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## **House Transportation Committee FAA Reauthorization Proposal H.R. 4441 – “Aviation Innovation, Reform and Reauthorization (AIRR) Act”**

### ***Summary***

The House T&I Committee released its long awaited FAA reauthorization bill, [H.R. 4441](#), the Aviation Innovation, Reform and Reauthorization (AIRR) Act. While the draft legislation contains provisions reflecting our outreach to Chairman Shuster and Ranking Member DeFazio, these provisions do not outweigh the long-term risks to general aviation created by its user fee-funded air traffic control corporation. A user fee-funded ATC Corporation, controlled in perpetuity by its board of industry insiders, will likely place general aviation in constant peril, starve rural America of access to cutting-edge technology, and saddle the traveling public with ever increasing fees.

### ***Bill Highlights***

#### **Duration of Authorization**

The draft legislation authorizes the FAA through FY2022. Note that congressional rules require an agency like the FAA and programs like NextGen to be authorized in order to be eligible to receive an appropriation. As you will see throughout the legislation, authorizations are also the means by which Congress establishes policy and provides direction.

The FAA’s last reauthorization bill, the “FAA Modernization and Reform Act of 2012” (PL 112-95), authorized spending for the FAA’s major accounts and programs for fiscal years 2012-2015 and expired on September 30, 2015. The agency is acting on a temporary extension that expires on March 31.

#### **Air Traffic Control Corporation**

The centerpiece of the bill is the establishment of a federally chartered, not-for-profit air traffic control corporation. Assets of the current ATC system will be turned over to the Corporation at no cost. The Corporation is to take over operation of the system on October 1, 2019.

#### ***Board of Directors***

The Corporation will be overseen by an eleven-person Board of Directors. Board members will be chosen by the Secretary of Transportation, A4A, AOPA, ALPA and NATCA, and consist of the following:

- CEO

- DOT Secretary – 2 appointments
- A4A – 4 representing mainline carriers
- AOPA – 2 members representing "noncommercial owners and recreational operators of general aviation aircraft"
- ALPA – 1 "appointed by the principal organization representing the largest certified bargaining representative of airline pilots"
- NATCA – 1 "appointed by the principal organization engaged in collective bargaining on behalf of air traffic controllers employed by the Corporation"

### *Advisory Board*

To make excluded stakeholders feel better, a 15-person Advisory Board is established "to conduct activities as the Board determines appropriate" and "may, on its own initiative, study, report, and make recommendations to the Board" related to air traffic services and safety considerations. The Advisory Board's representatives will include:

- Commercial services airports
- Business aviation
- Manufacturers
- Commercial UAS
- Labor organizations (ex. PASS)
- Department of Defense
- Small communities

### *Corporation Funding*

Beginning on October 1, 2019, the Corporation may begin the collection of user fees from any air traffic service user. The fees must be consistent with ICAO Policies on Charges for Air Navigation Services (weight & distance) and may be charged on a flat fee basis. Charges and fees may not be imposed on:

- Piston-engine aircraft operations
- Noncommercial turbine engine aircraft
- Air taxi operations in remote locations

Note: It appears current exemptions from commercial taxes will no longer continue for:

- Turbo-props eligible for today's small aircraft exemption
- Helicopters used in development of hard minerals exploration, oil or gas
- Airplanes and helicopters used in certain forestry operations
- Air Ambulances
- Seaplanes
- Sky Diving

The Board must approve the fees proposed by the Corporation and fee schedules are appealable to the Secretary of Transportation.

## *Current Aviation Taxes*

The authority to levy taxes is the sole jurisdiction of the House Committee on Ways and Means and Senate Finance Committee. It presumes that current GA noncommercial taxes will be extended by the two tax writing committees for deposit into the Airport and Airway Trust Fund and commercial taxes being sunset effective October 1, 2019. However, early press reports indicate that key members of the House Ways and Means Committee, including its Chairman, were not consulted in advance of the bill's release.

Under the House proposal, the application of FET to aircraft management services is unclear as the underlying tax on Part 135 operations will no longer exist, replaced by ATC Corporation user fees. Like many aspects of this proposal, we expect to hear more on this issue in the coming days.

## *Relationship of Corporation to FAA*

FAA Administrator Huerta has worked hard to break down the stovepipes between the safety organizations within the ATO and FAA AVS. The relationship between those two organizations going forward is unclear. However, turning the FAA's safety organization into solely a regulatory body, including overseeing operational standards, creates potential unintended consequences that will likely undermine many of the efficiencies that proponents claim will come from a new air traffic control structure.

## Airport Funding

Though the legislation denies the AAAE/ACI request for a PFC increase from \$4.50 to \$8.50, it does make changes to the program to ease its use. In addition, the bill increases AIP funding through the life of the bill from the \$3.35b to \$3.8b in FY2022.

Airport associations are also pleased with changes to the cost-benefit assessment process for contract towers, as well as protections from Corporation attempts to unilaterally close contract towers without conducting careful reviews including input from airport operators and local communities.

GA tax revenues deposited into the Airport and Airway Trust Fund will fall far short of the funding needed to operate whatever remains of the FAA and airport infrastructure projects. We expect the Transportation Committee will propose to the Ways and Means Committee the retention of at least some current commercial taxes to fund airport capital projects after ATC functions transition to the Corporation.

## Changes to FAA's Current Regulatory Practices

Last year, after consultation with our policy committees, NATA staff presented the House Transportation and Senate Commerce Committees with a number of ideas to improve FAA operations in a manner that benefits the aviation business community. In this respect, the House bill reflects the association's outreach to Chairman Shuster and Ranking Member DeFazio and acts on many NATA recommendations:

### *Improve the agency's regulatory consistency*

The legislation acts on NATA's request that FAA continue to improve the consistency of its regulatory activities at the regional and district levels. It establishes a Regional Consistency Communications Board to provide a venue for resolving standardization issues. The bill also addresses another NATA related request by giving the agency one year to establish a database of all safety and regulatory related material.

### *Increase use of delegated authority*

The bill requires Flight Standards to establish metrics that ensure progress is made at a minimum in "achieving full utilization of FAA delegation and designation authorities." This assists our goal of further delegation of Check Airman and other areas where such functions can be delegated. The legislation also includes a section on delegation organizations to address our concerns that even after a function is delegated, some FAA offices are micro-managing and approving work that has already been approved under delegated authority.

### *Realign the Flight Standards Service*

The legislation acts on NATA's request to realign the Flight Standards Service with the policy organizations at Headquarters and provide for a more direct, streamlined flow of communication.

The bill also creates a related Safety Oversight and Certification Advisory Committee to establish metrics and provide direction to both Aircraft Certification and Flight Standards. Under this committee structure there will be workgroups and in the case of Flight Standards, a Task Force that will provide recommendations on – among many other things – the reorganization that we requested of Flights Standards by function rather than region.

### *Other NATA Requests Already Acted Upon*

Two other NATA "asks" of Congress were implemented in 2015 including:

- An NATA supported provision directing the Government Accountability Office (GAO) to conduct a study of diversions of non-commercial jet fuel tax revenues to the Highway Trust Fund. In fact, NATA met just this week with the GAO investigative team.
- In addition, Congress acted on our request for two important changes to business investment incentives including a five-year extension of bonus depreciation, from 2015 through 2019 and a permanent increase in Section 179 expensing limitation and phase out amounts to \$500,000 and \$2 million respectively.

The legislation also includes other general aviation stakeholder "asks" that we supported:

- Streamlining the certification process
- Third class medical reform
- Construction of aircraft used for recreational purposes at GA airports to be considered an aeronautical activity

- Pilot program for remote towers
- Acceptance of voluntary disclosure information
- Explicit authority to use unleaded avgas

### ***Analysis***

From the start of the reauthorization process, NATA advocated that Congress builds on the work begun in the last reauthorization and continue to assist the agency toward a more efficient operating structure. Such a long-term reauthorization bill will provide aviation businesses with the certainty required to continue to invest and create jobs. Absent the ATC corporation title this legislation would fully meet our goals.

However, the legislation rejects NATA's request that it not bog down the reauthorization process in yet another debate over privatization of the air traffic control system and replacement of the current aviation fuel and ticket tax regime with user fees.

NATA has been quite clear that it cannot support "leap of faith" proposals that place general aviation's fate in the hands of a yet-to-be determined board of directors and leave unresolved its contribution to the system. Further, the legislation seriously underestimates the impact of separating air traffic from the agency's safety functions. The creation of a corporation will not address one goal of its authors – the removal of "politics" from the funding, deployment and operation of air traffic control. Rather, the removal of Congress from this process is more likely to result in a gold-plated and exorbitantly salaried system.

A user fee-funded ATC corporation, controlled in perpetuity by a board of industry insiders, will place general aviation in constant peril of attempts by major users of the ATC system to cost shift and deny access to airspace and airports. It will likely undermine the national air transportation system by denying rural America access to cutting-edge technology, and it's hard to see how it won't saddle the traveling public with ever increasing fees.

### ***Next Steps***

The Committee is expected to hold a hearing and markup the legislation the week of February 8.