SEC. 1013. EXTENSION OF AUTHORITY TO PROVIDE ASSURED BUSINESS GUARANTEES TO CARRIERS PARTICIPATING IN CIVIL RESERVE AIR FLEET.

(a) EXTENSION.—Subsection (k) of section 9515 of title 10, United States Code, is amended by striking "December 31, 2015" and inserting ''December 31, 2020''.

(b) APPLICATION TO ALL SEGMENTS OF CRAF.—Such section is further amended—

(1) in subsection (a)(3), by striking "passenger"; and

(2) in subsection (j), by striking ", except that it only means such transportation for which the Secretary of Defense has entered into a contract for the purpose of passenger travel".

Section-by-Section Analysis

This proposal would amend section 9515 of title 10, United States Code, to extend the authority to provide increased minimum assured business guarantees to Civil Reserve Air Fleet carriers providing airlift services to the Department of Defense. The current authority will expire on December 31, 2015. The Department of Defense has implemented the use of the assured business authority beginning with international airlift service contracts entered into by the Department for FY11 contracts. Fortunately, business levels for services provided by Civil Reserve Air Fleet air carriers for FY11 and FY12 have not been reduced to levels where use of assured business might be required to maintain sufficient air carrier participation to meet program requirements. The Department has inserted assured business guarantees into these contracts, even though normal fixed requirements would exceed those guarantees, in order to gain experience in the process of forecasting and acceptance by air carriers of the process. For the near future, business levels to support transportation needs to Afghanistan and Iraq will be sufficient to obtain robust participation by the United States Commercial Aviation industry without elevated contractual guarantees. However, that level of business is projected to diminish significantly in the FY13 to FY15 time frame with the projected drawdown of military operations in those areas. At that time, it is believed that the assured business authorities will be needed in order to maintain adequate participation in the Civil Reserve Air Fleet program.

The proposal would also expand the possible uses of the assured business guarantees to not just the charter passenger carriers. In the event of a significant drawdown of airlift needs of the department, charter cargo air carriers may more likely be in need of business guarantees due to the large number of military cargo aircraft that can provide similar airlift. The Department of Defense has very limited passenger carrying capacity. Even in years when airlift requirements

are minimal, the passenger requirements must be met by the commercial United States charter air passenger carriers.

Budget Implications: If enacted, this proposal will not increase the budgetary requirements of the Department of Defense; however, the risk of having to purchase airlift services that are not used will still exist. If the program is administered correctly, that risk would reasonably be expected to be minimal based on the safeguards already contained in that law.

RESOURCE SAVINGS ($THOUSANDS)								
	FY 2013	**FY 2014**	**FY 2015**	**FY 2016**	**FY 2017**	**Appropriation To**	**Budget Activity**	**Dash-1 Line Item**
Army	+0	+0	+0	+0	+0	O&M, Army-		
Navy	+0	+0	+0	+0	+0	O&M, Navy		
Marine Corps	+0	+0	+0	+0	+0	O&M, Marine Corps		
Coast Guard	+0	+0	+0	+0	+0	O&M, Coast Guard		
Air Force	+0	+0	+0	+0	+0	O&M, Air Force – 3400		
TWCF	+0*	+0	+0	+0	+0	TWCF, 97X4930	02	FD40
Total	0	0	0	0	0			

NUMBER OF PERSONNEL AFFECTED							
	FY 2013	**FY 2014**	**FY 2015**	**FY 2016**	**FY 2017**	**Appropriation To**	**Personnel Type (Officer, Enlisted, or Civilian)**
Army	0	0	0	0	0	N/A	N/A
Navy	0	0	0	0	0	N/A	N/A
*Marine Corps	0	0	0	0	0	N/A	N/A
Air Force	0	0	0	0	0	N/A	N/A
Total	0	0	0	0	0		

***If administered correctly, there is no cost to this program. OMB concurred with that position when law initially enacted. Current operating history of no additional costs from the use of this authority confirms that premise. If there were additional costs, the loss would be absorbed in the Transportation Working Capital Fund with rates adjusted the following years if necessary.**

Cost Methodology: Because the peacetime needs of the Department of Defense are relatively constant based on known factors at the beginning of the contract periods, changes in circumstances so significant as to require payment of guarantees in lieu of actually flying missions could occur only rarely, thus this proposal should be budget scored as zero.

Changes to Existing Law: This proposal would make the following changes to section 9515 of title 10, United States Code:

§ 9515. Charter air transportation services: minimum annual purchase amount for carriers participating in Civil Reserve Air Fleet

(a) IN GENERAL.—The Secretary of Defense shall take steps to—

(1) improve the predictability in Department of Defense charter requirements;

(2) strengthen Civil Reserve Airlift Fleet participation to assure adequate capacity is available to meet steady-state, surge and mobilization requirements; and

(3) provide incentives for commercial air ~~**passenger**~~ carriers to provide newer, more efficient and reliable aircraft for Department of Defense service rather than older, fully depreciated aircraft.

