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ANALYSIS OF PROVISIONS AFFECTING AIRPORTS AND THEIR COMMUNITIES IN HOUSE AND SENATE FAA REAUTHORIZATION BILLS

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ANALYSIS OF PROVISIONS AFFECTING AIRPORTS AND THEIR COMMUNITIES IN HR 658 “FAA REAUTHORIZATION AND REFORM ACT” AND S 223 “FAA AIR TRANSPORTATION MODERNIZATION AND SAFETY IMPROVEMENT ACT”

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I. Introduction

Since September 30, 2007, Congress has passed 18 short term extensions of funding and operating authority for the Federal Aviation Administration (FAA) and its key programs, including the Airport Improvement Program (AIP). With the passage of HR 658 in the House of Representatives and S 223 in the Senate, the issue of long-term FAA authorization has gone to conference.

In this white paper, Unison Consulting, Inc. summarizes the provisions of the House and Senate bills and compares them with each other.

The focus of the white paper is on provisions that will or may have a direct impact on our airport clients and the communities they serve. The major provisions with the most interest to airports are discussed in the succeeding chapters. The appendix provides section-by-section details through a series of tables.

The House and Senate bills include a number of common provisions that are highly likely to be included in the final legislation. However, they also differ in key respects. Therefore the next step in the legislative process is a conference of the House and Senate to develop a conference bill. Unison will continue to track the progress of the legislation and produce additional updates to keep our clients informed.

Section II addresses issues relating to funding levels for AIP and funding formulas. Section III addresses proposed changes to AIP eligibility criteria, including modifications to the provisions defining allowable costs. Section IV addresses modifications to grant assurances and administrative requirements. Section V addresses PFC modifications. Both the House and Senate bills include numerous provisions relating to environmental stewardship. These provisions are addressed in section VI. The bills also contain provisions on air service and consumer protection that may be of interest to airports. These are discussed in section VII. Section VIII discusses security provisions that may be of interest to airports.

A. Structure of Bills

The House bill is divided into 12 major subdivisions or Titles, as follows:

- Title I – Authorization
- Title II – NextGen Air Transportation System and Air Traffic Control Modernization
- Title III – Safety
- Title IV – Air Service Improvements
- Title V – Environmental Streamlining
- Title VI – FAA Employees and Organization
- Title VII – Aviation Insurance
- Title VIII – Miscellaneous
- Title IX – National Mediation Board
- Title X – Federal Aviation Research and Development Reauthorization Act of 2011
- Title XI – Airport and Airway Trust Fund Financing
- Title XII – Commercial Space Transportation

The Senate bill also has twelve Titles, although the organization is different than the House Bill. The twelve Titles in the Senate bill are as follows:

- Title I – Authorizations
- Title II – Airport Improvements
- Title III – Air Traffic Control Modernization and FAA Reform
- Title IV – Airline Service and Small Community Air Service Improvements
- Title V – Safety
- Title VI – Aviation Research
- Title VII – Miscellaneous

- Title VIII – Airport and Airway Trust Fund Provisions and Related Taxes
- Title IX – Budgetary Effects
- Title X – Rescission of Unused Transportation Earmarks and General Reporting Requirement
- Title XI – Repeal of Expansion of Information Reporting Requirements
- Title XII – Emergency Medical Service Providers Protection and Liability Protection for Certain Volunteer Pilots

II. AIP Funding

A. Level and Duration of Funding Authority

The House and Senate bills take markedly different approaches to the duration of the authorization and authorized funding level for AIP. The House bill authorizes the program for four years, through the end of fiscal year (“FY”) 2014. In 2011, AIP funding is reduced from current levels by approximately \$400 million to a level of \$3.176 billion. For the next three years, AIP funding would be further reduced to a level of \$3.0 billion – representing a reduction of approximately \$500 million from current levels. (§ 101(a))

The Senate bill authorizes the program for only two years. More importantly, the Senate bill would increase the authorized level of AIP by almost \$500 million to a level \$4 billion in the first year. The authorized amount would be \$4.1 billion in the second year – a \$600 million increase over current levels. (§ 104)

It should be noted that the authorized levels for AIP may not define the funds actually available for AIP each year. Actual funding levels are established as obligation limits in annual Department of Transportation appropriation legislation. It is not uncommon for appropriation legislation to provide a lower level of funding for AIP than the authorized level.

B. Apportionment Formulas and Allocation of Funds

Both the House and Senate bills maintain the existing formulas for calculating passenger and cargo apportionments and apportionments to states and to individual non-primary airports. To preserve existing formulas, the House bill must modify current statutory language. The current AIP statute specifies that the apportionment formulas are to be followed only if the level of AIP is at least \$3.2 billion. The House bill would reduce this threshold to \$3.0 billion. (§ 144) Without this reduction in the threshold, passenger apportionments would be reduced, and the individual apportionments for non-primary airports would be eliminated.

Due to the disparate approaches to AIP funding levels and the preservation of current apportionment formulas, the House and Senate bills have disparate impacts on the availability of discretionary funds. In the House bill, the \$500 million reduction in total AIP translates into a \$500 reduction in total discretionary funds. AIP discretionary funds are subject to a number of set-asides. Consequently, the impact of the reduction can be summarized as follows:

- \$175 million reduction in noise set-aside
- \$20 million reduction in military airport program set-aside
- \$3 million reduction in reliever set-aside
- \$302 million reduction in general discretionary funds

The Senate bill, if enacted, would increase the amount available for discretionary funds by approximately \$500 million in the first year and almost \$600 million in the second. The impact on the distribution of discretionary funds among the set asides cannot be so readily calculated, however, because the Senate bill includes modifications to the funding formulas. The Senate bill would establish the noise set-aside at a flat \$300 million per year. (§ 208(h)) The set-aside is currently calculated as 35 percent of discretionary funds. In addition, the Senate bill increases the minimum general discretionary fund from \$148 million to \$520 million. (§ 208(k)) The Senate bill also includes a new set-aside or guarantee for airports in the United States territories. If the amount apportioned to airports in a territory (individually or collectively) totals less than 1.5 percent of total apportioned funds, the FAA is to supplement the apportionment to bring the total up to 1.5%. (§ 217) Territories are not defined, but potentially could include Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, the Northern Mariana Islands and the Trust Territory of the Pacific Islands. If each of these locales qualified for the guarantee, \$100 million in additional funds might be allocated under this Senate provision.

The House (§ 142) and Senate (§ 208(i)) bills also include provisions to preserve the minimum passenger entitlement level for airports that lost scheduled service or fell below minimum the 10,000 passenger enplanement level to qualify for passenger entitlements.

Finally, the House and Senate bills each include provisions for funding FAA Office of Airports administrative costs out of AIP. This method of funding administrative costs has been employed for a number of years through annual Department of Transportation appropriation legislation. The provisions would formalize the appropriation legislation's approach by incorporating it into the authorization for AIP. The funding levels in the two bills are different. The House bill would reduce administrative funding to \$86 million in

FY 2011 and further reduce administrative funding to \$81 million for the remainder of the authorization. (§ 106) The latter figure is the level of funding for administrative expenses provided in FY 2008. In contrast, the Senate bill would set the level of administrative funding at \$98 million, in the final year of authorization. (§ 107)

C. Federal Share

Currently, the Federal share for projects at medium and large hub airports is 75 percent, except for noise projects, with a federal share of 80 percent. Smaller airports have a federal share of 95 percent. The 95 percent share was a temporary measure adopted after 9/11, when passenger demand and service declined. It was originally scheduled to expire with the expiration of the last long-term FAA authorization, Vision 100. The federal share for small airports would have then been reduced to 90 percent. The 95 percent share has been extended with each temporary extension of the AIP.

The House and Senate bills take different approaches to the matching share for federal requirements going forward. The Senate bill retains the 95 percent federal share for small airports through the length of the authorization. (§§ 204, 207) The House bill would preserve the 95 percent federal share only for airports that are receiving subsidized essential air service and are in economically depressed areas as defined by criteria administered by the Secretary of Commerce. (§ 138) The federal share would revert to 90 percent for other small airports.

Both bills include a provision that preserves the higher federal share associated for small hub airports that transition into medium hubs. Transitioning airports would be able to keep the higher federal share for two years.

D. Contract Tower Funding

The House (§ 148) and Senate (§ 432) bills would increase the maximum amount of AIP funding available for construction of contract towers from \$1.5 million to \$2 million. Each bill would cap the local contribution for cost-share airports (those airports where the benefit-cost ratio ("BCR") of the airport is less than 1.0) at 20 percent. However, the House bill would apply the cap only to airports with less than 50,000 enplanements. Both bills include an 18 month grace period for contract towers that first fall below the 1.0 BCR threshold before they must comply with the cost-share requirement to stay in the program.

Table 1 provides more detailed information about the funding provisions included in the bills.

III. AIP Eligibility

The House and Senate bills include numerous provisions affecting AIP eligibility or the definition of allowable costs. The discussion in this section will focus on provisions that are likely to be enacted into law. The paper first discusses the provisions that are identical or nearly identical in both bills. These provisions are highly likely to be included in the reauthorization legislation. The paper next discusses provisions that are addressed in both bills, but with substantive differences. It is also likely that the House-Senate conference will address the issue in the final bill, but it is more difficult to predict which approach may be followed. Provisions that appear in only one bill are discussed in **Table 2**, which also includes more detailed information about the provisions discussed below.

A. Glycol Recovery Vehicles

The House (§ 133(a)(2)) and Senate (§ 215) bills would make the acquisition of glycol recovery vehicles eligible for AIP. Eligibility would be tied to the use of the vehicles in aircraft deicing activities.

B. Mobile Refueler Parking

The House (§ 133(a)(3)) and Senate (§ 208(j)) bills would make the construction of mobile refueler parking facilities within fuel farms to comply with EPA spill containment requirements eligible for AIP funding at *non-primary airports only*.

C. Relocation of Airport-Owned Facilities

The House (§§ 136(a) and 139(c)) and Senate (§§ 203(1) and 205(1)) bills would make the costs of relocating airport-owned facilities eligible for funding if the relocation is necessitated by a change in FAA design standards. Eligibility would be limited to entitlement funds. Currently only demolition of airport-owned buildings is eligible for reimbursement, while relocation of third-party owned buildings is eligible.

D. Project Costs in Cold Weather Climates

Currently, AIP discretionary funds may only be used for project costs incurred after issuance of a grant. The House (§ 139(a)) and Senate (§ 214(a)) bills would permit use of AIP discretionary funds for project costs incurred in the same fiscal year as the grant, but prior to grant award in cold weather climates with short construction seasons. There are a number of conditions and limitations associated with this proposed change. They are described in **Table 2**.

E. Designation of General Aviation Airports Under the Military Airport Program (MAP)

The House (§ 147(b)) and Senate bills (§ 220) would permit up to three GA airports to be designated as MAP airports. Currently only one GA airport may participating in the MAP.

F. Pacific Island Airports

The House (§ 146) and Senate (§ 704(a)) bills each continue AIP discretionary fund eligibility for the Marshall Islands, Micronesia and Palau. Because these islands are no longer U.S. territories, they would not otherwise be eligible for AIP funding. The House (§ 152) and Senate (§ 704(b)) bills also extend AIP eligibility for the airport at Midway Atoll, which is federally owned.

G. Safety-Critical Airports

The House and Senate bills each provide for designation of “safety critical” airports in the MAP and funding with MAP set-aside funds. The criteria for “safety critical” airports are somewhat different, but focus on safety and operational requirements for transoceanic flights. A potentially important distinction is that the House bill specifically refers to issuing grants to a federally owned airport. (§ 147(c)) The Senate bill (§ 212) is silent on federal ownership.

H. Measures to Improve the Efficiency of Airport Buildings

The House bill (§ 139(b)) would make the costs of measures to improve the efficiency of buildings eligible for AIP funding, if the buildings are otherwise eligible for AIP funding and the incremental costs will be justified by cost-savings over the life cycle of the project. Section 223(3) of the Senate bill would amend the statement of policy for the AIP to encourage FAA to fund these kinds of measures. A separate provision (§ 610) would authorize funding for projects, including hydrogen-based projects.

I. Airport Recycling Plans

Both the House (§ 133(b)) and Senate (§ 714(a)) include provisions that would make the development of solid waste recycling plans AIP eligible. However, both the House (§ 134) and Senate (§ 714(b)) bills would require that airport master plans include a solid waste recycling plan as a condition for continued AIP funding. The effect of the latter provisions could be to require all AIP funded airports to amend their master plans to include a recycling plan.

IV. Grant Assurances, Other Requirements and Administrative Provisions

The House and Senate bills include numerous provisions modifying grant assurances, adding or modifying other requirements on airports and providing for new or revised administrative requirements for the AIP. The major provisions are discussed below starting with grant assurances and other requirements. Administrative provisions are then discussed. **Table 3** provides a comprehensive discussion of all of these provisions in the bills.

With respect to requirements on airports, what is perhaps the most noteworthy is what is absent in both bills. Neither bill contains a provision mandating increased ARFF staffing at Part 139 airports. The inclusion of this provision in the House bill in the 111th

Congress would have resulted in substantial operating cost increases for airports, if it had been adopted. Its inclusion is considered to be a factor in the failure of the House and Senate to reconcile their differences and produce a conference bill in the last session of Congress.

A. Noise Land Disposal Requirement

Both the House (§ 136(b)) and Senate (§ 203(2)) would modify the assurance on the disposal of AIP-funded noise land to permit the Federal share of disposal proceeds to be used on any AIP eligible development or planning project. Priority would still be given to reinvesting in noise compatibility projects. Currently, the federal share must be used for noise compatibility or returned to the FAA.

The Senate bill would also permit airports to retain noise land as noise buffer. Currently, once the noise compatibility has been addressed, the airport is obligated to dispose of the land.

Finally the Senate bill (§ 203(3)) would specify that a long-term lease of noise land is not a disposal under the assurance, but would require lease proceeds to be used for capital costs.

B. Competitive Access Reports

The House (§ 136(d)) and Senate (§ 705) bills would extend and make permanent the requirement for medium and large hub airports to submit periodic reports of denial of requests for facilities or access.

The House bill (§ 135) also would also eliminate the requirement to include information on patterns of air service and air fare levels in airport competition plans.

C. Disadvantaged Business Enterprise Program Modifications

The House (§ 141) and Senate (§§ 703, 715(c),(d)) would require FAA to establish a mandatory disadvantaged business enterprise (“DBE”) certification training for airport employees involved in DBE certification. The Senate bill would limit the requirement to airport concession DBEs. The House bill would include DBEs participating in completion of AIP-funded projects as well. Section 715 of the Senate bill would add other requirements to the DBE program including:

- Adjusting the personal net worth cap to reflect inflation
- Excluding funds held in retirement accounts from the personal net worth calculation
- Prohibiting excessive or unjustly discriminatory bonding requirements.

