THE SECRETARY OF TRANSPORTATION
WASHINGTON, D.C. 20590

FEB 14 2007

The Honorable Richard B. Cheney
President of the Senate
Washington, D.C. 20510

Dear Mr. President:

Enclosed for the consideration of Congress and referral to the appropriate committees is a bill, entitled the "The Next Generation Air Transportation System Financing Reform Act of 2007"

> To amend title 49, United States Code, to authorize appropriations for the Federal Aviation Administration for fiscal years 2008 through 2010, to improve aviation safety and capacity, to authorize stable, cost-based funding for the national aviation system, and for other purposes.

This bill matches significant transformation of how we fund the operating and capital costs of our aviation system with several critical reforms to the Federal Aviation Administration's program authority. Over the last decade, since Congress enacted personnel and acquisition reform, the FAA has become more efficient and businesslike, while partnering with industry to improve aviation safety and delivery of critical services.

This legislation is the next logical step in this evolution and will lay the groundwork to enable us to meet the greatest challenge we currently face—transforming the aviation system so it can accommodate future demand safely and efficiently while continuing to serve as one of the nation's key engines of economic growth. The current aviation system simply cannot handle future traffic increases without major delays, making system transformation necessary. The simultaneous expirations of the funding authorization for the FAA's current programs and the existing taxes that fund the Airport and Airway Trust Fund (Trust Fund) at the end of FY 2007 present us with a unique opportunity to create a better system that facilitates the Next Generation Air Transportation System (NextGen).

Our proposals will enable the United States to create a financial and structural basis that allows us to continue to operate, maintain, and improve the world's safest aviation system as efficiently as possible by:

- Providing tax relief to passengers through elimination of the ticket tax and most other components of the existing aviation excise tax system;

- Improving the stability of aviation funding without imposing a "one size fits all" solution. Instead, cost recovery will be via a hybrid system of fees, taxes and General Fund that recognizes the unique features of FAA services and aviation user groups;

- Accelerating the transformation of the aviation system through flexible capital financing and by enhancing the Joint Planning and Development Office's (JPDO's) ability to manage development of NextGen as it moves from research to implementation;

- Providing strong incentives for the FAA to continue to control costs and meet the demand for service efficiently through a new Board that will give our stakeholders a significant role in key agency financial decisions, while maintaining strong congressional and public oversight;

- Reforming the Passenger Facility Charge (PFC) program and reducing outdated regulations to enable large and medium hub airports to meet their capital improvement needs, while restructuring the Airport Improvement Program (AIP) to enable the FAA to meet national airport system priorities by better targeting Federal funds for airports planning and development;

- Allowing the use of market-based measures to allocate scarce airspace resources at congested airports;

- Supporting a quieter, cleaner, more energy efficient future for aviation through better environmental stewardship, while streamlining administrative processes; and

- Empowering the private sector and state and local authorities to use their expertise and innovation through new opportunities for the federal government to partner with non-federal entities, without compromising the FAA's role in ensuring the safety of the system.

The financing proposal is the product of significant consultation with our aviation stakeholders, along with detailed analysis of the current financing system and various alternatives. We have attempted to balance the diverse views our stakeholders have expressed with the need for a stable, equitable, cost-based funding structure that will enable us to transform the aviation system. Our recommended solution builds on the work of numerous bi-partisan commissions from the last two decades, including the National Civil Aviation Review Commission that Congress created and former Secretary Mineta chaired approximately ten years ago.

We realize, however, that our stakeholders are not unanimous on how best to achieve this goal, and we expect that there will be some lively discussions on this issue. I must emphasize that time is of the essence, as the uncommitted balance in the Trust Fund is at historically low levels. We cannot afford to allow the current taxes to expire in September without a new, better system in their place.

Why Change Is Needed

The aviation industry has seen major changes over the last five years. Passenger demand has returned to pre-9/11 levels and we project that the system will be serving over 1 billion passengers annually by 2015. However, demand has returned in different ways than before. Domestic fares have fallen rapidly as a result of the growth of low-fare/low-cost airlines, fundamental changes in ticket distribution, and increasing business-traveler price sensitivity. While these low fares are good news for the passenger and have helped traffic levels rebound to pre-9/11 levels, they have spelled trouble for the Trust Fund because of its heavy reliance on the 7.5 percent passenger ticket tax as its primary source of revenue. Although fares have recently rebounded modestly, the fundamental issue is not whether ticket prices are rising or falling, but that they have no relation to what it costs the FAA to operate and invest in the aviation system.

Other recent industry changes also highlight the need for change. The airlines are working to control costs per enplanement by using increasing numbers of smaller aircraft. This trend adds to the workload of our air traffic system without increasing tax revenue commensurately. If an airline carries the same number of passengers (at the same fares) on two regional jets instead of one larger jet, ticket tax and segment tax revenue do not change, but controller workload doubles. Our latest forecasts indicate that the growth in the number of smaller aircraft is expected to continue.

The lack of connection between Trust Fund revenues and FAA costs also creates disparate financial impacts on users of the system. We estimate that commercial users and their passengers currently pay over 95 percent of the Trust Fund taxes, but account for about 73 percent of air traffic costs, based on the FAA's recently-completed air traffic cost allocation. In many cases, "high-end" turbine (jet and turboprop) general aviation (GA) flights are consuming similar FAA and airspace resources as the commercial operators but paying only a fraction of what commercial operators pay. Under the current tax structure, it is clear that taxes paid by different user categories do not generally reflect the costs those users impose on the system.

The recent cost-revenue shortfalls have been addressed through Congress' action to increase the General Fund contribution and draw down the uncommitted balance of the Trust Fund. However, the Trust Fund's uncommitted balance is approximately $1.8 billion–equal to less than two months of the FAA's budget. This means the Trust Fund has less of a safety net than in any year since 1975. Therefore, the current balance simply is not large enough to absorb another shock to the system or a lapse in revenue collections as occurred in 1996-97. At the same time, we recognize the deficit reduction pressures on the General Fund.

Because of the fundamental disconnect between the existing tax structure and the FAA's workload, we strongly believe that the FAA needs to move to a different, more rational funding mechanism. This belief is not fundamentally about generating more money for the FAA. It is about creating a more rational, equitable and stable system that provides appropriate incentives to users and to the FAA and facilitates transformation of the aviation system on an assured and predictable basis.

While the funding mechanism is one critical building block for the NextGen system, achieving NextGen is an initiative of unprecedented scope and complexity and will require other statutory changes as well. The Joint Planning and Development Office (JPDO) that Congress created in the Vision 100 reauthorization represents a new way of doing business, with cooperation among federal agencies and integration of industry stakeholders. The JPDO has been making excellent progress in this effort, but there are challenges on the horizon as the NextGen transition moves into a more advanced phase.

For instance, NextGen will require significant up-front research and large scale demonstrations in order to validate and demonstrate the more advanced concepts of operations. Given the challenging climate for both private and government aeronautics research in recent years and the need for timely progress on NextGen goals, policy makers need to clearly understand agency contributions and responsibilities to the NextGen development effort. A major goal of this reauthorization is to provide this transparency and to institutionalize current reporting relationships and implementation mechanisms to provide long-term stability for the NextGen initiative.

Similarly, there is a compelling need to rationalize the way we finance airport capital programs. Our proposals for Airport Improvement Program (AIP) and Passenger Facility Charge (PFC) reform are being driven by four considerations. First, airport capital needs are up. The latest National Plan of Integrated Airport Systems (NPIAS) report, issued in September shows AIP eligible capital needs have increased by four percent over the previous report. We believe that this figure is understated.

Second, airports have largely recovered from the financial stress caused by 9/11. Passengers and operations are up and so is airport revenue. Even with these improvements, however, small airports continue to rely heavily on AIP funds to meet their capital needs.

Third, the financial markets are stressing the importance for airports to become less reliant on air carriers as the financial support for their debt and to develop independent sources of revenues. The finance community views PFCs favorably as a debt support because PFCs are tied to the strength of an airport's market, not the financial condition of a particular carrier.

Finally, the FAA needs more flexibility to direct AIP funds to meet current strategic initiatives, such as improving runway safety areas and increasing capacity at critical airports, and to address emerging trends in aviation, such as satellite based navigation systems and the advent of very light jets. The focus of many of these new trends will be at larger, busier general aviation airports, and the FAA must have the ability to target the AIP funds dedicated to general aviation at these airports. Many of the Airport Improvement Program's current apportionment formulas and rules are out of date and interfere with distribution of AIP funds to airports with the greatest need and to projects with the highest benefit to the national system.

<u>Proposed Funding for the Air Traffic Organization (ATO)</u>

DOT is proposing three funding sources for air traffic control services. Turbine commercial flights would primarily pay user fees; general aviation and all piston-powered flights would primarily pay fuel taxes; and the General Fund would finance the costs of services provided to public users and other programs in the general public interest.

User fees would apply to turbine commercial flights, including those by U.S. and foreign airlines, passenger and freight carriers, domestic and international flights, charter operators, and regional airlines. These fees would cover all flights that pay commercial taxes under the current tax code, including air taxis and flights operated under fractional ownership. Collecting user fees for air traffic services is an internationally accepted practice in widespread use around the world, and would be consistent with the recommendations of at least seven bi-partisan commissions that have studied this issue over the last two decades. These fees would be based on data derived from the agency's cost accounting and cost allocation systems—including the operation, maintenance, and overhead expenses for the services provided, the facilities and equipment used in such services, and the projected costs for the period during which the services are provided. Existing U.S. overflight fees would be integrated into these new user fees. (As discussed below, the proposal would fund the Essential Air Service (EAS) program, which is currently financed by overflight fees, from the Airport and Airway Trust Fund.) The proposal provides broad parameters in how the fees would be structured, and FAA will consult with users and the public prior to establishing the exact fee formulas. These fees would clearly tie FAA revenues much more closely to the actual cost of the services received. We anticipate that approximately three-fourths of the Air Traffic Organization's budget would come from these user fees.

The fees would be dedicated to air traffic control and related services and, subject to appropriation, would be treated as offsetting collections for budget purposes. The proposal also authorizes the fees to include a reserve, which would minimize the need for increases in fee rates that might otherwise be required to avoid funding shortfalls attributable to unanticipated reductions in aviation activity, or to emergency requirements.

The general aviation (GA) community and piston commercial operations would continue to pay the vast majority of their allocated share of air traffic control costs via a fuel tax. DOT has considered stakeholder feedback from this community and recognizes that these users strongly prefer to pay into the system via the fuel tax, as they do today. Our goal is to identify costs associated with these users and then to set the fuel tax rates to recover a defined portion of those costs. We believe a fuel tax—set at the appropriate rate—will be an efficient and simple collection mechanism for this community, which we are confident will remain the largest and most vibrant GA community in the world. The bill proposes periodic adjustments to these tax rates based on the FAA's cost allocation study to allow fuel tax collections to keep better pace with FAA costs. We anticipate that just over 10 percent of the ATO's budget would come from these taxes, which would continue to be deposited in the Airport and Airway Trust Fund and be subject to appropriation.

In addition to the fuel tax, GA and piston commercial flights may be subject to a terminal user fee when they arrive or depart at one of a limited number of large hub airports. In general, these airports are the most congested terminal facilities in the aviation system. Virtually all users at congested facilities drive cost for the ATO and/or contribute to congestion for other users. Given that large hub airports are in metropolitan areas that have alternative airports (which would not be subject to this fee), it is appropriate to apply fees to all users of the most congested airports.

The costs associated with air traffic control service for military and other public users, as well as other functions and services deemed to be in the general public interest would be funded from the General Fund appropriation, as discussed below.

Proposed Funding for Aviation Safety

The funding proposal includes modest user fees to pay for the costs of 25 activities in the areas of certification and registration. These include issuance of certain certificates, appointment and training of designees, registration of aircraft and airmen, airmen medical certificates, and training provided to other aviation authorities. All of these activities are specific services that FAA provides for individuals or businesses. Other federal, state and local government agencies charge for similar services, as do many international aviation authorities. In fact, FAA currently charges fees for many of these services; however, the current fees are set significantly below the cost of providing the service. For instance, the $5 cost to register an airplane is significantly less than the cost to register an automobile. The legislation specifies the amount to be charged for 12 specific services. Thirteen other activities are identified for which fees will be collected, but do not have the unit charge specified as FAA's cost accounting system is still being implemented with respect to regulation and certification activities. As with the ATO fees, the charges for these activities will be determined based on the available data derived from the agency's cost accounting and cost allocation systems and revenue from the fees would be treated as offsetting collections. Based on the historical cost of these activities, DOT anticipates that approximately 10 percent of FAA's Aviation Safety budget will come from user fees.

Regardless of the type of product or amount of fee determined for that product, FAA will always make fee decisions considering safety first. We are also mindful of the significant international leadership role of both the FAA and the U.S. industry, and the fact that benefits from many aviation safety functions (such as ongoing surveillance) are widely dispersed to the traveling and non-traveling public. No fee structure will compromise the FAA's statutory safety responsibilities or the U.S. aviation community's ability to remain the world's principal system innovator. As a result, we are proposing that the vast majority of FAA's aviation safety responsibilities remain funded from the General Fund.

General Fund Proposal

DOT derived its General Fund proposal by evaluating specific activities to determine whether they are in the general public interest and have a compelling case for a General Fund appropriation. The dollar figures in the reauthorization proposal are based on the following activities and services:

- Air traffic costs allocated to public users (military, other government aircraft, and air ambulances), because DOT views providing air traffic control services to these flights as serving the public good;

- Flight service stations, because charging user fees for these services would encourage general aviation pilots to fly "outside the system", which would have a negative safety impact;

- Low activity towers, because they help provide safe access to the aviation system to numerous small communities and are a critical part of the national aviation infrastructure; the primary users of these terminals (piston aircraft) likely cannot bear the cost of funding them, even though many of these towers are contract towers, which are the FAA's most cost-efficient facilities;

- Safety regulation and oversight that is not recovered by user fees, because these regulatory functions benefit the general public by contributing to a safe and reliable air transportation system;

- Commercial Space Transportation, because, given the early and volatile state of the industry, it would be virtually impossible to develop a schedule of fees that would generate significant revenue without unduly burdening the industry and placing U.S. companies at a competitive disadvantage compared to heavily subsidized firms from other countries; and

- The safety portion of Research, Engineering and Development (RE&D) related to aging aircraft and aircraft catastrophic failure prevention (approximately $17 million of the RE&D budget[1]), because this research supports FAA's "public good" regulatory functions.

Transition and Elimination of Other Aviation Excise Taxes

DOT proposes that the changes to the aviation financing system take effect at the start of fiscal year 2009, in order to provide the FAA with sufficient time to establish interim user fees and implement a billing and collection system. Our proposal therefore extends the current excise taxes for one year to ensure that the FAA has sufficient funding in FY 2008.

As of the FY 2009, the proposal would eliminate the existing domestic ticket tax (including the tax on mileage awards), domestic segment tax, cargo waybill tax, and Alaska/Hawaii departure tax. The proposed user fees, adjusted fuel taxes, and reduced international arrival/departure tax (discussed under "Proposed Funding for AIP" below) replace these taxes. This represents a significant simplification of the aviation excise tax system.

FAA Governance

[1] The remainder of RE&D would be funded from the Airport and Airway Trust Fund, and is included in the universal fuel tax rate discussed below under "Proposed Funding for AIP, RE&D and EAS".

A review of air traffic service providers around the world shows that one of the common changes accompanying the introduction of user fees is increased user input in decisions relating to the setting of fees and the use of moneys collected.

Therefore, a new Governance Board (the "Air Transportation System Advisory Board") comprised of user representatives and public interest members appointed by the Secretary would have significant input into the decisions of the agency. Although the FAA Administrator and the Secretary retain ultimate responsibility for the safety and operation of the National Airspace System and thus have the final decision authority, the Board would provide advice and recommendations on the creation and adoption of user fees, including setting them on a periodic basis. If the Board does not approve the establishment or modification of a fee, the Administrator can only implement it after publishing a written determination in the Federal Register. This Board would also review and make recommendations with respect to major capital infrastructure decisions and NextGen transformation projects, the agency's strategic plan, and the development and adoption of ATO's operational and performance metrics. Finally, the Board would review and provide advice on FAA's safety programs, budget, and cost accounting system. However, the FAA Administrator would retain the safety and policy responsibilities and decision-making authority of the FAA with user input for these areas in a solely advisory capacity. Of course, as the FAA is a government agency, Congress will always have the ultimate oversight authority.

The Board would be comprised of public interest members and representatives from across the stakeholder community (including users who would not be subject to most fees) and the government. The FAA Administrator and a representative from the Department of Defense would be Board members, along with members representing airports, air carriers, general aviation, business aviation, aviation manufacturing, and the public interest. The Management Advisory Council and Air Traffic Services Committee would be discontinued with the creation of this new Board.

Management of NextGen Services and Funding of Major Capital Projects

One of DOT's major goals in this reauthorization is to set a course for the management of the future aviation system, drawing on the expertise of the private sector, and financing the capital needs of the NextGen system. Our proposal recognizes that NextGen requires new ways of doing business. Therefore, we have included several pilot programs and other initiatives that would allow the federal government, where appropriate, to partner with the private sector, states, regional consortia and local airport authorities to provide capital investment, expertise and innovation.

Six specific aspects of our reauthorization proposal support this management approach:

- Broad enabling language clarifying the FAA's general leasing and licensing authority, which lays the groundwork for a variety of initiatives that comport with competitive licensing models;

- A pilot program for airports to take responsibility for maintaining, operating, and replacing certain terminal navigation aids and weather equipment;

- A pilot program for accelerating deployment of ADS-B by states or regions taking responsibility for ownership and maintenance of ground-based equipment for the program;

- Deregulation of airports and reform of entitlement programs to target federal investments to the airports with the greatest capital needs;

- Facilitation of the transition to NextGen satellite-based approaches, such as those using Wide Area Augmentation System (WAAS) technology, through dedicated funding after FY 2008; and

- Certification of third parties to develop WAAS and other approach procedures.

In conjunction with this innovative approach, DOT is proposing limited borrowing authority through the Secretary of the Treasury beginning in FY 2013. This authority would help cover some of the federal government's investment in NextGen. It would contribute to a more businesslike funding structure, leverage limited resources, and accelerate the transition to NextGen by better aligning payment for a project with the benefits that project generates and providing greater flexibility to take advantage of capital investment opportunities as technology changes. Examples of FAA projects that may be appropriate for debt financing include safety-critical software and systems that controllers and traffic flow managers will use to support trajectory based operations in the NextGen system, enhancements to the global positioning system (GPS) technology related to civil aviation and surveillance technology for homeland security and defense.

Airports

Our proposals for Airport Improvement Program (AIP) and Passenger Facility Charge (PFC) reform are designed to empower local airports with strong local revenue sources and strategically target federal dollars to the airports where they will have the most impact. We are proposing major reforms to AIP apportionment and set aside formulas and are also proposing substantial reform to the PFC program, as outlined below.

AIP Reform
DOT is committed to a healthy national air transportation system. Airports are a key part of the system, and that includes small primary and general aviation airports that rely on AIP funding to help meet their capital needs and complete strategic projects. Our proposal will stabilize and enhance these funding sources for airports. The reform proposal for AIP includes the following major elements.

- Phasing out passenger entitlements for medium and large hub airports after FY 2009, while preserving discretionary funding for these airports. This proposal recognizes on the one hand, the ability of these airports to finance their own capital needs and on the other hand, the important role these airports play in the national system. The change would also provide more discretionary funding for the FAA to direct in order to meet national priorities. For FY 2008 and 2009, passenger entitlements for these airports would be reduced by 50 percent from current levels.

- Retaining the higher passenger entitlements for the remaining smaller airports, at all levels of AIP, eliminating the link between these entitlement levels and an AIP funding level of $3.2 billion. This change recognizes smaller airports' continued dependency on AIP.

- Increasing the minimum discretionary fund level from $148 million to $520 million, enabling FAA to better target AIP investment to meet national priorities.

- Reforming general aviation airport entitlements to better target AIP to those airports that will be impacted by emerging technologies by –
  - Establishing a separate state apportionment fund with a minimum funding level of $300 million;
  - Eliminating the uniform $150,000 individual nonprimary airport entitlement with a tiered system of entitlements. The largest and busiest airports would receive $400,000, while the very smallest airports would receive no annual guaranteed AIP amount. These airports would remain eligible for state apportionment and discretionary funds.

- Eliminate Military Airport Program and Reliever airport set aside and fund these needs out of regular discretionary funds.

<u>Proposed Funding for AIP, RE&D and EAS</u>
AIP is largely a transfer program to assist small airports that cannot generate sufficient funding to finance their own capital needs, but which play important roles in the national aviation system. Therefore, we propose financing the program through taxes.

The proposed taxes are administratively simple and build on existing collection mechanisms. Specifically, DOT proposes funding the AIP program via a set of simplified excise taxes, consisting of a flat, universal fuel tax for domestic commercial and all GA flights and an international passenger head tax for international commercial passenger flights. This universal fuel tax would be combined with the proposed GA ATO fuel taxes for GA users. Like the ATO taxes, these taxes would be deposited into the Airport and Airway Trust Fund and be subject to Congressional appropriation. The proposed taxes are expected to generate receipts sufficient to cover the proposed authorization levels for AIP, the Essential Air Service (EAS) program, and the Trust Fund's portion of RE&D. The bill also proposes indexing the AIP tax levels to inflation to allow these programs to keep pace with inflation and aviation activity growth.

The universal fuel tax and international passenger head tax would also be the funding sources for all of EAS and most of RE&D. As in the case of AIP, it is appropriate for users to fund most research and development because it ultimately benefits them, but it is challenging to allocate research costs to specific users. Similarly, EAS has a long history of being funded by users through overflight fees; however, it is not part of air traffic control costs and, similar to AIP, is largely a grant program to assist small communities that cannot support service on their own. Therefore, the Administration has included EAS and RE&D funding requirements in the proposed universal fuel tax and international passenger tax rates. However, AIP is the primary driver of the tax rates.

PFC Reform

The Passenger Facility Charge program, which Congress enacted in 1990 and currently authorizes airports to collect fees of up to $4.50 per enplaned passenger (subject to FAA approval), has been very successful at providing a stable source of revenue to fund capital development projects.

The PFC reform proposal has three major elements. All are designed to enhance the status of PFCs as a revenue source to support airport debt financing. First, the maximum PFC would be increased to $6.00. Airports approved for the terminal navigation aid pilot program discussed above would be able to charge a maximum PFC of $7.00. Much of the increase would simply compensate for inflation since the PFC was first authorized. The remainder would help airports cope with the increased capital needs identified in the current NPIAS. Also, this increase would bring an estimated $832 million in additional funds to medium and large hub airports for capital development projects – more than compensating for the loss of passenger entitlements. The proposal would also expand PFC eligibility to include most airport capital development projects in non-exclusive use areas, including revenue producing facilities, and amends statutory PFC provisions to make it easier to use PFCs to help finance intermodal airport ground access projects.

In addition, this proposal would deregulate the PFC application, approval and amendment processes. These changes will empower local airport authorities to tap available revenue sources and determine the most appropriate use of those funds. PFCs are a form of local airport revenue. The expansion of eligibility and procedural streamlining will bring Federal oversight of PFCs more in line with the approach to Federal oversight of other forms of airport revenue.

Finally, the proposal also supports FAA's and the airport industry's commitment to the environment and makes several minor technical improvements to the AIP statute.

Congestion Charges at Certain Capacity-Constrained Airports

There are two provisions in the bill authorizing the use of market-based mechanisms (e.g., auctions or congestion pricing) to control congestion and delay at capacity-constrained airports. This administration has made clear its commitment to use market-based measures to address congestion issues.

While FAA's policy is to expand capacity to meet demand, physical expansion is not feasible at certain airports, such as New York's LaGuardia Airport. One provision gives the Secretary and the FAA statutory authority to authorize the Port Authority of New York and New Jersey to use market-based mechanisms at New York's LaGuardia Airport. The language generally complements rulemaking FAA is currently undertaking at LaGuardia to replace the expired High Density Rule (HDR). The second provision establishes a pilot program to allow market-based mechanisms at certain qualifying airports.

Environmental Stewardship and Streamlining

There are provisions in the legislation to enhance the FAA's ability to work cooperatively within the Administration to preserve the environment by developing technologies, operational procedures, and best practices to minimize the impact of aviation. Our goal is an aviation future that is quieter, cleaner, and more energy efficient. Key environmental stewardship provisions include:

- A research consortium for the development, maturing, and certification of lower energy, emissions, and noise engine and airframe technology over the next ten years;
- A permanent Airport Cooperative Research Program for research and development specifically related to the airport environment; and
- An environmental mitigation demonstration pilot program to demonstrate the noise, air quality, or water quality benefits of promising research concepts at airports.

Environmental streamlining provisions are intended to improve the administration of programs without affecting environmental quality in such areas as the state block grant program and the air tour management program.

Airport Privatization

In order to enhance the provision of sufficient capacity for aviation through attracting private capital, the legislation amends and expands the existing airport privatization pilot program from 5 to 15 airports in the National Plan of Integrated Airport System (NPIAS). It eliminates current restrictions on the number of each category of airport that can participate in the program, e.g. general aviation or large hub. The proposal also limits the effective veto power airlines may exercise under current law to prevent privatization transactions.

Enhanced Oversight of the Joint Planning & Development Office (JPDO)

The legislation enhances oversight and coordination for the Joint Planning and Development Office (JPDO) in several ways: Specifically, the proposal will:

- Require FAA to develop and publish a consolidated operational improvement plan focused on achieving NextGen initiatives. The plan would be an expanded version of the existing FAA Operational Evolution Partnership (OEP) that shows what the FAA is doing to implement specific pieces of the NextGen system;

- Require FAA to include in an annual report to Congress how the JPDO partner agencies' respective budgets and personnel assignments support specific operational improvements for NextGen; and

- Require the JPDO Director to be a voting member of FAA's Joint Resources Council and the Air Traffic Organization's Executive Council.

Essential Air Service (EAS) Proposal

The EAS program has remained fundamentally unchanged since its inception with the Airline Deregulation Act of 1978 while the aviation landscape has changed dramatically with the spread of the hub-and-spoke system, regional jets, and low-fare carriers. Without fundamental change, subsidy costs will continue to rise.

Under the legislation, eligibility for subsidy in the future would be limited to communities: (1) that are currently being subsidized under EAS; (2) that are more than 70 driving miles from the nearest large- or medium-hub airport; and (3) at which the subsidy per passenger does not exceed $200 if the community is less than 210 driving miles from the nearest large- or medium-hub airport. The program would be funded by a mandatory appropriation of $50 million per year from the Aviation Trust Fund. The funding reauthorization proposal contains a small aviation fuel tax that would be used to generate approximately $50 million each year for component of the Trust Fund for this purpose. As $50 million would not be sufficient to support all currently subsidized services, all communities would be ranked on the basis of isolation (i.e., driving distance to a medium- or large-hub airport) and the most isolated would receive subsidized air service to the extent allowed by the funds.

Realignment and Consolidation of Aviation Facilities and Services

This proposal would create a specific process for the comprehensive study and analysis of how the FAA could realign and consolidate its services and facilities to help the FAA reduce capital, operating, maintenance, and administrative costs on an agency-wide basis with no adverse effect on safety. This authority would provide a critical tool that the FAA could use to operate in a more business-like fashion. Any realignments or consolidations recommended by the Administrator pursuant to this section would only be implemented after a thorough review by a newly created Commission of experts, and the opportunity for the public, and ultimately, Congress, to examine the recommendations.

This authority and process is in addition to, and would not change, the Secretary's existing authority under 49 U.S.C. 44503 to take whatever actions necessary to reduce costs and expenditures, consistent with the highest degree of safety.

Extension of Aviation Insurance Program

This section extends the Secretary's overall authority to provide aviation insurance, now set to expire on March 30, 2008, to March 30, 2013. It also removes current requirements for the program to provide first dollar coverage, thus permitting deductibles and the opportunity for commercial coverage of those deductibles. Current law allows the Secretary to limit an airline's third-party liability to $100 million and also prohibits punitive damages against an airline, aircraft or engine manufacturer, as well as the Government for any cause resulting from a terrorist event. This authority to limit liability is also extended by this section.

Additional Provisions

This bill contains several other provisions intended to clarify existing authorization language and to address specific technical changes in the law to enable the FAA to operate most effectively and efficiently. These provisions include air carriage of international mail and termination of the authority of the Department of Transportation to set international mail rates.

Conclusion

A more efficient, modern aviation system is essential to the continued vitality of America's economy. This proposal seizes the opportunity this reauthorization cycle presents to deliver such a system. It strikes an effective balance between our funding goals and the input we received from our stakeholders by providing a rational, equitable, stable, and transparent cost-based funding system. It will also give the FAA stronger governance tools that will lead to a more efficient and responsive government agency that is accountable to its stakeholders and has the authority to move quickly and efficiently to the Next Generation Air Transportation System. Finally, it takes important steps in addressing the emerging aviation issues by providing the national aviation system with the tools and financing it needs to operate the safely and efficiently in the 21st Century.

The Office of Management and Budget advises that there is no objection, from the standpoint of the Administration's program, to the submission of this proposed legislation to Congress, and its enactment would be in accord with the President's program.

Sincerely yours,

Mary E. Peters

Mary E. Peters

Enclosures:
Draft Bill and Section-by-section Analysis