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107TH CONGRESS
2^D SESSION

H. R. 3479

IN THE SENATE OF THE UNITED STATES

JULY 24, 2002

Received; read twice and placed on the calendar

AN ACT

To expand aviation capacity.

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

1 **TITLE I—NATIONAL AVIATION**
2 **CAPACITY EXPANSION**

3 **SEC. 101. SHORT TITLE.**

4 This title may be cited as the “National Aviation Ca-
5 pacity Expansion Act of 2002”.

6 **SEC. 102. FINDINGS.**

7 Congress finds the following:

8 (1) O’Hare International Airport consistently
9 ranks as the Nation’s first or second busiest airport
10 with nearly 34,000,000 annual passengers
11 enplanements, almost all of whom travel in inter-
12 state or foreign commerce. The Federal Aviation Ad-
13 ministration’s most recent data, compiled in the Air-
14 port Capacity Benchmark Report 2001, projects de-
15 mand at O’Hare to grow by 18 percent over the next
16 decade. O’Hare handles 72,100,000 passengers an-
17 nually, compared with 64,600,000 at London
18 Heathrow International Airport, Europe’s busiest
19 airport, and 36,700,000 at Kimpo International Air-
20 port, Korea’s busiest airport, 7,400,000 at Narita
21 International Airport, Japan’s busiest airport,
22 23,700,000 at Kingsford-Smith International Air-
23 port, Australia’s busiest airport, and 6,200,000 at
24 Ezeiza International Airport, Argentina’s busiest
25 airport, as well as South America’s busiest airport.

1 (2) The Airport Capacity Benchmark Report
2 2001 ranks O'Hare as the third most delayed air-
3 port in the United States. Overall, slightly more
4 than 6 percent of all flights at O'Hare are delayed
5 significantly (more than 15 minutes). On good
6 weather days, scheduled traffic is at or above capac-
7 ity for 3½ hours of the day with about 2 percent
8 of flights at O'Hare delayed significantly. In adverse
9 weather, capacity is lower and scheduled traffic ex-
10 ceeds capacity for 8 hours of the day, with about 12
11 percent of the flights delayed.

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

21 (4) On December 5, 2001, the Governor of Illi-
22 nois and the Mayor of Chicago reached an agree-
23 ment to allow the city to go forward with a proposed
24 capacity enhancement project for O'Hare which in-

1 volves redesign of the airport's runway configura-
2 tion.

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

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

10 (7) Future Governors of Illinois could stop the
11 O'Hare capacity enhancement project by refusing to
12 issue a certificate required for such project under
13 the Illinois Aeronautics Act, or by refusing to submit
14 airport improvement grant requests for the project,
15 or by improperly administering the State implemen-
16 tation plan process under the Clean Air Act (42
17 U.S.C. 7401 et seq.) to prevent construction and op-
18 eration of the project.

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

1 (9) Because of the importance of O'Hare to the
2 national air transportation system and the growing
3 congestion at the airport and because of the expendi-
4 ture of Federal funds for a master-planning grant
5 for expansion of capacity at O'Hare, it is important
6 to the national air transportation system, interstate
7 commerce, and the efficient expenditure of Federal
8 funds, that the city of Chicago's proposals to the
9 Federal Aviation Administration have an oppor-
10 tunity to be considered for Federal approval and
11 possible funding, that the city's requests for changes
12 to the State implementation plan to allow such
13 projects not be denied arbitrarily, and that, if the
14 Federal Aviation Administration approves the
15 project and funding for a portion of its cost, the city
16 can implement and use the project.

17 (10) Any application submitted by the city of
18 Chicago for expansion of O'Hare should be evalu-
19 ated by the Federal Aviation Administration and
20 other Federal agencies under all applicable Federal
21 laws and regulations and should be approved only if
22 the application meets all requirements imposed by
23 such laws and regulations.

24 (11) As part of the agreement between the city
25 and the State allowing the city to submit an applica-

1 tion for improvement of O'Hare, there has been an
2 agreement for the continued operation of Merrill C.
3 Meigs Field by the city, and it has also been agreed
4 that, if the city does not follow the agreement on
5 Meigs Field, Federal airport improvement program
6 funds should be withheld from the city for O'Hare.

