

METROPOLITAN WASHINGTON AIRPORTS AMENDMENTS
ACT OF 1995

MAY 29, 1996.—Committed to the Committee of the Whole House on the State of
the Union and ordered to be printed

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

R E P O R T

[To accompany H.R. 1036]

[Including cost estimate of the Congressional Budget Office]

The Committee on Transportation and Infrastructure, to whom was referred the bill (H.R. 1036) to amend the Metropolitan Washington Airports Act of 1986 to direct the President to appoint additional members to the board of directors of the Metropolitan Washington Airports Authority, to replace the Board of Review of the Airports Authority with a Federal Advisory Commission, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Metropolitan Washington Airports Amendments Act of 1995”.

SEC. 2. AMENDMENT OF METROPOLITAN WASHINGTON AIRPORTS ACT OF 1986.

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Metropolitan Washington Airports Act of 1986 (100 Stat. 3341–376 et seq.).

SEC. 3. USE OF LEASED PROPERTY.

Section 6005(c)(2) is amended by inserting before the period at the end of the second sentence the following: “which are not inconsistent with the needs of aviation”.

SEC. 4. BOARD OF DIRECTORS.

- (a) APPOINTMENT OF ADDITIONAL MEMBERS.—Section 6007(e)(1) is amended—
- (1) in the matter preceding subparagraph (A) by striking “11” and inserting “15”;
 - (2) in subparagraph (D) by striking “one member” and inserting “five members”.
- (b) RESTRICTIONS.—Section 6007(e)(2) is amended by striking “except that” and all that follows through the period and inserting “except that the members appointed by the President shall be registered voters of States other than Maryland, Virginia, or the District of Columbia.”.
- (c) TERMS.—Section 6007(e)(3) is amended—
- (1) in subparagraph (B) by striking “and” at the end;
 - (2) in subparagraph (C) by striking the period at the end and inserting “; and”; and
 - (3) by adding at the end the following:
“(D) by the President after the date of the enactment of this subparagraph, 2 shall be appointed for 4 years.
A member may serve after the expiration of that member’s term until a successor has taken office.”.
- (d) VACANCIES.—Section 6007(e) is further amended by redesignating paragraphs (4) and (5) as paragraphs (7) and (8), respectively, and by inserting after paragraph (3) the following:
“(4) VACANCIES.—A vacancy in the board of directors shall be filled in the manner in which the original appointment was made. Any member appointed to fill a vacancy occurring before the expiration of the term for which the member’s predecessor was appointed shall be appointed only for the remainder of such term.”.
- (e) POLITICAL PARTIES OF PRESIDENTIAL APPOINTEES.—Section 6007(e) is further amended by inserting after paragraph (4), as inserted by subsection (d) of this section, the following:
“(5) POLITICAL PARTIES OF PRESIDENTIAL APPOINTEES.—Not more than 3 of the members of the board appointed by the President may be of the same political party.”.
- (f) DUTIES OF PRESIDENTIAL APPOINTEES.—Section 6007(e) is further amended by inserting after paragraph (5), as inserted by subsection (e) of this section, the following:
“(6) DUTIES OF PRESIDENTIAL APPOINTEES.—In carrying out their duties on the board, members of the board appointed by the President shall ensure that adequate consideration is given to the national interest.”.
- (g) REQUIRED NUMBER OF VOTES.—Section 6007(e)(8), as redesignated by subsection (d) of this section, is amended by striking “Seven” and inserting “Nine”.

SEC. 5. FEDERAL ADVISORY COMMISSION.

- (a) IN GENERAL.—Section 6007(f) is amended by striking the subsection designation, heading and paragraph (1) and inserting the following:
“(f) FEDERAL ADVISORY COMMISSION.—
- (1) COMPOSITION.—There is established a Federal Advisory Commission of the Airports Authority which shall represent the interests of users of the Metropolitan Washington Airports and shall be composed of 9 members appointed by the Secretary of Transportation.”.
- (b) REFERENCES TO BOARD OF REVIEW.—The Act is amended—
- (1) in section 6007(f) by striking “Board of Review” each place it appears and inserting “Federal Advisory Commission”;
 - (2) in section 6007(f)(3)—
 - (A) in the third sentence by striking “Board” each place it appears and inserting “Commission”; and
 - (B) in the fourth sentence by striking “Board” the second place it appears and inserting “Commission”;
 - (3) in the second sentence of section 6007(f)(6), as redesignated by section 8(a) of this Act, by striking “Board” and inserting “Commission”;
 - (4) in section 6007(f)(7), as redesignated by section 8(a) of this Act, by striking “Board” the second place it appears and inserting “Commission”; and
 - (5) in section 6009(b) by striking “Board of Review” and inserting “Federal Advisory Commission”.
- (c) OTHER CONFORMING AMENDMENTS.—Section 6007(f)(2) is amended—
- (1) in subparagraph (A)—
 - (A) by striking “paragraphs (1)(A) and (1)(B)” and inserting “paragraph (1)”; and

- (B) by striking the second sentence; and
 (2) in subparagraph (D) by striking “and lists have been provided for appointments to fill such vacancies”.

SEC. 6. REVIEW PROCEDURE.

- (a) **SUBMISSION OF ACTIONS.**—Section 6007(f)(4)(A) is amended to read as follows:
 “(A) **SUBMISSION REQUIRED.**—
 “(i) **IN GENERAL.**—An action of the Airports Authority described in subparagraph (B) shall be submitted to the Federal Advisory Commission, the Speaker of the House of Representatives, and the President Pro Tempore of the Senate at least 60 days before the action is to become effective.
 “(ii) **URGENT AND COMPELLING CIRCUMSTANCES.**—An action submitted to the Federal Advisory Commission and Congress in accordance with clause (i) may become effective before the expiration of the 60-day period referred to in clause (i) if the board of directors certifies, in writing, to the Secretary and Congress that urgent and compelling circumstances exist that significantly affect the interests of the traveling public and will not permit waiting for the expiration of such 60-day period.”
- (b) **RECOMMENDATIONS.**—Section 6007(f)(4)(C) is amended to read as follows:
 “(C) **RECOMMENDATIONS.**—The Federal Advisory Commission may make to the board of directors and Congress recommendations regarding an action within 30 calendar days of its submission under this paragraph. Such recommendations may include a recommendation that the action not take effect.”
- (c) **EFFECT OF RECOMMENDATIONS.**—
 (1) **REPEAL.**—Section 6007(f)(4) is amended by striking subparagraph (D) and by redesignating subparagraph (E) as subparagraph (D).
 (2) **CONFORMING AMENDMENT.**—Section 6007(f)(5)(B) is amended by striking “paragraph (4)(D)(ii)” and inserting “paragraph (4)”.
- (d) **EXPIRATION OF AUTHORITY.**—Section 6007(f)(4) is amended by adding at the end the following:
 “(E) **EXPIRATION OF AUTHORITY.**—
 “(i) **IN GENERAL.**—Except as provided in clause (ii), the authority of the Airports Authority to take any of the actions described in subparagraph (B) shall expire on April 30, 1997.
 “(ii) **SPECIAL RULE.**—If on any day after April 29, 1997, all of the members to be appointed to the board of directors by the President under section 6007(e)(1)(D) are serving on the board, the authority of the board referred to in clause (i) shall be effective beginning on such day and shall expire on September 30, 1998.”
- (e) **PROTECTION OF CERTAIN ACTIONS.**—Actions taken by the Metropolitan Washington Airports Authority and submitted to the Board of Review pursuant to section 6007(f)(4) of the Metropolitan Washington Airports Act of 1986 before the date of the enactment of this Act shall remain in effect and shall not be set aside solely by reason of a judicial order invalidating certain functions of the Board of Review.