D. Residential Through-The-Fence Agreements

The House bill (§ 137) would permit airport operators to enter into agreements granting “through-the-fence” (“TTF”) access to residential communities adjacent to airports without jeopardizing their ability to receive AIP grants. Qualifying agreements would require TTF users to pay comparable fees to on-airport users and to pay for the capital and operating costs of any infrastructure required to provide access from off-airport residential property. The Senate bill has no corresponding provision.

A recent change to FAA policy would permit existing residential TTF arrangements to continue under comparable conditions, but would preclude new arrangements pending further review.

E. Airport Privatization Pilot Program

The House bill (§ 158) would double the number of slots in the pilot program from five to ten. It also would make a number of modifications to the program and program requirements including the following:

- Converting the requirement for carrier and GA tenant approval to divert privatization proceeds to a consultation requirement
- Limiting the carrier approval requirement for fee increases to fee increases imposed to provide a return on investment to the private entity taking over the airport or to recover the consideration paid for the airport. Currently any fee increase above the rate of inflation is subject to carrier approval
- Eliminating the prohibition on abrogating collective bargaining agreements
- Eliminating the designated GA airport slot and the limit of one large-hub slot.

The Senate bill does not address privatization.

F. Priority Review of Projects in Cold Weather States

The House (§ 155) and Senate (§ 724) bills would require the FAA to give priority to early review of construction projects from airports in cold weather climates.

G. Liability Protection for Safety Management Systems

The House bill (§ 338) includes a provision protecting entities developing and implementing a safety management system (“SMS”) required by the FAA from liability for civil damages in federal and state courts. Individuals performing the functions of an “accountable executive” are also protected from liability. Protection is not available for “willful or reckless acts or omissions as demonstrated by clear and convincing evidence.”

The Senate bill does not address this issue.

V. PFC Modifications

What is perhaps most noteworthy about the PFC provisions of the House and Senate bills related to the passenger facility charge (PFC) is what is absent. Neither bill proposes to increase the PFC cap above the current \$4.50 level, which has been in place since 2000. As discussed below, the Senate bill includes a pilot program that would permit airports to charge an unlimited PFC, if they collect it directly from passengers. It is unclear whether this provision is sufficient to keep the issue of a PFC increase alive during the conference process.

The PFC provisions are summarized below, and they are analyzed in more detail in **Table 4**. The common PFC provisions in the House and Senate bills are limited. Therefore it is difficult to predict what modifications, if any, will be agreed to in the conference process.

A. PFC Pilot Program

The Senate bill (§ 202) includes a pilot program for direct collection of PFCs. Under the provision, the FAA could approve up to six airports to collect a PFC of any level, so long as the airport collects the PFC directly from the passengers. Carriers would not be required to collect the PFC, and the airport could not contract with carriers through a voluntary agreement to collect the PFC on its behalf. The Senate bill also requires the Government Accountability Office (“GAO”) to conduct a study of alternative collection methods.

The House bill (§ 113) also requires a GAO study of alternative collection methods, but it does not include a pilot program to test alternative collection methods. Whatever else may result from the conference process for PFCs, a GAO study on alternative collection methods is very likely.

B. Airport Ground Access Pilot Program

The House bill (§ 112) would establish a pilot program to allow airports to use PFCs to finance a portion of the costs of shared-use ground access projects. Up to five airports could participate in the program. The maximum PFC eligibility for the project would be based on the proportion of passengers using the ground access project for transportation to the airport compared to the total number of passengers using the project. In addition, the project would have to meet the test that it is directly and substantially related to the movement of passengers or property in air transportation. This is the same test applied to the use of airport revenue on ground access projects.

The Senate bill contains no comparable provision.

C. PFC Administrative Reform

The Senate bill (§201) would modify the administrative process for airports to obtain authority to collect and use PFCs on new projects and to amend existing PFC authority. For the most part, applications and amendment requests would be eliminated. The new process would have the following major elements:

- Annual PFC reports, to document past year expenditures and to identify proposed expenditures for coming year.
- For new projects, public agencies would have to provide an opportunity for written comments by carriers and the public. A consultation meeting on new projects is optional.
- Public airports would be able implement collection for new projects upon filing the annual report with the FAA, subject to an objection procedure that could lead to a termination of collection authority for specific new projects
- Collection of PFCs for intermodal ground access projects or increases in the PFC level would require prior FAA approval before implementation

Section 201 also appears to simplify the criteria for PFC review, focusing on eligibility and avoiding excess PFC collection. However it appears that the “significant contribution” standard for collection of PFCs above \$3.00 by medium and large hub airports is retained.

Section 201 would also establish a complaint and investigation procedure to address potential violations of PFC requirements. The current non-hub pilot program for administrative streamlining would be extended until regulations implementing the new streamlined procedures take effect. The non-hub pilot program is currently subject to a sunset date.

The House bill (§111(b)) would make the non-hub pilot program for administrative streamlining permanent.

VI. Environmental Provision

The House and Senate bills include many environmental initiatives in common. The most significant common provisions are summarized below. Additional environmental provisions contained in either the House or the Senate bills are summarized in **Table 5**.

A. Environmental Review in State Block Grant Program

The House (§ 502) and Senate (§ 209) bills would require federal agencies involved in permitting or approving projects funded under the State Block Grant Program to accept state environmental analyses, if they are adequate, or to supplement them. Currently, some federal agencies require the FAA to conduct environmental analyses. The Senate bill also provides for a pilot program in which state environmental analysis in up to three states that do not participate in the State Block Grant Program would qualify for the same deference.

B. Funding of Special Environmental Studies or Reviews

The House (§ 504) and Senate (§ 210) bills would permit airports to fund with their own resources, including entitlement funds, FAA staff or FAA consultants engaged in conducting special studies to support implementation of noise compatibility measures in Part 150 Noise Compatibility Programs. Currently this funding option is limited to NEPA review of projects being considered for AIP funding.

C. Funding of Comprehensive Land-Use Planning

The House (§ 505) and Senate (§ 712(b)) bills would permit funds from the Noise set-aside to be used for joint comprehensive land-use planning for areas containing land acquired under Part 150 NCPs.

The Senate bill (§§ 712(a),(c),(d)) also includes a pilot program that would permit use of the noise set-aside to make grants to assist in engineering reviews and permitting to support the combining of Part 150 parcels with adjacent parcels to increase disposal proceeds.

D. Funding of Assessment of Flight Procedures in Part 150 NCPs

The House (§ 506) and Senate (§ 211) bills would permit AIP funds from the noise set aside to be used to finance environmental review of flight procedure modifications included in approved Part 150 NCPs. Under current law, the use of AIP funds for this purpose would be considered an impermissible supplementation of the FAA's Air Traffic Organization budget.

E. Phase-out of Small Stage 2 Aircraft

The House (§ 508) and Senate (§ 710) bills would prohibit operations in the continental United States by small (under 75,000 pound) Stage 2 aircraft after December 31, 2014. Each bill provides exceptions for emergency flights, diversions, flights associated with

sale or lease of aircraft, and aircraft maintenance or conversion of Stage 2 aircraft to Stage 3. The Senate bill also includes a provision enabling individual airports to opt out of the prohibition. The House bill does not provide for airport opt outs.

VII. Air Service Provisions Affecting Airports and Their Communities

The House and Senate bills contain numerous provisions affecting commercial air service, including Essential Air Service (“EAS”). Aside from the EAS provision, only one provision directly affects airports. That provision is discussed in subsection A. The bills also include modifications to the Small Community Air Service Development Program, which are discussed in Subsection B. The EAS provisions are discussed in Subsection C.

Table 6 provides detailed information about these provisions.

A. Contingency Plans for Long Tarmac Delays

The House (§ 425) and Senate (§ 401) bills include requirements for airports and air carriers to develop and implement contingency plans to address lengthy flight delays or diversions. The House and Senate bills each require airports to develop plans for accommodating the deplaning of passengers following long tarmac delays and for sharing gates and other facilities to accommodate deplaning passengers. Plans are subject to Department of Transportation approval and must be updated periodically. Both bills authorize the Secretary of Transportation to assess a civil penalty against airports (as well as air carriers) that do not file, obtain approval of, or follow a plan.

There are important differences in the bills. The House bill applies only to large and medium hub airports and airports used for diversions from large and medium hubs. The Senate bill applies to “each airport,” presumably with air carrier service. The House bill applies to “excessive tarmac delays” but does not define the term excessive. The Senate bill establishes a three-hour delay as the threshold for a passenger’s right to deplane (and the airport’s obligation to accommodate deplaning passengers).

B. Small Community Air Service Development Program

The Small Community Air Service Development Program (SCASDP) is addressed in both the House and Senate bills. Both the House (§ 405(a)) and Senate (§ 416(a)) bills would modify the criteria for awarding grants to encourage multiple communities to submit a proposal for regional air service at a single point.

The two bills take a different approach to funding, however. The House bill provides for funding of the EAS program through “over-flight fees” collected from foreign air carriers for providing air traffic services to flights that transit U.S. airspace without landing or

taking off. The House bill (§§ 404(c), 405(b)) would limit SCASDP funding to any excess over-flight fee revenue not needed to fund the EAS program. The Senate bill would continue current authorized funding levels (\$35 million). It should be noted that actual funding levels for the program have been established each year in the appropriation legislation for the Department of Transportation at levels lower than authorized levels. The appropriation legislation has provided for the SCASDP to be funded from the AIP appropriation.

C. Essential Air Service Revisions

The House and Senate bills include a number of revisions to the Essential Air Service (EAS) Program. Many of these revisions are intended to make it easier for communities to retain subsidized essential air service threatened by rising subsidy costs.

Each bill also includes provisions intended to reduce the costs and scope of the program, but the approaches of the two bills are different. The House bill (§ 408) would sunset EAS authority, except for communities in Alaska and Hawaii, at the end of FY 2013. The Senate bill (§§ 420 and 421) would terminate EAS eligibility for communities within 90 miles of a medium or large hub airport or that averaged less than 10 enplanements per day. Communities in Alaska are excluded from these limits.

The Senate bill (§ 414) would establish a conversion program to assist airports losing subsidized air service in converting to GA airports. Grants could be used for AIP eligible airport development to enhance GA capacity, operating costs or innovative air service options, *e.g.*, on demand air taxi service. Grants would be capped at twice the EAS compensation paid for EAS service before eligibility was terminated. Grants for airport development would be subject to the requirements of the AIP, including grant assurances.

The EAS provisions in the bill are not individually analyzed in **Table 6**.

VIII. Security Provisions Affecting Airports

The Senate bill contains two provisions relating to security that are relevant to airports. Neither issue is addressed in HR 658.

Section 734 would establish a criminal penalty for recording or distributing images produced using advanced screening technology at an airport. Conviction is punishable by a fine and up to one year imprisonment

Section 735 would amend the security screening opt out program to require applications to be processed within 30 days. It would also require the TSA to reconsider any opt-out applications that were pending between January 1 and February 3 2011 and to approve the application if TSA determines that private screening will provide an equal or greater level of security than screening by federal employees. TSA would be required to submit a report to Congress whenever it denies an opt-out application.

The security provisions discussed above are not included in any of the tables in the Appendix.

Appendix – Detailed Analysis of Bill Provisions

The Appendix provides a detailed analysis of the House and Senate bills in the form of six Tables, as follows:

- **Table 1** – AIP Funding
- **Table 2** – AIP Eligibility
- **Table 3** – Grant Assurances, Other Requirements and Administrative Provisions
- **Table 4** – PFC Provisions
- **Table 5** – Environmental Provisions
- **Table 6** – Air Service Provisions

Each table lists a subject area; the provisions of the House bill, if any; the provisions of the Senate bill, if any; current law, if applicable; and a discussion of the impact of the House and Senate bill provisions on airports.

Within each table, provisions are grouped and ordered as follows:

1. House and Senate provisions which correspond to each other, generally ordered by House bill section number
2. House bill provisions with no corresponding provision in the Senate bill, generally ordered by House bill section number
3. Senate bill provisions with no corresponding provision in the House bill, generally ordered by Senate bill section number

Many provisions in the House and Senate bills are identical or contain minor wording differences that do not represent differences of substance. In this situation, there is a high probability that the provision will be incorporated in the conference bill. Provisions meeting this criterion are highlighted in green in the tables.

Other provisions are similar but have some substantive differences. In this situation, there is a high probability that either the House or Senate version of the provision will be included in the conference bill. It is, however difficult to predict which version will be adopted. Provisions meeting this criterion are highlighted in yellow in the tables.

Provisions without highlighting involve differences in approach between the House and Senate bills that are more pronounced, making it difficult to predict reliably whether the issue will be addressed in the conference bill at all. This category includes issues that are addressed in only one bill.

