

H.R. 2881 – FAA REAUTHORIZATION ACT OF 2007

I. FUNDING LEVELS

- The *FAA Reauthorization Act of 2007* provides historic funding levels for the Federal Aviation Administration's (FAA) capital programs. Between fiscal year (FY) 2008 and FY 2011, the Act would provide: \$15.8 billion for the Airport Improvement Program (AIP) – over \$4 billion more than the Administration's proposal; and nearly \$13 billion for FAA Facilities & Equipment (F&E) – over \$1 billion more than the Administration's proposal.
- Between FY 2008 and FY 2011, the bill also provides \$37.2 billion for FAA Operations.

II. AIR TRAFFIC CONTROL (ATC) MODERNIZATION AND THE NEXT GENERATION AIR TRANSPORTATION SYSTEM (NEXTGEN)

- The bill applies a four part approach to the FAA and the Joint Planning and Development Office (JPDO) regarding ATC Modernization and NextGen: 1) more funding; 2) more authority; 3) more accountability; and 4) more oversight.

Funding:

- The bill provides historic funding levels for the FAA's F&E account that will: accelerate the implementation of NextGen; enable FAA to make needed repairs and replacement of existing facilities and equipment; and provide for the implementation of high-priority safety-related systems, including systems to prevent runway incursions as well as mitigate weather and aircraft wake vortex hazards.

Authority:

- To increase the authority and visibility of the JPDO, which develops the plan for NextGen, the bill elevates the Director of the JPDO to the status of Associate Administrator for NextGen within the FAA, reporting directly to the FAA Administrator.
- The *FAA Reauthorization Act* also makes the Associate Administrator a voting member of the Joint Resources Council, the FAA's decision-making body for major acquisitions. Greater authority will enable the JPDO to prioritize NextGen-related capital investment at FAA.

Accountability:

- The bill requires the JPDO to develop a work plan that details, on a year-by-year basis, specific NextGen-related deliverables and milestones required by the FAA and its partner agencies.
- The bill also requires the Secretary of Transportation (Secretary) to report annually on the progress of the work plan -- including the success or failure of meeting each specific

milestone in the work plan -- and to explain why any milestones were not met, the ramifications and any required corrective actions.

- The bill contains provisions that hold the FAA's vendors accountable for providing safe, quality services:
 - **Automatic Dependent Surveillance – Broadcast (ADS-B):** The FAA intends to structure its ADS-B satellite-based surveillance program as a service contract, whereby the FAA plans to let vendors install, own and maintain the ground-based infrastructure. Given the large scale of the acquisition – ADS-B will be the primary ATC surveillance system for the entire national airspace system – the bill requires the FAA to insert provisions into the contract that will protect the Government's interest and help the FAA to ensure uninterrupted service.
 - **Flight Service Stations:** Users of the FAA's flight service station contract services have reported serious and systemic safety-related technical and operational performance problems. The *FAA Reauthorization Act of 2007* would require the FAA to establish a system to monitor the staffing of flight service stations and the training of specialists, as well as any other safety or customer service issues relating to the vendor's performance of the contract.

Oversight:

- The FAA's ATC Modernization program has historically experienced massive cost overruns and delays. In May 2005, the Department of Transportation Inspector General (DOT IG) reported that 11 major FAA acquisitions experienced cost growth totaling \$5.6 billion, and 9 had schedule slips ranging from 2 to 12 years. Looking toward NextGen, the DOT IG stated that the FAA needs to articulate a strategy for how it will mitigate past problems that led to massive cost growth.
- The *FAA Reauthorization Act of 2007* authorizes Government Accountability Office (GAO) and DOT IG audits and reports related to NextGen that will help Congress exercise its oversight responsibilities.
- In addition, GAO reported that the lack of stakeholder or expert involvement early and throughout the development and implementation of ATC Modernization projects has been a key factor leading to cost overruns and delays. The *FAA Reauthorization Act of 2007* requires the FAA to establish a process for including and collaborating with qualified employees selected by each impacted exclusive collective bargaining representative in the planning, development and deployment of ATC Modernization projects, including the NextGen.
- In May 2007, the DOT IG testified that preliminary drafts of the NextGen Enterprise Architecture – the technical blueprint for NextGen – “lack sufficient detail to support capital investment decisions.” The *FAA Reauthorization Act of 2007* mandates a National Research Council review of the NextGen Enterprise Architecture, including an assessment of technical, cost and schedule risks, and judgments on how these risks can be mitigated.