SEC. 7. CONGRESSIONAL DISAPPROVAL PROCEDURES.

- (a) **COMMITTEE REFERRAL.**—Section 6007(f)(5)(C) is amended—
 (1) by striking “Public Works and Transportation” and inserting “Transportation and Infrastructure”; and
 (2) by striking “Commerce, Science and Technology” and inserting “Commerce, Science, and Transportation”.
- (b) **HOUSE PROCEDURE.**—Section 6007(f)(5) is amended—
 (1) by striking subparagraphs (D), (E), and (F);
 (2) by redesignating subparagraphs (G) and (H) as subparagraphs (E) and (F), respectively; and
 (3) by inserting after subparagraph (C) the following:
 “(D) **HOUSE PROCEDURE.**—When the committee of the House has reported a resolution, it is at any time in order to move that the House resolve into the Committee of the Whole House on the State of the Union for consideration of the resolution. All points of order against the resolution and against consideration of the resolution are waived. The motion is highly privileged. The previous question shall be considered as ordered on that motion to its adoption without intervening motion. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order. Debate thereon shall be limited to not more than 1 hour, the time to be divided in the House equally between a proponent and an opponent. During

consideration of the resolution in the Committee of the Whole, the first reading of the resolution shall be dispensed with. General debate shall proceed without intervening motion, shall be confined to the resolution, and shall not exceed 2 hours equally divided and controlled by a proponent and an opponent of the resolution. After general debate, the Committee shall rise and report the bill to the House. The previous question shall be considered as ordered on the resolution to final passage without intervening motion. A motion to reconsider the vote on passage of the resolution shall not be in order.”.

SEC. 8. OTHER MATTERS RELATING TO FEDERAL ADVISORY COMMISSION.

(a) REQUEST FOR CONSIDERATION OF OTHER MATTERS; PARTICIPATION IN MEETINGS.—Section 6007(f) is amended by striking paragraphs (6) and (7) and by redesignating paragraphs (8), (9), (10), and (11) as paragraphs (6), (7), (8), and (9), respectively.

(b) REMOVAL OF FEDERAL ADVISORY COMMISSION MEMBERS.—Section 6007(f)(9), as redesignated by subsection (a) of this section, is amended by striking “by a two-thirds vote of the board of directors” and inserting “by the Secretary of Transportation”.

SEC. 9. EFFECT OF JUDICIAL ORDERS.

(a) IN GENERAL.—Section 6007 is amended by striking subsection (h) and by redesignating subsection (i) as subsection (h).

(b) CONFORMING AMENDMENT.—Section 6011 is amended by striking “Except as provided in section 6007(h), if” and inserting “If”.

SEC. 10. FEDERAL ADVISORY COMMITTEE ACT.

Section 6007 is further amended by inserting after subsection (h), as redesignated by section 9(a) of this Act, the following:

“(i) FEDERAL ADVISORY COMMITTEE ACT.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Federal Advisory Commission.”.

SEC. 11. USE OF DULLES ACCESS HIGHWAY.

The Act is further amended by adding at the end the following:

“SEC. 6013. USE OF DULLES ACCESS HIGHWAY.

“(a) RESTRICTIONS.—The Airports Authority shall continue in effect and enforce paragraphs (1) and (2) of section 4.2 of the Metropolitan Washington Airports Regulations, as in effect on February 1, 1995.

“(b) ENFORCEMENT.—The district courts of the United States shall have jurisdiction to compel the Airports Authority and its officers and employees to comply with the requirements of this section. An action may be brought on behalf of the United States by the Attorney General, or by any aggrieved party.”.

SEC. 12. AMENDMENT OF LEASE.

The Secretary of Transportation shall amend the lease entered into with the Metropolitan Washington Airports Authority under section 6005(a) of the Metropolitan Washington Airports Authority Act of 1986 to secure the Airports Authority’s consent to the amendments made to such Act by this Act.

SEC. 13. AVAILABILITY OF SLOTS.

(a) IN GENERAL.—Section 41714 of title 49, United States Code, is amended—

(1) in subsections (a)(1), (b)(1), and (c)(1) by striking “(other than Washington National Airport)”; and

(2) by redesignating subsection (h) as subsection (i) and by inserting after subsection (g) the following:

“(h) LIMITATION ON AUTHORITY TO GRANT EXEMPTIONS.—The Secretary shall not issue an exemption under this section to the requirements of subparts K and S of part 93 of title 14 of the Code of Federal Regulations (pertaining to slots at high density airports) if the grant of such exemption would adversely affect safety.”.

(b) CONFORMING AMENDMENT.—Section 6009(e)(1) is amended by striking “The Administrator” and inserting “Except as provided by section 41714 of title 49, United States Code, the Administrator”.

BACKGROUND

Prior to 1986, National and Dulles airports were owned and operated by the Federal government. They were the only two Federal airports in the country.

There had been several efforts to transfer the airports to local control prior to 1986. But all of these efforts had been unsuccessful.

In 1984, then Secretary of Transportation, Elizabeth Dole, established an advisory commission on the reorganization of the metropolitan Washington airports which was chaired by former Virginia Governor Linwood Holton. This Commission (often referred to as the Holton Commission) recommended that the airports be operated by "an independent authority to be established by interstate compact between the Commonwealth of Virginia and the District of Columbia." It emphasized "the need for a non-political, independent authority" with a board whose members "should not hold elective or appointive political office."

After the Commission's report was issued, the Committee considered creating a Federal corporation to operate the two airports (H.R. 5040, 99th Congress, 2nd Session (1986)). But eventually legislation was enacted enabling local control of the airports along the lines suggested by the Holton Commission.

The legislation, known as the "Metropolitan Washington Airports Act of 1986" (P.L. 99-591), leased National and Dulles Airports to the Metropolitan Washington Airports Authority (MWAA) for 50 years. The lease payments were set at \$3 million per year starting in 1987. This payment is adjusted for inflation each year and in FY 95 the airports paid \$3,812,500 to the Federal government.

The primary motivation for local control was to permit a major rehabilitation of National and expansion at Dulles. While the airports were owned and controlled by the Federal government, budgetary constraints prevented any significant capital investment. However, the transfer of operating responsibility freed the local authority to issue bonds to finance a capital development program.

As a result of the legislation, MWAA was able to launch a major capital improvement program at National. This program will involve the construction of a new 35-gate terminal building providing easy access to Metrorail. The program includes new parking garages and separate arrival and departure roadways to alleviate congestion. At Dulles, the size of the midfield terminal will be doubled, a new international arrival facility will be built and a new midfield terminal will be constructed that is connected to the main terminal by a train or similar people moving system. Also, additional land is being acquired and airfield capacity expanded so that eventually Dulles will have the capacity for 55 million passengers per year.