7 (12) To facilitate implementation of the agree-
8 ment allowing the city to submit an application for
9 O'Hare, it is desirable to require by law that Fed-
10 eral airport improvement program funds for O'Hare
11 be administered to require continued operation of
12 Merrill C. Meigs Field by the city, as proposed in
13 the agreement.

14 (13) To facilitate implementation of the agree-
15 ment allowing the city to submit an application for
16 O'Hare, it is desirable to enact into law provisions
17 of the agreement relating to noise and public road-
18 way access. These provisions are not inconsistent
19 with Federal law.

20 (14) If the Federal Aviation Administration ap-
21 proves an airport layout plan for O'Hare directly re-
22 lated to the agreement reached on December 5,
23 2001, such approvals will constitute an action of the
24 United States under Federal law and will be an im-
25 portant first step in the process by which the Gov-

1 ernment could decide that these plans should receive
2 Federal assistance under chapter 471 of title 49,
3 United States Code, relating to airport development.

4 (15) The agreement between the State of Illi-
5 nois and the city of Chicago includes agreement that
6 the construction of an airport in Peotone, Illinois,
7 would be proposed by the State to the Federal Avia-
8 tion Administration. Like the O'Hare expansion pro-
9 posal, the Peotone proposal should receive full con-
10 sideration by the Federal Aviation Administration
11 under standard procedures for approving and fund-
12 ing an airport improvement project, including all ap-
13 plicable safety, utility and efficiency, and environ-
14 mental review.

15 (16) Gary/Chicago Airport in Gary, Indiana,
16 and the Greater Rockford Airport, Illinois, may al-
17 leviate congestion and provide additional capacity in
18 the greater Chicago metropolitan region. Like the
19 O'Hare airport expansion proposal, expansion efforts
20 by Gary/Chicago and Greater Rockford airports
21 should receive full consideration by the Federal
22 Aviation Administration under standard procedures
23 for approving and funding an airport capacity im-
24 provement project, including all applicable safety,
25 utility and efficiency, and environmental reviews.

1 **SEC. 103. STATE, CITY, AND FAA AUTHORITY.**

2 (a) PROHIBITION.—In furtherance of the purpose of
3 this Act to achieve significant air transportation benefits
4 for interstate and foreign commerce, if the Federal Avia-
5 tion Administration makes, or at any time after December
6 5, 2001 has made, a grant to the city of Chicago, Illinois,
7 with the approval of the State of Illinois for planning or
8 construction of runway improvements at O’Hare Inter-
9 national Airport, the State of Illinois, and any instrumen-
10 tality or political subdivision of the State, are prohibited
11 from exercising authority under sections 38.01, 47, and
12 48 of the Illinois Aeronautics Act (620 ILCS 5/) to pre-
13 vent, or have the effect of preventing—

14 (1) further consideration by the Federal Avia-
15 tion Administration of an O’Hare airport layout
16 plan directly related to the agreement reached by the
17 State and the city on December 5, 2001, with re-
18 spect to O’Hare;

19 (2) construction of projects approved by the Ad-
20 ministration in such O’Hare airport layout plan; or

21 (3) application by the city of Chicago for Fed-
22 eral airport improvement program funding for
23 projects approved by the Administration and shown
24 on such O’Hare airport layout plan.

25 (b) APPLICATIONS FOR FEDERAL FUNDING.—Not-
26 withstanding any other provision of law, the city of Chi-

1 cago is authorized to submit directly to the Federal Avia-
2 tion Administration without the approval of the State of
3 Illinois, applications for Federal airport improvement pro-
4 gram funding for planning and construction of a project
5 shown on an O'Hare airport layout plan directly related
6 to the agreement reached on December 5, 2001, and to
7 accept, receive, and disburse such funds without the ap-
8 proval of the State of Illinois.

9 (c) LIMITATION.—If the Federal Aviation Adminis-
10 tration determines that an O'Hare airport layout plan di-
11 rectly related to the agreement reached on December 5,
12 2001, will not be approved by the Administration, sub-
13 sections (a) and (b) of this section shall expire and be of
14 no further effect on the date of such determination.

