

Calendar No. 270

107TH CONGRESS
1ST SESSION**S. 1786**

To expand aviation capacity in the Chicago area.

IN THE SENATE OF THE UNITED STATES

DECEMBER 7, 2001

Mr. DURBIN (for himself, Mr. GRASSLEY, Mr. HARKIN, Mr. DASCHLE, Mr. INHOFE, Mr. REID, Mr. DORGAN, Mr. BURNS, Mr. ROCKEFELLER, Mr. BREAUX, Mr. BROWNBACK, Mr. TORRICELLI, and Mr. JOHNSON) introduced the following bill

DECEMBER 8 (legislative day, DECEMBER 7), 2001

Read the first time

DECEMBER 10, 2001

Read the second time and placed on the calendar

A BILL

To expand aviation capacity in the Chicago area.

1 *Be it enacted by the Senate and House of Representa-*
 2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “National Aviation Ca-
 5 pacity Expansion Act”.

1 **SEC. 2. FINDINGS.**

2 Congress makes the following findings:

3 (1) The reliability and efficiency of the national
4 air transportation system significantly depend on the
5 efficiency of Chicago O'Hare International Airport.
6 Because of O'Hare's central location, and the mag-
7 nitude of the demand for air transportation services
8 in northeast Illinois and northwest Indiana, O'Hare
9 has an essential role in the national air transpor-
10 tation system. The reliability and efficiency of inter-
11 state air transportation for residents and businesses
12 in many States depend on efficient processing of air
13 traffic operations at O'Hare.

14 (2) The largest efficient hub airports in the
15 United States are designed with multiple parallel
16 runways without substantial runway intersections.
17 O'Hare cannot efficiently perform its role in the na-
18 tional air transportation system unless it has such a
19 design.

20 (3) New runway construction projects are local
21 decisions that are supported by the Federal Govern-
22 ment through the Airport Improvement Program
23 and other programs. Given the importance of air
24 travel to our national economy, and the importance
25 of O'Hare to national air transportation, it is critical
26 that the Federal Government does all it can to facili-

1 tate redesign of O'Hare and the development of a
2 supplemental air carrier airport located near
3 Peotone, Illinois.

4 (4) The Governor of Illinois and the Mayor of
5 Chicago have determined that redesign of O'Hare
6 and the development of a supplemental air carrier
7 airport located near Peotone, Illinois, as described in
8 this Act, are each necessary and desirable to provide
9 reliable and efficient air commerce.

10 (5) On December 5, 2001, the Governor of Illi-
11 nois and the Mayor of Chicago signed an historic
12 agreement that would modernize O'Hare Inter-
13 national Airport, by providing for—

14 (A) east-west parallel runways;

15 (B) construction of a south suburban air-
16 port near Peotone;

17 (C) addressing traffic congestion along the
18 Northwest Corridor, including western airport
19 access;

20 (D) continuation of the operation of Chi-
21 cago Meigs Field; and

22 (E) maintenance of the quality of life for
23 residents near the airports.

1 (6) The importance of increasing commercial
 2 air service at the Gary-Chicago and Greater Rock-
 3 ford Airports is also recognized.

4 **SEC. 3. AIRPORT REDESIGN.**

5 (a) NECESSITY OF O'HARE RUNWAY REDESIGN AND
 6 DEVELOPMENT OF SOUTH SUBURBAN AIRPORT.—

7 (1) It is the policy of Congress that redesign
 8 and reconstruction of Chicago O'Hare International
 9 Airport in Cook and DuPage Counties, Illinois, in
 10 accordance with the runway redesign plan, and the
 11 development of a south suburban airport in the Chi-
 12 cago metropolitan region, are each required to im-
 13 prove the efficiency of, and relieve congestion in, the
 14 national air transportation system.

15 (2)(A) The Administrator of the Federal Avia-
 16 tion Administration shall implement the Federal pol-
 17 icy described in paragraph (1) by facilitating ap-
 18 proval, funding, construction, and implementation
 19 of—

20 (i) the runway redesign plan upon receipt
 21 of an application from Chicago for approval of
 22 an airport layout plan that includes the runway
 23 redesign plan; and

24 (ii) the south suburban airport upon re-
 25 ceipt of an application from the State of Illinois

1 or a political subdivision thereof for approval of
2 an airport layout plan for a south suburban air-
3 port.