These improvements are being carried out by MWAA, the local authority, which is governed by a Board of Directors. This Board is composed of 5 members appointed by the Governor of Virginia, 3 members appointed by the Mayor of the District of Columbia, 2 members appointed by the Governor of Maryland, and 1 member appointed by the President.

At the time this legislation was first considered, there was concern about turning total control of these airports over to local officials. It was felt that there was still a significant Federal interest in them that must be protected. There was also concern that a local authority might be pressured to limit flights, divert traffic to Dulles, or take some other actions that would not be in the interests of airport users throughout the country.

As a result, the legislation conditioned the local control on a provision making certain actions of the local authority subject to a Board of Review. This Board had to be composed of 2 Members from the House Public Works and Transportation Committee (now the Transportation & Infrastructure Committee), 2 Members from both the House and Senate Appropriations Committees, 2 Members from the Senate Commerce Committee, and 1 Member chosen alternately from the House and the Senate every two years.

As originally constituted, this Board of Review could veto certain actions of the local authority involving the adoption of the airports' annual budget, the authorization for the issuance of bonds, the adoption or repeal of regulations, the adoption or revision of a master plan, and the appointment of the Chief Executive Officer. In practice, the Board vetoed only one action. That involved the local authority's decision to permit carpools to use the Dulles access road.

Because of the importance attached to the Board of Review in the overall scheme of the legislation, the law contained a non-severability clause. This stated that if a Court should find the Board of Review to be unconstitutional, the local authority would be prohibited from performing any of the actions that were subject to Board of Review veto.

In *Metropolitan Washington Airports Authority v. Citizens for the Abatement of Aircraft Noise*, 501 U.S. 252 (1991) the Supreme Court found the Board of Review to be unconstitutional because the Board was an agent of Congress and exercised executive power in violation of the doctrine of separation of powers. As a result, the Metropolitan Washington Airports Act had to be revised.

The law was amended in Title VII of the Intermodal Surface Transportation Efficiency Act (ISTEA) of 1991 (P.L. 102-240, 105 Stat. 2197). As revised, the law continued the requirement of a Board of Review and expanded the actions it could review. Under the revised legislation, the Airports Authority had to submit the following actions to the Board of Review—

- (1) the adoption of the airports' annual budget and any amendments thereto;
- (2) the authorization for the issuance of bonds, an annual plan for issuance of bonds, and any amendments to such plan;
- (3) the adoption, amendment, or repeal of an airport regulation;
- (4) the adoption or revision of the airports' master plan;
- (5) the appointment of the chief executive officer;
- (6) the award of a contract which has been approved by the Board of Directors other than most contracts for the sale of bonds;
- (7) the approval of a terminal design or airport layout or modification of such design or layout; and
- (8) the authorization for the acquisition or disposal of land and the grant of a long-term easement.

While expanding the scope of its review, the legislation changed the Board's membership and reduced its powers.

As revised, the Review Board members were to be chosen from lists provided by the Speaker of the House and President pro tempore of the Senate. In response to concerns raised by the Supreme

Court, the new law gave MWAA the right to reject the lists provided and request additional recommendations and to remove members of the Board of Review for cause by a two-thirds vote. Most significantly, members of the Board of Review no longer needed to be Congressmen but instead only had to be frequent users of National and Dulles, experienced in aviation matters, and not residing in Maryland, Virginia, or D.C.

The 1991 legislation also substantially reduced the Board of Review's power over actions submitted by the Board of Directors. Instead of a veto, the Board of Review was given only the authority to recommend changes in the airport's action. It was given 30 calendar days or 10 legislative days to decide whether to make a recommendation.

If the Board of Review made a recommendation, the Authority could not take the proposed action until it had responded in writing to the Board of Review's recommendation. If the Authority's response followed the Review Board's recommendation, the action could be taken. Otherwise, the proposed action could not be taken until the proposal had been submitted to Congress and 60 legislative days had passed. During this period, Congress could consider a joint resolution disapproving the Authority's proposed action. The law established special fast-track procedures to ensure that procedural difficulties would not prevent Congress from passing a resolution of disapproval during the 60-day period.

Despite these changes, the courts again found that the Board of Review was a congressional agent exercising significant Federal power in violation of separation of power principles, *Hechinger v. Metropolitan Washington Airports Authority*, 36 F.3d 97 (D.C. Cir. 1994), *cert. den.*, 63 U.S.L.W. 3562 (1995). The court acknowledged that it was a close question but found that:

Congress has here encroached beyond the legislative sphere because the Board of Review has been vested with a range of powers whose cumulative effect is to enable it to interfere impermissibly with the Directors' performance of their independent responsibilities. In the place of the veto provision, the amended Transfer Act empowers the Board to choose, in its sole discretion, which of the Authority's decisions may be implemented immediately and which will be subjected to the risks and delays of congressional review.

What tipped the balance in the Court's view was the Review Board's "power to delay and perhaps overturn critical decisions by requiring their referral to Congress."

NEED FOR LEGISLATION

As a result of the Court decision, the airport authority cannot take any of the eight actions (listed above) subject to review by the Board of Review. This occurs because section 6007(h) of the MWAA Act states:

If the Board of Review established under subsection (f) is unable to carry out its functions under this title by reason of a judicial order, the Airports Authority thereafter

shall have no authority to perform any of the actions that are required by paragraph (b)(4) to be submitted to the Board of Review.

The court decision declaring the Board of Review unconstitutional constitutes the judicial order referred to in the above paragraph. The effect of the Court's decision was stayed until March 31, 1995. Since that date, the airport has been unable to approve a budget, a master plan change, a major contract or the other matters that must be submitted to the Review Board. Although this has not had an immediate impact on the airport, eventually its construction program will begin to grind to a halt. Therefore, the Committee has moved to remedy the law's Constitutional defect.

In developing this legislation, the Committee recognizes the strong local interest in these airports and the reported bill therefore maintains local control over them. But it is also beyond question that these airports were built with Federal money, are still owned by the Federal government, and are the gateway to the nation's capital for all Americans. Accordingly, there is an important Federal interest in them as well. With the Board of Review effectively disabled by the Courts, it is necessary to develop an alternative to protect this interest and the interests of the 27 million passengers who use National and Dulles, most of whom do not live in the Washington area. The alternative in the reported bill has three features. First, the bill converts the Board of Review into a purely advisory commission. Members of this Commission will serve without compensation and the Commission's incidental expenses will be paid for by MWAA. In order to pass constitutional muster, the powers of the advisory commission will be substantially less than those exercised by the Board of Review. No longer will it be able to veto Airport Authority actions or even decide which actions should be referred to Congress for legislative action. It will only be able to give Congress its views in the same way as any other group. Therefore, two additional features are necessary. One ensures that MWAA's authority to take the actions previously submitted to the Board of Review will have to be periodically reauthorized. This ensures that Congress will be able to review airport actions and take any legislative action that may be necessary. The other feature of the bill is the addition of four more Presidential appointees (for a total of five) to the Airports' Board of Directors. These Directors will ensure that adequate consideration is given to the national interest in the two airports.