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**TABLE 1
AIP FUNDING**

Issue	HR 658 Section No. and Provisions	S 223 Section No. & Provisions	Current Law	Impact of House and Senate Bills on Airports
AIP funding level	<p>§ 101 FY 2011 -- \$3.176B FY 2012 -- \$3.0B FY2013 -- \$3.0B FY 2014 -- \$3.0B</p>	<p>§ 104 FY 2010 -- \$4.0 Billion FY 2011 -- \$4.1 Billion</p>	<p>\$3.5B authorized for FY 2011, on a pro rata basis to reflect partial year authorization. Current law continues FY 2009 actual funding level</p>	<p>HR 658 -- Decreases AIP funding from current levels by \$400 million initially and by \$500 million over the life of the bill. Reductions would be taken from state apportionments by formula and discretionary funds and set-asides as follows:</p> <ul style="list-style-type: none"> • State apportionment by formula -- \$100M • Noise set-aside -- \$140M • Military Airport Program -- \$14M • Reliever set-aside \$3M • General discretionary funds -- \$243M <p>S 223 -- AIP funding increased above current appropriated levels initially by almost \$500M in 2010, with \$100M per year increase for FY 2011. But amounts are subject to reduction in appropriation process.</p>
Airport Cooperative Research (ACRP) Funding	<p>§ 1007 Makes authority for program permanent. Funding level not specified and would be subject to competition in FAA overall research budget</p>	<p>§ 601 Makes authority for program permanent. To be funded from FAA overall research budget with a specified funding level of \$15 million annually, with at least \$5 million for environmental research</p>	<p>\$15 million available for ACRP from funds made available for AIP through FAA appropriation legislation</p>	<p>HR 970, §105 -- eliminates guaranteed funding for ACRP S 223 -- maintains existing minimum ACRP funding level, but changes source of funding to FAA research budget. \$15 million additional funding available for AIP</p>

**TABLE 1
AIP FUNDING (continued)**

Issue	HR 658 Section No. and Provisions	S 223 Section No. & Provisions	Current Law	Impact of House and Senate Bills on Airports
<p>FAA Airports administrative expenses</p>	<p>\$106 Authorizes funding of FAA Office of Airports with AIP funds at the following levels: FY 2011 -- \$86 million FY 2012 -- \$80.7 million FY 2013 -- \$80.7 million FY 2014 -- \$80.7 million</p>	<p>\$107 Provides funding for administrative costs of FAA Airports organization in the following amounts: • FY 2010 -- \$94M • FY 2011 -- \$98M</p>	<p>Use of AIP contract authority to finance Airports organization administrative costs is addressed in annual appropriations act. Level for FY 2010 was \$93.4 million.</p>	<p>The method for funding administrative costs in this provision is currently adopted each year in annual FAA appropriations act. HR 658 would reduce administrative funding from current levels, while S 223 would increase administrative funding. Administrative funding will be determined in FAA appropriations act.</p>
<p>Federal share</p>	<p>\$138 • Small airports receiving subsidized Essential Air Service and located in areas meeting criteria as economically depressed get a 95% Federal share • 90 percent for other small airports 75% for medium and large hubs, except share for noise projects is 80% • Small hubs growing to medium hub retain 90% Federal share for two years</p>	<p>§§ 204, 207 • Federal share for small airports is 95%. • For medium and large hub airports federal share is 75% • Small hubs growing to medium hubs keep 95% share for 2 years • Small hubs transitioning to medium hubs get special PFC turn-back calculation so they are no worse off than in the last year they were a small hub. Special rule applies through 2011.</p>	<p>95% federal share for airports other than large and medium hubs. 75% percent federal share for medium and large hubs, except share for noise projects is 80%. 95% share would revert to 90% with expiration of authorization</p>	<p>HR 658 would return federal share for small airports to percentage in effect prior to 9/11, except for EAS subsidized in economically depressed area. HR 658 would preserve temporarily the higher federal share for small hub transitioning to medium hub S 223 bill would maintain current Federal share, with addition of two year transition provision. PFC turn-back provision for transitioning airports would reinstate a special transition rule originally enacted after 9/11 that has since expired. S 223 would temporarily preserve the higher federal share for small hub transitioning to medium hub</p>

**TABLE 1
AIP FUNDING (continued)**

Issue	HR 658 Section No. and Provisions	S 223 Section No. & Provisions	Current Law	Impact of House and Senate bills on Airports
Use of prior year's apportionments	<p>§ 142</p> <ul style="list-style-type: none"> Permits airport that previously qualified for passenger apportionment to keep the apportionment even if it loses scheduled service, so long as it has certified unscheduled large aircraft service and it meets the 10,000 enplanement minimum Airports that had 10,000 enplanements and scheduled service in CY 2007 may retain their FY 2009 passenger apportionments in FYs 2010 & 2011, even if traffic falls below 10,000 	<p>§ 208(i)</p> <ul style="list-style-type: none"> Permits airport that previously qualified for passenger apportionment to keep the apportionment even if it loses scheduled service, so long as it has certified unscheduled large aircraft service and it meets the 10,000 enplanement minimum Airports that had 10,000 enplanements and scheduled service in CY 2007 may retain their FY 2009 passenger apportionments in FYs 2010 & 2011, even if traffic falls below 10,000 	<p>Airport must have scheduled service and at least 10,000 passenger enplanements to qualify for passenger apportionments</p> <p>Eligibility for passenger apportionments is determined each year based on most recent calendar year enplanement data</p>	<p>Provisions of both bills would protect small communities that suffered service interruptions or traffic declines due to 2008 fuel spike and recession to continue to qualify for passenger apportionment funds on a temporary basis.</p> <p>Preserving passenger apportionments for these airports will mean less AIP discretionary funds than would otherwise be available.</p>
U.S. Territory minimum apportionment guarantee	<p>§ 143</p> <p>Specifies that FAA shall apportion funds to airports in Puerto Rico in accordance with statutory provisions on apportionments and clarifies that FAA is permitted to award discretionary grants to airports in Puerto Rico.</p>	<p>§ 217</p> <p>Authorizes FAA to apportion to airports in U.S. territories at least 1.5 percent of total funds apportioned to airports. In any year in which normal apportionment formulas provide less than this amount, FAA is to supplement the standard apportionment.</p>	<p>No minimum guarantee for any U.S. Territory</p>	<p>HR 658 – No real change from current practice.</p> <p>S 223 – Provision would increase funds apportioned to airports in U.S. territories, including Puerto Rico, with a corresponding reduction in discretionary funds.</p>

**TABLE 1
AIP FUNDING (continued)**

Issue	HR 658 Section No. and Provisions	S 223 Section No. and Provisions	Current Law	Impact of House and Senate bills on Airports
Contract Tower Program	<p>§ 148</p> <ul style="list-style-type: none"> Provides airports currently in regular Contract Tower Program with 18 month grace period after their benefit cost ratio falls below 1, before they must enter the cost sharing program Caps the local cost share requirement at 20% for Part 139 airports with less than 50,000 enplanements. Allows funds not needed in regular contract tower program to be spent on cost-sharing program and vice-versa Increases funding for cost-sharing program to \$8.5 million per year Maximum AIP grant share for construction of contract tower increased to \$2 million 	<p>§ 432</p> <ul style="list-style-type: none"> Provides airports currently in regular Contract Tower Program with 18 month grace period after their benefit cost ratio falls below 1, before they must enter the cost sharing program Caps the local cost share at 20% for all airports Allows funds not needed in regular Contract Tower Program to be spent on Cost-Sharing Program and vice-versa Increases funding for Cost-Sharing program to \$9.5 million in 2010 and to \$10 million Maximum AIP grant share for construction of contract tower increased to \$2 million 	<ul style="list-style-type: none"> Airport can be transferred to cost-sharing program as soon as BC ratio falls below 1 No transfer of unused funds between regular program and cost sharing program Maximum AIP grant share for contract tower construction is \$1.5 million 	<p>Impacts of HR 658 and S223 are equivalent.</p> <p>The provisions would potentially reduce cost of participating in the contract tower program for those airports with the lowest level of activity.</p> <p>Increased funding for cost-sharing program, if appropriated, may permit FAA to accept more airports into the program.</p> <p>Increased cap on AIP funding of tower construction would reduce cost to airports of constructing contract towers.</p>

**TABLE 1
AIP FUNDING (continued)**

Issue	HR 658 Section No. and Provisions	S 223 Section No. and Provisions	Current Law	Impact of House and Senate bills on Airports
<p>Study of NPIAS and passenger apportionments</p>	<p>§ 156 Directs DOT to conduct a study of the NPIAS, including, but not limited to:</p> <ul style="list-style-type: none"> • Criteria for including airports in NPIAS • Changes in airport capital needs reported in two previous NPIAS reports compared with funds apportioned to individual airports • Feasibility of apportioning passenger entitlements based on each primary airport's share of passenger traffic in CY 2009. • Review of methods that primary airports with 15,000 enplanements or less used to meet 10,000 passenger threshold, including use of subsidies. <p>Report to Congress is due 36 months after study begins</p>	<p>§ 223 Directs FAA to study the feasibility and advisability of apportioning passenger entitlements based on each primary airport's share of passenger traffic at all primary airports in CY 2009. Report is to be submitted within 180 days. §107(c) Directs the FAA to review the methods that primary airports with 15,000 enplanements or less used to meet 10,000 passenger threshold, including use of subsidies. The FAA's report is to review the process FAA used to conduct the study before a report is submitted to Congress and the Secretary of Transportation</p>	<p>N/A</p>	<p>Impact of both House and Senate bills depends on the results of the report</p>

**TABLE 1
AIP FUNDING (continued)**

Issue	HR 658 Section No. and Provisions	S 223 Section No. and Provisions	Current Law	Impact of House and Senate bills on Airports
Alternate apportionment formulae	<p>\$144</p> <p>Specifies that apportionment formulae currently applicable when AIP funding is at least \$3.2 billion apply when AIP funding is at least \$3.0 billion</p>	<p>No provision</p>	<p>At \$3.0 billion AIP --</p> <ul style="list-style-type: none"> • Minimum passenger entitlement reduced from \$1M to \$650,000 • Entitlements for most other primary airports reduced by 50% • Individual non-primary entitlements eliminated • State apportionment by formula increases to a full 18.5% of AIP 	<p>H.R.658 -- Preserves existing entitlements for airports if AIP is funded at levels proposed in House bill. Reduction in funding will be through reductions in state apportionment by formula, set asides and discretionary funds as follows:</p> <ul style="list-style-type: none"> • State apportionment by formula -- \$100M • Noise set-aside -- \$140M • Military Airport Program -- \$14M • Reliever set-aside \$3M • General discretionary funds -- \$243M <p>S 223 -- No provision and no impact</p>
Entitlement Turn-back for PFC collections	<p>\$ 145</p> <p>Reduces the amount of passenger entitlement turn-back for PFC collections at Hawaiian airports in proportion to interisland traffic</p>	<p>No provision</p>	<p>Amount of PFC turn-back is calculated based on PFCs collected from all passengers</p>	<p>HR 658 -- Would increase the amount of passenger entitlements for medium and large hub airports in Hawaii imposing a PFC. A corresponding decrease in Small Airport Fund would result.</p> <p>S 223 -- No provision and no impact</p>

**TABLE 1
AIP FUNDING (continued)**

Issue	HR 658 Section No. and Provisions	S 223 Section No. and Provisions	Current Law	Impact of House and Senate bills on Airports
Noise Set-Aside	No provision	<p>§208(h) Noise Set-Aside is established at a fixed \$300 million. Noise set-aside expanded to cover Water Pollution Control Act mitigation projects required in FAA environmental documents</p>	<p>Noise-Set Aside is calculated as 35% of discretionary fund. Eligibility limited to noise compatibility projects and Clean Air Act mitigation projects</p>	<p>HR 658 – No provision and no impact S 223 -- \$300 million set aside is somewhat higher than amount derived from current formula at current AIP funding levels, but the current formula would produce a higher set-aside at the overall AIP funding levels proposed in S 223. According to FAA, it would be difficult for airports to spend more than \$300 million per year on eligible projects. Retaining the existing formula would mean the noise set-aside money would be banked. Including water projects in eligibility for the set-aside continues the approach of expanding eligibility started in Vision 100 with inclusion of Clean Air Act projects.</p>
Minimum amount for Discretionary Fund	No provision	<p>§208(k) Sets minimum discretionary amount at \$520M. Apportionment and set-aside funds must be reduced on a pro rata basis if needed to meet this minimum. Includes clarifying language that \$520M minimum is calculated net of prior year carry-over.</p>	<p>Current statutory minimum is \$148 million plus amount needed to meet LOI commitments in effect in 1996.</p>	<p>HR 658 – No provision and no impact. S 223 – The current minimum is effectively \$148 million. All commitments from LOIs issued before 1997 have been honored. Section 208(k) brings the statutory minimum in line with the levels of current AIP. The existing minimum was enacted in 1997, when AIP was funded at \$1.45 billion. At the levels proposed in S 223, the increase in the minimum will have no practical effect, because discretionary funding would exceed the minimum. However, at the funding levels proposed in the House bill, and even at current levels, reductions in apportionments and set-asides would be required to meet the minimum.</p>

**TABLE 1
AIP FUNDING (continued)**

Issue	HR 658 Section No. and Provisions	S 223 Section No. and Provisions	Current Law	Impact of House and Senate bills on Airports
Orphan earmarks	No provision	<p>§ 738 Specifies that an earmark for any federal agency is rescinded after nine years if at least 90 percent of the earmark amount is still available for obligation. Agencies must provide reports of unobligated earmark balances to the Office of Management and Budget, which in turn must submit an annual report to Congress</p> <p>§ 1002 Repeats general rescission language of section 738 applicable specifically to Department of Transportation and permits Department of Transportation to delay the rescission if additional obligations will occur within 12 months</p>	No sunset of AIP earmarks written into law	<p>HR 658 – No provision and no impact</p> <p>S 223 – Impact is unclear because FAA practice is not to set aside funds for earmarked projects if the project cannot go forward in the year the earmark is established. FAA will fund an earmark from current year AIP in the year the project is ready to move forward.</p>
Airport and Airway Trust Fund Solvency	No provision	<p>§ 809 Limits expenditures from the Trust Fund to 90% of the sum of receipts plus interest earned</p>	No limit. Expenditures from Trust Fund defined through appropriations process each year	<p>HR 658 – No provision and no impact</p> <p>S 663 – Impact is unclear because the provision does not specify what is done when expenditures exceed the 90% cap.</p>

**TABLE 2
ELIGIBILITY AND MODIFICATIONS TO SPECIAL PROGRAMS**

Issue	HR 658 Section No. and Provisions	S 223 Section No. and Provisions	Current Law	Impact of House and Senate Bills on Airports
Glycol Recovery Vehicles	<p>§ 133(a)(2) Amends definition of airport development to include acquisition of glycol recovery vehicles</p>	<p>§215 Amends definition of airport development to include acquisition of glycol recovery vehicles</p>	<p>Eligibility limited to glycol application vehicles</p>	<p>Impact of House and Senate bills the same. Will make acquisition of glycol recovery vehicles more affordable to airports by allowing them to use AIP funds</p>
Mobile refueler spill containment	<p>§ 133(a)(3) Includes construction fuel truck spill containment (within a fuel farm) at non-primary airports on a stand-alone basis in the definition of airport development</p>	<p>§ 208(j) Includes construction fuel truck spill containment (within a fuel farm) at non-primary airports on a stand-alone basis in the definition of airport development</p>	<ul style="list-style-type: none"> • Fuel truck Containment project only eligible as part of a project to construct a fuel farm • Fuel farm construction is eligible only at MAP airports or non-primary airports using non-primary entitlements 	<ul style="list-style-type: none"> • Impact of House and Senate bills the same. • Permit fuel spill containment project to be funded on a stand-alone basis • Permit use of AIP discretionary funds for fuel-truck spill containment

**TABLE 2
ELIGIBILITY AND MODIFICATIONS TO SPECIAL PROGRAMS (continued)**

Issue	HR 658 Section No. and Provisions	S 223 Section No. and Provisions	Current Law	Impact of House and Senate Bills on Airports
Solid waste recycling plans	<p>§§ 133(b), 134</p> <ul style="list-style-type: none"> Adds development of solid waste recycling plans to the list of activities within the definition of airport planning. Requires any airport with a master plan that is applying for any AIP grant to include the feasibility of a solid waste recycling program in its master plan 	<p>§ 714</p> <ul style="list-style-type: none"> Adds development of solid waste recycling plan to the list of activities within the definition of airport planning Requires any airport with a master plan that is applying for any AIP grant to include the feasibility of a solid waste recycling program in its master plan 	<p>No specific reference to solid waste recycling in either the definition of a planning project nor in the required elements of an AIP funded master plan</p>	<p>Impact of House and Senate bills are identical.</p> <p>Would provide federal funding for development of recycling plans. But they would impose a burden on any airport with a master plan to update that master plan with a recycling plan before the airport may apply for an AIP grant for any purpose.</p> <p>Aside from the cost to airports, it is unclear how quickly airports will be able to comply with this requirement to maintain eligibility for AIP grants.</p>
Discretionary funding of work done prior to execution of grant agreement in cold weather states	<p>§ 139(a)</p> <p>Allows discretionary funds to be used for work done before issuance of a grant if:</p> <ul style="list-style-type: none"> Work is done in same fiscal year & is started before grant due to short construction season; All AIP administrative requirements are followed; Airport notifies FAA before work commences; Sponsor has alternative funding source; and Commencement of work does not affect priority 	<p>§ 214(a). Allows discretionary funds to be used for work done before issuance of a grant if:</p> <ul style="list-style-type: none"> Work is done in same fiscal year & is started before grant due to short construction season; All AIP administrative requirements are followed; Airport notifies FAA before work commences; Sponsor has alternative funding source; and Commencement of work does not affect priority. 	<p>Discretionary funds may only be used for work done after issuance of the grant, except project formulation costs</p>	<p>Impact of House and Senate bills is the same.</p> <p>Provisions would enable sponsors in cold weather states to expedite project construction (possibly gaining a construction season) of projects funded with discretionary grants.</p>

