert “(5)”.

On page 355, line 9, strike “(5)” and insert “(6)”.

AMENDMENT NO. 3620

(Purpose: To modify the definition of small business concern for purposes of the airport improvement program)

At the end of subtitle B of title I, add the following:

SEC. 1226. DEFINITION OF SMALL BUSINESS CONCERN.

Section 47113(a)(1) is amended to read as follows:

“(1) ‘small business concern’—

“(A) except as provided in subparagraph (B), has the same meaning given that term in section 3 of the Small Business Act (15 U.S.C. 632); and

“(B) in the case of a concern in the construction industry, a concern shall be considered a small business concern if the concern meets the size standard for the North American Industry Classification System Code 237310, as adjusted by the Small Business Administration.”.

AMENDMENT NO. 3633

(Purpose: To improve section 2317)

Beginning on page 204, strike line 21 and all that follows through page 206, line 9, and insert the following:

(a) RESTRICTIONS ON TRANSPORTATION OF LITHIUM BATTERIES ON AIRCRAFT.—

(1) ADOPTION OF ICAO INSTRUCTIONS.—

(A) IN GENERAL.—Pursuant to section 828 of the FAA Modernization and Reform Act of 2012 (49 U.S.C. 44701 note), not later than 90 days after the date of enactment of this Act, the Secretary of the Department of Transportation shall conform United States regulations on the air transport of lithium cells and batteries with the lithium cells and battery requirements in the 2015-2016 edition of the International Civil Aviation Organization’s (referred to in this subsection as “ICAO”) Technical Instructions (to include all addenda) including the revised standards adopted by ICAO which became effective on April 1, 2016.

(B) FURTHER PROCEEDINGS.—Beginning on the date the revised regulations under subparagraph (A) are published in the Federal Register, any lithium cell and battery rule-making action or update commenced on or after that date shall continue to comply with the requirements under section 828 of the FAA Modernization and Reform Act of 2012 (49 U.S.C. 44701 note).

(2) REVIEW OF OTHER REGULATIONS.—Pursuant to section 828 of the FAA Modernization and Reform Act of 2012 (49 U.S.C. 44701 note), the Secretary of Transportation may initiate a review of other existing regulations regarding the air transportation, including passenger-carrying and cargo aircraft, of lithium batteries and cells.

(3) MEDICAL DEVICE BATTERIES.—

(A) IN GENERAL.—For United States applicants, the Secretary of Transportation shall consider and either grant or deny, within 45 days, applications submitted in compliance with part 107 of title 49, Code of Federal Regulations for special permits or approvals for air transportation of lithium ion cells or batteries specifically used by medical devices. Not later than 30 days after the date of application, the Pipeline and Hazardous Materials Safety Administration shall provide a draft special permit based on the application to the Federal Aviation Administration. The Federal Aviation Administration shall conduct an on-site inspection for issuance of the special permit not later than 10 days after the date of receipt of the draft special permit from the Pipeline and Hazardous Materials Safety Administration.

(B) DEFINITION OF MEDICAL DEVICE.—In this paragraph, the term “medical device” has the meaning given the term “device” in section 201 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321).

(4) SAVINGS CLAUSE.—Nothing in this section shall be construed as expanding or restricting any other authority the Secretary of Transportation has under section 828 of the FAA Modernization and Reform Act of 2012 (49 U.S.C. 44701 note).

AMENDMENT NO. 3534

(Purpose: To establish a national multimodal freight advisory committee in the Department of Transportation)

At the appropriate place, insert the following:

SEC. ____ . NATIONAL MULTIMODAL FREIGHT ADVISORY COMMITTEE.

(a) ESTABLISHMENT.—The Secretary of Transportation shall establish a national multimodal freight advisory committee (referred to in this section as the “Committee”) in the Department of Transportation, which shall consist of a balanced cross-section of

public and private freight stakeholders representative of all freight transportation modes, including—

- (1) airports, highways, ports and waterways, rail, and pipelines;
- (2) shippers;
- (3) carriers;
- (4) freight-related associations;
- (5) the freight industry workforce;
- (6) State departments of transportation;
- (7) local governments;
- (8) metropolitan planning organizations;
- (9) regional or local transportation authorities, such as port authorities;
- (10) freight safety organizations; and
- (11) university research centers.