The Board of Review that was the subject of the previous litigation has been eliminated and replaced with the Advisory Commission, whose appointment and removals are made exclusively by the Secretary of Transportation. Thus, the appointment powers of the Commission members reside completely within the discretion of an Executive Branch agency and no challenge can be made that Congress is "exercising substantial Federal power" in determining the composition of the Advisory Commission.

The legislation also addresses the constitutional concerns raised about the ability of the Board of Review to delay airport action pending a review of 30 days or 10 legislative days. This is remedied by the elimination of the Board of Review's power to delay action and its replacement with the Advisory Commission's notification

provision in section 6(a). This requires the Airport Authority to submit certain actions to the Advisory Commission, as well as the Speaker of the House and President of the Senate 60 calendar days prior to the action taking effect (or fewer days notice if urgency is certified). This is a mere notice provision that does nothing more than ensure that Congress is promptly made aware of airport actions so that it will have a reasonable time to consider what, if any, legislation would be appropriate. This notification provision does not rise to the level of Congress "exercis[ing] significant Federal powers in violation of separation-of-powers principles." Rather, these provisions and the procedures in section 7 simply allow Congress an opportunity to remedy any perceived problems in Airport Authority action using its own constitutional lawmaking authority. This is consistent with *INS v. Chadha*, 462 U.S. 919 (1983), where the Supreme Court, after striking down the legislative veto, allowed the report and wait provisions to remain in effect. Clearly the report and wait provisions like those in this bill are a legitimate and constitutional means by which Congress can check and review executive action, *City of Alexandria v. United States*, 737 F.2d 1022 (1984).

The Committee is aware that there are concerns about the reauthorization provision in the bill. However, they seem to be based on several misconceptions. In the first place, the provision does not cause the airport or its Board of Directors to terminate after two years. Rather it merely subjects certain actions listed in current law to periodic review. This is no different than many other reauthorization provisions in a host of other statutes. In all likelihood, reauthorization legislation will be passed before the 2-year period in this bill expires and, given the performance of the Airport Authority so far, that legislation is not likely to make major legislative changes. It will certainly not affect the airports' ability to meet existing bond obligations.

While some uncertainty may be created by the periodic reauthorization provision, this uncertainty is no different than the current situation where the Airport's ability to take certain actions expired on March 31, 1995 as a result of the court decision or the situation that existed between 1987 and 1991 when the Board of Review could veto any of these actions by the airports. These uncertainties have not adversely impacted the airports' bonds.

Indeed, this Federal oversight may actually have beneficial effects on the airports' bonds. The only Board of Review veto was exercised in order to protect the integrity of the Dulles access road and thereby ensure the continued viability of Dulles Airport. Moreover, Federal oversight could be seen as a counter-weight to efforts to reduce airline activity at the airports. Both of these enhance the ability to generate the revenue which supports the bonds.

In addition to the above changes in the governance structure, the Committee felt it necessary to address two other issues involving the airports.

DULLES ACCESS ROAD

Currently, under airport rules, only people driving to Dulles Airport, and certain Fairfax County and school buses, may use the access road. Others must use the toll road. The only airport action

ever vetoed by the Board of Review was the airport's attempt to change its rules to permit carpools on the access road. With the Board of Review losing its power to ban carpools from the access road, it is necessary to legislate such a ban. This action is taken in recognition of the fact that the access road was built by the Federal government solely to provide access to Dulles and that the viability of Dulles depends on keeping airport traffic flowing freely over this road. If the access road becomes clogged with non-airport traffic, growth at Dulles would be curtailed and there would be pressure to completely eliminate the flight restrictions at National.

SLOTS

At almost all airports in the U.S., airlines have no limit on the number of flights they can offer. However, there are four airports (O'Hare, LaGuardia, Kennedy, and National) at which flights are limited by the High Density Rule (HDR). At these airports, an aircraft must have a slot in order to take-off or land.

The HDR was adopted in 1969 as a "temporary" measure to reduce congestion and delays. However, the airlines had agreed as early as 1966 to limit their flights at National to 40 per hour. The HDR codified that limit in Federal Aviation Administration (FAA) rules. Over the next decade there were a series of regulatory and legislative actions, as well as several lawsuits, on this issue which ultimately led to a new policy reducing the number of jet slots from 40 to 37 (46 F.R. 58036, November 27, 1981).

Despite the reduction in the number of slots, the controversy continued. One of the issues in the 1986 transfer legislation was whether it would lead to an increase in the number of flights. This was resolved by a provision (section 6009(e)) in the legislation which stated:

The Administrator may not increase the number of instrument flight rule takeoffs and landings authorized for air carriers by the High Density Rule (14 C.F.R. 93.121 et seq) at Washington National Airport on the date of enactment of this title and may not decrease the number of such takeoffs and landings except for reasons of safety.

Thus the number of jet slots at National was effectively frozen at 37 per hour. There are also 11 commuter slots and 12 general aviation slots per hour. The 37 slots at National compares to 48 at LaGuardia, between 63 and 80 at Kennedy depending on the hour, and 120 at O'Hare. Unlike the other three airports, the number of slots at National is in the law. At the other airports, it is only in FAA rules. Since it is in law, the FAA has no flexibility to increase the number of slots. At the other three airports, the FAA may grant exemptions from the slot rules in order to accommodate additional flights for new airlines, for international air transportation by either U.S. or foreign airlines, and for providing essential air service (EAS) to small communities. 49 U.S.C. 41714.

The Committee sees no reason to treat National Airport differently than the other high density airports in this respect. Accordingly, the reported bill removes the current exceptions for National Airport in 49 U.S.C. section 41714. This is intended to permit the Department of Transportation (DOT) to issue exemptions

from the slot rules at Washington National Airport to the same extent that it can at the other three high density airports. This will not affect DOT's current authority to move slots from one hour to another under subsection (d) of section 41714. Nor will it necessarily lead to an increase in flights at National. The 37 jet slots per hour remains in effect. However, this provision will give DOT some discretion to permit additional flights in the three limited circumstances mentioned above (new entrants, foreign air, and EAS).

In exercising its exemption authority, DOT would be expected to follow the same standards already in the law with respect to the other three high density airports. For example, with respect to new entrants, DOT may only grant an exemption where "the Secretary finds it to be in the public interest and the circumstances to be exceptional." In this regard, we note with approval DOT's action in Docket 49743 where it found that Reno Air met the "public interest" and "exceptional circumstances" test in the Reno-Chicago market because that market lacked non-stop service and Reno Air had been unable to purchase slots or otherwise obtain them from DOT.

