CONGRESSIONAL BUDGET OFFICE
COST ESTIMATE

March 10, 2011

H.R. 658
FAA Reauthorization and Reform Act of 2011

As ordered reported by the House Committee on Transportation and Infrastructure on February 16, 2011, with a subsequent amendment provided to CBO on March 7, 2011

SUMMARY

H.R. 658 would authorize appropriations, mainly over the 2011-2014 period, for activities of the Federal Aviation Administration (FAA) and other federal programs related to aviation. (A full-year appropriation for aviation programs in 2011 has not yet been enacted. For this estimate, CBO has assumed that the partial-year funding already provided will be increased proportionately—annualized—to provide full-year funding.) CBO and staff of the Joint Committee on Taxation (JCT) estimate that implementing H.R. 658 would:

- Increase discretionary spending by $34 billion over the 2011-2016 period; and

- Increase revenues by $34 million over the 2011-2016 period and $4 million over the 2011-2021 period.

Because the legislation would increase revenues, pay-as-you-go procedures apply.

H.R. 658 contains intergovernmental and private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) because it would impose new requirements on both public and private entities that own aircraft or airports. CBO estimates that the aggregate cost of intergovernmental mandates in the bill would fall well below the annual threshold established in UMRA ($71 million in 2011, adjusted annually for inflation). The bill would impose additional private-sector mandates on operators of certain aircraft, entities registering or obtaining certification with the FAA, commercial air carriers, employees in air or rail industries, and unions. Based on information from the FAA, the National Mediation Board, and industry sources, CBO estimates that the aggregate cost of complying with the private-sector mandates would exceed the annual threshold established in UMRA ($142 million in 2011, adjusted annually for inflation).

ESTIMATED COST TO THE FEDERAL GOVERNMENT

The estimated budgetary impact of H.R. 658 is shown in Table 1. The costs of this legislation fall primarily within budget function 400 (transportation).

TABLE 1. ESTIMATED BUDGETARY EFFECTS OF H.R. 658

	By Fiscal Year, in Millions of Dollars						
	2011	2012	2013	2014	2015	2016	2011-2016
CHANGES IN SPENDING SUBJECT TO APPROPRIATION [a]							
Spending Under Current Law [a]							
Budget Authority	12,436	77	77	77	77	77	12,821
Estimated Outlays	15,832	5,953	4,604	4,100	3,947	3,950	38,386
Proposed Changes							
FAA Operations							
Authorization Level	53	9,168	9,168	9,168	0	0	27,557
Estimated Outlays	47	8,164	8,894	9,077	1,008	275	27,465
Air Navigation Facilities and Equipment							
Authorization Level	-236	2,600	2,600	2,600	0	0	7,564
Estimated Outlays	-106	1,116	1,733	2,139	1,187	696	6,765
Airport Improvement Program [b]							
Authorization Level	0	0	0	0	0	0	0
Estimated Outlays	-100	-353	-542	-633	-698	-700	-3,026
Essential Air Service							
Authorization Level	-52	-17	-47	-77	-77	-77	-347
Estimated Outlays	-12	-24	-41	-71	-77	-77	-302
Offsetting Collections from Registration and Certification Fees and Other Provisions							
Estimated Authorization Level	0	35	0	0	0	0	35
Estimated Outlays	0	20	10	5	0	0	35
Total Changes							
Estimated Authorization Level	-235	11,786	11,721	11,691	-77	-77	34,809
Estimated Outlays	-71	9,276	10,596	11,150	2,118	894	33,963
Spending Under H.R. 658							
Estimated Authorization Level	12,201	11,863	11,798	11,768	0	0	47,630
Estimated Outlays	15,761	15,229	15,200	15,250	6,065	4,844	72,349

Continued

TABLE 1. ESTIMATED BUDGETARY EFFECTS OF H.R. 658

	By Fiscal Year, in Millions of Dollars						
	2011	2012	2013	2014	2015	2016	2011-2016
CHANGES IN DIRECT SPENDING [c]							
Estimated Budget Authority	-524	-700	-700	-700	-700	-700	-4,024
Estimated Outlays	0	0	0	0	0	0	0
CHANGES IN REVENUES							
Estimated Revenues [d]	5	13	14	7	0	-4	34
NET IMPACT OF CHANGES IN DIRECT SPENDING AND REVENUES ON THE DEFICIT							
Net Increase or Decrease (-) in the Deficit	-5	-13	-14	-7	0	4	-34

Notes: FAA = Federal Aviation Administration.
Components may not sum to totals because of rounding.