**TABLE 2
ELIGIBILITY AND MODIFICATIONS TO SPECIAL PROGRAMS (continued)**

Issue	HR 658 Section No. and Provisions	S 223 Section No. and Provisions	Current Law	Impact of House and Senate Bills on Airports
Measures to improve efficiency of airport buildings	<p>§ 139(b)</p> <p>Amends allowable cost standards to include measures to increase the efficiency of an airport building meeting the following conditions:</p> <ul style="list-style-type: none"> • Measure meets criteria under the Energy Independence and Security Act of 2007 • The measure is for an AIP eligible project and building • Any initial cost increase is justified by life-cycle cost savings 	<p>§ 222(3)</p> <p>Amends the statement of AIP policy to encourage FAA to allow energy efficiency measures meeting criteria under the Energy Independence and Security Act of 2007, if any added up-front cost is justified by life-cycle savings</p> <p>§ 610</p> <p>Allows grants for projects that increase the energy efficiency or reduce harmful emissions of airports, including hydrogen equipment and infrastructure.</p> <p>Airports must complete a prescribed energy assessment to qualify for grants</p>	<p>Statement of policy is silent.</p> <p>No specific eligibility for such measures</p>	<p>HR 658 – Impact is unclear, since provision is limited to projects and buildings that are already eligible. Primary benefit may be to clarify that the incremental costs for efficiency measures are reimbursable with grant funds.</p> <p>S 223 – May provide greater financial benefit to airport because it appears to establish new project eligibility which is not tied to existing standards.</p>
Relocation of sponsor owned facilities	<p>§ 139(c)</p> <p>Allows use of entitlement funds to finance relocation or replacement of sponsor owned facilities if:</p> <ul style="list-style-type: none"> • Relocation is required to meet a change in FAA standards; • The change in standards is beyond the sponsor's control 	<p>§ 205(1)</p> <p>Allows use of entitlement funds to finance relocation or replacement of sponsor owned facilities if:</p> <ul style="list-style-type: none"> • Relocation is required to meet a change in FAA standards; • The change in standards is beyond the sponsor's control 	<p>AIP funds may be used only for demolition of sponsor-owned facilities. Relocation or reconstruction of only third-party owned facilities is eligible for AIP.</p>	<ul style="list-style-type: none"> • Impact of House and Senate bills is the same. • Would expand AIP eligibility to more closely align with eligibility for relocation of privately owned facilities. • However eligibility would be limited to entitlement funds and to projects required due to change in FAA standards • Provision was originally proposed by FAA. Limits were based on sponsor's obligation to operate and maintain the airport to FAA standards.

**TABLE 2
ELIGIBILITY AND MODIFICATIONS TO SPECIAL PROGRAMS (continued)**

Issue	HR 658 Section No. and Provisions	S 223 Section No. and Provisions	Current Law	Impact of House and Senate Bills on Airports
Marshall Islands, Micronesia & Palau	<p>§ 46</p> <p>Extends eligibility for grants from discretionary fund and small airport fund to airports in Marshall Islands, Micronesia and Palau for duration of authorization</p>	<p>§ 704(a)</p> <p>Extends eligibility for grants from discretionary fund and small airport fund to airports in Marshall Islands, Micronesia and Palau for duration of authorization</p>	<p>Eligibility for funding is scheduled to expire in FY 2009, but extended in temporary extension of AIP.</p>	<p>Impact of two bills is identical.</p> <p>To extent grants are made to airports under this provision, a lower amount of funds will be available to airports within the United States.</p>
Military Airport Program (MAP)	<p>§ 147</p> <p>Modifies MAP criteria as follows:</p> <ul style="list-style-type: none"> • Airports may be included in program to support emergency diversions • Federally owned airports may be included if necessary to meet Part 139 standards for diversion • Number of general aviation (GA) airports eligible to participate is increased to three 	<p>§ 212</p> <p>Modifies MAP criteria to include safety critical airports needed to support emergency diversions</p> <p>§ 220</p> <p>Modifies MAP criteria to permit up to three GA airports to participate</p>	<p>Program limited to airports that reduce delays at an airport with at least 20,000 hours of delays or that enhance capacity in a metropolitan area or reduce flight delays.</p> <p>Only one GA airport may be designated in a fiscal year.</p>	<p>HR 658 – Modification on criteria to add airports supporting emergency diversions may be intended to benefit a specific location, which cannot be determined from legislation.</p> <p>Change in GA airport participation limit will benefit joint-use and former military airfields operating as civil GA airports by increasing the number of MAP slots available.</p> <p>S 223 – Emergency diversion provision is similar to House bill, except that there is no reference to federal control.</p> <p>Change in GA airport participation limit is identical to House bill and will have same impact</p>

**TABLE 2
ELIGIBILITY AND MODIFICATIONS TO SPECIAL PROGRAMS (continued)**

Issue	HR 658 Section No. and Provisions	S 223 Section No. and Provisions	Current Law	Impact of House and Senate Bills on Airports
Metropolitan Washington Airports Authority	<p>§ 151 Repeals cut-off dates for FAA's authority to approve new AIP grants or PFC applications for MWAA</p>	<p>§ 718 Repeals cut-off dates for FAA's authority to approve new AIP grants or PFC applications for MWAA §737(d) Eliminates restrictions on using revenue from one MWAA airport to pay for O & M costs at the other.</p>	<p>FAA's authority to issue new grants or approve new PFC applications for MWAA expires with current AIP authorization</p>	<p>Impact of provisions eliminating cut-off dates for AIP and PFC are identical. They would eliminate unique restrictions on MWAA's ability to apply for and receive AIP grants and PFC approval. MWAA's airports would be treated like any other commercial service airport in the national system. S 223 provision repealing restrictions on use of revenue to cover O & M funds (§737(d)) would also treat MWAA like other sponsors of multiple airports.</p>
Midway Island Airport	<p>§ 152 Extends eligibility for grants for projects at Midway Island Airport through duration of authorization</p>	<p>§ 704(b) Extends eligibility for grants for projects at Midway Island Airport through duration of authorization</p>	<p>Eligibility expires with expiration of current AIP authorization</p>	<p>House and Senate bills are equivalent and have no impact because the provisions maintain current eligibility</p>
Correction to Surplus Property Act	<p>§§ 153(g) Restores priority for airports to receive surplus real property</p>	<p>§ 208(f) Restores priority for airports to receive Federal real property made surplus under BRAC process. No provision</p>	<p>Airports have priority to receive only surplus personal property</p>	<p>Will make it easier to obtain surplus Federal real property to support civil airports</p>
Eligible ARFF equipment	<p>§133(a)(1) Amends definition of airport development to specify ARFF equipment at airports with scheduled service in 9-seat or larger aircraft. Corrects an oversight in legislative drafting when threshold for part 139 certificates was lowered to 9 seats</p>		<p>Current statute specifies 20-seat or larger aircraft, but FAA applies the lower threshold.</p>	<p>HR 658 – No practical impact because FAA in fact funds ARFF equipment at part 139 airports with service from aircraft with 9-20 aircraft. Provision makes a technical correction S 223 – No provision and no impact</p>

**TABLE 2
ELIGIBILITY AND MODIFICATIONS TO SPECIAL PROGRAMS (continued)**

Issue	HR 658 Section No. and Provisions	S 223 Section No. and Provisions	Current Law	Impact of House and Senate Bills on Airports
Preconditioned air and electrical power units at gates	<p>§ 133(a)(3) Includes projects to provide preconditioned air and electrical power to aircraft parked at terminal gates in definition of airport development</p>	No provision	<ul style="list-style-type: none"> • These projects are treated as terminal development, eligible for passenger entitlements at hub airports • Projects are eligible for discretionary funds under VALE, which is limited to airports in Clean Air Act nonattainment or maintenance areas 	<p>HR 658 – Appears to make these projects eligible for discretionary funds as airport development, without the need to qualify for VALE funding. S 223 – No provision and no impact</p>
Environmental management systems (EMS)	<p>§ 133(b). Adds development of environmental management systems to list of activities within definition of airport planning</p>	No provision	<p>No specific reference to EMSs. FAA will consider funding such development as an element of a master plan</p>	<p>HR 658 – Permits development of an EMS to be funded as a stand-alone project, rather than as a master plan element. S 223 – No provision and no impact</p>
Revenue producing aeronautical support facilities	<p>§ 133(d) Adds a definition of revenue producing aeronautical facilities to statute § 139(d) Clarifies that construction of revenue producing aeronautical support facilities at non-primary airports may be funded with apportionment funds.</p>	No provision	<p>Current law refers to the "costs" of such facilities, without specifically referencing construction</p>	<p>HR 658 – No practical impact, because revision would codify FAA's interpretation. Revision would eliminate an ambiguity in current law. S 223 – No provision and no impact.</p>

**TABLE 2
ELIGIBILITY AND MODIFICATIONS TO SPECIAL PROGRAMS (continued)**

Issue	HR 658 Section No. and Provisions	S 223 Section No. and Provisions	Current Law	Impact of House and Senate Bills on Airports
Terminal development	<p>§ 153(b) Consolidates terminal development provisions under a single section. Limits discretionary funds for terminal development at small and non-hub airports to \$20 million</p> <p>§ 133(a)(3) Modifies definition of airport development to include terminal development to complement §153(b)</p>	No provision	Terminal development is treated as an “allowable cost of a project” rather than an eligible project itself	<p>HR 658 – Definitional changes will have no practical impact on terminal eligibility. \$20 million discretionary cap incorporates current FAA practice into the law and will have no practical impact</p> <p>S 223 No provision and no impact</p>
Compatible land-use programs for state and local noise compatibility programs (NCPs)	<p>§ 154 Extends pilot program for AIP funding state and local airport NCPs through the end of FY 2014</p>	No provision	Current expiration date for pilot program is FY 2009 Pilot program provides funding for NCPs developed by communities near airports with outdated or no Part 150 NCPs	No impact, since Senate bill does not change current law

**TABLE 2
ELIGIBILITY AND MODIFICATIONS TO SPECIAL PROGRAMS (continued)**

Issue	HR 658 Section No. and Provisions	S 223 Section No. and Provisions	Current Law	Impact of House and Senate Bills on Airports
Transfer of terminal air navigation equipment to airports	<p>§ 157</p> <p>Establishes a pilot program for FAA to transfer ownership and O & M responsibilities for terminal air navigation equipment to airport sponsors</p> <p>Up to three each of non-hub, small hub and medium hub airports may participate, and a single large hub. Participants must agree to operate and maintain the equipment to FAA standards and acquire replacement equipment as needed.</p> <p>Equipment will be transferred at no cost to airport</p> <p>Airport's O & M costs and capital costs for replacement may be included in carriers' rate base</p>	No provision	<p>Current law permits complete ILSSs funded with AIP grants to be transferred to the FAA at no cost. There is no provision for transferring active, in-use facilities from FAA to airports</p>	<p>HR 658 – Any airport participating in program would incur added O & M and capital costs that would have to be passed on to users.</p> <p>Incentive for participation is unclear.</p> <p>S 223 – No provision and no impact.</p>
Bird-detecting radar system	No provision	<p>§205(3)</p> <p>Allows use of AIP to finance bird-detecting radar systems, if the Secretary determines that the systems have no negative impacts on existing navigational aids. Evaluation must be completed within 180 days of enactment</p>	Currently only navigational aids (that communicate with pilots or aircraft) and weather reporting systems are AIP eligible.	<p>HR 658 – No provision and no impact</p> <p>S 223 – If systems are effective, permits airports to acquire equipment to reduce risk of bird-strikes with AIP funds</p>
Airport Security Consortium funding	No provision	<p>§208(d)</p> <p>Repeals provision authorizing funding of consortium</p>	Current minimum funding is \$5 million.	<p>HR 658 – No provision and no impact</p> <p>S 223 – Elimination of funding would make \$5 million in discretionary funds available for other airport sponsors and projects</p>

**TABLE 2
ELIGIBILITY AND MODIFICATIONS TO SPECIAL PROGRAMS (continued)**

Issue	HR 658 Section No. and Provisions	S 223 Section No. and Provisions	Current Law	Impact of House and Senate Bills on Airports
Airfield pavement research	No provision	§ 605 Directs FAA to continue program to award funds to non-profit pavement research organizations to design, construction, rehabilitation techniques for airfield pavement	Program is subject to expiration	HR 658 – No provision and no impact S-223 – Continues current program and therefore no impact on airports

**TABLE 3
GRANT ASSURANCES, MISCELLANEOUS REQUIREMENTS AND ADMINISTRATIVE PROVISIONS**

Issue	HR 658 Section No. and Provisions	S 223 Section No. and Provisions	Current Law	Impact of House and Senate Bills on Airports
Assurance on maintaining airport layout plans	<p>§ 136(a) Amends assurance to exclude relocation of airport owned facilities financed with an AIP grant Supplements another provision permitting use of AIP funds for relocation required due to change in FAA standards</p>	<p>§ 203(1) Amends assurance to exclude relocation of airport owned facilities financed with an AIP grant. Supplements another provision permitting use of AIP funds for relocation required due to change in FAA standards.</p>	Costs of alterations of airfield to correct non-standard conditions depicted on airport layout plans must be borne by the sponsor	Impact of House and Senate bills are the same. Provision would assure that use of AIP entitlement funds to relocate or replace existing facilities does not violate AIP grant assurances, if the action is required due to changes in FAA design standards beyond the sponsor's control. The assurance amended by this provision (relating to maintaining up-to-date approved ALPs) requires a sponsor to bear all costs of correcting a condition that is inconsistent with FAA standards.
Assurance on disposal of noise land	<p>§ 136(b) Revises assurance requiring disposal of AIP funded noise land to permit the federal share of proceeds to be used, in order of priority on the following : 1. Approved noise compatibility project 2. Another environmental mitigation project eligible for funding from the noise set aside 3. An airport development or planning project 4. Transfer to another airport for an approved noise compatibility project 5. Repayment to the FAA</p>	<p>§ 203(2) Permits noise land to be retained as noise buffer. A lease of noise land is not a disposal; proceeds from lease of noise land may be used for any airport capital purpose Federal share of disposal proceeds may be used, in order of priority on the following: 1. Approved noise compatibility project 2. Another environmental mitigation project eligible for funding from the noise set aside 3. An airport development or planning project 4. Transfer to another airport for an approved noise compatibility project 5. Repayment to the FAA</p>	Federal share of proceeds must be applied to an approved noise compatibility project or returned to the FAA for deposit in the Trust Fund	<p>HR 658 – Would provide greater flexibility in how Federal share of proceeds from disposal of noise land may be used, thereby making it easier for the funds to be retained at the airport. S 223 – would permit AIP funded noise land to be retained as noise buffer. Would provide greater flexibility in how Federal share of proceeds from disposal of noise land may be used, thereby making it easier for the funds to be retained at the airport. Would stop FAA from treating leases of noise land as disposals, but would require noise land lease revenue to be applied to capital projects, rather than O & M.</p>

