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OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

September 19, 2007
(House Rules)

STATEMENT OF ADMINISTRATION POLICY

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

The Administration supports a responsible reauthorization of the Federal Aviation Administration (FAA) that includes innovative reforms to modernize the Nation's air traffic control system and address the long delays facing a growing number of the Nation's air travelers. Delays reached record highs this past 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. Without dramatic reform, delays will get worse in the future because of rising air traffic. This is unacceptable to the American people.

Early this year, the Administration proposed reforms to reduce these delays and address other problems through modernization of the U.S. air traffic control system. H.R. 2881, as ordered reported by the House Transportation and Infrastructure Committee, falls far short of providing critical reforms proposed by the Administration. Indeed, it would make the status quo worse by undoing progress achieved in prior Congresses. Accordingly, if H.R. 2881 were presented to the President, his senior advisors would recommend that he veto the bill.

The Administration urges the House to adopt critical reforms that would bring real relief for the traveling public:

- More closely align FAA's revenues with its costs through fair fees linked to usage of the system.
- Experiment with pilot projects that use market-based approaches and reduce delays in the air and on the ground.
- Move Air Traffic Organization (ATO) governance in a direction that meaningfully includes aviation stakeholders in the oversight and management of the ATO. This will result in smarter air-traffic-control investments and make both the ATO and stakeholders more accountable for the services they provide.
- Allow FAA to restructure its air-traffic-control facilities to meet today's needs.

These measures would reduce delays in the short run and better position the FAA to upgrade its antiquated technology over the longer run.

The Administration would like to take the opportunity to share more detailed views on H.R. 2881:

Irresponsible Spending Without Finance Reform

H.R. 2881 authorizes spending in certain areas at levels far higher than requested by the Administration. At the same time, the bill does not include much-needed reforms to more efficiently and effectively spend taxpayer money on air traffic control services.

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, under this bill’s financing approach, it is unlikely that FAA can switch to NextGen in a 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. While the Administration is pleased that H.R. 2881 adopts cost-based registration and certification fees, the Administration strongly urges the House to adopt cost-based financing more broadly.

Reopening a Settled Contract

The Administration strongly opposes the bill’s proposal to alter the existing air traffic controller contract or re-open contract negotiations and would oppose any proposal that changes or negates the impasse resolution process. Such a move would distract management attention that should be focused on solving today’s unacceptable air delays and would likely result in a significant increase in costs to the taxpayer, as well as diversion of critical funds from necessary NextGen upgrades.

The Administration would also oppose any effort to add a provision such as the one in the Senate version of the FAA Reauthorization bill that would change the Railway Labor Act to add Alleghany-Mohawk labor provisions to airline combinations.

Air Carrier Citizenship

The Administration strongly opposes the 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 of the bill that blocks the FAA from making cost effective facility decisions. FAA's current infrastructure is increasingly incapable of 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. The House proposal would substitute special-interest considerations for reasoned judgments. The result would be higher FAA costs, more delays and congestion, and a slower transition to better technologies under NextGen.

Market-Based Congestion Relief Proposals

The Administration is disappointed that the bill does not include the Administration's proposals to reduce delays in the Nation's most congested airspace and airports via proven market-based measures. Without a fundamentally different approach to addressing this problem, it is expected that aviation system delays will grow substantially in coming years. The Administration urges the House to add these proposals to the bill.

User Advisory Board

The Administration urges the House to adopt its proposal to create an ATO advisory board, reporting to the Secretary of Transportation on the air traffic control system. Such a board would provide more accountability to the users of the air traffic control system. This will encourage more efficient use of resources to address delays and develop NextGen.

Airport Management

The Administration urges the House to remove provisions that would make it harder for communities to choose to privatize their airports. It is inappropriate, for example, to deny funds for safety-related improvements to airports in the privatization pilot program. The Administration proposed to make it easier for communities to alter ownership structures as they see fit, since studies show this would improve efficiencies and performance.

Airport Financing

The Administration believes that the proposed funding in H.R. 2881 for the Airport Improvement Program (AIP) is excessive and unjustified. The bill provides AIP contract authority of more than \$1.1 billion annually over what the Administration proposed and does so without demonstrating that this additional expenditure will generate benefits.

The AIP should be focused on those investments with benefits that clearly outweigh costs, which the Administration's bill achieved by revising the current entitlement formulas. 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 Administration's proposal, however, included a \$6 maximum PFC, not the \$7 maximum included in H.R. 2881. 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 House to adopt the Administration's proposal to link AIP reform with PFC increases and program streamlining.

NextGen Planning Office

The Administration strongly opposes the provision in the bill requiring the FAA to include employees in the NextGen planning process in their role as union members rather than in their professional capacities. Additionally, the multiple requirements in the bill for reviews, audits, assessments, and studies by the Government Accountability Office, the DOT Inspector General, and the National Research Council will only impede the progress of the Joint Planning and Development Office.

Small Community/Essential Air Service

The Administration urges the House 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.

Safety-Related Provisions

Safety-related provisions in H.R. 2881 are encumbered with multiple mandated rulemakings, reports to Congress, and studies. These mandates will divert needed resources from ongoing safety projects and an overall safety agenda that has resulted in the safest period in aviation history. Current rulemaking projects will likely be delayed to accommodate these unnecessary new requirements.

Repair Stations

The Administration opposes the 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 prohibit the Administration from 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 contractual obligations with France, Germany, and Ireland, as well as impede ongoing negotiations with EASA.

Air Defense Identification Zone

The Administration strongly opposes the provision of the bill that would require changes to the Washington, D.C., Air Defense Identification Zone so as to "decrease operational impacts" on private aviation. The Federal Government's first priority must continue to be the protection of the United States and the lives and property of its citizens.

War Risk Insurance

The Administration strongly opposes the bill's provisions related to war risk insurance, which do not include the Administration's proposed reforms. 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.

Highway Trust Fund

The Administration understands that Congress may consider revenue measures aimed at maintaining positive cash balances in the Highway Account of the Highway Trust Fund. While the Administration shares congressional interest in averting the impending Trust Fund crisis, the Administration urges Congress to focus on better targeting highway resources without resorting to tax increases or budget gimmicks.

Other Issues

The Administration urges Congress to:

- Remove the proposal for a consumer complaint hotline if the hotline is intended to be a "1-800" number or is to be staffed beyond normal working hours. The existing airline customer service lines already handle the vast majority of customer complaints and the proposal for an additional DOT hotline will have serious resource implications and require significantly greater funding.
- Delete language regarding commercial air tours over National Parks which would add exemptions from all administrative and environmental laws, including the National Environmental Policy Act and cultural and historic preservation laws, for the development of programs for managing commercial air tours over National Parks and permit the air tour management program to be side-stepped based on voluntary

agreements with operators that may be implemented without administrative or environmental review.

- Improve the State Block Grant program by allowing for joint preparation of environmental analyses by Federal agencies and States when a State so agrees.
- Assure that any determinations of compliance with Aircraft Engine Noise and Emissions Standards include consultation with agencies responsible for air quality and public lands since aviation noise affects these concerns.
- Terminate the unnecessary regulation of rates paid to air carriers by the U.S. Postal Service for transporting international mail.
- Clarify, consistent with the President's responsibility to administer the Executive Branch, that provisions regarding consultations or coordination between Executive Branch agencies are recommendations rather than requirements.
- Delete the requirement that air carriers and airports submit emergency contingency plans to DOT for approval. The proposal could require the approval of thousands of contingency plans for which DOT has no expertise, staffing or other resources.

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