a. Under Public Law 112-4, Further Continuing Appropriations Amendments, 2011, funding is provided through March 18, 2011 for FAA operations, facilities and equipment; and payments to air carriers. On an annualized basis, funding for those programs in 2011 totals $12.4 billion.

b. Budget authority for the Airport Improvement Program is provided as contract authority, a mandatory form of budget authority; however, outlays from that contract authority are subject to limitations on obligations specified in annual appropriation acts and are therefore considered discretionary. The Airport and Airway Extension Act of 2010, Part IV (Public Law 111-329) provides $1.85 billion in contract authority through March 31, 2011; on an annualized basis, contract authority for this program totals $3.7 billion in 2011.

c. Enacting H.R. 658 would have no impact on direct spending over the 2011-2021 period because CBO assumes that outlays from contract authority will continue to be subject to limitations on obligations specified in annual appropriation acts and thus considered discretionary (see Table 2 for annual effects through 2021).

d. Enacting H.R. 658 would increase revenues by $4 million over the 2011-2021 period (see Table 2 for annual effects through 2021).

BASIS OF ESTIMATE

For this estimate, CBO assumes that H.R. 658 will be enacted in the spring of 2011. Outlay estimates are based on historical spending patterns for affected programs and on information provided by the Department of Transportation (DOT) and the FAA.

Spending Subject to Appropriation

H.R. 658 would authorize appropriations, mainly over the 2011-2014 period, for the FAA and other federal programs related to aviation. On an annualized basis, discretionary funding for major aviation programs administered by the FAA currently totals $12.4 billion under Public Law 112-4, Further Continuing Appropriation Amendments, 2011. CBO estimates that spending under current law will total $38.4 billion over the 2011-2016 period. That estimate includes outlays stemming from authority provided under P.L. 112-4 and from funding provided prior to 2011.

Amounts authorized to be appropriated under H.R. 658 would total $12.2 billion in 2011 and $47.6 billion over the 2011-2014 period. Assuming appropriation of the specified amounts (as well as the enactment of limitations on obligations of contract authority for the Airport Improvement Program that are consistent with funding levels provided under H.R. 658), CBO estimates that implementing H.R. 658 would increase spending by nearly $34 billion over the 2011-2016 period, with about $13 billion of additional spending after 2016.

FAA Operations. H.R. 658 would authorize appropriations totaling $9.4 billion in 2011 ($53 million more than the annualized amount that is currently available in 2011 under P.L. 112-4) and an additional $27.6 billion over the 2011-2014 period for FAA operations, particularly for salaries and expenses related to operating the air traffic control system. CBO estimates that fully funding FAA operations as authorized in H.R. 658 would result in additional spending totaling $27.5 billion over the 2011-2016 period.

Air Navigation Facilities and Equipment. H.R. 658 would authorize appropriations totaling $2.7 billion in 2011 ($236 million less than the annualized amount currently available for 2011 under P.L. 112-4) and an additional $7.6 billion over the 2012-2014 period for facilities and equipment—primarily infrastructure and systems for communication, navigation, and radar surveillance related to air travel.[1] Assuming appropriation of the specified amounts, CBO estimates that increased spending for this program would total $6.8 billion over the 2011-2016 period, with additional spending occurring in later years.

Airport Improvement Program. H.R. 658 would provide $12.2 billion in contract authority (a mandatory form of budget authority) over the 2011-2014 period for the

1. By authorizing appropriations for air navigation facilities and equipment over the 2011-2014 period, H.R. 658 would authorize adjustments to contract authority for the airport improvement program in those years. Current law provides for increases to contract authority (a mandatory form of budget authority) for that program in any year that the amounts authorized to be appropriated for facilities and equipment exceed amounts actually provided in appropriation acts for such activities. Any such changes authorized under H.R. 658 and triggered by annual appropriation acts would be considered changes in direct spending and are discussed later in this estimate (see section entitled "Direct Spending").

Airport Improvement Program (AIP). Through that program, the FAA provides grants to airports for projects to enhance safety and increase airports' capacity for passengers and aircraft. Outlays from AIP contract authority are controlled by limitations on obligations set in annual appropriation acts and are therefore considered discretionary.

CBO estimates that enacting this provision would reduce contract authority below levels assumed in CBO's current baseline by $2.6 billion over the 2011-2014 period that is specifically covered under H.R. 658 and by $700 million annually thereafter. (See the section of this estimate entitled "Direct Spending" for a discussion of the budgetary treatment of AIP contract authority under CBO's baseline and for purposes of projecting costs under proposed legislation.)