III. FINANCING

- Due to the projected growth of Airport and Airway Trust Fund (Trust Fund) revenues, the House Transportation and Infrastructure Committee does not believe radical financing reform is necessary. The Committee's recommendation to the House Ways and Means Committee is to increase the general aviation jet fuel tax rate for inflation from 21.8 cents per gallon to 30.7 cents per gallon, and to increase the aviation gasoline tax rate by 25 percent from 19.3 cents per gallon to 24.1 cents per gallon.
- The Committee believes that the forecasted growth of Trust Fund revenues, coupled with additional revenue from the recommended general aviation fuel tax rate increases, will be sufficient to provide for the robust capital funding required to modernize the ATC system, as well as to stabilize and strengthen the Trust Fund.

IV. AIRPORTS

- The *FAA Reauthorization Act of 2007* provides \$15.8 billion for the AIP — over \$4 billion more than the Administration's proposal.
- To combat inflation and to help airports meet increased capital needs, the *FAA Reauthorization Act of 2007* would increase the passenger facility charge (PFC) cap from \$4.50 to \$7.00. According to the FAA, if every airport currently collecting a \$4.00 or \$4.50 PFC raised its PFC to \$7.00, it would generate approximately \$1.1 billion in additional revenue for airport development each year.
- According to the FAA's Operational Evolution Plan (OEP), "New runways and runway extensions provide the most significant capacity increases. . . The 35 airports included in the OEP, account for 73 percent of all passenger enplanements. The majority of air traffic delays can be traced to inadequate throughput (as measured by arrival and departure rates) at these airports. The construction of new runways and runway extensions are the most effective method of increasing throughput."
- Also according to the FAA, since 2001 new runways at six airports financed in part by PFCs – Detroit, Cleveland, Denver, Minneapolis-St. Paul, Cincinnati and Atlanta – have resulted in increased operations at those airports ranging from 12 percent to 33 percent and significant reductions in delays.
- The FAA's 2007-2011 National Plan of Integrated Airport Systems (NPIAS) states that during the next five years, there will be \$41.2 billion of AIP-eligible infrastructure development, an annual average of \$8.2 billion. This includes approximately \$18 billion in runway-related needs including new runway, taxiway and apron construction. However, in March 2007, the FAA testified that, "the current NPIAS report may understate the true cost of needed capital investment, as sharp increases in construction costs occurring in the last half of 2006 were not fully reflected."

- The 2007–2011 Airports Council International – North America (ACI-NA) Capital Needs Survey estimates total airport capital needs – including the cost of non-AIP-eligible projects – to be about \$87.4 billion or \$17.5 billion per year from 2007 through 2011.
- In March 2007, the American Association of Airport Executives (AAAE) testified that according to the January 1, 2007, Means Construction Cost Indexes (CCI), the average construction costs for 30 major U.S. cities rose more than 24 percent in the past three years – at an average annual rate of more than 7.5 percent.
- The FAA’s *Capacity Needs in the National Airspace System, An Analysis of Airport and Metropolitan Area Demand and Operational Capacity in the Future* (a.k.a. the Future Airport Capacity Task 2 report or “FACT 2”) report found that 18 airports around the country are identified as needing additional capacity by 2015 and 27 by 2025. Of those 18 airports that will need additional capacity by 2015, 12 currently collect the maximum \$4.50 PFC. Of those 27 airports that will need additional capacity by 2025, 20 collect the maximum \$4.50 PFC.
- The *FAA Reauthorization Act of 2007* will provide for the financing of capacity enhancing airport capital development that will reduce delays.
- The bill also provides significant increases in AIP funding for smaller airports that are particularly reliant on AIP for capital financing.

V. SAFETY

- **Safety Critical Staffing:** Directs the FAA to increase the number of aviation safety inspectors.
- **Foreign Repair Stations:** Requires FAA to inspect part 145 certificated foreign repair stations at least twice a year.
- **Runway Incursions:** Provides for \$48 million over four years for runway incursion reduction programs; \$74 million over four years for runway status light acquisition and installation; as well as requires FAA to report to Congress on a plan for the installation and deployment of systems to alert controllers or flight crews to potential runway incursions.
- **Fuel Tank Safety:** Mandates that the FAA issue a final rule regarding the reduction of fuel tank flammability in transport category aircraft no later than December 31, 2007.
- **Improved Pilot Licenses:** Requires FAA to issue improved, tamper-resistant pilot licenses.
- **Unmanned Aircraft Systems:** Requires the Secretary to create a plan for the safe integration of commercial unmanned aircraft systems into the national airspace system.
- **Flight Crew Fatigue:** Requires the FAA to contract with the National Academy of Sciences to conduct a study on pilot fatigue, and then to consider the findings of the

Academy and update, where appropriate, its regulations with regard to flight time limitations and rest requirements for pilots. The bill also mandates that FAA initiate a process to carry out the recommendations of the Civil Aerospace Medical Institute regarding flight attendant fatigue.

