

SENATE PASSES FAA REAUTHORIZATION BILL

February 17, 2011

What's at Issue

The U.S. Senate has passed [S.223, the FAA Air Transportation Modernization and Safety Improvement Act](#).

Why It's Important

The legislation provides \$34.5 billion for the Federal Aviation Administration (FAA), an increase in funding for the agency, including the airport improvement program. In addition, the legislation contains a provision that increases the tax on aviation fuels but does not implement a user fee system.

Major Provisions

S. 233 is the same bill that passed the Senate last year. As before, the bill aims to modernize the air traffic control system, improve the safety, reliability and availability of air transportation in the United States, and reauthorize the FAA for two years.

This bill, because it is a copy of last year's bill, includes numerous pilot safety provisions that were passed in separate legislation last year. Those provisions are duplicative and will ultimately not be part of any final legislation signed by the President. As such, those provisions are not highlighted below.

The major provisions of the bill are as follows:

❖ **Title I - Authorizations**

➤ **Operations**

\$9.3 billion is included for Fiscal Year 2011 (FY11) and \$9.6 billion for FY12.

➤ **Air Navigation Facilities and Equipment**

\$3.5 billion, of which \$500 million shall be derived from the Airport and Airways Trust Fund (trust fund) for FY11. \$3.6 billion is provided for FY12, of which \$500 million shall be derived from the trust fund.

➤ **Research and Development**

\$200 million is included for FY11 and \$206 million for FY12.

OVER...

(Major Provisions Continued)

- **Airport Planning and Development and Noise Compatibility Planning and Programs**
\$4 billion is included for FY11 and \$4.1 billion for FY12.

- ❖ **Title II - Airport Improvements**
 - **Passenger Facility Charges (PFC)**
PFCs will remain at \$4.50.

- ❖ **Title III – Air Traffic Control Modernization and FAA Reform**
 - **Air Traffic Control Modernization Oversight Board**
Creates a board to review and provide advice on modernization programs, budget, and cost accounting, as well as oversee NextGen and the administrator’s plan for implementation.

 - **Acceleration of NextGen Technologies**
 - Requires the FAA to report on RNP/RNAV operations, coordination and implementation activities, and an implementation plan for these procedures.
 - Calls for key elements of the FAA’s NextGen program to be in place at the busiest American airports by 2014. The system will not be fully in place for noncommercial aircraft until after 2020.

 - **ADS-B Development and Implementation**
 - Requires the administrator to keep Congress informed of the plan, schedule and budget requirements for integrating Automatic Dependent Surveillance-Broadcast (ADS-B) into the National Airspace System.
 - The legislation addresses incentives for NextGen equipage to national airspace users, small, medium and large airports, and general aviation users in order to accelerate the transition to satellite-based navigation and surveillance.
 - Mandates ADS-B Out technology for all aircraft by 2015 and ADS-B In by 2018.

- ❖ **Title V –Safety**
 - **Runway Safety Equipment Plan**
A plan will be implemented by the FAA to install equipment to alert controllers and flight crews of potential runway incursions. It will be a part of the FAA NextGen Implementation Plan.

 - **Judicial Review of Denial of Airman Certificates**
Any person significantly affected by a National Transportation Safety Board (NTSB) decision related to airman certificate action may obtain judicial review.

MORE...

(Major Provisions Continued)

➤ **Increasing Safety for Helicopter and Fixed-Wing Emergency Medical Service**

Approximately 18 months after enactment of this legislation, helicopter and fixed-wing aircraft certificate holders providing emergency medical services shall comply with Part 135 operating requirements if there is a medical crew on board, regardless of whether a patient is on board. The certificate holder is exempt if they are operating under instrument flight rules.

➤ **Inspection of Foreign Repair Stations**

- Requires all Part 145 repair stations to undergo FAA inspections biannually, with the exception of those in nations that have aviation treaties with the U.S.
- Establishes a requirement between the Secretaries of State and Transportation to work with foreign countries that are members of the International Civil Aviation Organization to establish international standards for alcohol and controlled substance testing of individuals performing sensitive safety maintenance functions of commercial aircraft.

➤ **Oversight of Pilot Training Schools**

Requires the administrator to submit a plan to Congress for overseeing Part 141 certified pilot schools to include curriculum and course outline requirements, and to conduct on-site inspections of each school not less than once every 2 years.

