

## 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

all single-family houses and schools located within the 65 DNL noise contour for each construction phase of the runway redesign plan, subject to Federal Aviation Administration guidelines and specifications of general applicability. The Administrator shall determine that Chicago's plan for acoustical treatment is financially feasible.

(2)(A) Approval by the Administrator of an airport layout plan that includes the runway redesign plan shall be subject to the condition that noise impact of aircraft operations at O'Hare in the calendar year immediately following the year in which the first new runway is first used, and in each calendar year thereafter, will be less than the noise impact in calendar year 2000.

(B) The Administrator shall make the determination described in subparagraph (A)—

(i) using, to the extent practicable, the procedures specified in part 150 of title 14, Code of Federal Regulations;

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

(iii) by determining noise impact solely in terms of the aggregate number of square miles 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.

**Calendar No. 270**

107TH CONGRESS  
1ST SESSION

**S. 1786**

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**A BILL**

To expand aviation capacity in the Chicago area.

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DECEMBER 10, 2001

Read the second time and placed on the calendar