15 (d) WESTERN PUBLIC ROADWAY ACCESS.—As pro-
16 vided in the December 5, 2001, agreement referred to in
17 subsection (a), the Administrator of the Federal Aviation
18 Administration shall not consider an airport layout plan
19 submitted by the city of Chicago that includes the runway
20 redesign plan, unless the airport layout plan includes pub-
21 lic roadway access through the existing western boundary
22 of O'Hare to passenger terminal and parking facilities lo-
23 cated inside the boundary of O'Hare and reasonably acces-
24 sible to such western access. Approval of western public
25 roadway access shall be subject to the condition that the

1 cost of construction be paid for from airport revenues con-
2 sistent with Administration revenue use requirements.

3 (e) NOISE MITIGATION.—As provided in the Decem-
4 ber 5, 2001, agreement referred to in subsection (a), the
5 following apply:

6 (1) Approval by the Administrator of an airport
7 layout plan that includes the runway redesign plan
8 shall require the city of Chicago to offer acoustical
9 treatment of all single-family houses and schools lo-
10 cated within the 65 DNL noise contour for each
11 construction phase of the runway redesign plan, sub-
12 ject to Administration guidelines and specifications
13 of general applicability. The Administrator may not
14 approve the runway redesign plan unless the city
15 provides the Administrator with information suffi-
16 cient to demonstrate that the acoustical treatment
17 required by this paragraph is feasible.

18 (2)(A) Approval by the Administrator of an air-
19 port layout plan that includes the runway redesign
20 plan shall be subject to the condition that noise im-
21 pact of aircraft operations at O'Hare in the calendar
22 year immediately following the year in which the
23 first new runway is first used and in each calendar
24 year thereafter will be less than the noise impact in
25 calendar year 2000.

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

3 (i) using, to the extent practicable, the pro-
4 cedures specified in part 150 of title 14, Code
5 of Federal Regulations;

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

8 (iii) by determining noise impact solely in
9 terms of the aggregate number of square miles
10 and the aggregate number of single-family
11 houses and schools exposed to 65 or greater
12 decibels using the DNL metric, including only
13 single-family houses and schools in existence on
14 the last day of calendar year 2000. The Admin-
15 istrator shall make such determination based on
16 information provided by the city of Chicago,
17 which shall be independently verified by the Ad-
18 ministrator.

19 (C) The conditions described in this subsection
20 shall be enforceable exclusively through the submis-
21 sion and approval of a noise compatibility plan
22 under part 150 of title 14, Code of Federal Regula-
23 tions. The noise compatibility plan submitted by the
24 city of Chicago shall provide for compliance with this
25 subsection. The Administrator shall approve meas-

1 ures sufficient for compliance with this subsection in
2 accordance with procedures under such part 150.
3 The United States shall have no financial responsi-
4 bility or liability if operations at O’Hare in any year
5 do not satisfy the conditions in this subsection.

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

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

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

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

6 (2) closure of existing runways 14L-32R, 14R-
7 32L and 18-36 at O'Hare.

8 **SEC. 104. CLEAN AIR ACT.**

9 (a) IMPLEMENTATION PLAN.—An implementation
10 plan shall be prepared by the State of Illinois under the
11 Clean Air Act (42 U.S.C. 7401 et seq.) in accordance with
12 the State's customary practices for accounting for and
13 regulating emissions associated with activity at commer-
14 cial service airports. The State shall not deviate from its
15 customary practices under the Clean Air Act for the pur-
16 pose of interfering with the construction of a runway pur-
17 suant to the redesign plan or the south suburban airport.
18 At the request of the Administrator of the Federal Avia-
19 tion Administration, the Administrator of the Environ-
20 mental Protection Agency shall, in consultation with the
21 Administrator of the Federal Aviation Administration, de-
22 termine that the foregoing condition has been satisfied be-
23 fore approving an implementation plan. Nothing in this
24 section shall be construed to affect the obligations of the

1 State under section 176(c) of the Clean Air Act (42
2 U.S.C. 7506(c)).

3 (b) LIMITATION ON APPROVAL.—The Administrator
4 of the Federal Aviation Administration shall not approve
5 the runway redesign plan unless the Administrator of the
6 Federal Aviation Administration determines that the con-
7 struction and operation will include, to the maximum ex-
8 tent feasible, the best management practices then reason-
9 ably available to and used by operators of commercial serv-
10 ice airports to mitigate emissions regulated under the im-
11 plementation plan.