**TABLE 3
GRANT ASSURANCES, MISCELLANEOUS REQUIREMENTS AND ADMINISTRATIVE PROVISIONS (continued)**

Issue	HR 658 Section No. and Provisions	S 223 Section No. and Provisions	Current Law	Impact of House and Senate Bills on Airports
Competitive access reports	<p>§ 136(d) Eliminates sunset date for requirement for certain airports to file Competitive Access Reports after denying access to a carrier</p>	<p>§ 705 Eliminates sunset date for requirement for certain airports to file Competitive Access reports after denying access to a carrier</p>	<p>Requirement for reports expires at the end of FY 2009, but has been extended through temporary extensions of FAA authorization</p>	<p>Impact of House and Senate bills would be the same. There would be no impacts because the provisions would extend an existing requirement.</p>
Veteran's preference	<p>§140 Requires AIP funded construction contracts include a preference for use of small businesses owned and controlled by disabled veterans. Adds Iraq, Afghanistan and Persian Gulf veterans to veteran's preference for employment</p>	<p>§208(b) Requires AIP funded construction contracts include a preference for use of small businesses owned and controlled by disabled veterans. Adds Iraq, Afghanistan veterans to veteran's preference for employment</p>	<p>No provision regarding contracting with businesses owned by disabled veterans</p>	<p>Impact of House and Senate bills are identical. Would extend existing preference for employment of disabled and Vietnam-era veterans to include the use of businesses owned by disabled veterans. Extends existing veterans preference to Iraq-Afghanistan veterans</p>

**TABLE 3
GRANT ASSURANCES, MISCELLANEOUS REQUIREMENTS AND ADMINISTRATIVE PROVISIONS (continued)**

Issue	HR 658 Section No. and Provisions	S 223 Section No. and Provisions	Current Law	Impact of House and Senate Bills on Airports
Disadvantaged business enterprise (DBE) requirements	<p>§ 141 Requires FAA to develop and offer uniform certification training programs as follows:</p> <ul style="list-style-type: none"> • Training is mandatory for either the official who certifies compliance with the concession DBE assurance or who determines whether a firm meets the DOT DBE qualifications • Training may be offered by third parties <p>§ 822 Requires DOT Office of Inspector General (OIG) to submit annual report on the number of new DBEs that participated in AIP funded projects and activities, including information on the top 25 and bottom 25 large and medium hub airports in terms of DBE participation</p>	<p>§ 715(c), (d) Requires FAA to develop and offer uniform certification training programs as follows:</p> <ul style="list-style-type: none"> • Training is mandatory for either the official who certifies compliance with the concession DBE assurance or who determines whether a firm meets the DOT DBE qualifications • Training may be offered by third parties • Authorizes sums necessary to carry out the program <p>FAA must submit a report to Congress on the results of the mandatory training</p> <p>§ 703 Provides a general mandate to develop a certification training program for the airport concession DBE program and authorizes adding three staff positions for the program</p>	No uniform certification training requirement	Impact of House and Senate bills are similar, but uncertain. While the costs of developing the program would be borne by the FAA, the wording of the law could leave airports with the responsibility of the costs of attendance in the training. Impact of § 822 of HR 658 cannot be determined until OIG issues reports.

**TABLE 3
GRANT ASSURANCES, MISCELLANEOUS REQUIREMENTS AND ADMINISTRATIVE PROVISIONS (continued)**

Issue	HR 658 Section No. and Provisions	S 223 Section No. and Provisions	Current Law	Impact of House and Senate Bills on Airports
DBE requirements (continued)	No additional DBE provisions	<p>§ 715(a), (b), (e) Includes Congressional findings of continuing discrimination and its negative impacts. Requires DOT to:</p> <ul style="list-style-type: none"> • Increase the personal net worth cap for DBE firms to reflect changes in the CPI since 1989. Also requires annual adjustments for CPI changes and exclusion of amounts held in retirement accounts from calculation • Adopt regulations to prohibit excessive, unreasonable or discriminatory bonding requirements for AIP and PFC funded projects 	No provisions regarding periodic adjustment	<p>HR 658 – No provision and no impact S 223 -- In the short-run, pool of qualified DBE firms may expand when initial inflation adjustment is calculated. A larger pool could result in more competition for services provided by DBEs . Long term effects will depend on the rate of inflation over time.</p>
Clarification of air carrier fee disputes	<p>§ 149 Amends § 47129, establishing expedited procedures to resolve airport fee disputes to explicitly include foreign air carriers</p>	<p>§ 431 Amends § 47129, establishing expedited procedures to resolve airport fee disputes to explicitly include foreign air carriers</p>	§ 47129 refers to air carriers	<p>Impact of House and Senate bills are identical. DOT had interpreted §47129 to include foreign air carriers, but a U.S. Court of Appeals decision limited its scope to disputes involving U.S. air carriers. This provision effectively reverses the court decision and restores DOT's historic interpretation. It would restore the right of foreign carriers to challenge airport fees under the expedited procedures.</p>

**TABLE 3
GRANT ASSURANCES, MISCELLANEOUS REQUIREMENTS AND ADMINISTRATIVE PROVISIONS (continued)**

Issue	HR 658 Section No. and Provisions	S 223 Section No. and Provisions	Current Law	Impact of House and Senate Bills on Airports
Sale of private airport to public sponsor	<p>§ 150</p> <p>Allows private owner of airport to use sales proceeds for non-airport purpose if:</p> <ul style="list-style-type: none"> • The purchase was financed with AIP funds <p>The private owner repays the FAA for the unamortized portion of any prior construction grant the owner received plus the Federal share of the FMV of any grant funded land</p> <ul style="list-style-type: none"> • 	<p>§ 206</p> <p>Allows private owner of airport to use sales proceeds for non-airport purpose if:</p> <ul style="list-style-type: none"> • The purchase was financed with AIP funds <p>The private owner repays the FAA for the unamortized portion of any prior grant the owner received.</p>	<p>Proceeds from the sale of an obligated airport would be treated as airport revenue, which must be used for airport purposes.</p>	<p>Impact of House and Senate bills are similar.</p> <p>The current law discourages private owners from selling their operating airport to a government entity. If they let the grant obligations expire, the airport can be closed and sold for redevelopment. These provisions would facilitate public acquisition and continued operation of privately owned airports.</p> <p>Difference in two bills is the treatment of grants for land acquisition. HR 658 would calculate repayment based on fair market value. S 223 would calculate repayment based on unamortized value of grant. HR 658 would result in a higher repayment obligation for land.</p>
National Plan of Integrated Airport Systems (NPIAS) report	<p>§ 153(a)</p> <p>Makes technical changes to requirements for contents of NPIAS report</p>	<p>§ 208(a)</p> <p>Makes technical changes to requirements for contents of NPIAS report</p>	<p>Mandates that NPIAS address items not currently addressed in report</p>	<p>House and Senate bills are identical and would have no impact, because bills would align statutory provisions with current FAA practice. Congress has not objected to current content of the NPIAS Report.</p>

**TABLE 3
GRANT ASSURANCES, MISCELLANEOUS REQUIREMENTS AND ADMINISTRATIVE PROVISIONS (continued)**

Issue	HR 658 Section No. and Provisions	S 223 Section No. and Provisions	Current Law	Impact of House and Senate Bills on Airports
Annual Report to Congress	<p>§ 153(c) Changes due date for report to June 1 and makes technical changes to the requirements for contents of annual AIP report to Congress</p>	<p>§ 208(c) Changes due date for report to June 1 and makes technical changes to the requirements for contents of annual AIP report to Congress</p>	<p>Report is due April 1 with different content requirements.</p>	<p>House and Senate bills would have no impact, because bills would affect FAA. Also, bills would align statutory provisions with current FAA practice. Congress has not objected to current content of the annual AIP Report.</p>
Priority review of projects in cold weather states	<p>§ 155 Directs the FAA to give early review construction projects in states where weather prevents major projects from commencing before May 1</p>	<p>§ 724 Directs the FAA to give early review construction projects in states where weather prevents major projects from commencing before May 1</p>	<p>Current law is silent on timing of FAA review of particular projects</p>	<p>Impact of House and Senate bills the same. May enable some projects in cold weather states to commence earlier in the year, giving the benefit of an entire construction season.</p>
Acceleration of NextGen procedures	<p>§ 213(a) Requires FAA to develop a plan to accelerate implementation of NextGen procedures including required navigation performance (RNP) and required area navigation (RNAV) procedures. Plan should include a schedule to develop and implement 30% of the procedures within 18 months and 60 percent of the procedures within 36 months</p>	<p>§ 510 Requires the FAA to set a target of achieving a minimum of 200 RNPs per year through 2012 with 25% of the target meeting low visibility criteria consistent with the NextGen Implementation Plan</p>	<p>Current law does not establish schedules for deployment</p>	<p>Impact of House and Senate bills will depend on plans or targets adopted by the FAA.</p>

**TABLE 3
GRANT ASSURANCES, MISCELLANEOUS REQUIREMENTS AND ADMINISTRATIVE PROVISIONS (continued)**

Issue	HR 658 Section No. and Provisions	S 223 Section No. and Provisions	Current Law	Impact of House and Senate Bills on Airports
Surface System Acceleration	<p>§ 216 Requires the Air Traffic Organization Chief Operating Officer (COO) to evaluate ASDE-X program for potential contribution to NextGen and to accelerate ASDE-X. COO is also to evaluate airport surveillance technologies</p>	<p>§ 321 Requires the Air Traffic Organization to evaluate ASDE-X program for potential contributions to NextGen and to accelerate ASDE-X. Air Traffic Organization is also to evaluate airport surveillance technologies</p>	<p>No specific direction on implementation of ASDE-X</p>	<p>Impact of House and Senate bills identical similar, but depend on actions of FAA in carrying out provisions.</p>
Reduction of runway incursions and operational errors	<p>§ 306 Requires FAA to submit a report to Congress within 6 months outlining a strategic plan to improve runway safety. A separate report must be submitted on deployment of systems by the FAA to alert controllers and pilots of potential runway incursions by December 11, 2011.</p>	<p>§ 501 Requires FAA to develop a plan for the schedule of deployment and installation of systems to alert pilots and air traffic controllers of potential runway incursions § 517 Requires FAA to develop a plan to reduce runway incursions and operational errors and to initiate action to improve airport lighting, signage and markings A process for tracking operational errors must be developed within a year</p>	<p>N/A</p>	<p>Impact of House and Senate bills is unknown until FAA develops plans. Improvements to equipment, lighting and marking may be AIP eligible, but airports would bear cost of local matching share.</p>

**TABLE 3
GRANT ASSURANCES, MISCELLANEOUS REQUIREMENTS AND ADMINISTRATIVE PROVISIONS (continued)**

Issue	HR 658 Section No. and Provisions	S 223 Section No. and Provisions	Current Law	Impact of House and Senate Bills on Airports
FAA realignment and consolidation	<p>§ 804 Establishes a Base Realignment and Closure Commission (BRAC) type process for FAA services and facilities. Establishes an Aviation Facilities and Services Board to review FAA recommendations on facility service consolidation and realignment. After public hearings, the Board is to issue a report to Congress with recommendations on consolidation and realignment. The FAA is to carry out the recommendations unless Congress enacts a joint resolution disapproving the recommendation</p>	<p>§ 301 Creates an Air Traffic Control Modernization Board</p> <p>§ 308 Provides for FAA to make recommendations to the Modernization Board on realignment and consolidation for transition to NEXGEN</p> <p>The Modernization Board in turn will make recommendations to Congress and the President. Agreement from collective bargaining representatives is required for FAA to implement a recommendation before the Board's recommendations are complete.</p>	<p>General authority to manage administration of the FAA is provided to Administrator</p>	<p>Impact of House and Senate bills similar. Impact would be on processes and burdens airports might encounter in dealing with the FAA as a result of any organizational changes</p>

**TABLE 3
GRANT ASSURANCES, MISCELLANEOUS REQUIREMENTS AND ADMINISTRATIVE PROVISIONS (continued)**

Issue	HR 658 Section No. and Provisions	S 223 Section No. and Provisions	Current Law	Impact of House and Senate Bills on Airports
Elimination of redundant reports electronic reports	<p>§ 806 Requires FAA to submit a report to Congress every two years on obsolete, redundant or unnecessary reports, including a cost estimate of savings from eliminating the report</p> <p>Prohibits publication of printed reports and requires publication on the web using an easily accessible and downloadable format.</p> <p>Exceptions for reports the FAA determines are required to be printed to carry out FAA's mission or for reports where use of electronic publishing would disclose protected information under the Government in the Sunshine Act or disclose information that would adversely affect aviation safety or security</p>	<p>§ 721 Requires FAA to submit a report to Congress every two years on obsolete, redundant or unnecessary reports, including a cost estimate of savings from eliminating the report</p> <p>Prohibits publication of printed reports and requires publication on the web using an easily accessible and downloadable format.</p> <p>Exceptions for reports the FAA determines are required to be printed to carry out FAA's mission or for reports where use of electronic publishing would disclose protected information under the Government in the Sunshine Act or disclose information that would adversely affect aviation safety or security</p>	N/A	Impact of House and Senate bills will be identical, but will depend on the results of the reports to Congress and the cost to airports of providing information to FAA in preparing any reports recommended for elimination. S 223 – No provision and no impact
Study of impact of Aviation fuel prices	<p>§ 808 Requires GAO to conduct a study of the impact of increases in aviation fuel prices on the Airport and Airway Trust Fund and on aviation. Aviation industry elements singled out for study include small airport facilities. GAO is to use 2010 fuel prices as a base-line and analyze increases ranging from 5% to 200%</p>	<p>§ 727 Requires GAO to conduct a study of the impact of increases in aviation fuel prices on the Airport and Airway Trust Fund and on aviation. Aviation industry elements singled out for study include small airport facilities. GAO is to use 2010 fuel prices as a base-line and analyze increases ranging from 5% to 200%</p>	N/A	Impact of House and Senate bills would be the same, but would depend on results of report

**TABLE 3
GRANT ASSURANCES, MISCELLANEOUS REQUIREMENTS AND ADMINISTRATIVE PROVISIONS (continued)**

Issue	HR 658 Section No. and Provisions	S 223 Section No. and Provisions	Current Law	Impact of House and Senate Bills on Airports
Study of air-rail connections	<p>§ 810 Requires GAO to conduct a study of code-sharing between air carriers and intercity passenger rail providers. Study is to include consideration of airport and intercity rail operations that can improve air-rail connectivity</p>	<p>§ 725 Requires GAO to conduct a study of code-sharing between air carriers and intercity passenger rail providers. Study is to include consideration of airport and intercity rail operations that can improve air-rail connectivity</p>	N/A	Impact of House and Senate bills identical and will depend on the results of the GAO report.