(b) CONSIDERATION OF RECOMMENDATIONS.—In carrying out subsection (a), the Secretary of Defense shall consider the recommendations on courses of action for the Civil Reserve Air Fleet as outlined in the report required by section 356 of the National Defense Authorization Act for Fiscal Year 2008 (Public Law 110-181).

(c) CONTRACTS FOR CHARTER AIR TRANSPORTATION SERVICES.—The Secretary of Defense may award to an air carrier or an air carrier contractor team arrangement participating in the Civil Reserve Air Fleet on a fiscal year basis a one-year contract for charter air transportation services with a minimum purchase amount under such contract determined in accordance with this section.

(d) ELIGIBLE CHARTER AIR TRANSPORTATION CARRIERS.—In order to be eligible for payments under the minimum purchase amount provided by this section, an air carrier (or any air carrier

participating in an air carrier contractor team arrangement)—

(1) if under contract with the Department of Defense in the prior fiscal year, shall have an average on-time pick up rate, based on factors within such air carrier's control, of at least 90 percent;

(2) shall offer such amount of commitment to the Civil Reserve Air Fleet in excess of the minimum required for participation in the Civil Reserve Air Fleet as the Secretary of Defense shall specify for purposes of this section; and

(3) may not have refused a Department of Defense request to act as a host for other Civil Reserve Air Fleet carriers at intermediate staging bases during the prior fiscal year.

(e) AGGREGATE MINIMUM PURCHASE AMOUNT.—(1) The aggregate amount of the minimum purchase amount for all contracts awarded under subsection (c) for a fiscal year shall be based on forecast needs, but may not exceed the amount equal to 80 percent of the average annual expenditure of the Department of Defense for charter air transportation services during the five-fiscal year period ending in the fiscal year before the fiscal year for which such contracts are awarded.

(2) In calculating the average annual expenditure of the Department of Defense for charter air transportation services for purposes of paragraph (1), the Secretary of Defense shall omit from the calculation any fiscal year exhibiting unusually high demand for charter air transportation services if the Secretary determines that the omission of such fiscal year from the calculation will result in a more accurate forecast of anticipated charter air transportation services for purposes of that paragraph.

(f) ALLOCATION OF MINIMUM PURCHASE AMONG CHARTER AIR TRANSPORTATION CONTRACTS.—(1) The aggregate amount of the minimum purchase amount for all contracts awarded under subsection (c) for a fiscal year, as determined under subsection (e), shall be allocated among all air carriers and air carrier contractor team arrangements awarded contracts under subsection (c) for such fiscal year in proportion to the commitments of such carriers to the Civil Reserve Air Fleet for such fiscal year.

(2) In determining the minimum purchase amount payable under paragraph (1) under a contract under subsection (c) for charter air transportation services provided by an air carrier or

air carrier contractor team arrangement during the fiscal year covered by such contract, the Secretary of Defense may adjust the amount allocated to such carrier or arrangement under paragraph (2) to take into account periods during such fiscal year when charter air transportation services of such carrier or a carrier in such arrangement are unavailable for usage by the Department of Defense, including during periods of refused business or suspended operations or when such carrier is placed in nonuse status pursuant to section 2640 of this title for safety reasons.

(g) DISTRIBUTION OF AMOUNTS.—If any amount available under this section for the minimum purchase of charter air transportation services from a carrier or air carrier contractor team arrangement for a fiscal year under a contract under subsection (c) is not utilized to purchase charter air transportation services from the carrier or arrangement in such fiscal year, such amount shall be provided to the carrier or arrangement before the first day of the following fiscal year.

(h) COMMITMENT OF FUNDS.—(1) The Secretary of each military department shall transfer to the transportation working capital fund a percentage of the total amount anticipated to be required in such fiscal year for the payment of minimum purchase amounts under all contracts awarded under subsection (c) for such fiscal year equivalent to the percentage of the anticipated use of charter air transportation services by such military department during such fiscal year from all carriers under contracts awarded under subsection (c) for such fiscal year.

(2) Any amounts required to be transferred under paragraph (1) shall be transferred by the last day of the fiscal year concerned to meet the requirements of subsection (g) unless minimum purchase amounts have already been distributed by the Secretary of Defense under subsection (g) as of that date.

(i) AVAILABILITY OF AIRLIFT SERVICES.—(1) From the total amount of charter air transportation services available for a fiscal year under all contracts awarded under subsection (c) for such fiscal year, a military department shall be entitled to obtain a percentage of such services equal to the percentage of the contribution of the military department to the transportation working capital fund for such fiscal year under subsection (h).

(2) A military department may transfer any entitlement to charter air transportation services under paragraph (1) to any other military department or to any other agency, element, or component

of the Department of Defense.

(j) DEFINITION.—In this section, the term "charter air transportation" has the meaning given such term in section 40102(14) of title 49~~, except that it only means such transportation for which the Secretary of Defense has entered into a contract for the purpose of passenger travel~~.

(k) SUNSET.—The authorities in this section shall expire on December 31, ~~2015~~ **2020**.