❖ **Title VIII – Miscellaneous**

➤ **Commercial Air Tour Operations in National Parks**

A commercial air tour operator is required to report relevant characteristics of commercial air tour operations, including routes, altitudes, duration and time of day, to the FAA. These reporting requirements are to be done annually and for a fee, determined by the Department of the Interior.

➤ **Phase Out of Stage 1 and Stage 2 Aircraft - Prohibition on operating certain aircraft weighing 75,000 pounds or less not complying with Stage 3 noise levels**

Prohibits the operation of a civil subsonic turbojet weighing 75,000 pounds or less to or from a U.S. airport unless the aircraft complies with Stage 3 noise levels, as certified by the Secretary of Transportation

➤ **Weight Restrictions at Teterboro Airport**

Prohibits the FAA administrator from taking actions designed to challenge or influence weight restrictions or prior permission rules at Teterboro Airport in Teterboro, New Jersey, unless in an emergency.

OVER...

(Major Provisions Continued)

➤ **Study of Helicopter and Fixed Wing Air Ambulance Services**

Requires the FAA to report the number and size of aircraft, the registration number and the base of location for helicopters and fixed-wing aircraft used to provide emergency medical services.

➤ **Study on Aviation Fuel Prices**

A study will be conducted, and reported to Congress, on the impact of increases in aviation fuel prices on the Airport and Airway Trust Fund and the aviation industry in general, to include general aviation, piston aircraft purchase and use, the aviation services industry (including repair and maintenance services), aviation manufacturing, aviation exports, and the use of small airport installations.

➤ **Volunteer Pilots Operating Charitable Medical Flights**

The FAA shall allow aircraft owners and operators volunteering to provide transportation for an individual for medical purposes to accept reimbursement to cover all or part of the fuel costs associated with the flight.

❖ **Title VIII – Airport and Airway Trust Fund Provisions**

➤ **Increase in Aviation Fuel Taxes**

Taxes on general aviation fuel (jet fuel) will rise to 35.9 cents per gallon, increasing from the current rate of 21.8 cents per gallon. Language to eliminate the so-called “fuel fraud tax” provisions is also included. No changes to the current aviation gasoline rate are proposed.

➤ **Fractional Aircraft Ownership Programs**

The Internal Revenue Service is directed to treat fractional aircraft operations as noncommercial for the purposes of assessing federal excise taxes. Fractional aircraft will be subject to a fuel surtax of 14.1 cents per gallon.

➤ **Small Aircraft on Non-established Lines**

Existing exemption from commercial excises taxes for small aircraft that are not operated on an established line would be removed and replaced with a narrower exemption only applicable to small aircraft sightseeing flights.

NATA Position

NATA is pleased that the Senate is placing FAA reauthorization legislation as a top priority in the first two months of the 112th Congress. The bill is devoid of any user fees on general aviation and the tax adjustments for general aviation represent reasonable increases with a slight increase

MORE...

(NATA Position Continued)

over inflation. The taxes will enable general aviation to contribute more into the Airport and Airway Trust Fund without placing an onerous user fee system on the industry. In addition, the provision increasing the fuel tax also eliminates the fuel fraud provision that has been burdensome to the industry and costly to the Airport and Airways Trust Fund.

NATA is also appreciative of the benchmarks included to ensure that NextGen proceeds in a consistent manner while the FAA attempts to accelerate and streamline the process for certification standards of NextGen technologies.

The association is, however, opposed to several of the legislation's provisions, in particular the elimination of the small aircraft exemption for most operators who are currently eligible and the creation of a ban on Stage 2 aircraft.

Status

The U.S. House of Representatives Committee on Transportation and Infrastructure approved their version of an FAA reauthorization bill, [H.R. 658, the FAA Reauthorization and Reform Act of 2011](#), in committee on February 16, 2011. The next step in the process for H.R. 658 is consideration by the House Committee on Ways and Means, which will focus on the tax title of the bill.

Once the House has completed the tax title, the full reauthorization bill will go to the House floor for a vote. Assuming successful passage, the House and Senate will then create a conference committee to reconcile the differences between the two bills so a final version can be voted on, passed, and signed into law by the President.

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