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107TH CONGRESS
2D SESSION

S. 2039

[Report No. 107-161]

To expand aviation capacity in the Chicago area.

IN THE SENATE OF THE UNITED STATES

MARCH 20, 2002

Mr. DURBIN (for himself, Mr. GRASSLEY, Mr. HARKIN, Mr. DASCHLE, Mr. LEAHY, Mr. SCHUMER, Mr. NELSON of Nebraska, Mr. BIDEN, Mrs. CARNAHAN, Mr. DORGAN, Mr. JOHNSON, Mr. REID, Mr. INHOFE, Mr. BREAUX, Mr. CONRAD, Mr. AKAKA, Mr. BINGAMAN, Mr. KERRY, Mr. KOHL, Ms. MIKULSKI, Mr. BURNS, Mr. REED, Mr. TORRICELLI, Mr. INOUE, Mr. BAYH, Mr. GRAHAM, and Mr. ALLARD) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

JUNE 11, 2002

Reported by Mr. HOLLINGS, with an amendment

[Strike out all after the enacting clause and insert the part printed in italic]

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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “National Aviation Ca-
3 pacity Expansion Act of 2002”.

4 **SEC. 2. FINDINGS.**

5 Congress makes the following findings:

6 (1) Prior to September 11, 2001, the United
7 States air transportation system faced severe limita-
8 tions in airport capacity. As the aviation system re-
9 turns to its pre-September 11 levels, interstate com-
10 merce will be substantially constrained without air-
11 port expansion.

12 (2) Meeting the future demand of air travelers,
13 expected to top 1,000,000,000 by 2010, is a chal-
14 lenge facing the United States today. Knowing that
15 airport development, runway construction, and run-
16 way reconfiguration is a multiyear process, action is
17 needed now.

18 (3) Communities, small and large, throughout
19 the United States recognize, particularly after Sep-
20 tember 11, how critical air transportation is to local
21 economies.

22 (4) Airport delays, because of lack of runway
23 capacity, are a serious impediment to interstate
24 commerce.

25 (5) Airport expansion, nationwide and at
26 O’Hare International Airport (in this Act referred to

1 as “O’Hare”) and in the Chicago area, is essential
2 to interstate commerce. Given the agreement of De-
3 cember 5, 2001, between the Mayor of Chicago and
4 the Governor of Illinois concerning Chicago area air-
5 ports, Congress wants to ensure that interstate com-
6 merce is not inhibited by future action or inaction
7 on such expansion.

8 (6) New runway construction projects are local
9 decisions that are supported by the Federal Govern-
10 ment through the Airport Improvement Program
11 and other programs, subject to Federal regulation of
12 aviation safety. For years, a debate over airport ex-
13 pansion in Illinois has stifled redesign of O’Hare
14 and inhibited action on a new south suburban air-
15 port.

16 (7) Because of O’Hare’s central location, and
17 the magnitude of the demand for air transportation
18 services in northeast Illinois and northwest Indiana,
19 O’Hare has an essential role in the national air
20 transportation system. The reliability and efficiency
21 of interstate air transportation for residents and
22 businesses in many States depend on efficient proc-
23 essing of air traffic operations at O’Hare.

24 (8) On June 15, 2001, the Committee on Com-
25 merce of the Senate held a field hearing in Chicago

1 and directed the parties to settle their differences
2 because of the importance of O'Hare and expansion
3 to the national air transportation system.

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

10 (10) On December 5, 2001, the Governor of Il-
11 linois and the Mayor of Chicago entered into a his-
12 toric agreement concerning regional airport improve-
13 ments and the regional air transportation system.

14 (11) This decision will benefit travelers
15 throughout the country and should make the air
16 transportation system more efficient.

17 (12) The importance of increasing commercial
18 air service at the Gary-Chicago and Greater Rock-
19 ford Airports is also recognized. By fully utilizing
20 and enhancing these existing and immediately avail-
21 able facilities, Gary-Chicago and Greater Rockford
22 Airports can help provide relief to congestion that
23 may occur during the modernization and reconfig-
24 uration of O'Hare.