- **Occupational Safety and Health:** Directs the FAA to initiate action to ensure crewmember safety by applying occupational health standards on board aircraft.

VI. ENVIRONMENT

- **CLEEN Engine and Airframe Technology Partnership:** Directs the FAA to enter into a 10-year cooperative agreement with an institution, entity, or eligible consortium to carry out a program for the development, maturing and certification of continuous lower energy, emissions and noise (CLEEN) engine and airframe technology, so as to decrease greenhouse gas emissions by increasing fuel efficiency by twenty-five percent; decrease nitrogen oxide emissions by fifty percent without producing other gaseous or particle emissions; reduce noise levels by ten decibels; explore the viability of alternative fuels in aircraft systems; and determine the feasibility of retrofit or re-engine aircraft technologies.
- **Environmental Mitigation Pilot Program:** Authorizes the FAA to fund six projects at public-use airports to take promising environmental research concepts into the actual airport environment to show whether the technology would measurably reduce or mitigate aviation impacts on noise, air quality or water quality in the airport environment. The Federal share of the project is fifty percent, not to exceed \$2.5 million per project.
- **Prohibition on Stage II Aircraft:** Requires, within 5 years, all civil subsonic aircraft under 75,000 pounds to meet stage 3 noise levels within the 48 contiguous states, with limited exceptions for certain temporary operations.
- **Aircraft Departure Queue Management Pilot Program:** Authorizes FAA to establish a pilot program at five public-use airports to design, develop, and test new air traffic flow management technologies to better manage the flow of aircraft on the ground and reduce ground holds and idling times for aircraft to decrease emissions and increase fuel savings.
- **“Green” Air Traffic Control Facilities Program:** Calls for the FAA, to the maximum extent possible, to implement environmentally-beneficial practices for new construction and major renovation of air traffic control facilities.

VII. SMALL COMMUNITIES

- **Essential Air Service Reform:** The bill rejects the Administration’s proposal to cut funding for the Essential Air Service (EAS) program by more than half, to \$50 million, and instead increases total authorized funding for EAS each year from \$127 million to \$133 million (including \$50 million derived from overflight fees). To improve the quality of air service received by EAS communities, the bill authorizes the Secretary to incorporate into EAS contracts financial incentives based on specified performance goals. To encourage increased air carrier participation in the EAS program, the bill authorizes

the Secretary to enter into long-term EAS contracts that would provide more stability for participating air carriers.

- **Lower AIP Match for Certain EAS Communities:** The local share of Airport Improvement Program (AIP) project costs is reduced from ten percent to five percent for certain economically depressed communities that are received subsidized air service under the EAS program and have one of the following economic conditions: (1) a per capita income of 80 percent or less of the national average; (2) an unemployment rate that is at least one percent greater than the national average; or (3) a special need arising from actual or threatened severe unemployment or economic adjustment problems.
- **Small Community Air Service:** In contrast to the Administration's proposal to sunset the Small Community Air Service Development (SCASD) program as of September 30, 2008, the bill extends the SCASD program through FY 2011, at the current authorized funding level of \$35 million per year.
- The *FAA Reauthorization Act of 2007* makes any amount of overflight fees collected in excess of \$50 million available for two purposes: half of such amount is made available to carry out the Small Community Air Service Development program, and the remaining half is made available for EAS and rural air safety. This legislation also directs the FAA to update, by October 1, 2008, the overflight fee rates as necessary to recover the FAA's current costs of providing services to such flights. The current rates are based on FY 1999 cost data. It is estimated that the updated overflight fee rates could increase overflight fee collections by 40-45 percent, which would result in an increase of approximately \$20 million per year, beginning in FY 2009.

VIII. OTHER

- **Pilot Retirement Age:** Raises the pilot retirement age from 60 to 65.
- **Consumer Protection:** Requires airlines and airports to have emergency contingency plans in place to take care of passengers that are involved in long flight and tarmac delays. These plans must account for the provision of food, water, clean restrooms and medical care for passengers. The plans would need to be updated by the airlines every three years and every five years by airports.