**TABLE 3
GRANT ASSURANCES, MISCELLANEOUS REQUIREMENTS AND ADMINISTRATIVE PROVISIONS (continued)**

Issue	HR 658 Section No. and Provisions	S 223 Section No. and Provisions	Current Law	Impact of House and Senate Bills on Airports
Use of mineral revenues at general aviation (GA) airports	<p>§ 815</p> <p>Permits the FAA to declare that revenue from mineral extraction at GA airports is in excess of the airport's funding needs under the following conditions:</p> <ul style="list-style-type: none"> • Revenue subject to the declaration must be used for a transportation infrastructure project • The airport sponsor will charge FMV for the minerals or extraction rights • FAA and sponsor agree on a 20-year capital improvement plan for the airport including O & M costs and adjusted for inflation • The sponsor agrees to waive its rights to entitlement and discretionary AIP funds for 20 years • The sponsor agrees to comply with the grant assurances for 20 years from date of enactment and to continue to operate the airport (unless the FAA approves closure) • The sponsor agrees to the revenue use restrictions in perpetuity • The sponsor establishes a fund for environmental contingencies <p>FAA must act on a request within 90 days</p>	<p>§ 224</p> <p>Permits the FAA to declare that revenue from mineral extraction at GA airports is in excess of the airport's five-year maintenance needs under the following conditions:</p> <ul style="list-style-type: none"> • Revenue subject to the declaration must be used for a transportation infrastructure project • FAA and sponsor agree on a five-year capital improvement plan for the airport including O & M costs and adjusted for inflation • Sponsor agrees to waive its rights to entitlement and discretionary funds for five years • The sponsor agrees to comply with the grant assurances for 20 years from date of enactment and to continue to operate the airport (unless the FAA approves closure) • The sponsor agrees to the revenue use restrictions in perpetuity <p>FAA must act on a request within 90 days</p> <p>FAA must publish regulations to implement this provision</p>	<p>Revenue associated with mineral extraction is airport revenue and must be used in compliance with restrictions on use of airport revenue except in the case of a "grandfathered" airport</p>	<p>HR 658 – Gives a limited exemption from restrictions on use of airport revenue from mineral extraction at GA airports, but requires airport to show the mineral revenue won't be needed at the airport for 20 years.</p> <p>Requires airport to give up AIP grants for 20 years while remaining bound to grant obligations.</p> <p>S 223 – Gives a limited exemption from restrictions on use of airport revenue from mineral extraction at GA airports, but requires airport to show the mineral revenue won't be needed at the airport for five years.</p> <p>Requires airport to give up AIP grants for five years while remaining bound to grant obligations for 20 years.</p>

**TABLE 3
GRANT ASSURANCES, MISCELLANEOUS REQUIREMENTS AND ADMINISTRATIVE PROVISIONS (continued)**

Issue	HR 658 Section No. and Provisions	S 223 Section No. and Provisions	Current Law	Impact of House and Senate Bills on Airports
Release from deed restrictions for transfers under FAAP and ADAP	<p>§ 824 Authorizes FAA to grant releases from deed restrictions on land transferred to any airport under FAAP and ADAP to permit disposal of airport land. Airport must obtain fair market value and use the proceeds for capital or operating costs of the airport or another airport owned or operated by the sponsor.</p>	<p>§ 219 Authorizes FAA to grant releases from deed restrictions on land transferred to St. George, Utah and to Dona Ana County, NM to permit disposal of specified parcels of airport land. Communities must obtain fair market value and use the proceeds for capital and operating costs of their respective airports.</p>	Disposal of land or use for non airport purposes would trigger an automatic reversion to the United States.	<p>HR 658 – Would eliminate the requirement for special legislation each time FAA is willing to permit an airport to dispose of donated land with automatic reversion clauses in deed. Would assure airport benefits by requiring FMV and use of proceeds for airport. S 223 – Special legislation to permit the disposal at two listed airports. No other airports would benefit.</p>
Airport master plans	<p>§ 131 Amends AIP statement of policy to direct FAA to encourage airport master plans that consider passenger convenience and airport access</p>	No provision	Focus of master plan provisions are on aviation need and coordination with metropolitan plans	<p>HR 658 – May lead to more consideration of airport ground access issues in airport master planning process S 223 – No provision and no impact</p>
Aerotropolis Transportation Systems	<p>§ 132 Amends AIP statement of policy to encourage development of aerotropolis transportation systems, with a specific definition of such systems</p>	No provision	Aerotropolis not addressed in policy statement	<p>HR 658 – As a policy statement, the impact of provision may be limited as a practical matter, although it could lead to increased FAA support for developments meeting the definition</p>
Competition plans	<p>§ 135 Eliminates requirement to include information on air fare levels and patterns of air service</p>	No provision	Competition plans must include information on air fares and air service.	<p>HR 658 – Would reduce burden of preparing competition plans on affected airports. FAA can obtain data from other sources S 223 – No provision and no impact</p>

**TABLE 3
GRANT ASSURANCES, MISCELLANEOUS REQUIREMENTS AND ADMINISTRATIVE PROVISIONS (continued)**

Issue	HR 658 Section No. and Provisions	S 223 Section No. and Provisions	Current Law	Impact of House and Senate Bills on Airports
Residential Through-The-Fence Access Agreements	<p>§ 137</p> <p>Specifies that FAA is not to consider an airport in violation of the AIP grant assurances for having a residential through-the-fence (TTF) access agreement that conforms to the following:</p> <ul style="list-style-type: none"> • Written agreement • Provides for access fee comparable to similar on-airport users • Provides for residential TTF users to pay construction and O & M costs of facilities needed to provide access • Requires property be maintained in residential, non-commercial use • Prohibits access to the airport from other properties through the TTF residential access property. 	No provision	<p>Under recent FAA policy, existing residential TTF access may continue with the filing of an access plan.</p> <p>New residential TTF access at obligated airports is prohibited as a grant assurance violation</p>	<p>HR 658 – Would not affect airports with existing residential TTF, because the statutory requirements are similar to requirements of new FAA policy. Primary impact would be to permit new residential TTF arrangements</p> <p>S 658 – No provision and no impact</p>

**TABLE 3
GRANT ASSURANCES, MISCELLANEOUS REQUIREMENTS AND ADMINISTRATIVE PROVISIONS (continued)**

Issue	HR 658 Section No. and Provisions	S 223 Section No. and Provisions	Current Law	Impact of House and Senate Bills on Airports
<p>Airport Privatization Program</p>	<p>§ 158 Expands number of slots in program from five to 10. Changes requirement for approval of 65% of air carriers to use privatization proceeds off airport to a consultation requirement. Eliminates approval requirement to increase fees at a rate higher than inflation, but fees may not include a rate of return or repayment of principal for consideration paid for airport interest unless agreed to by carriers. Minimum participation requirement for GA airports and cap on participation by one large hub airport eliminated</p>	<p>No provision</p>	<p>Approval required from 65% of carriers to use proceeds off airport or to raise fees at a rate higher than inflation. Privatized airports eligible for AIP entitlement funds at standard Federal share and eligible for discretionary funds at reduced 40% share</p>	<p>HR 658 – Could facilitate privatization under the pilot program by eliminating or modifying existing carrier approval requirements. S 223 – No provision and no impact</p>
<p>Liability protection for implementation of Safety Management Systems (SMS)</p>	<p>§ 338 Adds a new provision protecting persons implementing SMS required by the FAA from liability for damages in federal and state courts. Protection extends to individuals performing as “accountable executive.” No liability protection for willful or reckless acts or omissions</p>	<p>No provision</p>	<p>Liability is based on state common law or statute on negligence and liability</p>	<p>HR 658 – Protects airports and airport executives from liability associated with implementation (or inadvertent failure to implement) actions identified in SMSs. S 223 – No provision and no impact</p>

**TABLE 3
GRANT ASSURANCES, MISCELLANEOUS REQUIREMENTS AND ADMINISTRATIVE PROVISIONS (continued)**

Issue	HR 658 Section No. and Provisions	S 223 Section No. and Provisions	Current Law	Impact of House and Senate Bills on Airports
Prohibition on use of funds for naming projects	<p>§ 807 Prohibits use of funds authorized in bill for the naming, renaming or designation of a project after a sitting Congressman, Senator, Delegate or Resident Commissioner</p>	No provision	No provision	<p>HR 658 – Impact on airports is unclear because the eligibility of a project to implement an airport name change is unclear. S 223 – No provision and no impact</p>
FAA Review and Reform	<p>§ 812 Requires FAA to conduct a study to identify wasteful, inefficient redundant or outdated policies, practices or policies. Requires FAA to initiate actions to address the findings of the study. FAA must complete the report in 60 days and initiate reforms within 120 days. A report to Congress is required within 150 days.</p>	No provision	N/A	<p>HR 658 – Impact depends on results of report S 223 – No provision and no impact</p>

**TABLE 3
GRANT ASSURANCES, MISCELLANEOUS REQUIREMENTS AND ADMINISTRATIVE PROVISIONS (continued)**

Issue	HR 658 Section No. and Provisions	S 223 Section No. and Provisions	Current Law	Impact of House and Senate Bills on Airports
Burke Lake Front Airport	<p>§ 820 Prohibits FAA from restricting air shows at Burke Lake Front Airport due to events at nearby stadiums, except that FAA may prohibit flights directly over the stadium.</p>	No provision	FAA may impose restrictions on air shows due to events at nearby stadiums	<p>HR 658 – Provision benefits one specific airport and provides greater flexibility to airport to generate revenue through air shows.</p> <p>S223 – No provision and no impact</p>
Santa Monica Airport	<p>§ 821 Establishes sense of Congress that FAA should enter into good faith negotiations with Santa Monica Airport to resolve RSA issues</p>	No provision	Santa Monica's efforts to address non-standards RSAs are evaluated under ANCA and AIP grant assurances	<p>HR 658 – Provision benefits one specific airport. Impact depends on the result of any negotiations between FAA and the airport.</p> <p>S 223 – No provision and no impact</p>
Consultation by Los Angeles International Airport (LAX)	<p>§ 825 Establishes sense of Congress that LAX should consult with the community surrounding LAX and any organization with at least 20 people regarding operations at LAX and plans for expansion.</p>	No provision	No specific consultation requirements, except certain AIP funded projects	<p>HR 658 – Provision would affect LAX only. As a "sense of Congress" provision, its impact might be limited</p> <p>S 223 – No provision and no impact</p>

**TABLE 3
GRANT ASSURANCES, MISCELLANEOUS REQUIREMENTS AND ADMINISTRATIVE PROVISIONS (continued)**

Issue	HR 658 Section No. and Provisions	S 223 Section No. and Provisions	Current Law	Impact of House and Senate Bills on Airports
Issuing regulations	<p>§ 826 Requires the FAA, when issuing regulations to do the following:</p> <ul style="list-style-type: none"> • Analyze different industry segments and tailor the regulations to each separate segment • Identify and assess alternate forms of regulation for each segment • Assess the benefits and costs of any proposed regulation and adopt only regulations with costs justified by the benefits • Use the best reasonably available scientific technical or other information • Assess impact of regulation on efficient functioning of the economy and private markets 	No provision	Regulations must comply with Administrative Procedures Act and various executive orders, including requirements for benefit cost analyses of significant rules	HR 658 – Would increase the burden on FAA of adopting or revising regulations. May benefit airports if it results in better justified, more cost beneficial rules that are tailored to different categories of airports S 223 – No provision and no impact
Merrill Field Alaska	No provision	<p>§ 218 Waives federal deed restrictions to permit transfer of land at Merrill Field in Alaska. Federal repayment requirement waived if the land is used in a federally subsidized highway project</p>	Sale, transfer or may be precluded by terms of deed or may requirement repayment to FAA	HR 658 – No provision and no impact S 223 – This provision would have no impact to airports other than Merrill Field.

**TABLE 3
GRANT ASSURANCES, MISCELLANEOUS REQUIREMENTS AND ADMINISTRATIVE PROVISIONS (continued)**

Issue	HR 658 Section No. and Provisions	S 223 Section No. and Provisions	Current Law	Impact of House and Senate Bills on Airports
McCarran Airport District	No provision	<p>§ 434 Permits construction of transient lodging facilities, enclosed concert halls and arenas in the area surrounding Las Vegas McCarran Airport with noise exposure of less than 65 DNL, so long as they do not interfere with flight activity</p>	Current federal standards would permit such construction below 65 DNL	HR 658 – No provision and no impact S 223 – Impact is unclear since construction to be permitted could be done under current federal law. Any impact would be limited to McCarran.
Use of explosive pest control devices	No provision	<p>§ 523 Requires FAA to submit a report to Congress describing the use of explosive pest control devices to mitigate bird strikes FAA is to report on the utility, cost effectiveness and safety of these devices and on the impact to flight safety and operations if the devices are unavailable or more costly Report is due in 180 days</p>	N/A	HR 658 – No provision and no impact S 223 – Impact depends on the result of the report.
Enhanced Training for Flight Attendants and Gate Agents	No provision	<p>§ 562 Requires air carriers to establish training programs for flight attendants and gate agents on the following: <ul style="list-style-type: none"> • Serving alcohol to passengers • Recognizing intoxicated passengers • Dealing with disruptive passengers Training must include situational training for dealing with intoxicated passengers who are belligerent </p>	No specific training requirement for this issue	HR 658 – No provision and no impact S 223 – No direct impact on airport, but carriers may consider training requirement for gate agents to raise station costs and cost per enplaned passenger. Following training, if intoxicated passengers are denied boarding more frequently, airports could incur added costs of accommodating those passengers.

