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WASHINGTON, D.C. 20503

April 29, 2008
(Senate)

STATEMENT OF ADMINISTRATION POLICY

H.R. 2881 – FAA Reauthorization Act of 2007
(Rep. Oberstar (D) Minnesota and 38 cosponsors)

The Administration supports a reauthorization of the Federal Aviation Administration (FAA) that enhances safety, increases capacity, reduces passenger delays, and provides timely modernization of the Nation's antiquated air traffic control system to accommodate forecast air traffic growth. Delays reached record highs last summer, forcing the flying public to sit in terminals and wait on tarmacs around the country. Consumer satisfaction with the airline industry has been driven to record lows. These problems affect Americans' lives in real ways -- disrupting business travel and travel to weddings, funerals, or long-planned vacations. Such delays are unacceptable to the American people.

Today's aviation system is on an unsustainable path. Unless there is fundamental reform to Federal aviation policies, delays will get worse, passengers will experience increased inconvenience and an escalating number of travel disruptions. Unfortunately, instead of addressing this growing crisis, congressional proposals appear likely to make air travel in the United States more expensive, more unreliable, and more uncomfortable for those who fly.

In 2007, the Administration proposed real reforms designed to reduce delays and bring real benefits to all users of the Nation's air traffic system. These reforms were designed to ensure revenue came from the right sources and were used for the right purposes. The Administration's proposal provided necessary funding for modernization, important safety enhancements, innovative environmental stewardship programs, and solutions for overcrowded air routes and airports.

Last September, the Administration stated its opposition to numerous provisions of H.R. 2881. The Administration notes that the Senate substitute makes many improvements over H.R. 2881. It has avoided or improved some counterproductive labor-related provisions in the House bill, such as those relating to negotiation procedures, airline mergers, aircraft repair stations, and air carrier citizenship. It has also charted a wise course on environmental reforms. The Administration applauds the bipartisan work that led to these improvements over the House bill and encourages Senate Commerce and Finance Committee leaders to make further changes consistent with the policies espoused in the Administration's reauthorization proposal and to prevent additional harmful language from being added to the bill by amendment.

As it now stands, however, the Senate substitute does not include the critical reforms proposed by the Administration that would bring real relief for the traveling public by: (1) more closely aligning FAA's revenues with its costs through fair fees linked to usage of the system, thus providing price incentives for systems users to use limited airspace resources more effectively;

(2) moving Air Traffic Organization (ATO) governance in a direction that meaningfully includes a broader set of aviation stakeholders in the oversight and management of the ATO, which will result in smarter air-traffic-control investments and make both the ATO and stakeholders more accountable for the services they provide; and (3) allowing FAA to restructure its air-traffic-control facilities and have the flexibility to meet today's infrastructure needs.

Additionally, the Administration understands that the Senate substitute may include provisions that are unrelated to FAA modernization and the passenger delay problems. There are also reports that the legislation may contain -- or may be amended to include -- provisions that would prevent the Administration from allocating resources to expedite air traffic control modernization, or preempt the Department from exercising its authority to manage the national air space, or otherwise reduce FAA's ability to manage its workforce and to ensure the safety of the flying public. If the President is presented with a bill that not only excludes the critical reforms proposed by the Administration, but also includes provisions that would further exacerbate an untenable status quo, his senior advisors would recommend that he veto it.

LABOR-RELATED PROVISIONS

The Administration has the following serious concerns with labor-related provisions it understands may be included in the Senate substitute and labor-related provisions in H.R. 2881 as passed by the House to which the Administration would strongly object if they were included in the Senate bill.

Changes to Labor Negotiation Procedures and Airline Mergers

The Administration strongly opposes the substitute's proposal to change the way that the FAA and its unions resolve contract impasses. The House bill includes additional, highly objectionable language that would open the existing air traffic controller contract. These and similar proposals limit FAA's ability to manage its workforce, would outsource Federal budget and appropriation authority to private parties, and would result in a significant increase in costs to the taxpayers, causing a diversion of critical funds from necessary NextGen upgrades.

The Administration also strongly opposes adding a provision to the substitute that would change the Railway Labor Act to add Allegheny-Mohawk labor provisions to airline combinations.