This limited exemption from the slot rules should have several beneficial effects. The ability to grant exemptions should reduce whatever pressure now exists to completely eliminate the slot rule or to take slots away from airlines now serving National in order to accommodate new entrants, EAS, or foreign air. Indeed, the Committee urges DOT to use this exemption authority in situations where the alternative would be to take away slots. If this authority does lead to a small increase in flights, that will have a beneficial impact on competition, consumer choice, and the fares that passengers pay. This will benefit all passengers, both in the Washington area and throughout the country. There will be no adverse impact on safety since the legislation specifically states that the "Secretary shall not issue an exemption under this section * * * if the grant of such exemption would adversely affect safety." Nor will this provision undermine the viability of Dulles or BWI which have now developed strong markets and hub carriers in their own right.

SECTION-BY-SECTION SUMMARY

Section 1 is the short title.

Section 2 states that the following amendments are to the Metropolitan Washington Airports Act of 1986.

Section 3 modifies the current provision that permits airport property to be used for non-profit purposes. The modification ensures that those purpose are not inconsistent with aviation.

Section 4 increases the number of directors on the Airports Board of Directors from 11 to 15 by increasing the number of Presidential appointees from 1 to 5. The directors appointed by the President must be registered voters of States other than Maryland, Virginia, and D.C. and shall ensure that the Board gives adequate consideration to the national interest in these airports. The Directors shall serve for 6 years except that 2 of the new members first appointed by the President shall initially serve for 4 years so that the terms of the Presidential appointees will be staggered. A member can serve after the expiration of his term until a successor has taken over. A vacancy on the Board shall be filled in the same way as the original appointment. A member filling a vacancy shall be

appointed only for the remainder of the term. The section further limits to 3 the number of Presidential appointees from the same political party. In light of the increase in the total number of Directors, the section raises from 7 to 9 the number of votes needed to approve bond issues or the airports' annual budget.

Section 5 replaces the Board of Review with a Federal Advisory Commission. This Commission will be composed of 9 members appointed by the Secretary of Transportation. The previous method of appointment involving lists provided by the House and Senate is eliminated.

Section 6 requires that certain actions (already listed in the statute) of the airports be submitted to the House, Senate, and Advisory Commission 60 calendar days before they are to be effective. The action can take effect sooner than the 60th day if the airports certify that there are urgent and compelling reasons for doing so. The Advisory Commission may make recommendations to the airports and Congress within 30 calendar days of receiving a submission from the airport. The Advisory Commission has no power to delay airport actions. To ensure that the additional members of the Board of Directors are actually appointed and able to serve under local law, the section terminates the airports' authority to take certain actions (listed in the current statute) if all the members to be appointed by the President are not serving by April 30, 1997. If they are all serving by that date or any day thereafter, the authority to take these actions will have to be reauthorized by September 30, 1998. The section also ratifies and protects actions of the Airport Authority that were submitted to the Board of Review even though that Board was declared unconstitutional.

Section 7 establishes expedited House procedures for the consideration of a joint resolution to disapprove an action of the airports.

Section 8 addresses other matters with respect to the Advisory Commission. It deletes provisions permitting the old Board of Review to participate in airport meetings and to force the airports to consider certain actions. It also permits the Secretary to remove a member of the Advisory Commission for cause.

Section 9 eliminates the provision that states that if the Board of Review is declared unconstitutional, the airports are prohibited from taking certain actions.

Section 10 states that the Federal Advisory Commission Act shall not apply to the Federal Advisory Commission in this bill. This is designed to ensure that the Advisory Commission does not expire after 2 years. The Commission would still be expected to hold open meetings.

Section 11 freezes current airport regulations governing use of the Dulles access road. (These rules limit use of the road to persons "going to, or leaving Dulles for airport business." There are exceptions for certain buses.)

Section 12 directs the Secretary to amend the lease between the Federal government and the airports to reflect the changes in this bill.

Section 13 permits the FAA to grant exemptions from the slot rules in order to permit additional flights at National airport by new airlines or for essential air service or foreign air transpor-

tation. The Secretary shall not grant the exemptions if that would adversely affect safety.

LEGISLATIVE HISTORY

On February 27, 1995, the Subcommittee on Aviation reported the bill, with an amendment, by unanimous voice vote, to the Committee on Transportation and Infrastructure. On March 1, 1995, the Committee on Transportation and Infrastructure ordered the bill reported, with an amendment, by voice vote with a quorum present.

COMPLIANCE WITH HOUSE RULE XI

1. With respect to rule XI, clause 2(1)(3)(A), the Subcommittee on Aviation conducted a hearing on February 9, 1995 on the Metropolitan Washington Airports.

2. With respect to rule XI, clause 2(1)(4), the enactment of the bill will result in no significant inflationary impact.

3. With respect to rule XIII, clause 7(a), the Committee adopts as its own the CBO cost estimate included in this report.

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, March 10, 1995.

Hon. BUD SHUSTER,
*Chairman, Committee on Transportation and Infrastructure,
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has reviewed H.R. 1036, the Metropolitan Washington Airports Amendments Act of 1995, as ordered reported by the House Committee on Transportation and Infrastructure on March 1, 1995. If enacted, the bill would terminate the Metropolitan Washington Airports Authority's review board and replace it with an advisory commission. (The Supreme Court recently ruled that the review board's role was unconstitutional.) In addition, the bill would allow the Federal Aviation Administration to grant exemptions from takeoff and landing slot rules at National Airport. Under the current budgetary treatment of the Airports Authority, CBO estimates that enacting H.R. 1036 would have no net impact on the federal budget.

Under H.R. 1036, the Airports Authority would have to report certain types of major actions to the commission and to the Congress at least 60 days before they are to become effective. Such actions would include adopting an annual budget, authorizing the issuance of bonds, adopting or modifying regulations, appointing a chief executive officer, and awarding contracts. The new advisory commission could then make recommendations to the Congress within 30 days of such a report, and the Congress could disapprove the Authority's actions. After September 30, 1997, the Airports Authority would no longer be able to take any of these types of actions or to spend any money except for routine operating expenses, previously authorized capital expenditures, and debt service on previously authorized obligations. (Its authority to act would expire 17 months earlier if there are any vacancies among the Presidentially appointed positions on the Authority's board of directors.)

The Metropolitan Washington Airports Authority is currently considered an independent body, and its financial transactions are not included in the federal budget. Therefore, the bill's changes would have no impact on the federal budget under current budgetary procedures. However, the extent of Congressional oversight of the Authority and the bill's provision that would terminate the Authority's ability to conduct major activities as of September 30, 1997, call into question whether the current budgetary treatment of the authority should continue to apply.

The new advisory commission would be a federal entity, because it would be created by the federal government and its members would be appointed by the Secretary of Transportation. Therefore, the commission's funding and spending would constitute federal receipts and direct spending, and pay-as-you-go procedures would apply to this bill. Because receipts and spending would be offsetting, however, they would have no net impact on the federal budget.

H.R. 1036 would not affect the budgets of state or local governments.

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

Sincerely,

JAMES L. BLUM
(For June E. O'Neill, Director).

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, February 29, 1996.

Hon. BUD SHUSTER,
*Chairman, Committee on Transportation and Infrastructure,
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: Pursuant to the Unfunded Mandates Reform Act of 1995, the Congressional Budget Office has reviewed H.R. 1036, the Metropolitan Washington Airports Amendments Act of 1995, as ordered reported by the House Committee on Transportation and Infrastructure on March 1, 1995.