12 **SEC. 105. MERRILL C. MEIGS FIELD.**

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

15 (1) Until January 1, 2026, the Administrator
16 of the Federal Aviation Administration shall with-
17 hold all Federal airport grant funds respecting
18 O’Hare International Airport, other than grants in-
19 volving national security and safety, unless the Ad-
20 ministrator is reasonably satisfied that the following
21 conditions have been met:

22 (A) Merrill C. Meigs Field in Chicago ei-
23 ther is being operated by the city of Chicago as
24 an airport or has been closed by the Adminis-
25 tration for reasons beyond the city’s control.

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

7 (C) The city of Chicago is operating Meigs
8 Field, at its own expense, at all times as a pub-
9 lic airport in good condition and repair open to
10 all users capable of utilizing the airport and is
11 maintaining the airport for such public oper-
12 ations at least from 6:00 A.M. to 10:00 P.M.
13 7 days a week whenever weather conditions per-
14 mit.

15 (D) The city of Chicago is providing or
16 causing its agents or independent contractors to
17 provide all services (including police and fire
18 protection services) provided or offered at Meigs
19 Field on or immediately prior to December 1,
20 2001, including tie-down, terminal, refueling,
21 and repair services, at rates that reflect actual
22 costs of providing such goods and services.

23 (2) If Meigs Field is closed by the Administra-
24 tion for reasons beyond the city of Chicago's control,

1 the conditions described in subparagraphs (B)
2 through (D) of paragraph (1) shall not apply.

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

8 (4) The Administrator shall not enforce the
9 conditions listed in paragraph (1) if the State of Illi-
10 nois enacts a law on or after January 1, 2006, au-
11 thorizing the closure of Meigs Field.

12 (5) Net operating losses resulting from oper-
13 ation of Meigs Field, to the extent consistent with
14 law, are expected to be paid by the 2 air carriers at
15 O'Hare International Airport that paid the highest
16 amount of airport fees and charges at O'Hare Inter-
17 national Airport for the preceding calendar year.
18 Notwithstanding any other provision of law, the city
19 of Chicago may use airport revenues generated at
20 O'Hare International Airport to fund the operation
21 of Meigs Field.

22 **SEC. 106. APPLICATION WITH EXISTING LAW.**

23 Nothing in this Act shall give any priority to or affect
24 availability or amounts of funds under chapter 471 of title
25 49, United States Code, to pay the costs of O'Hare Inter-

1 national Airport, improvements shown on an airport lay-
2 out plan directly related to the agreement reached by the
3 State of Illinois and the city of Chicago, Illinois, on De-
4 cember 5, 2001.

5 **SEC. 107. SENSE OF CONGRESS ON QUIET AIRCRAFT TECH-**
6 **NOLOGY RESEARCH AND DEVELOPMENT.**

7 It is the sense of the Congress that the Office of En-
8 vironment and Energy of the Federal Aviation Adminis-
9 tration should be funded to carry out noise mitigation pro-
10 gramming and quiet aircraft technology research and de-
11 velopment at a level of \$37,000,000 for fiscal year 2004
12 and \$47,000,000 for fiscal year 2005.

13 **TITLE II—AIRPORT STREAM-**
14 **LINING APPROVAL PROCESS**

15 **SEC. 201. SHORT TITLE.**

16 This title may be cited as the “Airport Streamlining
17 Approval Process Act of 2002”.

18 **SEC. 202. FINDINGS.**

19 Congress finds that—

20 (1) airports play a major role in interstate and
21 foreign commerce;

22 (2) congestion and delays at our Nation’s major
23 airports have a significant negative impact on our
24 Nation’s economy;

1 (3) airport capacity enhancement projects at
2 congested airports are a national priority and should
3 be constructed on an expedited basis;

4 (4) airport capacity enhancement projects must
5 include an environmental review process that pro-
6 vides local citizenry an opportunity for consideration
7 of and appropriate action to address environmental
8 concerns; and

9 (5) the Federal Aviation Administration, airport
10 authorities, communities, and other Federal, State,
11 and local government agencies must work together
12 to develop a plan, set and honor milestones and
13 deadlines, and work to protect the environment while
14 sustaining the economic vitality that will result from
15 the continued growth of aviation.