1 **SEC. 3. AIRPORT CONSTRUCTION AND REDESIGN.**

2 (a) O'HARE RUNWAY REDESIGN AND DEVELOPMENT
3 OF SOUTH SUBURBAN AIRPORT.—

4 (1) It is the policy of Congress that, given the
5 agreement between the Governor of Illinois and the
6 Mayor of the City of Chicago, redesign and recon-
7 struction of Chicago O'Hare International Airport in
8 Cook and DuPage Counties, Illinois, in accordance
9 with the runway redesign plan, and the development
10 of a south suburban airport in the Chicago metro-
11 politan region, are each necessary to improve the ef-
12 ficiency of, and relieve congestion in, the national air
13 transportation system.

14 (2)(A) The Administrator, consistent with Fed-
15 eral environmental laws and procedures, shall imple-
16 ment the Federal policy described in paragraph (1)
17 by facilitating approval, funding, construction, and
18 implementation of—

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

23 (ii) the south suburban airport upon re-
24 ceipt of an application from the State of Illinois
25 or a political subdivision thereof for approval of

1 an airport layout plan for a south suburban air-
2 port.

3 ~~(B)~~ The Administrator's actions under this sub-
4 section and implementation of each 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. Nothing in this
9 section shall be deemed to amend or otherwise be
10 inconsistent with such laws.

11 ~~(C)~~ Implementation of each plan described in
12 subparagraph (A) shall be subject to determination
13 by the Administrator that the plan meets Federal
14 aviation criteria regarding practicability, safety, and
15 efficiency, and is consistent with Federal Aviation
16 Administration design criteria.

17 ~~(3)~~ The State of Illinois, including an instru-
18 mentality of the State, shall not enforce sections
19 38.01 and 47 of the Illinois Aeronautics Act with re-
20 spect to the runway redesign plan.

21 ~~(4)(A)~~ The State of Illinois, a political subdivi-
22 sion of the State, or authority of the State, or polit-
23 ical subdivision that is not the owner or operator of
24 O'Hare, may not regulate or otherwise attempt to
25 control in any manner—

(i) aviation safety with respect to the design, operation, or use of the runway redesign plan, if construction of the runway redesign plan does not occur unless the Administrator finds that the plan satisfies the requirements of Federal law with respect to aviation safety;

(ii) application by the owner or operator of O'Hare for a grant under chapter 471 of title 49, United States Code, to pay a portion of the costs of planning or construction of the runway redesign plan, or the receipt, collection, or use of the proceeds thereof; or

(iii) design, operation, or use of the runway redesign plan to the extent such regulation or other control by the State is otherwise prohibited.

(5)(A) An implementation plan shall be prepared by the State of Illinois under the Clean Air Act in accordance with the State's customary practices for accounting for and regulating emissions associated with activity at commercial service airports. No action of the State with respect to an implementation plan, or determination of conformity therewith, shall be made for the purpose of interfering directly or indirectly with timely construction of the

1 runway redesign plan or the south suburban airport.
 2 At the request of the Administrator, the Adminis-
 3 trator of the Environmental Protection Agency shall,
 4 in consultation with the Administrator, determine
 5 that the foregoing condition has been satisfied before
 6 approving an implementation plan. Nothing in this
 7 section shall be construed to affect the obligations of
 8 the State under section 176(e) of the Clean Air Act.

9 (B) The Administrator shall not approve the
 10 runway redesign plan unless the Administrator de-
 11 termines that the construction and operation will in-
 12 clude, to the maximum extent feasible, the best man-
 13 agement practices then reasonably available to and
 14 used by operators of commercial service airports to
 15 mitigate emissions regulated under the implementa-
 16 tion plan.

17 (b) PHASING OF CONSTRUCTION.—Approval by the
 18 Administrator of an airport layout plan that includes the
 19 runway redesign plan shall provide that construction shall
 20 not begin before January 1, 2011, on any runway oriented
 21 substantially in the east-west direction and located more
 22 than 2,500 feet south of existing runway 9R–27L.