4 (B) Implementation of the plan described in
5 subparagraph (A) shall be subject to application of
6 Federal laws with respect to environmental protec-
7 tion and environmental analysis including the Na-
8 tional Environmental Policy Act and the determina-
9 tion of the Administrator of the Federal Aviation
10 Administration that the plan meets the criteria re-
11 garding practicability, safety, and efficiency, and is
12 consistent with Federal Aviation Administration de-
13 sign criteria.

14 (3) The State shall not enact or enforce any
15 law respecting aeronautics that interferes with, or
16 has the effect of interfering with, implementation of
17 Federal policy with respect to the runway redesign
18 plan including sections 38.01, 47, and 48 of the Illi-
19 nois Aeronautics Act.

20 (4) All environmental reviews, analyses, and
21 opinions related to issuance of permits, licenses, or
22 approvals by operation of Federal law relating to the
23 runway redesign plan or the south suburban airport
24 shall be conducted on an expedited basis. Each Fed-
25 eral agency having jurisdiction shall complete envi-

ronmental-related reviews on an expedited and coordinated basis.

(5) If the Administrator of the Federal Aviation Administration determines that construction or operation of the runway redesign plan would not conform, within the meaning of section 176(c) of the Clean Air Act, to an applicable implementation plan approved or promulgated under section 110 of the Clean Air Act, the Environmental Protection Agency shall forthwith cause or promulgate a revision of such implementation plan sufficient for the runway redesign plan to satisfy the requirements of section 176(c) of the Clean Air Act.

(6) In this section:

(A) The term “runway redesign plan” means—

(i) 6 parallel runways at O’Hare oriented in the east-west direction with the capability, to the extent determined by the Administrator to be practicable, safe, and efficient, for 4 simultaneous independent instrument aircraft arrivals, and all associated taxiways, navigational facilities, passenger handling facilities, and other related facilities; and

1 (ii) the closure of existing runways
 2 14L–32R, 14R–32L, and 18–36.

3 (B) The term “south suburban airport”
 4 means an additional air carrier airport in the
 5 vicinity of Peotone, Illinois.

6 (C) The term “Administrator” means the
 7 Administrator of the Federal Aviation Adminis-
 8 tration or his designee.

9 (b) PHASING OF CONSTRUCTION.—Approval by the
 10 Administrator of an airport layout plan that includes the
 11 runway redesign plan shall provide that any runway lo-
 12 cated more than 2500 feet south of existing runway 9R–
 13 27L shall not begin construction before January 1, 2011.

14 (c) WESTERN PUBLIC ROADWAY ACCESS.—The Ad-
 15 ministrator shall not consider an airport layout plan sub-
 16 mitted by Chicago that includes the runway redesign plan,
 17 unless it includes public roadway access through the west-
 18 ern boundary of O’Hare to passenger terminal and park-
 19 ing facilities. Approval of western public road access shall
 20 be subject to the condition that the cost of construction
 21 be paid for from airport revenues.

22 (d) NOISE MITIGATION.—

23 (1) Approval by the Administrator of an airport
 24 layout plan that includes the runway redesign plan
 25 shall require Chicago to offer acoustical treatment of

1 all single-family houses and schools located within
2 the 65 DNL noise contour for each construction
3 phase of the runway redesign plan, subject to Fed-
4 eral Aviation Administration guidelines and speci-
5 fications of general applicability. The Administrator
6 shall determine that Chicago's plan for acoustical
7 treatment is financially feasible.

8 (2)(A) Approval by the Administrator of an air-
9 port layout plan that includes the runway redesign
10 plan shall be subject to the condition that noise im-
11 pact of aircraft operations at O'Hare in the calendar
12 year immediately following the year in which the
13 first new runway is first used, and in each calendar
14 year thereafter, will be less than the noise impact in
15 calendar year 2000.

16 (B) The Administrator shall make the deter-
17 mination described in subparagraph (A)—

18 (i) using, to the extent practicable, the pro-
19 cedures specified in part 150 of title 14, Code
20 of Federal Regulations;

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

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

1 houses and schools exposed to 65 or greater
2 decibels using the DNL metric, including only
3 single-family houses and schools in existence on
4 the last day of calendar year 2000.

5 (C) The condition described in paragraph (1)
6 shall be enforceable exclusively by the Administrator,
7 using noise mitigation measures approved or approv-
8 able under part 150 of title 14, Code of Federal
9 Regulations.