H.R. 1036 would increase the number of Presidentially-appointed members to the Board of Directors of the Metropolitan Washington Airports Authority (MWAA) and would replace the MWAA Board of Review with a federally-appointed advisory commission. After September 30, 1997, the MWAA would no longer be allowed to authorize the issuance of bonds, adopt an annual budget, appoint a chief executive officer, or take other major actions. Prior to September 30, 1997, major actions of the authority would be subject to review by the advisory commission and the Congress. The bill would also allow the Federal Aviation Administration to grant exemptions from takeoff and landing slot rules at National Airport and would make an existing MWAA regulation pertaining to use of the Dulles Airport access road a federal law.

H.R. 1036 contains no intergovernmental mandates that would exceed the \$50 million annual threshold established by Public Law 104-4. In addition, the bill would impose no new private sector mandates.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact for state, local, and tribal issues is Karen McVey. The contact for private sector issues is Jean Wooster.

Sincerely,

JUNE E. O'NEILL, *Director.*

INFLATIONARY IMPACT STATEMENT

Pursuant to clause 2(1)(4) of rule XI of the Rules of the House of Representatives, the Committee estimates that the enactment of H.R. 1036 will have no significant inflationary impact on prices and costs in the operation of the national economy.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

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

METROPOLITAN WASHINGTON AIRPORTS ACT OF 1986

* * * * *

TITLE VI—METROPOLITAN WASHINGTON AIRPORTS

SEC. 6001. SHORT TITLE.

This title may be cited as the “Metropolitan Washington Airports Act of 1986”.

* * * * *

SEC. 6005. LEASE OF METROPOLITAN WASHINGTON AIRPORTS.

(a) * * *

* * * * *

(c) **MINIMUM TERMS AND CONDITIONS.**—The Airports Authority shall agree, at a minimum, to the following conditions and requirements in the lease:

(1) * * *

(2) **AIRPORT PURPOSES.**—The real property constituting the Metropolitan Washington Airports shall, during the period of the lease, be used only for airport purposes. For the purposes of this paragraph, the term “airport purposes” means a use of property interests (other than a sale) for aviation business or activities, or for activities necessary or appropriate to serve passengers or cargo in air commerce, or for nonprofit, public use facilities *which are not inconsistent with the needs of aviation*. If the Secretary determines that any portion of the real property leased to the Airports Authority pursuant to this Act is used for other than airport purposes, the Secretary shall (A) direct that appropriate measures be taken by the Airports Authority to bring the use of such portion of real property in conformity with airport purposes, and (B) retake possession of such portion of real property if the Airports Authority fails to

bring the use of such portion into a conforming use within a reasonable period of time, as determined by the Secretary.

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SEC. 6007. AIRPORTS AUTHORITY.

(a) * * *

* * * * *

(e) BOARD OF DIRECTORS.—

(1) APPOINTMENT.—The Airports Authority shall be governed by a board of directors of **【11】** 15 members, as follows:

(A) five members shall be appointed by the Governor of Virginia;

* * * * *

(D) **【one member】** *five members* shall be appointed by the President with the advice and consent of the Senate. The Chairman shall be appointed from among the members by majority vote of the members and shall serve until replaced by majority vote of the members.

(2) RESTRICTIONS.—Members shall (A) not hold elective or appointive political office, (B) serve without compensation other than for reasonable expenses incident to board functions, and (C) reside within the Washington Standard Metropolitan Statistical Area, **【except that the member appointed by the President shall not be required to reside in that area.】** *except that the members appointed by the President shall be registered voters of States other than Maryland, Virginia, or the District of Columbia.*

(3) TERMS.—Members shall be appointed to the board for a term of 6 years, except that of members first appointed—

(A) by the Governor of Virginia, 2 shall be appointed for 4 years and 2 shall be appointed for 2 years;

(B) by the Mayor of the District of Columbia, 1 shall be appointed for 4 years and 1 shall be appointed for 2 years; **【and】**

(C) by the Governor of Maryland, 1 shall be appointed for 4 years**【.】**; and

(D) *by the President after the date of the enactment of this subparagraph, 2 shall be appointed for 4 years. A member may serve after the expiration of that member's term until a successor has taken office.*

(4) VACANCIES.—*A vacancy in the board of directors shall be filled in the manner in which the original appointment was made. Any member appointed to fill a vacancy occurring before the expiration of the term for which the member's predecessor was appointed shall be appointed only for the remainder of such term.*

(5) POLITICAL PARTIES OF PRESIDENTIAL APPOINTEES.—*Not more than 3 of the members of the board appointed by the President may be of the same political party.*

(6) DUTIES OF PRESIDENTIAL APPOINTEES.—*In carrying out their duties on the board, members of the board appointed by the President shall ensure that adequate consideration is given to the national interest.*

[(4)] (7) REMOVAL OF PRESIDENTIAL APPOINTEES.—A member of the board appointed by the President shall be subject to removal by the President for cause.

[(5)] (8) REQUIRED NUMBER OF VOTES.—[Seven] *Nine* votes shall be required to approve bond issues and the annual budget.

[(f)] BOARD OF REVIEW.—

[(1)] COMPOSITION.—The board of directors shall be subject to review of its actions and to requests, in accordance with this subsection, by a Board of Review of the Airports Authority. The Board of Review shall be established by the board of directors to represent the interests of users of the Metropolitan Washington Airports and shall be composed of 9 members appointed by the board of directors as follows:

[(A)] 4 individuals from a list provided by the Speaker of the House of Representatives.

[(B)] 4 individuals from a list provided by the President pro tempore of the Senate.

[(C)] 1 individual chosen alternately from a list provided by the Speaker of the House of Representatives and from a list provided by the President pro tempore of the Senate.

[In addition to the recommendations on a list provided under this paragraph, the board of directors may request additional recommendations.]

(f) FEDERAL ADVISORY COMMISSION.—

(1) COMPOSITION.—*There is established a Federal Advisory Commission of the Airports Authority which shall represent the interests of users of the Metropolitan Washington Airports and shall be composed of 9 members appointed by the Secretary of Transportation.*

(2) TERMS, VACANCIES, AND QUALIFICATIONS.—

(A) TERMS.—Members of the [Board of Review] *Federal Advisory Commission* appointed under [paragraphs (1)(A) and (1)(B)] *paragraph (1)* shall be appointed for terms of 6 years. [Members of the Board of Review appointed under paragraph (1)(C) shall be appointed for terms of 2 years.] A member may serve after the expiration of that member's term until a successor has taken office.

(B) VACANCIES.—A vacancy in the [Board of Review] *Federal Advisory Commission* shall be filled in the manner in which the original appointment was made. Any member appointed to fill a vacancy occurring before the expiration of the term for which the member's predecessor was appointed shall be appointed only for the remainder of such term.

(C) QUALIFICATIONS.—Members of the [Board of Review] *Federal Advisory Commission* shall be individuals who have experience in aviation matters and in addressing the needs of airport users and who themselves are frequent users of the Metropolitan Washington Airports. A member of the [Board of Review] *Federal Advisory Commission* shall be a registered voter of a State other than Maryland, Virginia, or the District of Columbia.