16 **SEC. 203. PROMOTION OF NEW RUNWAYS.**

17 Section 40104 of title 49, United States Code, is
18 amended by adding at the end the following:

19 “(c) AIRPORT CAPACITY ENHANCEMENT PROJECTS
20 AT CONGESTED AIRPORTS.—In carrying out subsection
21 (a), the Administrator shall take action to encourage the
22 construction of airport capacity enhancement projects at
23 congested airports as those terms are defined in section
24 47179.”.

1 **SEC. 204. AIRPORT PROJECT STREAMLINING.**

2 (a) IN GENERAL.—Chapter 471 of title 49, United
3 States Code, is amended by inserting after section 47153
4 the following:

5 “SUBCHAPTER III—AIRPORT PROJECT
6 STREAMLINING

7 “§ 47171. DOT as lead agency

8 “(a) AIRPORT PROJECT REVIEW PROCESS.—The
9 Secretary of Transportation shall develop and implement
10 a coordinated review process for airport capacity enhance-
11 ment projects at congested airports.

12 “(b) COORDINATED REVIEWS.—The coordinated re-
13 view process under this section shall provide that all envi-
14 ronmental reviews, analyses, opinions, permits, licenses,
15 and approvals that must be issued or made by a Federal
16 agency or airport sponsor for an airport capacity enhance-
17 ment project at a congested airport will be conducted con-
18 currently, to the maximum extent practicable, and com-
19 pleted within a time period established by the Secretary,
20 in cooperation with the agencies identified under sub-
21 section (c) with respect to the project.

22 “(c) IDENTIFICATION OF JURISDICTIONAL AGEN-
23 CIES.—With respect to each airport capacity enhancement
24 project at a congested airport, the Secretary shall identify,
25 as soon as practicable, all Federal and State agencies that
26 may have jurisdiction over environmental-related matters

1 that may be affected by the project or may be required
2 by law to conduct an environmental-related review or anal-
3 ysis of the project or determine whether to issue an envi-
4 ronmental-related permit, license, or approval for the
5 project.

6 “(d) STATE AUTHORITY.—If a coordinated review
7 process is being implemented under this section by the
8 Secretary with respect to a project at an airport within
9 the boundaries of a State, the State, consistent with State
10 law, may choose to participate in such process and provide
11 that all State agencies that have jurisdiction over environ-
12 mental-related matters that may be affected by the project
13 or may be required by law to conduct an environmental-
14 related review or analysis of the project or determine
15 whether to issue an environmental-related permit, license,
16 or approval for the project, be subject to the process.

17 “(e) MEMORANDUM OF UNDERSTANDING.—The co-
18 ordinated review process developed under this section may
19 be incorporated into a memorandum of understanding for
20 a project between the Secretary and the heads of other
21 Federal and State agencies identified under subsection (c)
22 with respect to the project and the airport sponsor.

23 “(f) EFFECT OF FAILURE TO MEET DEADLINE.—

24 “(1) NOTIFICATION OF CONGRESS AND CEQ.—

25 If the Secretary determines that a Federal agency,

1 State agency, or airport sponsor that is participating
2 in a coordinated review process under this section
3 with respect to a project has not met a deadline es-
4 tablished under subsection (b) for the project, the
5 Secretary shall notify, within 30 days of the date of
6 such determination, the Committee on Transpor-
7 tation and Infrastructure of the House of Represent-
8 atives, the Committee on Commerce, Science, and
9 Transportation of the Senate, the Council on Envi-
10 ronmental Quality, and the agency or sponsor in-
11 volved about the failure to meet the deadline.

12 “(2) AGENCY REPORT.—Not later than 30 days
13 after date of receipt of a notice under paragraph (1),
14 the agency or sponsor involved shall submit a report
15 to the Secretary, the Committee on Transportation
16 and Infrastructure of the House of Representatives,
17 the Committee on Commerce, Science, and Trans-
18 portation of the Senate, and the Council on Environ-
19 mental Quality explaining why the agency or sponsor
20 did not meet the deadline and what actions it in-
21 tends to take to complete or issue the required re-
22 view, analysis, opinion, license, or approval.