**TABLE 3
GRANT ASSURANCES, MISCELLANEOUS REQUIREMENTS AND ADMINISTRATIVE PROVISIONS (continued)**

Issue	HR 658 Section No. and Provisions	S 223 Section No. and Provisions	Current Law	Impact of House and Senate Bills on Airports
Land conveyance for Southern Nevada Supplemental Airport	No provision	<p>§ 728 Directs Secretary of Interior to convey additional land in Ivanpah Valley for flood mitigation for the proposed new airport, but only after FAA has approved an ALP and issued an EIS ROD for the airport</p>	<p>Ivanpah Valley Public Lands Transfer Act previously directed the transfer of land for the airport itself, subject to the same conditions</p>	<p>HR 658 – No provision and no impact S 223 – Impact is limited to proposed new airport, which would supplement airport capacity of McCarran.</p>
Land conveyance for Mesquite Nevada	No provision	<p>§ 736 Directs the Secretary of Interior to convey specified Bureau of Land Management (BLM) land to the City of Mesquite for airport purposes. City of Mesquite is to bear the expenses necessary to complete the conveyance Department of Interior would have a right to seek reversion if the land is not used for airport purposes</p>	<p>Transfer of land governed by the Surplus Property Act and 49 USC § 47125, which provides for agency holding land to determine it is no longer needed by the Federal government</p>	<p>HR 658 – No provision and no impact S 223 – Impact would be limited to the City of Mesquite</p>

**TABLE 4
PASSENGER FACILITY CHARGE (PFC) PROVISIONS**

Section No. & Issue	HR 658 Section No. and Provisions	S 223 Section No. and Provisions	Current Law	Impact House and Senate Bills on Airports
Change in statutory references for PFC	§§111(a),(c) Restates all references in the statute to "passenger facility charge" and adds definition of "passenger facility charge"	§ 201(b)(1) Restates all references in the statute to "passenger facility charge"	References are to "passenger facility fee"	Impact of both House and Senate bills would be limited. The bills would return statutory references to "passenger facility charge" which was the statutory term used when Congress first authorized PFCs in 1990.
Pilot program for non-hub airports	§111(b) Eliminates the expiration date for the pilot program that streamlined the PFC process for non-hub airports	§201(b)(6) Extends the expiration date for the non-hub pilot program that streamlined PFC process until the effective date of regulations required by §201(a), discussed below.	Non-hub pilot program expires on the same date as the current authorization of AIP authority	HR 658 – Would make the simplified process for non-hub PFCs permanent S 223 – Would preserve existing simplified PFC application process for non-hub airports until the general streamlining provided in the bill is implemented.

**TABLE 4
PASSENGER FACILITY CHARGE (PFC) PROVISIONS (continued)**

Section No. & Issue	HR 658 Section No. and Provisions	S 223 Section No. and Provisions	Current Law	Impact House and Senate Bills on Airports
Alternative collection mechanisms, pilot program for PFC collection	<p>§ 113 Requires GAO to conduct a study of alternative collection mechanisms for PFCs, including cost sharing or fee allocation mechanisms for connecting traffic</p>	<p>§ 202 Creates a pilot program for up to six airports to collect a PFC at any level, so long as the airport collects the PFC directly from the passenger. The airport may not require, or permit collection of the PFC by carriers. Requires GAO to conduct a study of alternative collection mechanisms, including cost sharing of fee allocation mechanisms for connecting traffic.</p>	<p>Current maximum PFC is \$4.50.</p>	<p>HR 659 – No impact on amount of PFC collected. Impact on collection process depends on results of the GAO report. S 223 – Would affect PFC collections only at six pilot program airports. It is unclear how attractive the pilot program will be, because of the challenges of direct collection. When Canadian equivalent of the PFC was implemented, airports could choose between direct collection or carrier collection. Eventually, the airports that originally chose direct collection migrated to carrier collection. Impact on collection process depends on the results of the GAO report</p>

**TABLE 4
PASSENGER FACILITY CHARGE (PFC) PROVISIONS (continued)**

Issue	HR 658 Section No. and Provisions	S 223 Section No. & Provisions	Current Law	Impact of House and Senate bills on Airports
Intermodal ground access pilot program	<p>§112</p> <p>PFCs may be used for nonexclusive intermodal ground access facilities at no more than five airports if:</p> <ul style="list-style-type: none"> • Project is owned by the public agency; • Project is directly and substantially related to air transportation of passengers or property; and • PFC funding is limited to the pro rata share of costs in proportion to the airport's share of total ridership. <p>FTA's ridership projections to be used for projects funded in part by the FTA.</p>	No provision	PFCs may be used only for exclusive airport use ground access projects	<p>HR 658 – Impact would be limited to five airports in pilot program. Provision might lower the cost or increase the efficiency of ground access projects at the pilot program airports.</p> <p>S223 – No provision and no impact</p>
Qualifications based selections for PFC projects	<p>§ 114</p> <p>Establishes sense of Congress that airports should use qualifications based selection in carrying out capital improvement projects financed with PFCs</p>	No provision	No requirement	<p>HR 658 – Because provision states a sense of Congress, rather than a mandate, impact is unclear. However, it should be noted that as written, provision could apply to construction projects, as well as engineering and architectural projects. Under AIP, construction projects are generally awarded on a low-bid basis.</p> <p>S 223 – No provision and no impact</p>

**TABLE 4
PASSENGER FACILITY CHARGE (PFC) PROVISIONS (continued)**

Issue	HR 658 Section No. and Provisions	S 223 Section No. and Provisions	Current Law	Impact of House and Senate bills on Airports
PFC procedural reform	<p>No provision</p> <ul style="list-style-type: none"> • 	<p>§ 201(a) Streamlines PFC review process by FAA, to eliminate the prior approval requirement for new projects, except as noted below. The new process has the following major elements</p> <ul style="list-style-type: none"> • Annual PFC reports, to document past year expenditures and identify proposed expenditures for coming year. • For new projects, public agencies must provide an opportunity for written comments by carriers and the public. A consultation meeting on new projects is optional. • Public airports may implement collection for new projects upon filing the annual report with the FAA, subject to an objection procedure that could lead to a termination of collection authority <p>Proposals to finance intermodal projects or increase PFC level remain subject to prior approval.</p>	<p>Collection for each project is subject to prior FAA approval, for project eligibility and amount. Failure to obtain prior FAA approval for new projects or to increase amounts approved for collection for existing projects could result in termination of PFC collection authority</p>	<p>HR 658 – No provision and no impact S 223 – Provision would reduce administrative burden of obtaining authority to collect for new PFC projects (except intermodal projects) and to increasing the amount of PFC revenue for projects already subject to collection.</p>

**TABLE 4
PASSENGER FACILITY CHARGE (PFC) PROVISIONS (continued)**

Issue	HR 658 Section No. and Provisions	S 223 Section No. and Provisions	Current Law	Impact of House and Senate bills on Airports
Standards for PFC approval	No provision	<p>§ 201 (b)(2) Standards are simplified, with focus on project eligibility and avoiding excess collections. It appears that the provision requiring FAA to make a finding of significant contribution to enable medium and large hub airports to collect a PFC above \$3.00 is unchanged</p>	FAA must make findings on project eligibility and project objective, and additional findings for terminal development	HR 658 – No provision and no impact. Provision is intended to simplify the filing process, but the impact may depend on regulations adopted by the FAA
Limitations on exclusive use leases	No provision	<p>§ 201 (b)(4) Revises prohibition on exclusive-use leases of PFC financed facilities to eliminate the reference to "long term" leases. All exclusive-use leases to carriers would be prohibited</p>	Short-term exclusive-use leases to carriers are permitted	HR 658 – No provision and no impact. S 223 – Short-term exclusive use leases to carriers of PFC financed facilities would no longer be permitted. Provision might require existing short-term exclusive-use leases to be modified.
Investigations and complaints	No provision	<p>§ 201 (b)(5) Provides explicit authority for FAA to investigate alleged non-compliance with PFC requirements and for filing third-party complaints of non-compliance. Investigations may be completed and decisions issued without oral evidentiary hearings, and complaints may not be accepted before FAA issues procedural regulations</p>	Statute provides for FAA audit and review of PFCs, but there is no reference to investigations or third party complaints.	HR 658 – No provision and no impact S 223 – Provision would expose airports that are the subject of a complaint or investigation to burden of an administrative proceeding. However, when considered together with the procedural streamlining discussed above the net effect is likely to be an overall reduction in administrative burden for most airports collecting a PFC

**TABLE 4
PASSENGER FACILITY CHARGE (PFC) PROVISIONS (continued)**

Section No. & Issue	SA 3452 Provisions	HR 915 Section No. & Provisions	Current Law	Impact of SA 3452 on Airports
PFC eligibility for bicycle storage facilities	No provision	§ 207(b) Specifically excludes construction of bicycle storage facilities from definition of PFC eligible projects	Not eligible as a stand-alone project, but may be an allowable PFC cost if part of a larger project	<p>HR 658 – No provision and no impact</p> <p>S 223 – Provision appears to preclude funding of bicycle storage facilities even as part of a larger project.</p> <p>Provision was included in Senate bill in last session of Congress in response to a provision in House bill explicitly making bicycle storage facilities PFC eligible. Senate retained the provision in S 223</p>

**TABLE 5
ENVIRONMENTAL PROVISIONS AFFECTING AIRPORTS**

Issue	HR 658 Section No. and Provisions	S 223 Section No. and Provisions	Current Law	Impact of House and Senate Bills on Airports
Emission credits for air quality projects	<p>§ 153(d) Amends provision requiring FAA to issue guidance on obtaining air quality credits to correct references to other statutory provisions</p>	<p>§ 208(e) Amends provision requiring FAA to issue guidance on obtaining air quality credits to correct references to other statutory provisions</p>	<p>Current provision refers to a subsection of law with no applicability to air quality projects</p>	<p>Impact of House and Senate bills is the same. As a technical correction the provisions would have no practical impact on airports.</p>
Environmental streamlining at congested airports	<p>§ 153(h) Modifies references to FAA benchmarking report to account for updates to the report Adds definition of joint use airport</p>	<p>§ 208(g) Modifies references to FAA benchmarking report to account for updates to the report Adds definition of joint use airport</p>	<p>Refers to a benchmarking report published in 2001 No definition of joint use airport in statute</p>	<p>Impact of House and Senate bills is the same. The practical impact would be limited because the statutory changes would coincide with current FAA practice.</p>
Environmental reviews in block grant states	<p>§ 502</p> <ul style="list-style-type: none"> Changes requirement for issuance of regulations to govern program to a requirement for guidance Requires explicit finding that state will comply with NEPA and other environmental laws before FAA can approve a block grant application Requires federal agencies to coordinate with block grant states on environmental findings and use the state's environmental analysis if it is adequate 	<p>§ 209</p> <ul style="list-style-type: none"> Changes requirement for issuance of regulations to govern program to a requirement for guidance Requires explicit finding that state will comply with NEPA and other environmental laws before FAA can approve a block grant application Requires federal agencies to coordinate with block grant states on environmental findings and use the state's environmental analysis if it is adequate Creates a pilot program for three states not in the block grant program to benefit from the environmental review provisions in the section 	<p>Current law does not specifically address environmental analysis responsibilities under NEPA and other statutes for projects funded with AIP block grants. FAA is responsible for NEPA review in non-block grant states, including coordination with other Federal agencies</p>	<p>The provision will clarify that the block grant state is responsible for NEPA compliance and that other Federal agencies are to rely on block grant state environmental analysis. The lack of clarity has in the past led to litigation and led some agencies to insist that FAA duplicate environmental analysis already completed by block grant states. Changing the requirement for regulations to a requirement for guidance will facilitate changes to the program that benefit block grant states. Pilot program may benefit airports in participating states by permitting greater state role in NEPA process.</p>

**TABLE 5
ENVIRONMENTAL PROVISIONS AFFECTING AIRPORTS (continued)**

Issue	HR 658 Section No. and Provisions	S 223 Section No. and Provisions	Current Law	Impact of House and Senate Bills on Airports
<p>Airport funding of special studies or reviews</p>	<p>§ 504 Permits FAA to accept airport funds, including entitlements for staff or consultants to perform the following:</p> <ul style="list-style-type: none"> • Conduct special environmental studies for a federally funded project • Conduct special studies for approved Part 150 noise measures • Conduct special studies to support environmental mitigation measures in an EIS ROD or EA FONSI 	<p>§ 210 Permits FAA to accept airport funds, including entitlements for staff or consultants to perform the following:</p> <ul style="list-style-type: none"> • Conduct special environmental studies for a federally funded project • Conduct special studies for approved Part 150 noise measures • Conduct special studies to support environmental mitigation measures in an EIS ROD or EA FONSI 	<p>FAA may accept funds from airports only to facilitate processing and reviews of NEPA documents</p>	<p>HR 658 – Would expand on airports’ current ability to fund supplemental FAA staff or consulting work to expedite NEPA reviews to include other types of environmental reviews. Ability to use entitlement funds under AIP would reduce the financial burden on airports. S 223 – Impact is comparable to House Bill, minor differences in language do not materially affect the impact to airports.</p>

**TABLE 5
ENVIRONMENTAL PROVISIONS AFFECTING AIRPORTS (continued)**

Issue	HR 658 Section No. and Provisions	S 223 Section No. and Provisions	Current Law	Impact of House and Senate Bills on Airports
Land use planning and redevelopment for noise compatibility	<p>§ 505</p> <p>Authorizes the use of the noise set aside for comprehensive joint-land use planning involving airport and neighboring jurisdictions to enhance redevelopment and assure airport compatible land use. Provision applies to land acquired under approved Part 150 Noise compatibility plans.</p>	<p>§ 712</p> <p>Authorizes the use of the noise set aside for comprehensive joint-land use planning involving airport and neighboring jurisdictions to enhance redevelopment and assure airport compatible land use. Provision applies to land acquired under approved Part 150 Noise compatibility plans.</p> <p>Creates a pilot program permitting use of AIP and PFC funds at up to four airports to support joint efforts to assemble parcels for redevelopment where some but not all of the parcels were acquired through Part 150 programs. Provision limits grants to \$5 million per airport. FAA is to give priority to projects where the airport demonstrates a readiness to undertake joint land-use management and a probability the project will provide economic benefit to the community and financial return to the airport. Pilot program terminates at the end of 2011</p>	<p>Grant funds cannot be used for general land-use planning beyond development of Part 150 NCPs.</p> <p>Grant funds cannot be used to acquire parcels not required for noise compatibility, except for "rounding out" blocks or neighborhoods or avoiding uneconomic remnants.</p>	<p>HR 658 – Provision would facilitate compatible land-use planning by airports and neighboring jurisdiction by providing a financial incentive (through grants) to support planning initiatives.</p> <p>S 223 – In addition to the impact of the House bill, the Senate bill may accelerate the disposal and redevelopment of grant funded noise land and could result in a higher disposal price, with Federal share of same being applied to other noise compatibility, environmental or development projects.</p>

**TABLE 5
ENVIRONMENTAL PROVISIONS AFFECTING AIRPORTS (continued)**

Issue	HR 658 Section No. and Provisions	S 223 Section No. and Provisions	Current Law	Impact of House and Senate Bills on Airports
Grant eligibility for assessment of flight procedures	<p>§ 506 Permits grants from noise set-aside to be used to finance environmental assessments of new or modified flight procedures included in Part 150 Noise Compatibility Plans. Also permits airport operators to finance additional FAA staff to perform the assessments</p>	<p>§ 211 Permits grants from noise set-aside to be used to finance environmental assessments of new or modified flight procedures included in Part 150 Noise Compatibility Plans. Also permits airport operators to finance additional FAA staff to perform the assessments</p>	<p>Environmental assessments would have to be financed by the Air Traffic Organization</p>	<p>Impact of House and Senate bills are the same. By removing cost of environmental assessments for Part 150 flight procedures from ATO budgetary constraints, the provisions may enable airports to accelerate evaluation of these procedures.</p>
Prohibition on Stage 2 Aircraft of 75,000 lbs or less.	<p>§ 508 Prohibits operation within the 48 contiguous states of Stage 1 or Stage 2 Aircraft weighing 75,000 pounds or less after 12/31/2013. Provision includes various exceptions including flights to facilitate sale, lease or retrofit of aircraft, performance of heavy maintenance, emergency relief efforts; and emergency landings</p>	<p>§ 710 Prohibits operation within the 48 contiguous states of Stage 1 or Stage 2 aircraft weighing 75,000 pounds or less after 12/31/2014. Provision includes various exceptions, including flights to facilitate sale, lease or retrofit of aircraft to meet Stage 3 standards, performance of heavy maintenance, and emergency landings. Provision also includes a local opt out provision enabling airports to accept noisy aircraft, with the FAA to post a list of opt-out airports on the web.</p>	<p>There is no federal prohibition on operations. Individual airport proprietors may prohibit operations at their airport provided they comply with the requirements of ANCA and Part 161 and comply with their grant assurance obligations to provide access on reasonable terms without unjust discrimination</p>	<p>HR 658 – Provision would give noise relief for airports with operations of under 75,000 Stage 2 aircraft without the cost and burden of the procedures required under Part 161 and without the risk of a complaint or investigation of possible violation of grant assurances. S 223 – Impact is similar to House bill. However, opt out provision gives local airport operators the ability to continue to accept operations by the noisier aircraft. Such flights could operate within the contiguous states only between airports exercising their opt out rights.</p>

**TABLE 5
ENVIRONMENTAL PROVISIONS AFFECTING AIRPORTS (continued)**

Issue	HR 658 Section No. and Provisions	S 223 Section No. and Provisions	Current Law	Impact of House and Senate Bills on Airports
New York/New Jersey/Philadelphia Airspace redesign	<p>§ 218 Requires FAA to monitor noise impacts from airspace redesign and submit a report to Congress within one year of completion of the redesign</p>	<p>§ 726 Requires FAA to monitor noise impacts from airspace redesign and submit a report to Congress within 270 days of enactment and every 180 days thereafter</p>	No requirement to monitor	Impact of House and Senate bills would be essentially the same. Impacts (if any) would be limited to airports in the New York/New Jersey/Philadelphia airspace and would depend on the results of the reports
NextGen Environmental Efficiency Project Streamlining	<p>§ 503 Adds NextGen environmental efficiency projects at Operations Evolution Partnership (OEP) or other congested airports to the list qualifying for streamlined environmental review</p>	No provision	Only certain capacity and security projects qualify for environmental streamlining	HR 658 – Airports affected by NextGen environmental streamlining projects may benefit by faster deployment due to reduced environmental processing time. S 223 – No provision and no impact
Fair market value (FMV) of residential properties	<p>§ 507 Requires appraisals for acquisition of residential properties disregards any impact of the project on the property's FMV</p>	No provision	FMV determined according to standard appraisal principles, which consider highest and best use.	HR 658 – Could raise the FMV of residential properties acquired by airports under Part 150, which could mean fewer noise compatibility projects can be funded through AIP S 223 – No provision and no impact

**TABLE 5
ENVIRONMENTAL PROVISIONS AFFECTING AIRPORTS (continued)**

Issue	HR 658 Section No. and Provisions	S 223 Section No. and Provisions	Current Law	Impact of House and Senate Bills on Airports
Aircraft departure queue management	<p>§ 509 Creates pilot program funded from facilities and equipment (F & E) account for FAA to test air traffic management techniques to control flow of aircraft on the ground to reduce length of ground holds and idling time. Priority is to go to airports at which the measures tested will produce the greatest environmental benefits per dollar spent on the program. Maximum expenditure per airport is \$2.5 million</p>	No provision	Program would be viewed as an operations account activity that could not be financed with F & E funds	<p>HR 658 – Airports in pilot program could benefit from reduced emissions and possibly reduced flight delays. Impact to airport community as a whole would depend on the results of the pilot program S 223 – No provision and no impact.</p>
Aviation noise complaints	<p>§ 512 Requires large hub airports to publish on their web-site a phone number to receive noise complaints. Airports receiving 25 complaints or more per year must submit a report to the FAA with the number of complaints received and a summary of the nature of the complaints. FAA must make the reports available electronically</p>	No provision	No requirement regarding receipt of noise complaints by airports. Airports encouraged to provide a noise complaint mechanism as an element of Part 150 NCPs	<p>HR 658 – Many large hub airports already have noise complaint hot-lines and post the phone number on their web-site or take noise complaints over the web. For these airports, the impact of provision would be limited to the burden of submitting annual reports on noise complaints to the FAA. Any large hub airports that do not have a noise complaint hot-line in place would also bear the burden of establishing the hot-line. S 223 – No provision and no impact.</p>

**TABLE 5
ENVIRONMENTAL PROVISIONS AFFECTING AIRPORTS (continued)**

Issue	HR 658 Section No. and Provisions	S 223 Section No. and Provisions	Current Law	Impact of House and Senate Bills on Airports
Environmental mitigation pilot program	No provision	<p>§ 213 New pilot program permits FAA to issue up to six grants for environmental mitigation demonstration projects under the conditions below. Projects are eligible for PFCs</p> <ul style="list-style-type: none"> • Grant funds must come from noise set-aside • Project must measurably reduce or mitigate aviation impacts on noise, air quality or water quality in the vicinity of the airport • FAA is to give priority to projects that will have the greatest benefit • Federal share is 50% • Maximum amount for 1 grant is \$2.5 million • Project must be carried out by a consortium that can include a business, university or federal laboratory in addition to a public agency <p>Project must demonstrate techniques or technologies that have been proven in the laboratory</p>	Eligible environmental projects limited to mitigation measures required in environmental review documents or projects meeting criteria for noise set-aside. FAA does not approve mitigation measures that have not been shown to be effective	HR 658 – No provision and no impact S 223 – Provides AIP funding on a test basis for new mitigation measures whose practical application has not yet been shown. Provision would require the airport sponsor to team with another entity to obtain the FAA funding

**TABLE 5
ENVIRONMENTAL PROVISIONS AFFECTING AIRPORTS (continued)**

Issue	HR 658 Section No. and Provisions	S 223 Section No. and Provisions	Current Law	Impact of House and Senate Bills on Airports
Airport sustainability planning working group	No provision	<p>§ 221 Requires FAA to establish an airport sustainability working group consisting of members from airport and aviation organizations and nine airport CEOs. Working group is to develop consensus best practices and metrics for sustainable design, planning, construction and operations of airports; standards for a consensus based rating system; and standards for a voluntary rating process. Group is to issue report one year after enactment</p>	N/A	<p>HR 658 – No provision and no impact S 223 – Impact is unknown until required report is issued.</p>

**TABLE 5
ENVIRONMENTAL PROVISIONS AFFECTING AIRPORTS (continued)**

Issue	HR 658 Section No. and Provisions	S 223 Section No. and Provisions	Current Law	Impact of House and Senate Bills on Airports
<p>Pilot program for zero emission airport vehicles</p>	<p>No provision</p>	<p>§ 609 Requires FAA to establish a pilot program for zero emission airport vehicles, including fueling or recharging stations. Projects may be funded from the noise set-aside or with PFCs, subject to the following conditions:</p> <ul style="list-style-type: none"> • Airport must be located in a Clean Air Act non-attainment area, unless there are an insufficient number of candidates • FAA is to give priority to projects that will have the greatest air quality benefits per dollar spent • Federal share is 50% • Technical assistance is limited to 10% of Federal funds and must be carried out by a consortium <p>FAA may issue a report on best practices. FAA must issue a report to Congress on program effectiveness.</p>	<p>Certain projects required for compliance with Clean Air Act are eligible for funding. Also incremental costs of zero emission technology for vehicles eligible under VALE program</p>	<p>HR 658 – No provision and no impact S 223 – Provision would make 100% of cost of zero emission vehicles AIP and PFC eligible, versus the incremental costs under VALE. But Federal share of AIP grants is limited to 50%. For airports participating in the pilot program, the provision could reduce cost of acquiring zero emission vehicles. Airports will need to compare benefits of applying for projects under VALE versus applying under this program.</p>

**TABLE 5
ENVIRONMENTAL PROVISIONS AFFECTING AIRPORTS (continued)**

Issue	HR 658 Section No. and Provisions	S 223 Section No. and Provisions	Current Law	Impact of House and Senate Bills on Airports
Reduction of emissions from airport power sources	No provision	<p>§ 610 Requires FAA to establish a program that encourages airport sponsors to assess airport's energy use to increase efficiency and reduce harmful emissions. FAA may issue grants to airports that have completed assessments to acquire or construct equipment and infrastructure, including hydrogen equipment, that will reduce emissions or increase efficiency</p>	Grant eligibility is focused on compliance with Clean Air Act	<p>HR 658 – No provision and no impact S 223 – Provision appears to allow AIP funding for projects that reduce greenhouse gases, for airports that conduct an assessment. Eligibility appears to be limited to projects to reduce emissions, not the assessment itself.</p>
Weight restrictions at Teterboro Airport	No provision	<p>§ 711 Prohibits FAA from taking actions to challenge weight restrictions or prior permission rules at Teterboro airport</p>	FAA annual appropriation acts prohibit use of funds to challenge the restrictions and prior permission rules	<p>HR 658 – No provision and no impact S 223 – No practical effect, because FAA appropriation legislation currently prohibits use of funds for the purposes that would be prohibited</p>

**TABLE 6
AIR SERVICE PROVISIONS AFFECTING AIRPORTS AND COMMUNITIES**

Section No. & Issue	HR 658 Section No. and Provisions	S 223 Section No. and Provisions	Current Law	Impact of House and Senate Bills on Airports
Small Community Air Service Development Program (SCASDP)	<p>§ 405 Extends authorization for program indefinitely, but limits funding to \$6 million annually, from excess of overflight fees used to finance Essential Air Service Program</p> <p>Adds a new factor for priority consideration: Cooperation among multiple communities to submit a regional or multistate proposal</p>	<p>§ 416 Extends authorization of program through FY2011 at currently authorized levels of \$35 million</p> <p>Adds a new factor for priority consideration: Cooperation among multiple communities to submit a regional or multistate proposal</p>	<p>SCASDP authorization lapses at end of current authorization for AIP. Consortia of communities are eligible to participate, but do not receive priority consideration.</p>	<p>HR 658 -- Extends program at lower levels than currently authorized and appropriated.</p> <p>S 223 -- Extends program at currently authorized levels.</p> <p>NOTE Funding levels will be determined in FAA appropriation legislation.</p> <p>Both House and Senate bills add a new priority for consideration -- proposals to consolidate regional service at a single airport.</p>

**TABLE 6
AIR SERVICE PROVISIONS AFFECTING AIRPORTS AND COMMUNITIES (con't)**

Section No. & Issue	HR 658 Section No. and Provisions	S 223 Section No. and Provisions	Current Law	Impact of House and Senate Bills on Airports
Flight operations at Reagan National	<p>§ 423 Increases the number of "beyond perimeter" slots from 24-34. To accommodate these slots, a total of 10 current slots shall be reduced in the early morning and late night hours. The Secretary is to give priority to new entrants and limited incumbents. Increases the limit on number of hourly exemption flights for the hours of 7 am-9:59 am from 3 flights to 5 flights.</p>	<p>§ 737 Increases the number of "exemption" slots by 24 (with focus on beyond perimeter slots) 10 of the 24 slots are to go to new entrants or limited incumbents. 14 slots are to be available to incumbent carriers The Department of Transportation is to conduct a study and issue a report on the impact of the additional slot exemptions within 17 months after award of exemptions. Increases the limit on number of hourly exemption flights for the hours of 7 am-9:59 am from 3 flights to 4 flights.</p>	<p>"Beyond perimeter" slots limited to 24.</p>	<p>HR 658 – Would increase number of "beyond perimeter" slots by 10, but requires offset of slots at times of high noise sensitivity. S 223 – Would increase number of beyond perimeter slots by 24, with no offsetting reduction. Daily service to/from DCA would increase. S 223 provides greater financial flexibility to MWAA.</p>

**TABLE 6
AIR SERVICE PROVISIONS AFFECTING AIRPORTS AND COMMUNITIES (con't)**

Section No. & Issue	HR 658 Section No. and Provisions	S 223 Section No. and Provisions	Current Law	Impact of House and Senate Bills on Airports
Air carrier and airport contingency plans	<p>§ 425</p> <p>Air carriers serving medium and large hub airports with scheduled service in aircraft with more than 30 seats must develop emergency contingency plans within 90 days. All medium and large hub airports and airports that function as diversion airports must also develop plans. Airport plans must address:</p> <ul style="list-style-type: none"> • How the airport will provide for deplanement of passengers following "excessive delays" • How the airport will provide for gate sharing and make facilities available • If the airport serves international flights, how the airport will provide a sterile area for international passengers before they can be screened <p>Plans must be approved by the Secretary who may establish minimum standards for plans. Non-compliance with the plan could lead to civil penalties. Airports must update plans every five years.</p>	<p>§ 401</p> <p>All air carriers and airports must develop contingency plans for addressing long tarmac delays within 60 days. Airport plans must address:</p> <ul style="list-style-type: none"> • How the airport will provide for deplanement of passengers following excessive delays (3 hours or more) • How the airport will provide for sharing of gates and facilities and make gates available <p>Plans must be approved by the Secretary who shall establish minimum standards for plans. Non-compliance with the plan could lead to civil penalties. Airports must submit periodic updates on a schedule established by the Secretary</p>	No provision	<p>Impact of House and Senate bills are similar. Affected airports will bear the cost of developing the plans, including submittal for DOT approval and the costs of implementing and updating the plans. Failure to follow the plan could lead to a civil penalty proceeding.</p> <p>The two bills differ in airport coverage:</p> <ul style="list-style-type: none"> • HR 658 – Limited to medium and large hub airports and airports that serve as diversion airports for the former • S 223 – All airports