In total, assuming that obligation limitations of AIP spending as set forth in annual appropriation acts are equal to the levels of contract authority projected under H.R. 658, CBO estimates that discretionary spending for the program over the 2011-2016 period would total $3 billion less than amounts projected in CBO's baseline over that same period.

Essential Air Service. H.R. 658 would amend the Essential Air Service program through which DOT makes payments to air carriers that provide air service to certain rural communities. Under current law, $77 million is authorized to be appropriated for that program each year in perpetuity.

H.R. 658 would amend current law to gradually phase out discretionary funding for payments to air carriers. Under the bill, authorized funding would total $98 million in 2011 ($52 million less than the annualized amount currently available under P.L. 112-4), $60 million in 2012, and $30 million in 2013. No further appropriations would be authorized after 2013. Assuming appropriation action consistent with H.R. 658, CBO estimates that spending for payments to air carriers would fall by $12 million in 2011 and $302 million over the 2011-2016 period.

Offsetting Collections from Registration and Certification Fees and Other Provisions. The FAA administers a regulatory program designed to ensure the safety of air travel. The agency oversees and regulates the registration of aircraft, certification of pilots, and other related activities. Under current law, the FAA issues most registrations and certificates free of charge or at nominal prices. CBO estimates that collections from fees charged by the agency currently total about $1 million annually.

H.R. 658 would require the FAA to charge specific fees for services related to processing certain registrations and certificates. The agency's authority to collect and spend such fees would be contingent on annual appropriation acts. Based on information from the agency regarding the annual volume of regulatory actions, CBO estimates that the proposed fees would generate discretionary offsetting collections totaling about

$45 million in 2012 and about $142 million through 2014, the last year of the reauthorization period specifically covered by H.R. 658. Because H.R. 658 would authorize the FAA to spend such collections, we estimate that implementing this provision would have no significant net effect on federal spending.

H.R. 658 would require the FAA, DOT, and the Government Accountability Office to carry out a variety of other activities, studies, and reports related to aviation. The costs of those activities would range from less than $1 million for routine reports and analyses to several million dollars or more for efforts related to establishing certain types of databases, hotlines, and other activities. In total, CBO estimates that fully funding those provisions would require appropriations totaling $35 million in 2012 and that resulting outlays would total $35 million over the 2012-2016 period.

Direct Spending

CBO estimates that enacting H.R. 658 would have no impact on direct spending (see Table 2). The bill would, however, reduce contract authority for the AIP over the 2011-2021 period. As previously noted, spending from contract authority is controlled by obligation limitations specified in annual appropriation acts. Thus, outlays of the AIP are considered discretionary.

Under The Airport and Airway Extension Act of 2010, Part IV (Public Law 111-329), the FAA has been provided with nearly $1.9 billion in contract authority available through March 2011—or $3.7 billion on an annualized basis. Pursuant to rules that govern the calculation of CBO's baseline, funding for certain expiring programs—such as contract authority for AIP—is assumed to continue beyond the scheduled expiration date for budget projection purposes. Consistent with that practice, CBO’s baseline assumes that AIP contract authority over the 2012-2021 period will remain at the 2011 level of $3.7 billion per year.

Under H.R. 658, AIP contract authority would total just under $3.2 billion in 2011 and $3.0 billion in each of fiscal years 2012-2014. 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 2014 and would remain at $3.0 billion annually. In total, CBO estimates that contract authority under H.R. 658 would fall below the levels of contract authority already assumed in the CBO baseline by $7.5 billion over the 2011-2021 period.

TABLE 2. EFFECTS ON DIRECT SPENDING AND REVENUES UNDER H.R. 658

	By Fiscal Year, in Millions of Dollars												
	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021	2011-2016	2011-2021
CHANGES IN DIRECT SPENDING													
AIP Contract Authority [a]													
Estimated Budget Authority	-524	-700	-700	-700	-700	-700	-700	-700	-700	-700	-700	-4,024	-7,524
Estimated Outlays	0	0	0	0	0	0	0	0	0	0	0	0	0
CHANGES IN REVENUES													
Passenger Facility Fees	0	*	-1	-2	-3	-4	-4	-5	-6	-7	-8	-10	-40
Overflight Fees	5	13	15	9	3	0	0	0	0	0	0	44	44
Total Estimated Revenues	5	13	14	7	0	-4	-4	-5	-6	-7	-8	34	4
NET IMPACT ON THE DEFICIT FROM CHANGES IN DIRECT SPENDING AND REVENUES													
Net Increase or Decrease (-) in the Deficit	-5	-13	-14	-7	0	4	4	5	6	7	8	-34	-4

Note: AIP = Airport Improvement Program; * = between -$500,000 and $500,000.

a. Budget authority for the Airport Improvement Program is provided as contract authority, a mandatory form of budget authority; however, outlays from that contract authority are subject to limitations on obligations specified in appropriation acts and are therefore discretionary.

Public Law 106-181, the Wendell H. Ford Aviation Investment Reform Act for the 21st Century Act, enacted in 2000, created a permanent mechanism that provides for an increase to AIP contract authority in any year that the amount authorized to be appropriated for the air navigation and facilities account exceeds the amount provided for such activities in an appropriation act. By authorizing appropriations for facilities and equipment over the 2012-2014 period, H.R. 658—in conjunction with that provision of current law—would authorize adjustments to AIP contract authority for those years. Any adjustment authorized under this legislation, once triggered by annual appropriation acts, would constitute new direct spending authority. All spending for AIP—including spending from such adjustments—would remain subject to obligation limitations established in appropriation acts. Although H.R. 658 could result in additional AIP contract authority of as much as $7.8 billion over the 2012-2014 period if no appropriations were provided for air navigation facilities and equipment, CBO assumes that appropriations will equal the amounts authorized by the bill; thus, we project no additional increases to AIP contract authority under H.R. 658.

Revenues

JCT estimates that enacting H.R. 658 would increase revenues by $34 million over the 2011-2016 period and a net amount of $4 million over the 2011-2021 period (Table 2). The estimated changes stem from provisions related to passenger facility fees and overflight fees.

Passenger Facility Fees. Under current law, airport agencies may collect, subject to DOT approval, fees of up to $4.50 per passenger to fund airport infrastructure programs. (Such fees are collected and spent by airport agencies and are not included in the federal budget.) H.R. 658 would allow the Secretary of Transportation to authorize up to five airport agencies to charge fees in excess of the statutory limit in order to finance certain capital projects. JCT expects that the proposed changes would increase revenues to airports from such passenger facility fees, subsequently lead to increased tax-exempt financing for airport construction and related projects, and consequently, reduce federal revenues. JCT estimates that federal revenue losses would total $40 million over the 2011-2021 period.

Overflight Fees. H.R. 658 would direct the FAA, through an expedited rulemaking process, to increase fees for certain navigational services provided for flights that neither take off nor land in the United States, known as overflight fees. Such fees are generally paid by foreign air carriers and are recorded as revenues. The expedited rulemaking would generate increased revenues in fiscal years 2011 through 2015. JCT estimates that those increases would total $44 million over the 2011-2015 period.

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 revenues that are subject to those pay-as-you-go procedures are shown in the following table.

CBO Estimate of Pay-As-You-Go Effects for H.R. 658, as ordered reported by the House Committee on Transportation and Infrastructure on February 16, 2011, with a subsequent amendment provided to CBO on March 7, 2011

	By Fiscal Year, in Millions of Dollars												
	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021	2011-2016	2011-2021
NET INCREASE OR DECREASE (-) IN THE DEFICIT													
Statutory Pay-As-You-Go Impact	-5	-13	-14	-7	0	4	4	5	6	7	8	-34	-4
Memorandum:													
Changes in Outlays	0	0	0	0	0	0	0	0	0	0	0	0	0
Changes in Revenues	5	13	14	7	0	-4	-4	-5	-6	-7	-8	34	4

INTERGOVERNMENTAL AND PRIVATE-SECTOR IMPACT

H.R. 658 would impose mandates on public and private entities that own aircraft or airports, entities registering or obtaining certification with the FAA, commercial air carriers, employees in air or rail industries, and unions. CBO estimates that the aggregate cost of intergovernmental mandates in the bill would fall well below the annual threshold established in UMRA ($71 million in 2011, adjusted annually for inflation), and that the aggregate cost of complying with the private-sector mandates would exceed the annual threshold established in UMRA ($142 million in 2011, adjusted annually for inflation).

Mandates that Apply to Both Public and Private Entities

Requirements for Next Generation Air Transportation System (NextGen) Equipment. The bill would require owners of aircraft operating in congested airspace or at congested airports to install new communications equipment by 2020. According to industry sources, the equipment currently costs at least $10,000 per aircraft; for jets and other large aircraft, the cost would amount to at least $100,000 per aircraft. Depending on FAA regulations, up to 240,000 aircraft could be affected, and most of the compliance costs would be incurred in the year that the equipment is required to be installed. Therefore, CBO estimates that the cost to private entities to comply with the mandate could exceed the annual threshold. Because of the relatively small number of public aircraft affected, CBO estimates the cost to state and local governments would be minimal.