23 “(g) PURPOSE AND NEED.—For any environmental
24 review, analysis, opinion, permit, license, or approval that
25 must be issued or made by a Federal or State agency that

1 is participating in a coordinated review process under this
2 section with respect to an airport capacity enhancement
3 project at a congested airport and that requires an anal-
4 ysis of purpose and need for the project, the agency, not-
5 withstanding any other provision of law, shall be bound
6 by the project purpose and need as defined by the Sec-
7 retary.

8 “(h) ALTERNATIVES ANALYSIS.—The Secretary shall
9 determine the reasonable alternatives to an airport capac-
10 ity enhancement project at a congested airport. Any other
11 Federal or State agency that is participating in a coordi-
12 nated review process under this section with respect to the
13 project shall consider only those alternatives to the project
14 that the Secretary has determined are reasonable.

15 “(i) SOLICITATION AND CONSIDERATION OF COM-
16 MENTS.—In applying subsections (g) and (h), the Sec-
17 retary shall solicit and consider comments from interested
18 persons and governmental entities.

19 **“§ 47172. Categorical exclusions**

20 “Not later than 120 days after the date of enactment
21 of this section, the Secretary of Transportation shall de-
22 velop and publish a list of categorical exclusions from the
23 requirement that an environmental assessment or an envi-
24 ronmental impact statement be prepared under the Na-

1 tional Environmental Policy Act of 1969 (42 U.S.C. 4321
2 et seq.) for projects at airports.

3 **“§ 47173. Access restrictions to ease construction**

4 “At the request of an airport sponsor for a congested
5 airport, the Secretary of Transportation may approve a
6 restriction on use of a runway to be constructed at the
7 airport to minimize potentially significant adverse noise
8 impacts from the runway only if the Secretary determines
9 that imposition of the restriction—

10 “(1) is necessary to mitigate those impacts and
11 expedite construction of the runway;

12 “(2) is the most appropriate and a cost-effective
13 measure to mitigate those impacts, taking into con-
14 sideration any environmental tradeoffs associated
15 with the restriction; and

16 “(3) would not adversely affect service to small
17 communities, adversely affect safety or efficiency of
18 the national airspace system, unjustly discriminate
19 against any class of user of the airport, or impose
20 an undue burden on interstate or foreign commerce.

21 **“§ 47174. Airport revenue to pay for mitigation**

22 “(a) IN GENERAL.—Notwithstanding section
23 47107(b), section 47133, or any other provision of this
24 title, the Secretary of Transportation may allow an airport
25 sponsor carrying out an airport capacity enhancement

1 project at a congested airport to make payments, out of
2 revenues generated at the airport (including local taxes on
3 aviation fuel), for measures to mitigate the environmental
4 impacts of the project if the Secretary finds that—

5 “(1) the mitigation measures are included as
6 part of, or are consistent with, the preferred alter-
7 native for the project in the documentation prepared
8 pursuant to the National Environmental Policy Act
9 of 1969 (42 U.S.C. 4321 et seq.);

10 “(2) the use of such revenues will provide a sig-
11 nificant incentive for, or remove an impediment to,
12 approval of the project by a State or local govern-
13 ment; and

14 “(3) the cost of the mitigation measures is rea-
15 sonable in relation to the mitigation that will be
16 achieved.

17 “(b) MITIGATION OF AIRCRAFT NOISE.—Mitigation
18 measures described in subsection (a) may include the insu-
19 lation of residential buildings and buildings used primarily
20 for educational or medical purposes to mitigate the effects
21 of aircraft noise and the improvement of such buildings
22 as required for the insulation of the buildings under local
23 building codes.

1 **“§ 47175. Airport funding of FAA staff**

2 “(a) ACCEPTANCE OF SPONSOR-PROVIDED
3 FUNDS.—Notwithstanding any other provision of law, the
4 Administrator of the Federal Aviation Administration may
5 accept funds from an airport sponsor, including funds pro-
6 vided to the sponsor under section 47114(c), to hire addi-
7 tional staff or obtain the services of consultants in order
8 to facilitate the timely processing, review, and completion
9 of environmental activities associated with an airport de-
10 velopment project.