(D) EFFECT OF MORE THAN 4 VACANCIES.—At any time that the **【Board of Review】** *Federal Advisory Commission* established under this subsection has more than 4 vacancies **【and lists have been provided for appointments to fill such vacancies】**, the Airports Authority shall have no authority to perform any of the actions that are required by paragraph (4) to be submitted to the **【Board of Review】** *Federal Advisory Commission*.

(3) PROCEDURES.—The **【Board of Review】** *Federal Advisory Commission* shall establish procedures for conducting its business. The procedures may include requirements for a quorum at meetings and for proxy voting and for the selection of a Chairman. The **【Board】** *Commission* shall meet at least once each year and shall meet at the call of the chairman or 3 members of the **【Board】** *Commission*. Any decision of the **【Board of Review】** *Federal Advisory Commission* under paragraph (4) or (5) shall be by a vote of 5 members of the **【Board】** *Commission*.

(4) REVIEW PROCEDURE.—

【(A) SUBMISSION REQUIRED.—An action of the Airports Authority described in subparagraph (B) shall be submitted to the **【Board of Review】** *Federal Advisory Commission* at least 30 days (or at least 60 days in the case of the annual budget) before it is to become effective.**】**

(A) SUBMISSION REQUIRED.—

(i) IN GENERAL.—An action of the Airports Authority described in subparagraph (B) shall be submitted to the Federal Advisory Commission, the Speaker of the House of Representatives, and the President Pro Tempore of the Senate at least 60 days before the action is to become effective.

(ii) URGENT AND COMPELLING CIRCUMSTANCES.—An action submitted to the Federal Advisory Commission and Congress in accordance with clause (i) may become effective before the expiration of the 60-day period referred to in clause (i) if the board of directors certifies, in writing, to the Secretary and Congress that urgent and compelling circumstances exist that significantly affect the interests of the traveling public and will not permit waiting for the expiration of such 60-day period.

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【(C) RECOMMENDATIONS.—The Board of Review may make to the board of directors recommendations regarding an action within either (i) 30 calendar days of its submission under this paragraph; or (ii) 10 calendar days (excluding Saturdays, Sundays, and holidays, and any day on which neither House of Congress is in session because of an adjournment sine die, a recess of more than 3 days, or an adjournment of more than 3 days) of its submission under this paragraph; whichever period is longer. Such recommendations may include a recommendation that the action not take effect. If the Board of Review does not make a recommendation in the applicable review period under this subparagraph or if at any time in such review

period the Board of Review decides that it will not make a recommendation on an action, the action may take effect.】

(C) *RECOMMENDATIONS.*—*The Federal Advisory Commission may make to the board of directors and Congress recommendations regarding an action within 30 calendar days of its submission under this paragraph. Such recommendations may include a recommendation that the action not take effect.*

【(D) EFFECT OF RECOMMENDATION.—

【(i) RESPONSE.—An action with respect to which the Board of Review has made a recommendation in accordance with subparagraph (C) may only take effect if the board of directors adopts such recommendation or if the board of directors has evaluated and responded, in writing, to the Board of Review with respect to such recommendation and transmits such action, evaluation, and response to Congress in accordance with clause (ii) and the 60-calendar day period described in clause (ii) expires.

【(ii) NONADOPTION OF RECOMMENDATION.—If the board of directors does not adopt a recommendation of the Board of Review regarding an action, the board of directors shall transmit to the Speaker of the House of Representatives and the President of the Senate a detailed description of the action, the recommendation of the Board of Review regarding the action, and the evaluation and response of the board of directors to such recommendation, and the action may not take effect until the expiration of 60 calendar days (excluding Saturdays, Sundays, and holidays, and any day on which neither House of Congress is in session because of an adjournment sine die, a recess of more than 3 days, or an adjournment of more than 3 days) beginning on the day on which the board of directors makes such transmission to the Speaker of the House of Representatives and the President of the Senate.

【(E) (D) LIMITATION ON EXPENDITURES.—Unless an annual budget for a fiscal year has taken effect in accordance with this paragraph, the Airports Authority may not obligate or expend any money in such fiscal year, except for (i) debt service on previously authorized obligations, and (ii) obligations and expenditures for previously authorized capital expenditures and routine operating expenses.

(E) *EXPIRATION OF AUTHORITY.*—

(i) *IN GENERAL.*—*Except as provided in clause (ii), the authority of the Airports Authority to take any of the actions described in subparagraph (B) shall expire on April 30, 1997.*

(ii) *SPECIAL RULE.*—*If on any day after April 29, 1997, all of the members to be appointed to the board of directors by the President under section 6007(e)(1)(D) are serving on the board, the authority of the board referred to in clause (i) shall be effective be-*

ginning on such day and shall expire on September 30, 1998.

(5) CONGRESSIONAL DISAPPROVAL PROCEDURE.—

(A) * * *

(B) RESOLUTION DEFINED.—For the purpose of this paragraph, the term “resolution” means only a joint resolution, relating to an action of the board of directors transmitted to Congress in accordance with [paragraph (4)(D)(ii)] *paragraph (4)*, the matter after the resolving clause of which is as follows: “That the Congress disapproves of the action of the board of directors of the Metropolitan Washington Airports Authority described as follows: .”, the blank space therein being appropriately filled. Such term does not include a resolution which specifies more than one action.

(C) REFERRAL.—A resolution with respect to a board of director’s action shall be referred to the Committee on [Public Works and Transportation] *Transportation and Infrastructure* of the House of Representatives, or the Committee on [Commerce, Science and Technology] *Commerce, Science, and Transportation* of the Senate, by the Speaker of the House of Representatives or the President of the Senate, as the case may be.

(D) HOUSE PROCEDURE.—*When the committee of the House has reported a resolution, it is at any time in order to move that the House resolve into the Committee of the Whole House on the State of the Union for consideration of the resolution. All points of order against the resolution and against consideration of the resolution are waived. The motion is highly privileged. The previous question shall be considered as ordered on that motion to its adoption without intervening motion. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order. Debate thereon shall be limited to not more than 1 hour, the time to be divided in the House equally between a proponent and an opponent. During consideration of the resolution in the Committee of the Whole, the first reading of the resolution shall be dispensed with. General debate shall proceed without intervening motion, shall be confined to the resolution, and shall not exceed 2 hours equally divided and controlled by a proponent and an opponent of the resolution. After general debate, the Committee shall rise and report the bill to the House. The previous question shall be considered as ordered on the resolution to final passage without intervening motion. A motion to reconsider the vote on passage of the resolution shall not be in order.*

[(D) MOTION TO DISCHARGE.—If the committee to which a resolution has been referred has not reported it at the end of 20 calendar days after its introduction, it is in order to move to discharge the committee from further consideration of that joint resolution or any other resolution with respect to the board of directors action which has been referred to the committee.

【(E) RULES WITH RESPECT TO MOTION.—A motion to discharge may be made only by an individual favoring the resolution, is highly privileged (except that it may not be made after the committee has reported a resolution with respect to the same action), and debate thereon shall be limited to not more than 1 hour, to be divided equally between those favoring and those opposing the resolution. An amendment to the motion is not in order, and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to. Motions to postpone shall be decided without debate.