Repair Stations

The Administration opposes the House bill's provision on repair stations, which would require FAA inspectors to perform two inspections per year on each FAA-certificated repair station outside the United States. This requirement is unsupported by any safety data or other analysis indicating that current safety oversight efforts are inadequate. Currently, FAA has agreements with three countries (France, Germany, and Ireland) to perform repair-station inspections on its behalf. Of the approximately 700 currently certificated foreign repair stations, 152 are covered by these agreements. The Administration is negotiating to obtain similar agreements with the European Aviation Safety Agency (EASA), Australia, China, and New Zealand, and anticipates several other agreements. This language would impair the Administration's taking advantage of these common-sense, reciprocal agreements. There are over 1,200 repair stations in the United

States that FAA oversees on behalf of foreign regulatory authorities, establishing a complementary efficiency in the current arrangement.

If the FAA is required to inspect all U.S.-certificated repair stations abroad, the United States can expect reciprocal action from foreign authorities. This requirement would strain operating efficiency and increase costs. The bill's provision would also significantly complicate existing international obligations with France, Germany, and Ireland, as well as impede ongoing negotiations with EASA.

Air Carrier Citizenship

The Administration strongly opposes the House bill's provision defining "actual control" for purposes of determining citizenship. The provision confuses, rather than clarifies, existing law. The proposal could be misinterpreted to require the Department of Transportation (DOT) to review the compliance with citizenship requirements of incumbent U.S. airlines. This runs counter to longstanding airline alliances and undermines the U.S. Government's position in future negotiations under the new United States/European Union "open skies plus" agreement. It would be severely detrimental to the interests of both U.S. international fliers and U.S. carriers.

Realignment of Air Traffic Facilities

The Administration strongly opposes the provision in the substitute bill imposing a lengthy process that would prevent FAA from making timely, cost effective facility decisions. FAA's current aging infrastructure is increasingly incapable of efficiently serving a growing economy. To efficiently and safely meet future air traffic demand, FAA needs to modernize, realign, and consolidate many services and facilities. The Administration's proposal establishes an objective process that would identify facilities that should be closed based on safety, efficiency, and economic considerations. A critical feature is that there is process certainty that permits final agency decisions. Short of adopting this common-sense proposal, the Senate substitutes a cumbersome process that will cause higher FAA costs, more delays and congestion, and a slower transition to better technologies under NextGen.

NON-AVIATION RELATED PROVISIONS

The Administration understands that the substitute will include non-aviation related provisions, and strongly objects to several, including the following.

Highway Trust Fund

The Administration strongly opposes the provision aimed at increasing cash balances in the Highway Account of the Highway Trust Fund by appropriating money from the General Fund. Highway construction and maintenance should continue to be funded by those who use the highway system. The bill attempts to justify a departure from this principle by retroactively deeming costs from past emergencies as requirements to be borne by the General Fund. But the result is both a costly gimmick and a dangerous precedent that shifts costs from users to taxpayers at large.

Rail Bonds

The Administration strongly opposes the provision authorizing the issuance of tax credit bonds for rail infrastructure. While the Administration does not believe the cost of projects that benefit private interests should be partly financed by taxpayers, the subsidies contained in the Senate package would be particularly harmful because tax credit bonds constitute hidden subsidies that are inefficient and more expensive for the Federal Government than direct subsidies.

Oil Spill Liability Trust Fund

The Administration opposes the provision to double the per-barrel oil spill tax rate and repeal the requirement that the tax be suspended when the unobligated balance of the Oil Supply Liability Trust Fund exceeds $2.7 billion. If the monies in the fund are sufficient to pay claims and meet other spending requirements, there is no reason to continue collecting the tax.

OTHER AVIATION-RELATED PROVISIONS

The Administration has the following serious concerns with other aviation-related provisions it understands may be included in the Senate substitute and provisions that were included in previous versions of FAA reform legislation in the Senate.

Perpetuation of Inefficient Funding Mechanisms

The proposed substitute does not include much-needed aviation financing reforms to more efficiently and effectively spend taxpayer money on air traffic control services. The Administration appreciates that the bill takes some steps in moving the contribution from business jets towards a level that is more reflective of those aviation users' fair share of the costs. However, given that the bill does not include any of the other necessary cost-based financing reforms for air traffic services or cost-based registration and certification services, the fuel tax increases alone reflect an unsound financing policy. These tax increases are designed to facilitate increased spending above proposed levels and are would be part of a system that, at bottom, does not reflect true system costs.

Moreover, the bill's financing and spending provisions could shift aviation costs away from the system's users and onto the shoulders of taxpayers. This is movement in the wrong direction. The Administration's proposal would restrict taxpayers' contributions to functions that benefit the public at large.

Ensuring efficient investment of FAA revenues is important because the United States is just beginning a major transition to satellite-based Next Generation Air Transportation System (NextGen) technology, which has the potential to dramatically increase safe aviation "throughput" rates. This effort will bring the biggest technical transformation of the Nation's air traffic control system since its founding more than a half century ago. However, this bill's financing approach would not enable FAA to switch to NextGen in the most timely and cost-effective manner.

Under the current inequitable tax-based system, there are limited incentives to use resources efficiently. System users currently pay taxes and fees that do not correspond to the costs they impose on the air traffic control system. With a cost-based structure, users would feel the real impact of their actions. Because revenue would naturally adjust with the demand for air traffic control services, a cost-based financing system would create much more certain funding for the needed NextGen upgrades and a much clearer allocation of resources into the services most in demand.

Aviation Congestion Relief

The Administration strongly opposes any attempt to limit the Department of Transportation's legal authority to manage aviation congestion at the Nation's most crowded airports. Restricting the Department's authority would hurt passengers by locking-in the large and growing congestion and delay problems. It would also limit the Department's ability to protect competition, which in turn helps promote quality passenger service and lower fares.

Further, the Administration would oppose any attempt to delay or otherwise suspend implementation of New York-New Jersey-Philadelphia airspace redesign, which is intended to improve the efficiency of our Nation's busiest airspace. The FAA estimates that a 20 percent reduction in airport delays will be achieved over a five year period once aircraft are more efficiently directed to and from the major airports in the New York and Philadelphia metropolitan areas. This redesign will be the result of an inclusive and deliberate process that will benefit passengers across the country.

Imprudent Borrowing

The Administration strongly opposes the FAA borrowing authority that may be added to the Senate substitute. Unlike the Administration's proposal, it does not propose financing through Treasury and would therefore result in taxpayers assuming a higher borrowing cost. Moreover, in the absence of a system which assures that the costs of the airport and airways system are borne by its users, borrowing would be separated from the incentives and consequences which encourage sound investment decisions.

Misdirection of Funding to Airport Grants without Reform

The Administration believes that the proposed funding in the substitute for the Airport Improvement Program (AIP) is excessive and unjustified. The bill provides AIP contract authority of more than $1 billion annually over the Administration's proposal and does so without demonstrating that this additional expenditure will generate sufficient benefits. The Administration supports an increase in the maximum Passenger Facility Charge (PFC) as part of an overall package of AIP reforms, including the phasing out of AIP passenger entitlements for large and medium hub airports. The proposal was based on the Administration's evaluation of airport capital needs, as well as increases in both the consumer price index and construction costs index since the last PFC increase. The Administration urges the Senate to adopt the Administration's proposal to link AIP reform with PFC increases and program streamlining.

Government-Provided War Risk Insurance

The Administration strongly urges the Senate to adopt the Administration's proposed reforms, rather than convert a post 9/11 emergency program into another permanent Federal benefit. The current program distorts the costs to the airline industry, crowds out private sector mechanisms for diversifying risk, and exposes the Federal Government to greater financial risk. Given the insurance industry's growth and relative stability, the Administration's proposed reforms are an appropriate first step in moving airlines to return to reliance on the private insurance market and ending an unnecessary government subsidy.

Aviation Safety

The Department of Transportation's Inspector General has raised concerns about elements of FAA's safety inspection program. The Secretary of Transportation has proactively announced steps to address the Inspector General's concerns and improve the aviation safety inspection program. Safety will continue to be FAA's highest priority. The Administration would oppose new mandates that would have little effect on safety but would encumber FAA with additional workload and divert needed resources from ongoing safety projects -- and an overall safety agenda that to date has resulted in the safest period in aviation history.

Small Community/Essential Air Service

The Administration urges the Senate to undertake real reform of the Essential Air Service (EAS) program, and strip unjustified funding increases. This program is a relic of the regulatory era, subsidizes uneconomic air service, and has not kept pace with consumer choices. The Administration's proposal appropriately redefined EAS eligibility to fund only those communities with limited air transportation options, thereby addressing the original intent of the program. The Administration is also disappointed to see another extension of the Small Community Air Service Development Program. This program was originally implemented as a temporary pilot effort and was not intended to be a permanent subsidy.

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