11 “(b) ADMINISTRATIVE PROVISION.—Instead of pay-
12 ment from an airport sponsor from funds apportioned to
13 the sponsor under section 47114, the Administrator, with
14 agreement of the sponsor, may transfer funds that would
15 otherwise be apportioned to the sponsor under section
16 47114 to the account used by the Administrator for activi-
17 ties described in subsection (a).

18 “(c) RECEIPTS CREDITED AS OFFSETTING COLLEC-
19 TIONS.—Notwithstanding section 3302 of title 31, any
20 funds accepted under this section, except funds trans-
21 ferred pursuant to subsection (b)—

22 “(1) shall be credited as offsetting collections to
23 the account that finances the activities and services
24 for which the funds are accepted;

1 “(2) shall be available for expenditure only to
2 pay the costs of activities and services for which the
3 funds are accepted; and

4 “(3) shall remain available until expended.

5 “(d) MAINTENANCE OF EFFORT.—No funds may be
6 accepted pursuant to subsection (a), or transferred pursu-
7 ant to subsection (b), in any fiscal year in which the Fed-
8 eral Aviation Administration does not allocate at least the
9 amount it expended in fiscal year 2002, excluding
10 amounts accepted pursuant to section 337 of the Depart-
11 ment of Transportation and Related Agencies Appropria-
12 tions Act, 2002 (115 Stat. 862), for the activities de-
13 scribed in subsection (a).

14 **“§ 47176. Authorization of appropriations**

15 “In addition to the amounts authorized to be appro-
16 priated under section 106(k), there is authorized to be ap-
17 propriated to the Secretary of Transportation, out of the
18 Airport and Airway Trust Fund established under section
19 9502 of the Internal Revenue Code of 1986 (26 U.S.C.
20 9502), \$2,100,000 for fiscal year 2003 and \$4,200,000
21 for each fiscal year thereafter to facilitate the timely proc-
22 essing, review, and completion of environmental activities
23 associated with airport capacity enhancement projects at
24 congested airports.

1 **“§ 47177. Judicial review**

2 “(a) **FILING AND VENUE.**—A person disclosing a
3 substantial interest in an order issued by the Secretary
4 of Transportation or the head of any other Federal agency
5 under this part or a person or agency relying on any deter-
6 mination made under this part may apply for review of
7 the order by filing a petition for review in the United
8 States Court of Appeals for the District of Columbia Cir-
9 cuit or in the court of appeals of the United States for
10 the circuit in which the person resides or has its principal
11 place of business. The petition must be filed not later than
12 60 days after the order is issued. The court may allow
13 the petition to be filed after the 60th day only if there
14 are reasonable grounds for not filing by the 60th day.

15 “(b) **JUDICIAL PROCEDURES.**—When a petition is
16 filed under subsection (a) of this section, the clerk of the
17 court immediately shall send a copy of the petition to the
18 Secretary or the head of any other Federal agency in-
19 volved. The Secretary or the head of such other agency
20 shall file with the court a record of any proceeding in
21 which the order was issued.

22 “(c) **AUTHORITY OF COURT.**—When the petition is
23 sent to the Secretary or the head of any other Federal
24 agency involved, the court has exclusive jurisdiction to af-
25 firm, amend, modify, or set aside any part of the order
26 and may order the Secretary or the head of such other

1 agency to conduct further proceedings. After reasonable
2 notice to the Secretary or the head of such other agency,
3 the court may grant interim relief by staying the order
4 or taking other appropriate action when good cause for
5 its action exists. Findings of fact by the Secretary or the
6 head of such other agency are conclusive if supported by
7 substantial evidence.

8 “(d) REQUIREMENT FOR PRIOR OBJECTION.—In re-
9 viewing an order of the Secretary or the head of any other
10 Federal agency under this section, the court may consider
11 an objection to the action of the Secretary or the head
12 of such other agency only if the objection was made in
13 the proceeding conducted by the Secretary or the head of
14 such other agency or if there was a reasonable ground for
15 not making the objection in the proceeding.