【(F) EFFECT OF MOTION.—If the motion to discharge is agreed to or disagreed to, the motion may not be renewed, nor may another motion to discharge the committee be made with respect to any other resolution with respect to the same action.

【(G)】 (E) SENATE PROCEDURE.—

(i) MOTION TO PROCEED.—When the committee of the Senate has reported, or has been discharged from further consideration of, a resolution, it is at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the resolution. The motion is highly privileged and is not debatable. An amendment to the motion is not in order, and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

* * * * *

【(H)】 (F) EFFECT OF ADOPTION OF RESOLUTION BY OTHER HOUSE.—If, before the passage by 1 House of a joint resolution of that House, that House receives from the other House a joint resolution, then the following procedures shall apply:

(i) The joint resolution of the other House shall not be referred to a committee and may not be considered in the House receiving it, except in the case of final passage as provided in clause (ii)(I).

* * * * *

【(6) REQUEST FOR CONSIDERATION OF OTHER MATTERS.—The Board of Review may request the Airports Authority to consider and vote, or to report, on any matter related to the Metropolitan Washington Airports. Upon receipt of such a request the Airports Authority shall consider and vote, or report, on the matter as promptly as feasible.

【(7) PARTICIPATION IN MEETINGS OF AIRPORTS AUTHORITY.—Members of the Board of Review may participate as nonvoting members in meetings of the board of the Airports Authority.

【(8)】 (6) STAFF.—The 【Board of Review】 *Federal Advisory Commission* may hire two staff persons to be paid by the Airports Authority. The Airports Authority shall provide such clerical and support staff as the 【Board】 *Commission* may require.

[(9)] (7) LIABILITY.—A member of the [Board of Review] *Federal Advisory Commission* shall not be liable in connection with any claim, action, suit, or proceeding arising from service on the [Board] *Commission*.

[(10)] (8) CONFLICTS OF INTEREST.—In every contract or agreement to be made or entered into, or accepted by or on behalf of the Airports Authority, there shall be inserted an express condition that no member of a [Board of Review] *Federal Advisory Commission* shall be admitted to any share or part of such contract or agreement, or to any benefit to arise thereupon.

[(11)] (9) REMOVAL.—A member of the [Board of Review] *Federal Advisory Commission* shall be subject to removal only for cause [by a two-thirds vote of the board of directors] *by the Secretary of Transportation*.

* * * * *

[(h)] LIMITATION ON AUTHORITY.—If the Board of Review established under subsection (f) is unable to carry out its functions under this title by reason of a judicial order, the Airports Authority thereafter shall have no authority to perform any of the actions that are required by paragraph (f)(4) to be submitted to the Board of Review.

[(i)] (h) REVIEW OF CONTRACTING PROCEDURES.—The Comptroller General shall review contracts of the Airports Authority to determine whether such contracts were awarded by procedures which follow sound Government contracting principles and are in compliance with section 6005(c)(4) of this title. The Comptroller General shall submit periodic reports of the conclusions reached as a result of such review to the Committee on Public Works and Transportation of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.

(i) *FEDERAL ADVISORY COMMITTEE ACT*.—*The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Federal Advisory Commission.*

* * * * *

SEC. 6009. RELATIONSHIP TO AND EFFECT OF OTHER LAWS.

(a) * * *

(b) INAPPLICABILITY OF CERTAIN LAWS.—The Metropolitan Washington Airports and the Airports Authority shall not be subject to the requirements of any law solely by reason of the retention by the United States of fee simple title to such airports or by reason of the authority of the [Board of Review] *Federal Advisory Commission* under subsection 6007(f).

* * * * *

(e) OPERATION LIMITATIONS.—

(1) HIGH DENSITY RULE.—[The Administrator] *Except as provided by section 41714 of title 49, United States Code, the Administrator* may not increase the number of instrument flight rule takeoffs and landings authorized for air carriers by the High Density Rule (14 C.F.R. 93.121 et seq.) at Washington National Airport on the date of the enactment of this title and

may not decrease the number of such takeoffs and landings except for reasons of safety.

* * * * *

SEC. 6011. SEPARABILITY.

【Except as provided in section 6007(h), if】 *If* any provision of this title or the application thereof to any person or circumstance, is held invalid, the remainder of this title and the application of such provision to other persons or circumstances shall not be affected thereby.

* * * * *

SEC. 6013. USE OF DULLES ACCESS HIGHWAY.

(a) *RESTRICTIONS.*—*The Airports Authority shall continue in effect and enforce paragraphs (1) and (2) of section 4.2 of the Metropolitan Washington Airports Regulations, as in effect on February 1, 1995.*

(b) *ENFORCEMENT.*—*The district courts of the United States shall have jurisdiction to compel the Airports Authority and its officers and employees to comply with the requirements of this section. An action may be brought on behalf of the United States by the Attorney General, or by any aggrieved party.*

SECTION 41714 OF TITLE 49, UNITED STATES CODE

§ 41714. Availability of slots

(a) **MAKING SLOTS AVAILABLE FOR ESSENTIAL AIR SERVICE.**—

(1) **OPERATIONAL AUTHORITY.**—If basic essential air service under subchapter II of this chapter is to be provided from an eligible point to a high density airport 【(other than Washington National Airport)】, the Secretary of Transportation shall ensure that the air carrier providing or selected to provide such service has sufficient operational authority at the high density airport to provide such service. The operational authority shall allow flights at reasonable times taking into account the needs of passengers with connecting flights.

* * * * *

(b) **SLOTS FOR FOREIGN AIR TRANSPORTATION.**—

(1) **EXEMPTIONS.**—If the Secretary finds it to be in the public interest at a high density airport 【(other than Washington National Airport)】, the Secretary may grant by order exemptions from the requirements of subparts K and S of part 93 of title 14, Code of Federal Regulations (pertaining to slots at high density airports), to enable air carriers and foreign air carriers to provide foreign air transportation using Stage 3 aircraft.

* * * * *

(c) **SLOTS FOR NEW ENTRANTS.**—

(1) **IN GENERAL.**—If the Secretary finds it to be in the public interest and the circumstances to be exceptional, the Secretary may by order grant exemptions from the requirements under subparts K and S of part 93 of title 14, Code of Federal Regulations (pertaining to slots at high density airports), to enable

new entrant air carriers to provide air transportation at high density airports **[(other than Washington National Airport)]**.

* * * * *

(h) LIMITATION ON AUTHORITY TO GRANT EXEMPTIONS.—The Secretary shall not issue an exemption under this section to the requirements of subparts K and S of part 93 of title 14 of the Code of Federal Regulations (pertaining to slots at high density airports) if the grant of such exemption would adversely affect safety.

[(h)] (i) DEFINITIONS.—In this section and section 41734(h), the following definitions apply:

(1) **COMMUTER AIR CARRIER.—**The term “commuter air carrier” means a commuter operator as defined or applied in subpart K or S of part 93 of title 14, Code of Federal Regulations.

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