10 (e) SOUTH SUBURBAN AIRPORT FEDERAL FUND-
11 ING.—The Administrator shall give priority consideration
12 to a letter of intent application submitted by the State
13 of Illinois or a political subdivision thereof for the con-
14 struction of the south suburban airport. The Adminis-
15 trator shall consider the letter not later than 90 days after
16 the Administrator issues final approval of the airport lay-
17 out plan for the south suburban airport.

18 (f) FEDERAL CONSTRUCTION.—

19 (1) On July 1, 2004, or as soon practicable
20 thereafter, the Administrator shall construct the
21 runway redesign plan as a Federal project, if—

22 (A) the Administrator finds, after notice
23 and opportunity for public comment, that a
24 continuous course of construction of the runway
25 redesign plan has not commenced and is not

1 reasonably expected to commence by December
2 1, 2004;

3 (B) Chicago agrees in writing to construc-
4 tion of the runway redesign plan as a Federal
5 project;

6 (C) Chicago enters into an agreement, ac-
7 ceptable to the Administrator, to protect the in-
8 terests of the United States Government with
9 respect to the construction, operation, and
10 maintenance of the runway redesign plan; and

11 (D) Chicago provides, without cost to the
12 United States Government, land, easements,
13 rights-of-way, rights of entry, and other inter-
14 ests in land or property necessary to permit
15 construction of the runway redesign plan as a
16 Federal project and to protect the interests of
17 the United States Government in its construc-
18 tion, operation, maintenance, and use.

19 (2) The Administrator may make an agreement
20 with the City of Chicago under which Chicago will
21 provide the work described in paragraph (1), for the
22 benefit of the Administrator.

23 (3) The Administrator is authorized and di-
24 rected to acquire in the name of the United States
25 all land, easements, rights-of-way, rights of entry, or

1 other interests in land or property necessary for the
2 runway redesign plan under this section, subject to
3 such terms and conditions as the Administrator
4 deems necessary to protect the interests of the
5 United States.

6 (g) MERRILL C. MEIGS FIELD.—

7 (1) Until January 1, 2026, the Administrator
8 shall withhold all airport grant funds respecting Chi-
9 cago O'Hare International Airport, other than
10 grants involving national security and safety, unless
11 the Administrator is reasonably satisfied that the
12 following conditions have been met:

13 (A) Merrill C. Meigs Field in Chicago ei-
14 ther is being operated by Chicago as an airport
15 or has been closed for reasons beyond Chicago's
16 control.

17 (B) Chicago is providing, at its own ex-
18 pense, all off-airport roads and other access,
19 services, equipment, and other personal prop-
20 erty that it provided in connection with the op-
21 eration of Meigs Field on and prior to Decem-
22 ber 1, 2001.

23 (C) Chicago is operating Meigs Field, at
24 its own expense, at all times as a public airport
25 in good condition and repair open to all users

1 capable of utilizing the airport, and is maintain-
2 ing the airport for such public operations at
3 least from 6:00 a.m. to 10:00 p.m. 7 days a
4 week whenever weather conditions permit.

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

13 (2) After January 1, 2006, the Administrator
14 shall not withhold grant funds under this Act to the
15 extent the Administrator determines that with-
16 holding of grant funds would create an unreasonable
17 burden on interstate commerce. If Meigs Field is
18 closed for reasons beyond Chicago's control, the con-
19 ditions described in subparagraphs (B) through (D)
20 shall not apply.

21 (3) The Administrator shall not enforce the
22 conditions listed in paragraph (1) if the State of Illi-
23 nois enacts a law on or after January 1, 2006, au-
24 thorizing the closure of Meigs Field.

1 (4) Net operating losses resulting from oper-
2 ation of Meigs Field, to the extent consistent with
3 law, are to be paid by the 2 air carriers at O'Hare
4 International Airport that paid the highest amount
5 of airport fees and charges at O'Hare International
6 Airport for the preceding calendar year. Notwith-
7 standing any other provision of law, the City of Chi-
8 cago may use airport revenues generated at O'Hare
9 International Airport to fund the operation of Meigs
10 Field.

11 (h) JUDICIAL REVIEW.—An order issued by the Ad-
12 ministrators of the Federal Aviation Administration, in
13 whole or in part, under this section shall be deemed to
14 be an order issued under subtitle VII of part A of title
15 49, United States Code, and shall be reviewed in accord-
16 ance with the procedures in section 46110 of title 49,
17 United States Code.

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