(b) **PURPOSE.**—The purpose of the Committee shall be to promote a safe, economically efficient, and environmentally sustainable national freight system.

(c) **DUTIES.**—The Committee, in consultation with State departments of transportation and metropolitan planning organizations, shall provide advice and recommendations to the Secretary of Transportation on matters related to freight transportation in the United States, including—

- (1) the implementation of freight transportation requirements;
- (2) the establishment of a National Multimodal Freight Network under section 70103 of title 49, United States Code;
- (3) the development of the national freight strategic plan under section 70102 of such title;
- (4) the development of measures of conditions and performance in freight transportation;
- (5) the development of freight transportation investment, data, and planning tools; and
- (6) recommendations for Federal legislation.

(d) **QUALIFICATIONS.**—Each member of the Committee shall be sufficiently qualified to represent the interests of the member's specific stakeholder group, such as—

- (1) general business and financial experience;
- (2) experience or qualifications in the areas of freight transportation and logistics;
- (3) experience in transportation planning, safety, technology, or workforce issues;
- (4) experience representing employees of the freight industry;
- (5) experience representing State or local governments or metropolitan planning organizations in transportation-related issues; or
- (6) experience in trade economics relating to freight flows.

(e) **SUPPORT STAFF, INFORMATION, AND SERVICES.**—The Secretary of Transportation shall provide support staff for the Committee. Upon the request of the Committee, the Secretary shall provide such information, administrative services, and supplies as the Secretary considers necessary for the Committee to carry out its duties under this section.

AMENDMENT NO. 3623

(Purpose: To impose criminal penalties for the unsafe operation of unmanned aircraft)

At the end of subtitle A of title II, add the following:

PART IV—OPERATOR SAFETY

SEC. 2161. SHORT TITLE.

This part may be cited as the “Drone Operator Safety Act”.

SEC. 2162. FINDINGS; SENSE OF CONGRESS.

(a) **FINDING.**—Congress finds that educating operators of unmanned aircraft about the laws and regulations that govern such aircraft helps to ensure their safe operation.

(b) **SENSE OF CONGRESS.**—It is the sense of Congress that the Administrator of the Federal Aviation Administration should con-

tinue to prioritize the education of operators of unmanned aircraft through public outreach efforts like the “Know Before You Fly” campaign.

SEC. 2163. UNSAFE OPERATION OF UNMANNED AIRCRAFT.

(a) **IN GENERAL.**—Chapter 2 of title 18, United States Code, is amended—

- (1) in section 31—
 - (A) in subsection (a)—
 - (i) by redesignating paragraph (10) as paragraph (11); and
 - (ii) by inserting after paragraph (9) the following:

“(10) UNMANNED AIRCRAFT.—The term ‘unmanned aircraft’ has the meaning given such term in section 44801 of title 49.”; and
 - (B) in subsection (b), by inserting “‘airport’,” before “‘appliance’”; and
- (2) by inserting after section 39A the following:

“(10) UNMANNED AIRCRAFT.—The term ‘unmanned aircraft’ has the meaning given such term in section 44801 of title 49.”; and

(B) in subsection (b), by inserting “‘airport’,” before “‘appliance’”; and

(2) by inserting after section 39A the following:

“§39B. Unsafe operation of unmanned aircraft

“(a) **OFFENSE.**—Any person who operates an unmanned aircraft and, in so doing, knowingly or recklessly interferes with, or disrupts the operation of, an aircraft carrying 1 or more occupants operating in the special aircraft jurisdiction of the United States, in a manner that poses an imminent safety hazard to such occupants, shall be punished as provided in subsection (b).

“(b) **PENALTY.**—

“(1) **IN GENERAL.**—Except as provided in paragraph (2), the punishment for an offense under subsection (a) shall be a fine under this title, imprisonment for not more than 1 year, or both.

“(2) **SERIOUS BODILY INJURY OR DEATH.**—Any person who attempts to cause, or knowingly or recklessly causes, serious bodily injury or death during the commission of an offense under subsection (a) shall be fined under this title, imprisoned for any term of years or for life, or both.