Contingency plans. The bill would require air carriers, operators of large and medium airports, and airports that accept diversion flights from those airports, to submit contingency plans to the Department of Transportation for emergency circumstances that ground aircraft. The bill also would require air carriers and airports to update their plans every three or five years, respectively. All large and medium airports, and most of any other airports likely to be affected, are publicly owned and operated. All air carriers likely to be affected are privately owned and operated. CBO estimates that the costs to public entities would total between $5 million and $10 million in the first year of implementation, with smaller recurring costs for updates to the plans in later years. Based on information from industry sources, CBO estimates that the mandates would not impose significant additional costs on privately owned air carriers or airports.

Other Mandates. The bill would require large airports to publish a telephone number on the Internet where the public can make complaints about noise. Airports that receive 25 such complaints in the preceding year would be required to submit a report to the FAA regarding the nature of such complaints. The bill also would require operators of air ambulance services to submit annual reports to the FAA. CBO estimates the cost of those mandates to public and private entities would be small.

Mandates that Apply to Public Entities Only

Access to Criminal History Records. The bill would give the FAA the right to access criminal justice data maintained by the states. Although CBO cannot predict the extent to which the FAA would access state or local data systems, or make inquiries of state or local police officers, CBO estimates that the additional costs to state, local, and tribal governments of complying with the requests would be small.

Mandates that Apply to Private Entities Only

Limits on the Level of Aircraft Noise. H.R. 658 would prohibit, with certain exemptions, the operation of civil aircraft weighing 75,000 pounds or less in the 48 contiguous states if the aircraft does not comply with stage-3 noise levels. (The FAA classifies aircraft into four stages based on measurements of noise level: stage-3 is one of the quietest of those stages.) The prohibition would take effect after December 31, 2015. According to industry sources, compliance could require modifying or replacing engines on some existing aircraft or decommissioning aircraft that cannot be adequately modified. Those sources estimate that the total cost of bringing existing aircraft into compliance could range from $300 million to more than $1 billion, depending on the technology used. CBO expects that most of the costs to comply with the mandate would be incurred in 2015, the year before the prohibition would take effect.

FAA Registration, Certification, and Related Fees. The bill would require the FAA to establish a new schedule of fees for certain services and activities of the agency. This requirement would impose a new mandate on entities, such as aircraft owners and pilots, that are required to register with the FAA or required to obtain specific certifications. Based on the number of entities required to register with the FAA or obtain certification, CBO estimates that the incremental cost of the new fees for those private-sector entities would total about $45 million in 2012 and about $50 million or more per year thereafter.

Union Elections. By increasing the number of air or rail employees who must vote in favor of union representation, the bill would impose a mandate on employees responsible for organizing elections to establish union representation. Effective January 1, 2011, the bill would increase the number of votes necessary for union representation for air or rail employees from a majority of all employees casting votes in the election to a majority of all employees to be represented by the union. The bill could also impose a mandate on unions if they were to invalidate an election held before the date of enactment. Based on information from the National Mediation Board and industry sources, CBO estimates that the direct cost of the mandate would be small relative to the annual threshold.

Airline Employee and Service Requirements for Air Carriers. The bill would impose several new requirements on air carriers related to airline employees and passenger service. Based on information from industry sources, CBO estimates that none of those mandates would impose significant additional costs on air carriers relative to UMRA's threshold. Those mandates would require air carriers to:

- Hire only maintenance workers for commercial aircraft who are certified and have submitted to a drug and alcohol test;

- Not hire or contract with former safety inspectors previously employed by the FAA to represent them before the FAA if the inspectors' duties in the previous two years involved oversight or inspection of the specific air carrier offering the positions;

- Disclose to customers information on consumer complaints and information on countries that require air carriers to treat airplanes with insecticides;

- Develop and submit reports related to certain emergency contingencies and diverted or cancelled flights;

- Allow passengers to safely transport musical instruments as carry-on or checked baggage without charging an additional fee, or allow the instrument to be carried in a seat next to the owner if the owner has purchased an additional seat;

- Prohibit smoking on certain passenger flights; and

- Include contact information for consumer complaints on their website and tickets at DOT.

Other Impacts

The bill would benefit public and private airports by authorizing grants for planning, development, noise mitigation, and other initiatives. Any costs those entities incur to meet grant requirements would result from complying with conditions of federal assistance.

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