16 “(e) SUPREME COURT REVIEW.—A decision by a
17 court under this section may be reviewed only by the Su-
18 preme Court under section 1254 of title 28.

19 “(f) ORDER DEFINED.—In this section, the term
20 ‘order’ includes a record of decision or a finding of no sig-
21 nificant impact.

22 **“§ 47178. Definitions**

23 “In this subchapter, the following definitions apply:

1 “(1) AIRPORT SPONSOR.—The term ‘airport
2 sponsor’ has the meaning given the term ‘sponsor’
3 under section 47102.

4 “(2) CONGESTED AIRPORT.—The term ‘con-
5 gested airport’ means an airport that accounted for
6 at least 1 percent of all delayed aircraft operations
7 in the United States in the most recent year for
8 which such data is available and an airport listed in
9 table 1 of the Federal Aviation Administration’s Air-
10 port Capacity Benchmark Report 2001.

11 “(3) AIRPORT CAPACITY ENHANCEMENT
12 PROJECT.—The term ‘airport capacity enhancement
13 project’ means—

14 “(A) a project for construction or exten-
15 sion of a runway, including any land acquisi-
16 tion, taxiway, or safety area associated with the
17 runway or runway extension; and

18 “(B) such other airport development
19 projects as the Secretary may designate as fa-
20 cilitating a reduction in air traffic congestion
21 and delays.”.

22 (b) CONFORMING AMENDMENT.—The analysis for
23 chapter 471 of such title is amended by adding at the end
24 the following:

 “SUBCHAPTER III—AIRPORT PROJECT STREAMLINING
“47171. DOT as lead agency.

“47172. Categorical exclusions.
 “47173. Access restrictions to ease construction.
 “47174. Airport revenue to pay for mitigation.
 “47175. Airport funding of FAA staff.
 “47176. Authorization of appropriations.
 “47177. Judicial review.
 “47178. Definitions.”.

1 **SEC. 205. GOVERNOR’S CERTIFICATE.**

2 Section 47106(c) of title 49, United States Code, is
 3 amended—

4 (1) in paragraph (1)—

5 (A) by inserting “and” after the semicolon
 6 at the end of subparagraph (A)(ii);

7 (B) by striking subparagraph (B); and

8 (C) by redesignating subparagraph (C) as
 9 subparagraph (B);

10 (2) in paragraph (2)(A) by striking “stage 2”
 11 and inserting “stage 3”;

12 (3) by striking paragraph (4); and

13 (4) by redesignating paragraph (5) as para-
 14 graph (4).

15 **SEC. 206. CONSTRUCTION OF CERTAIN AIRPORT CAPACITY**
 16 **PROJECTS.**

17 Section 47504(c)(2) of title 49, United States Code,
 18 is amended—

19 (1) by striking “and” at the end of subpara-
 20 graph (C);

21 (2) by striking the period at the end of sub-
 22 paragraph (D) and inserting “; and”; and

1 (3) by adding at the end the following:

2 “(E) to an airport operator of a congested
3 airport (as defined in section 47178) and a unit
4 of local government referred to in paragraph
5 (1)(A) or (1)(B) of this subsection to carry out
6 a project to mitigate noise in the area sur-
7 rounding the airport if the project is included
8 as a commitment in a record of decision of the
9 Federal Aviation Administration for an airport
10 capacity enhancement project (as defined in
11 section 47178) even if that airport has not met
12 the requirements of part 150 of title 14, Code
13 of Federal Regulations.”.

14 **SEC. 207. LIMITATIONS.**

15 Nothing in this Act, including any amendment made
16 by this Act, shall preempt or interfere with—

17 (1) any practice of seeking public comment; and

18 (2) any power, jurisdiction, or authority of a

19 State agency or an airport sponsor has with respect

1 to carrying out an airport capacity enhancement
2 project.

Passed the House of Representatives July 23, 2002.

Attest: JEFF TRANDAHL,
Clerk.

Calendar No. 515

107TH CONGRESS
2^D SESSION

H. R. 3479

AN ACT

To expand aviation capacity.

JULY 24, 2002

Received; read twice and placed on the calendar