“(c) **OPERATION OF UNMANNED AIRCRAFT IN CLOSE PROXIMITY TO AIRPORTS.**—

“(1) **IN GENERAL.**—The operation of an unmanned aircraft within a runway exclusion zone shall be considered a violation of subsection (a) unless such operation is approved by the airport's air traffic control facility or is the result of a circumstance, such as a malfunction, that could not have been reasonably foreseen or prevented by the operator.

“(2) **RUNWAY EXCLUSION ZONE DEFINED.**—In this subsection, the term ‘runway exclusion zone’ means a rectangular area—

“(A) centered on the centerline of an active runway of an airport immediately around which the airspace is designated as class B, class C, or class D airspace at the surface under part 71 of title 14, Code of Federal Regulations; and

“(B) the length of which extends parallel to the runway's centerline to points that are 1 statute mile from each end of the runway and the width of which is ½ statute mile.”.

(b) **CLERICAL AMENDMENT.**—The table of sections for chapter 2 of title 18, United States Code, is amended by inserting after the item relating to section 39A the following:

“39B. Unsafe operation of unmanned aircraft.”.

AMENDMENT NO. 3567

(Purpose: To require the Federal Aviation Administration to coordinate with the Center of Excellence for Unmanned Aircraft Systems with respect to research relating to unmanned aircraft systems)

On page 74, strike line 19 and insert the following:

under section 44802(a) of that title, and in coordination with the Center of Excellence for Unmanned Aircraft Systems.

(c) **USE OF CENTER OF EXCELLENCE FOR UNMANNED AIRCRAFT SYSTEMS.**—The Administrator, in carrying out research necessary to establish the consensus safety standards and certification requirements in section 44803 of title 49, United States Code, as added by section 2124, shall, to the maximum extent practicable, leverage the research and testing capacity and capabilities of the Center of Excellence for Unmanned Aircraft Systems and the test sites (as defined in 44801 of such title, as added by section 2121).

Mr. THUNE. Mr. President, I ask unanimous consent that the Senate now vote on these amendments, as well as the Bennet amendment No. 3524, as modified with the changes at the desk, all en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 3524), as modified, is as follows:

Strike section 3113 and insert the following:

SEC. 3113. LASTING IMPROVEMENTS TO FAMILY TRAVEL.

(a) **SHORT TITLE.**—This section may be cited as the “Lasting Improvements to Family Travel Act” or the “LIFT Act”.

(b) **ACCOMPANYING MINORS FOR SECURITY SCREENING.**—The Administrator of the Transportation Security Administration shall formalize security screening procedures that allow for one adult family caregiver to accompany a minor child throughout the entirety of the security screening process.

(c) **SPECIAL ACCOMMODATIONS FOR PREGNANT WOMEN.**—Not later than 180 days after the date of the enactment of this Act, the Secretary of Transportation shall review and, if appropriate, prescribe regulations that direct all air carriers to include pregnant women in their policies, with respect to preboarding or advance boarding of aircraft.

(d) **FAMILY SEATING.**—Not later than 1 year after the date of the enactment of this Act, the Secretary shall review and, if appropriate, establish a policy directing all air carriers to ensure that, if a family is traveling on a reservation with a child under the age of 13, that child is able to sit in a seat adjacent to the seat of an accompanying family member over the age of 13, to the maximum extent practicable, at no additional cost.

VOTE ON AMENDMENTS NOS. 3476, AS MODIFIED; 3492, AS MODIFIED; 3500; 3526; 3535; 3621; 3620; 3633; 3534; 3623; 3567; AND 3524, AS MODIFIED

Mr. THUNE. Mr. President, I know of no further debate on these amendments.

The PRESIDING OFFICER. The question occurs on agreeing to the amendments en bloc.

The amendments (Nos. 3476, as modified; 3492, as modified; 3500; 3526; 3535; 3621; 3620; 3633; 3534; 3623; 3567; and 3524, as modified) were agreed to en bloc.

ADJOURNMENT UNTIL 10 A.M. TOMORROW

Mr. THUNE. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that it stand adjourned under the previous order.

There being no objection, the Senate, at 8:18 p.m., adjourned until Tuesday, April 12, 2016, at 10 a.m.

CONFIRMATION

Executive nomination confirmed by the Senate April 11, 2016: