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HOUSE OF REPRESENTATIVES
REPORT
107–568

# NATIONAL AVIATION CAPACITY EXPANSION ACT OF 2002

JULY 12, 2002.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. YOUNG of Alaska, from the Committee on Transportation and Infrastructure, submitted the following

# R E P O R T

[To accompany H.R. 3479]

[Including cost estimate of the Congressional Budget Office]

The Committee on Transportation and Infrastructure, to whom was referred the bill (H.R. 3479) to expand aviation capacity in the Chicago area, 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 all after the enacting clause and insert the following:

**SECTION. 1. SHORT TITLE.**

This Act may be cited as the "National Aviation Capacity Expansion Act of 2002".

**SEC. 2. FINDINGS.**

Congress finds the following:

(1) O'Hare International Airport consistently ranks as the Nation's first or second busiest airport with nearly 34,000,000 annual passengers enplanements, almost all of whom travel in inter-state or foreign commerce. The Federal Aviation Administration's most recent data, compiled in the Airport Capacity Benchmark Report 2001, projects demand at O'Hare to grow by 18 percent over the next decade. O'Hare handles 72,100,000 passengers annually, compared with 64,600,000 at London Heathrow International Airport, Europe's busiest airport, and 36,700,000 at Kimpo International Airport, Korea's busiest airport, 7,400,000 at Narita International Airport, Japan's busiest airport, 23,700,000 at Kingsford-Smith International Airport, Australia's busiest airport, and 6,200,000 at Ezeiza International Airport, Argentina's busiest airport, as well as South America's busiest airport.

(2) The Airport Capacity Benchmark Report 2001 ranks O'Hare as the third most delayed airport in the United States. Overall, slightly more than 6 percent of all flights at O'Hare are delayed significantly (more than 15 minutes). On good weather days, scheduled traffic is at or above capacity for 3½ hours of the day with about 2 percent of flights at O'Hare delayed significantly. In adverse weather, capacity is lower and scheduled traffic exceeds capacity for 8 hours of the day, with about 12 percent of the flights delayed.

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(3) The city of Chicago, Illinois, which owns and operates O'Hare, has been unable to pursue projects to increase the operating capability of O'Hare runways and thereby reduce delays because the city of Chicago and the State of Illinois have been unable for more than 20 years to agree on a plan for runway reconfiguration and development. State law states that such projects at O'Hare require State approval.

(4) On December 5, 2001, the Governor of Illinois and the Mayor of Chicago reached an agreement to allow the city to go forward with a proposed capacity enhancement project for O'Hare which involves redesign of the airport's runway configuration.

(5) In furtherance of such agreement, the city, with approval of the State, applied for and received a master-planning grant from the Federal Aviation Administration for the capacity enhancement project.

(6) The agreement between the city and the State is not binding on future Governors of Illinois.

(7) Future Governors of Illinois could stop the O'Hare capacity enhancement project by refusing to issue a certificate required for such project under the Illinois Aeronautics Act, or by refusing to submit airport improvement grant requests for the project, or by improperly administering the State implementation plan process under the Clean Air Act (42 U.S.C. 7401 et seq.) to prevent construction and operation of the project.

(8) The city of Chicago is unwilling to continue to go forward with the project without assurance that future Governors of Illinois will not be able to stop the project, thereby endangering the value of the investment of city and Federal resources in the project.

(9) Because of the importance of O'Hare to the national air transportation system and the growing congestion at the airport and because of the expenditure of Federal funds for a master-planning grant for expansion of capacity at O'Hare, it is important to the national air transportation system, interstate commerce, and the efficient expenditure of Federal funds, that the city of Chicago's proposals to the Federal Aviation Administration have an opportunity to be considered for Federal approval and possible funding, that the city's requests for changes to the State implementation plan to allow such projects not be denied arbitrarily, and that, if the Federal Aviation Administration approves the project and funding for a portion of its cost, the city can implement and use the project.

(10) Any application submitted by the city of Chicago for expansion of O'Hare should be evaluated by the Federal Aviation Administration and other Federal agencies under all applicable Federal laws and regulations and should be approved only if the application meets all requirements imposed by such laws and regulations.

(11) As part of the agreement between the city and the State allowing the city to submit an application for improvement of O'Hare, there has been an agreement for the continued operation of Merrill C. Meigs Field by the city, and it has also been agreed that, if the city does not follow the agreement on Meigs Field, Federal airport improvement program funds should be withheld from the city for O'Hare.

(12) To facilitate implementation of the agreement allowing the city to submit an application for O'Hare, it is desirable to require by law that Federal airport improvement program funds for O'Hare be administered to require continued operation of Merrill C. Meigs Field by the city, as proposed in the agreement.

(13) To facilitate implementation of the agreement allowing the city to submit an application for O'Hare, it is desirable to enact into law provisions of the agreement relating to noise and public roadway access. These provisions are not inconsistent with Federal law.

(14) If the Federal Aviation Administration approves an airport layout plan for O'Hare directly related to the agreement reached on December 5, 2001, such approvals will constitute an action of the United States under Federal law and will be an important first step in the process by which the Government could decide that these plans should receive Federal assistance under chapter 471 of title 49, United States Code, relating to airport development.

(15) The agreement between the State of Illinois and the city of Chicago includes agreement that the construction of an airport in Peotone, Illinois, would be proposed by the State to the Federal Aviation Administration. Like the O'Hare expansion proposal, the Peotone proposal should receive full consideration by the Federal Aviation Administration under standard procedures for approving and funding an airport improvement project, including all applicable safety, utility and efficiency, and environmental review.

(16) Gary/Chicago Airport in Gary, Indiana, and the Greater Rockford Airport, Illinois, may alleviate congestion and provide additional capacity in the greater Chicago metropolitan region. Like the O'Hare airport expansion proposal, expansion efforts by Gary/Chicago and Greater Rockford airports should receive full consideration by the Federal Aviation Administration under standard procedures for approving and funding an airport capacity improvement project, including all applicable safety, utility and efficiency, and environmental reviews.

**SEC. 3. STATE, CITY, AND FAA AUTHORITY.**

(a) PROHIBITION.—In furtherance of the purpose of this Act to achieve significant air transportation benefits for interstate and foreign commerce, if the Federal Aviation Administration makes, or at any time after December 5, 2001 has made, a grant to the city of Chicago, Illinois, with the approval of the State of Illinois for planning or construction of runway improvements at O'Hare International Airport, the State of Illinois, and any instrumentality or political subdivision of the State, are prohibited from exercising authority under sections 38.01, 47, and 48 of the Illinois Aeronautics Act (620 ILCS 5/) to prevent, or have the effect of preventing—

(1) further consideration by the Federal Aviation Administration of an O'Hare airport layout plan directly related to the agreement reached by the State and the city on December 5, 2001, with respect to O'Hare;

(2) construction of projects approved by the Administration in such O'Hare airport layout plan; or

(3) application by the city of Chicago for Federal airport improvement program funding for projects approved by the Administration and shown on such O'Hare airport layout plan.

(b) APPLICATIONS FOR FEDERAL FUNDING.—Notwithstanding any other provision of law, the city of Chicago is authorized to submit directly to the Federal Aviation Administration without the approval of the State of Illinois, applications for Federal airport improvement program funding for planning and construction of a project shown on an O'Hare airport layout plan directly related to the agreement reached on December 5, 2001, and to accept, receive, and disburse such funds without the approval of the State of Illinois.

(c) LIMITATION.—If the Federal Aviation Administration determines that an O'Hare airport layout plan directly related to the agreement reached on December 5, 2001, will not be approved by the Administration, subsections (a) and (b) of this section shall expire and be of no further effect on the date of such determination.

(d) WESTERN PUBLIC ROADWAY ACCESS.—As provided in the December 5, 2001, agreement referred to in subsection (a), the Administrator of the Federal Aviation Administration shall not consider an airport layout plan submitted by the city of Chicago that includes the runway redesign plan, unless the airport layout plan includes public roadway access through the existing western boundary of O'Hare to passenger terminal and parking facilities located inside the boundary of O'Hare and reasonably accessible to such western access. Approval of western public roadway access shall be subject to the condition that the cost of construction be paid for from airport revenues consistent with Administration revenue use requirements.

(e) NOISE MITIGATION.—As provided in the December 5, 2001, agreement referred to in subsection (a), the following apply:

(1) Approval by the Administrator of an airport layout plan that includes the runway redesign plan shall require the city of Chicago to offer acoustical treatment of all single-family houses and schools located within the 65 DNL noise contour for each construction phase of the runway redesign plan, subject to Administration guidelines and specifications of general applicability. The Administrator may not approve the runway redesign plan unless the city provides the Administrator with information sufficient to demonstrate that the acoustical treatment required by this paragraph is feasible.

(2)(A) Approval by the Administrator of an airport layout plan that includes the runway redesign plan shall be subject to the condition that noise impact of aircraft operations at O'Hare in the calendar year immediately following the year in which the first new runway is first used and in each calendar year thereafter will be less than the noise impact in calendar year 2000.

(B) The Administrator shall make the determination described in subparagraph (A)—

(i) using, to the extent practicable, the procedures specified in part 150 of title 14, Code of Federal Regulations;

(ii) using the same method for calendar year 2000 and for each forecast year; and

(iii) by determining noise impact solely in terms of the aggregate number of square miles and the aggregate number of single-family houses and

schools exposed to 65 or greater decibels using the DNL metric, including only single-family houses and schools in existence on the last day of calendar year 2000. The Administrator shall make such determination based on information provided by the city of Chicago, which shall be independently verified by the Administrator.

(C) The conditions described in this subsection shall be enforceable exclusively through the submission and approval of a noise compatibility plan under part 150 of title 14, Code of Federal Regulations. The noise compatibility plan submitted by the city of Chicago shall provide for compliance with this subsection. The Administrator shall approve measures sufficient for compliance with this subsection in accordance with procedures under such part 150. The United States shall have no financial responsibility or liability if operations at O'Hare in any year do not satisfy the conditions in this subsection.

(f) REPORT TO CONGRESS.—If the runway redesign plan described in this section has not received all Federal, State, and local permits and approvals necessary to begin construction by December 31, 2004, the Administrator shall submit a status report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives within 120 days of such date identifying each permit and approval necessary for the project and the status of each such action.

(g) JUDICIAL REVIEW.— An order issued by the Administrator, in whole or in part, under this section shall be deemed to be an order issued under part A of subtitle VII of title 49, United States Code, and shall be reviewed in accordance with the procedure in section 46110 of such title.

(h) DEFINITION.—In this section, the terms "airport layout plan directly related to the agreement reached on December 5, 2001" and "such airport layout plan" mean a plan that shows—

(1) 6 parallel runways at O'Hare oriented in the east-west direction with the capability for 4 simultaneous independent visual aircraft arrivals in both directions, and all associated taxiways, navigational facilities, and other related facilities; and

(2) closure of existing runways 14L–32R, 14R–32L and 18–36 at O'Hare.

**SEC. 4. CLEAN AIR ACT.**

(a) IMPLEMENTATION PLAN.—An implementation plan shall be prepared by the State of Illinois under the Clean Air Act (42 U.S.C. 7401 et seq.) in accordance with the State's customary practices for accounting for and regulating emissions associated with activity at commercial service airports. The State shall not deviate from its customary practices under the Clean Air Act for the purpose of interfering with the construction of a runway pursuant to the redesign plan or the south surburban airport. At the request of the Administrator of the Federal Aviation Administration, the Administrator of the Environmental Protection Agency shall, in consultation with the Administrator of the Federal Aviation Administration, determine that the foregoing condition has been satisfied before approving an implementation plan. Nothing in this section shall be construed to affect the obligations of the State under section 176(c) of the Clean Air Act (42 U.S.C. 7506(c)).

(b) LIMITATION ON APPROVAL.—The Administrator of the Federal Aviation Administration shall not approve the runway redesign plan unless the Administrator of the Federal Aviation Administration determines that the construction and operation will include, to the maximum extent feasible, the best management practices then reasonably available to and used by operators of commercial service airports to mitigate emissions regulated under the implementation plan.

**SEC. 5. MERRILL C. MEIGS FIELD.**

The State of Illinois and the city of Chicago, Illinois, have agreed to the following:

(1) Until January 1, 2026, the Administrator of the Federal Aviation Administration shall withhold all Federal airport grant funds respecting O'Hare International Airport, other than grants involving national security and safety, unless the Administrator is reasonably satisfied that the following conditions have been met:

(A) Merrill C. Meigs Field in Chicago either is being operated by the city of Chicago as an airport or has been closed by the Administration for reasons beyond the city's control.

(B) The city of Chicago is providing, at its own expense, all off-airport roads and other access, services, equipment, and other personal property that the city provided in connection with the operation of Meigs Field on and prior to December 1, 2001.

(C) The city of Chicago is operating Meigs Field, at its own expense, at all times as a public airport in good condition and repair open to all users capable of utilizing the airport and is maintaining the airport for such pub-

lic operations at least from 6:00 A.M. to 10:00 P.M. 7 days a week whenever weather conditions permit.

(D) The city of Chicago is providing or causing its agents or independent contractors to provide all services (including police and fire protection services) provided or offered at Meigs Field on or immediately prior to December 1, 2001, including tie-down, terminal, refueling, and repair services, at rates that reflect actual costs of providing such goods and services.

(2) If Meigs Field is closed by the Administration for reasons beyond the city of Chicago's control, the conditions described in subparagraphs (B) through (D) of paragraph (1) shall not apply.

(3) After January 1, 2006, the Administrator shall not withhold Federal airport grant funds to the extent the Administrator determines that withholding of such funds would create an unreasonable burden on interstate commerce.

(4) The Administrator shall not enforce the conditions listed in paragraph (1) if the State of Illinois enacts a law on or after January 1, 2006, authorizing the closure of Meigs Field.

(5) Net operating losses resulting from operation of Meigs Field, to the extent consistent with law, are expected to be paid by the 2 air carriers at O'Hare International Airport that paid the highest amount of airport fees and charges at O'Hare International Airport for the preceding calendar year. Notwithstanding any other provision of law, the city of Chicago may use airport revenues generated at O'Hare International Airport to fund the operation of Meigs Field.

**SEC. 6. APPLICATION WITH EXISTING LAW.**

Nothing in this Act shall give any priority to or affect availability or amounts of funds under chapter 471 of title 49, United States Code, to pay the costs of O'Hare International Airport, improvements shown on an airport layout plan directly related to the agreement reached by the State of Illinois and the city of Chicago, Illinois, on December 5, 2001.

**SEC. 7. SENSE OF CONGRESS ON QUIET AIRCRAFT TECHNOLOGY RESEARCH AND DEVELOPMENT.**

It is the sense of the Congress that the Office of Environment and Energy of the Federal Aviation Administration should be funded to carry out noise mitigation programming and quiet aircraft technology research and development at a level of $37,000,000 for fiscal year 2004 and $47,000,000 for fiscal year 2005.

## PURPOSE OF THE LEGISLATION

H.R. 3479, the "National Aviation Capacity Expansion Act of 2002" codifies the agreement reached by the State of Illinois and the city of Chicago regarding capacity enhancement projects at Chicago O'Hare International Airport and at regional reliever airports.

## BACKGROUND AND NEED FOR THE LEGISLATION

Chicago O'Hare International Airport (O'Hare) is one of the world's busiest airports and one of the nation's most delayed. The events of September 11th have resulted in a brief reprieve from the congestion, delays, and capacity issues that have burdened the aviation system in the past. However, as the economy improves and travelers resume their normal habits, O'Hare will eventually return to its pre-September 11th gridlock. This is unacceptable given the critical role O'Hare plays in the national air transportation system. When flights are delayed or grounded at O'Hare, the results are felt throughout the national system.

O'Hare is crucial not only to the national air transportation system, but also to interstate and international commerce. It is the only airport in the country that supports domestic hub operations for two major airlines. Over 70 million people a year use the airport. That equates to an average of close to 192,000 passengers each day. One way to address national aviation capacity issues is to solve the gridlock found at O'Hare.

For years, State and local governmental officials were unable to come to an agreement on how to address the aviation capacity issues in the greater-Chicago region. However, at the end of the 2001, the Governor of Illinois and the Mayor of Chicago reached an agreement on how to enhance aviation capacity in the region. But, the agreement is not binding on future administrations. Therefore, before committing to the more than six billion dollar capacity enhancement project at O'Hare, the city sought assurances that the agreement would not be abandoned by the State in the future. H.R. 3479 provides these assurances.

H.R. 3479 codifies the agreement reached by local and State leaders regarding capacity enhancement projects at O'Hare and at regional reliever airports. The bill provides that the agreed-to enhancement projects will be given full consideration by the Federal Aviation Administration (FAA). With this legislation, O'Hare and other regional aviation capacity enhancement projects can be pursued without the risk of investing Federal and local dollars in projects that could be halted, left incomplete, delayed, or significantly altered in the future. As airport operators, the State of Illinois and the city of Chicago are participants in interstate commerce and are subject to congressional regulatory authority.

Therefore, should the FAA choose to fund, through customary FAA procedures, the O'Hare capacity enhancement project, then H.R. 3479 preempts state law. Under H.R. 3479, the State would be prohibited from using its authority under state law to prevent FAA consideration and funding of the project. The State would likewise be prohibited from preventing construction of the project by the city of Chicago. The bill authorizes the city of Chicago to seek Federal funding directly from the FAA without approval of the State of Illinois, and the city can directly accept, receive and disburse awarded Federal money as well.

This bill ensures that state law will not prevent the Federal government from spending Federal funds the way the Federal government intends they be spent. Therefore, H.R. 3479 specifically and directly ties the preemption of state law to Federal funding of the O'Hare capacity enhancement project. The preemption law would expire immediately upon a decision by the FAA not to fund construction of the O'Hare capacity enhancement project. At that point, the bill would have no further affect on state law.

As a condition of FAA approval of any airport layout plan, H.R. 3479 provides that there must be western public roadway access and noise mitigation by the city of Chicago. The noise mitigation agreed to by the city includes noise insulation treatment for all single-family homes and schools within the 65 DNL noise contour. The FAA will oversee the noise mitigation efforts by the city following Part 150, noise compatibility procedures.

The legislation also requires that the State of Illinois not alter its customary practices under the Clean Air Act for accounting for and regulating emissions at commercial airports. This provision is designed to prevent the state from utilizing the Clean Air Act to interfere with the construction of a runway at either O'Hare or the south suburban airport. The bill does not affect or alter the state's obligations under the Clean Air Act, rather it ensures that the state will not deviate from its customary practices.

Under the bill, unless the FAA closes Merrill C. Meigs Field (Meigs Field), the city of Chicago must operate the airport until January 1, 2026, under certain prescribed conditions. The FAA is to enforce these conditions by partial withholding of Federal airport grant funding. However, the bill also provides that Meigs Field could be closed anytime after January 2006, with the State's concurrence. Therefore, the city of Chicago must continue operating Meigs Field unless the FAA or the State of Illinois closes it. H.R. 3479 ties continued operation of Meigs Field to FAA airport grant funds for O'Hare barring certain conditions out of the city's control.

SUMMARY OF THE LEGISLATION

*Section 1.—Short title*

This Act may be cited as the "National Aviation Capacity Expansion Act of 2002".

*Sec. 2.—Findings*

Paragraph (1) finds that O'Hare International Airport is one of the world's busiest airports with forecasted increase in demand of 18 percent over the next ten years.

Paragraph (2) finds that O'Hare ranks as the third most delayed airport in the United States.

Paragraph (3) finds that the city of Chicago, the owner and operator of the airport, and the State of Illinois had been unable to reach agreement on a plan for runway reconfiguration and development for more than 20 years.

Paragraph (4) finds that the Governor of Illinois and the Mayor of Chicago reached an agreement on December 5, 2001 to allow the city to go ahead with a proposed capacity enhancement project at O'Hare.

Paragraph (5) finds that the city, with the State's approval, applied for and received a master-planning grant from the FAA for the capacity enhancement project.

Paragraph (6) finds that the agreement between the city and State is not binding on future Governors of Illinois.

Paragraph (7) finds that future governors could stop the capacity enhancement project at O'Hare.

Paragraph (8) finds that the city is unwilling to go forward with the project without assurances that future governors will not stop the project.

Paragraph (9) finds that O'Hare is critical to the national air transportation system and interstate commerce and that it is important that the capacity enhancement project be given full consideration by the FAA.

Paragraph (10) finds that the capacity enhancement project should be evaluated under all applicable laws and should be approved only if all requirements have been met.

Paragraph (11) finds that the agreement includes the continued operation of Merrill C. Meigs Field by the city.

Paragraph (12) finds that to aid in the implementation of the agreement, it is desirable to condition Federal funding for O'Hare on the city's continued operation of Meigs Field.

Paragraph (13) finds that to facilitate the agreement, provisions of the agreement dealing with noise and public access should be enacted into law.

Paragraph (14) finds that if the FAA approves an airport layout plan for O'Hare based directly on the December 2001 agreement that action will constitute an action of the United States under Federal law.

Paragraph (15) finds that the agreement contains an agreement that the State of Illinois will propose construction of an airport in Peotone, Illinois and that the FAA should give full consideration to such a proposal by the State under standard procedures.

Paragraph (16) finds that expansion projects at Gary Airport and the Greater Rockford Airport should be given full consideration by the FAA under standard procedures as those airports may ease congestion and provide additional capacity for the region.

*Sec. 3.—State, city, and FAA authority*

Subsection (a) provides that if the FAA approves Federal funding for planning or construction of runway improvements at O'Hare, with the approval of the State, then the State is prohibited from exercising its authority under State law to prevent (1) consideration by the FAA of an O'Hare layout plan, (2) construction of projects in an approved plan, or (3) application by the city for Federal airport improvement funding for projects on the approved plan.

Subsection (b) permits the city of Chicago to apply for airport improvement funding for O'Hare capacity enhancement projects directly to the FAA without prior approval of the State of Illinois and to accept, receive, and disburse any granted Federal funds without the State's approval.

Subsection (c) provides that the provisions of subsections (a) and (b) expire if the O'Hare airport layout plan directly related to the agreement between the city and State is not approved by the FAA.

Subsection (d) prohibits the FAA from considering an O'Hare airport layout plan for runway redesign without public roadway access through the existing western boundary of the airport.

Paragraph (e)(1) requires the city of Chicago to include noise mitigation for single-family houses and schools within the 65 DNL noise contour for each construction phase covered by an airport layout plan submitted to the FAA. It also prohibits the FAA from approving a runway redesign plan that does not demonstrate the feasibility of the noise mitigation required by this paragraph.

Paragraph (e)(2)(A) provides that as a condition of approval of an airport layout plan that includes runway redesign, the noise impact of aircraft operations at O'Hare for the year following the first year of new runway use, and each calendar year thereafter, must be less than the noise impact in calendar year 2000.

Paragraph (e)(2)(B) directs the FAA to evaluate the airport layout plan (i) using the procedures set forth in part 150 of title 14, Code of Federal Regulations; (ii) using the same methodology for 2000 and each year thereafter; and (iii) by determining the noise impact for the aggregate square miles and aggregate single-family houses and schools existing on the last day of 2000.

Paragraph (e)(2)(C) provides that the noise mitigation requirements agreed to by the city of Chicago shall be enforceable through

the Part 150 noise compatibility plan program and that Part 150 procedures shall be followed by the FAA. It also provides that the United States is not liable or financially responsible if the noise conditions at O'Hare do not satisfy the conditions of this section.

Subsection (f) requires the FAA to submit a Report to Congress if the runway redesign plan referred to in this section has not received all Federal, state and local permits and approvals required so that construction can begin by December 31, 2004.

Subsection (g) provides for appellate judicial review of any order issued by the FAA under this section.

Subsection (h) sets forth the definitions for this section.

*Sec. 4.—Clean Air Act*

Subsection (a) requires the State of Illinois to prepare an implementation plan following its customary practices for considering air emissions for commercial airports. The State may not deviate from its customary practices in an effort to prevent the construction of runways at O'Hare or the south suburban airport. The subsection further provides that the FAA and Environmental Protection Agency (EPA) shall consult and determine whether the State has followed its customary practices before approving the State Implementation Plan. All obligations under the Clean Air Act are unaffected by this section.

Subsection (b) requires the FAA to ensure the construction and operation of the runway will include the best management practices available and feasible prior to approving the runway redesign plan.

*Sec. 5.—Merrill C. Meigs Field*

Section 5 codifies the agreement reached by the city of Chicago and the State of Illinois regarding the operation of Merrill C. Meigs Field (Meigs Field).

Subsection (1) directs the FAA to withhold Federal funding for O'Hare, except for grants involving national security and safety, unless all the following conditions are reasonably satisfied:

(A) Meigs Field is operated by the City or closed by the FAA.

(B) The city is providing, at its own expense, all off-airport roads, access, services, equipment, and personal property that the city provided on or prior to December 1, 2001.

(C) The city is operating Meigs Field, at its own expense, as a public airport for operations at least from 6:00 a.m. to 10:00 p.m., seven days a week as weather permits.

(D) The city is providing all services provided or offered at Meigs Field on or immediately prior to December 31, 2001.

Subsection (2) provides that if the FAA closes Meigs Field, the conditions set forth in subsections (1)(B)–(D) no longer apply.

Subsection (3) states that after January 1, 2006, the FAA shall not withhold Federal funds if the FAA determines that it would create an unreasonable burden on interstate commerce.

Subsection (4) provides that if on or after January 1, 2006 the State of Illinois by law authorizes the closure of Meigs Field, then the FAA shall not enforce the conditions set forth in Subsection (1).

Subsection (5) provides that the two air carriers at O'Hare paying the highest airport fees in the preceding year are expected to pay any net operating losses resulting from the operation of Meigs

Field. The subsection also allows the city to use airport revenues generated at O'Hare to fund Meigs Field.

*Sec. 6.—Application with existing law*

Section 6 provides that the legislation does not give any priority to or affect the availability or amounts of Federal funding to pay for improvements at O'Hare agreed to by the city of Chicago and the State of Illinois in December 2001.

*Sec. 7.—Sense of Congress on quiet aircraft technology research and development*

Section 7 states that it is the sense of Congress that the FAA should be funded to research and develop noise mitigation programming and quiet aircraft technology for fiscal years 2004 and 2005.

## LEGISLATIVE HISTORY AND COMMITTEE CONSIDERATION

H.R. 3479 was introduced by Aviation Subcommittee Ranking Member William Lipinski, Mr. Costello, Mr. Davis of Illinois, Mr. Rush, Mr. Gutierrez, Mr. Evans, Mr. Blagojevich, Ms. Schakowsky, Mr. DeFazio, Mr. Boswell, Mr. Phelps, Mr. Rahall, Ms. Hooley of Oregon, Mr. Hoeffel, Mr. Hinchey, Mr. Filner, Ms. Baldwin, Mr. Baird, Mr. Wu, Mr. Borski, Mr. Clement, Mr. Barcia, Mr. LaTourette, Mr. Shimkus, Mrs. Tauscher, Mr. Pascrell, Mr. Holden, Mr. Matheson, Mr. Honda, Mr. Kirk, Mr. Nadler, Ms. Berkley, Mr. Larsen of Washington, Mr. Sandlin, Mr. Carson of Oklahoma, Mr. Horn, Mr. Ehlers, Mr. Bachus, Mr. Engel, Mr. Baldacci, Mr. Meeks of New York, Mr. Neal of Massachusetts, Mr. Sawyer, Ms. Slaughter, Mr. Udall of Colorado, Mr. Tierney, Mr. Menendez, Mr. Sanders, Mr. Dicks, Mr. Hoyer, Mr. Brady of Pennsylvania, Mr. Murtha, Mr. LaFalce, Mr. Duncan, Mr. Rodriguez, Mr. Ortiz, Mr. Towns, Mr. Hinojosa, Mrs. Mink of Hawaii, Mr. Smith of Washington, Mr. Pomeroy, Mr. Capuano, Mr. Coyne, Mr. Etheridge, Mr. Meehan, Ms. Velazquez, Mr. Mica, Mr. Cooksey, Mr. Mascara, Mr. Ackerman, Mr. Lampson, Mr. Pastor, and Mr. Serrano. It was referred to the Committee on Transportation and Infrastructure. An Aviation Subcommittee hearing was held on H.R. 3479 on March 6, 2002. A full committee mark-up was held on June 26, 2002, where the bill, as amended, was approved unanimously by voice vote. The Subcommittee on Aviation was discharged on June 26, 2002. The amended legislation was ordered reported to the House unanimously by voice vote.

## ROLLCALL VOTES

Clause 3(b) of rule XIII of the House of Representatives requires each committee report to include the total number of votes cast for and against on each rollcall vote on a motion to report and on any amendment offered to the measure or matter, and the names of those members voting for and against. There were no rollcall votes during consideration of the bill.

COMMITTEE OVERSIGHT FINDINGS

With respect to the requirements of clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee's oversight findings and recommendations are reflected in this report.

COST OF LEGISLATION

Clause 3(c)(2) of rule XIII of the Rules of the House of Representatives does not apply where a cost estimate and comparison prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974 has been timely submitted prior to the filing of the report and is included in the report. Such a cost estimate is included in this report.

COMPLIANCE WITH HOUSE RULE XIII

1. With respect to the requirement of clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, and 308(a) of the Congressional Budget Act of 1974, the Committee references the report of the Congressional Budget Office included below.

2. With respect to the requirement of clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the performance goals and objective of this legislation are to allow full Federal Aviation Administration consideration of the airport capacity enhancement plan proposed for O'Hare to assist in addressing the capacity needs of the national aviation system and aid interstate commerce.

3. With respect to the requirement of clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 402 of the Congressional Budget Act of 1974, the Committee has received the following cost estimate for H.R. 3479 from the Director of the Congressional Budget Office.

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
*Washington, DC, July 10, 2002.*

Hon. DON YOUNG,
*Chairman, Committee on Transportation and Infrastructure,*
*House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 3479, the National Aviation Capacity Expansion Act of 2002.

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

Sincerely,

BARRY B. ANDERSON
(For Dan L. Crippen, Director).

Enclosure.

*H.R. 3479—National Aviation Capacity Expansion Act of 2002*

Summary: On December 5, 2001, the mayor of Chicago and the governor of Illinois entered into an agreement to expand runway capacity at O'Hare International Airport. For projects included in this agreement, H.R. 3479 would allow the city of Chicago to apply for grants directly to the Federal Aviation Administration (FAA) without the approval of the state of Illinois, and the bill would prohibit the state from preventing the city's use of FAA grants. H.R.

3479 also would authorize the appropriation of $84 million to FAA for research on noise mitigation and quiet aircraft technology.

Assuming appropriation of the authorized amounts for FAA research, CBO estimates that implementing H.R. 3479 would cost $84 million over the 2004–2007 period. CBO estimates that the provisions related to O'Hare International Airport would have no significant impact on federal spending. H.R. 3479 would not affect direct spending or receipts; therefore, pay-as-you-go procedures would not apply.

H.R. 3479 contains intergovernmental mandates as defined in the Unfunded Mandates Reform Act (UMRA), but CBO estimates that the costs for state, local, or tribal governments would not exceed the threshold established in that act ($58 million in 2002, adjusted annually for inflation). The bill contains no new private-sector mandates as defined in UMRA.

Estimated cost to the Federal Government: The estimated budgetary impact of H.R. 3479 is shown in the following table. The costs of this legislation fall within budget function 400 (transportation).

| | By fiscal year, in millions of dollars— | | | | | |
|---|---|---|---|---|---|---|
| | 2002 | 2003 | 2004 | 2005 | 2006 | 2007 |
| CHANGES IN SPENDING SUBJECT TO APPROPRIATION | | | | | | |
| Authorization level | 0 | 0 | 37 | 47 | 0 | 0 |
| Estimated outlays | 0 | 0 | 20 | 38 | 20 | 6 |

Basis of estimate: For this estimate, CBO assumes that H.R. 3479 will be enacted this year and that the authorized amounts will be appropriated for fiscal years 2004 and 2005. Estimated outlays are based on information from the Federal Aviation Administration and historical spending patterns of similar programs.

CBO estimates that the provisions related to O'Hare International Airport would have no significant impact on federal spending. The bill could affect which projects the FAA chooses to support, but based on information from the agency, CBO estimates that H.R. 3479 would have no effect on total spending for such projects.

Pay-as-you-go considerations: None.

Estimated impact on state, local, and tribal governments: The bill would preempt the state of Illinois' authority to regulate certain activities of the owner of O'Hare International Airport. Specifically, the bill would preempt the state's authority to control or regulate the city of Chicago as it applies for federal grant funds to pay for the airport expansion. In addition, the state would be prohibited from using the Clean Air Act to interfere with runway construction at O'Hare or development of another airport south of Chicago. These preemptions would be intergovernmental mandates as defined in UMRA.

In implementing the runway redesign plan at O'Hare, the city of Chicago would have to expand its current noise mitigation program for single-family homes and schools around the airport. Because the bill would increase the existing requirement, the noise mitigation provision would be an intergovernmental mandate as defined in UMRA.

Based on information from the FAA and the city of Chicago, CBO estimates that the preemptions of state authority and the require-

ments placed on the city would not impose significant costs. Thus, the costs of the bill's mandates would not exceed the threshold established by UMRA ($58 million in 2002, adjusted annually for inflation).

Estimated impact on the private sector: The bill contains no new private-sector mandates as defined in UMRA.

Previous CBO estimate: On May 7, 2002, CBO transmitted a cost estimate for S. 2039, the National Aviation Capacity Expansion Act of 2002, as ordered reported by the Senate Committee on Commerce, Science, and Transportation on April 18, 2002. S. 2039 is very similar to H.R. 3479, but the Senate bill would not authorize the appropriation of funds for research on noise mitigation and quiet aircraft technology. For this reason, CBO estimated that implementing S. 2039 would have no significant impact on federal spending.

Estimated prepared by: Federal costs: Rachel Milberg; impact on state, local, and tribal governments: Greg Waring; impact on the private sector: Jean Talarico.

Estimate approved by: Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

## CONSTITUTIONAL AUTHORITY STATEMENT

Pursuant to clause (3)(d)(1) of rule XIII of the Rules of the House of Representatives, committee reports on a bill or joint resolution of a public character shall include a statement citing the specific powers granted to the Congress in the Constitution to enact the measure. The Committee on Transportation and Infrastructure finds that Congress has the authority to enact this measure pursuant to its powers granted under article I, section 8 of the Constitution.

## FEDERAL MANDATES STATEMENT

The Committee adopts as its own the estimate of federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act (Public Law 104–4).

## PREEMPTION CLARIFICATION

Section 423 of the Congressional Budget Act of 1994 requires the report of any Committee on a bill or joint resolution to include a statement on the extent to which the bill or joint resolution is intended to preempt state, local or tribal law. The Committee states that H.R. 3479 preempts state law, but does not preempt local or tribal law. Sections 3(a) and (b) of the bill preempt Sections 38.01, 47, and 48 of the Illinois Aeronautics Act. However, H.R. 3479 specifically and directly ties the preemption of state law to Federal funding of the O'Hare capacity enhancement project. This ensures that state law will not prevent the Federal government from spending Federal funds the way the Federal government intends they be spent. The preemption law would expire immediately upon a decision by the FAA not to fund construction of the O'Hare capacity enhancement project.

ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act are created by this legislation.

APPLICABILITY TO THE LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act. (Public Law 104–1).

CHANGES IN EXISTING LAW MADE THE BILL, AS REPORTED

The legislation makes no changes in existing law.

COMMITTEE CORRESPONDENCE

HOUSE OF REPRESENTATIVES,
COMMITTEE ON SCIENCE,
*Washington, DC, July 12, 2002.*

Hon. DON YOUNG,
*Chairman, Committee on Transportation and Infrastructure, House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Committee on Transportation and Infrastructure has had under consideration H.R. 3479 the National Aviation Capacity Expansion Act. In that bill there is a provision which falls under the jurisdiction of the Committee on Science. Specifically, that provision is a sense of Congress amendment which would ask the Federal Aviation Administration expend monies for research and development for noise mitigation programs.

By waiving consideration of H.R. 3479 the Committee on Science does not waive any of its jurisdictional rights and prerogatives.

I ask that you would support our request for conferees on H.R. 3479 or similar legislation if a conference should be convened with the Senate. I also ask that our exchange of letters be included in your committee's report and also in the Congressional Record.

I look forward to working with you on this and other important pieces of legislation.

Sincerely,

SHERWOOD BOEHLERT,
*Chairman.*

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HOUSE OF REPRESENTATIVES,
COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE,
*Washington, DC, July 12, 2002.*

Hon. SHERWOOD L. BOEHLERT,
*Chairman, Committee on Science,*
*Rayburn Building, Washington, DC.*

DEAR MR. CHAIRMAN: Thank you for your letter of July 12, 2002, regarding H.R. 3479, the National Aviation Capacity Expansion Act, and for your willingness to waive consideration of provisions in the bill that fall within your Committee's jurisdiction under House Rules.

I agree that your waiving consideration of relevant provisions of H.R. 3479 does not waive your Committee's jurisdiction over the

bill. I also acknowledge your right to seek conferees on any provisions that are under your Committee's jurisdiction during any House-Senate conference on H.R. 3479 or similar legislation, and will support your request for conferees on such provisions.

Your letter and this response will be included in the Congressional Record during consideration on the House Floor.

Thank you for your cooperation in moving this important legislation.

Sincerely,

DON YOUNG, *Chairman.*

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