23 (c) WESTERN PUBLIC ROADWAY ACCESS.—The Ad-
 24 ministrator shall not consider an airport layout plan sub-
 25 mitted by Chicago that includes the runway redesign plan;

1 unless it includes public roadway access through the exist-
 2 ing western boundary of O'Hare to passenger terminal
 3 and parking facilities located inside the boundary of
 4 O'Hare and reasonably accessible to such western access.
 5 Approval of western public roadway access shall be subject
 6 to the condition that the cost of construction be paid for
 7 from airport revenues consistent with Federal Aviation
 8 Administration revenue use requirements.

9 (d) NOISE MITIGATION.—

10 (1) Approval by the Administrator of an airport
 11 layout plan that includes the runway redesign plan
 12 shall require Chicago to offer acoustical treatment of
 13 all single-family houses and schools located within
 14 the 65 DNL noise contour for each construction
 15 phase of the runway redesign plan, subject to Fed-
 16 eral Aviation Administration guidelines and speci-
 17 fications of general applicability. The Administrator
 18 may not approve the runway redesign plan unless
 19 Chicago provides the Administrator with information
 20 sufficient to demonstrate that the acoustical treat-
 21 ment required by this paragraph is feasible.

22 (2)(A) Approval by the Administrator of an air-
 23 port layout plan that includes the runway redesign
 24 plan shall be subject to the condition that noise im-
 25 pact of aircraft operations at O'Hare in the calendar

1 year immediately following the year in which the
2 first new runway is first used, and in each calendar
3 year thereafter, will be less than the noise impact in
4 calendar year 2000.

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

7 (i) using, to the extent practicable, the pro-
8 cedures specified in part 150 of title 14, Code
9 of Federal Regulations;

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

12 (iii) by determining noise impact solely in
13 terms of the aggregate number of square miles
14 and the aggregate number of single-family
15 houses and schools exposed to 65 or greater
16 decibels using the DNL metric, including only
17 single-family houses and schools in existence on
18 the last day of calendar year 2000.

19 (C) The Administrator shall make the de-
20 termination described in subparagraph (B)
21 based on information provided by the city of
22 Chicago, which shall be independently verified
23 by the Administrator.

24 (D) The noise mitigation condition de-
25 scribed in this paragraph shall be enforceable

1 exclusively through the submission and approval
2 of a noise compatibility plan under part 150 of
3 title 14, Code of Federal Regulations. The noise
4 compatibility plan submitted by the city of Chi-
5 cago shall provide for compliance with this
6 paragraph. The Administrator shall approve
7 measures sufficient for compliance with this
8 paragraph in accordance with procedures under
9 such part 150.

10 (E) The United States shall have no finan-
11 cial responsibility or liability if operations at
12 O'Hare in any year do not satisfy the noise
13 mitigation condition of this paragraph.

14 (e) SOUTH SUBURBAN AIRPORT FUNDING.—The Ad-
15 ministrator shall give priority consideration to a letter of
16 intent application submitted by the State of Illinois or a
17 political subdivision thereof for the construction of the
18 south suburban airport. The Administrator shall consider
19 the letter not later than 90 days after the Administrator
20 issues final approval of the airport layout plan for the
21 south suburban airport.

22 (f) REPORT TO CONGRESS.—If the runway redesign
23 plan described in this section has not received all Federal,
24 State, and local permits and approvals necessary to begin
25 construction by December 31, 2004, the Administrator

1 shall submit a report to Congress within 120 days of such
2 date—

3 (1) identifying each permit and approval that
4 has not yet been issued;

5 (2) identifying the officer or agency responsible
6 for each such permit or approval;

7 (3) stating the Administrator's estimate of the
8 date on which each such permit or approval will be
9 issued;

10 (4) identifying any permits or approvals that, in
11 the Administrator's judgment, will not be issued;

12 (5) stating, after investigation, the reason that
13 each such permit or approval has been delayed or
14 will not be issued and the Administrator's judgment
15 with respect to the reasonableness of such delays or
16 refusals to issue; and

17 (6) setting forth a feasible plan for obtaining
18 the remaining permits and approvals and for con-
19 structing the runway redesign plan.

20 (g) MERRILL C. MEIGS FIELD.—

21 (1) Until January 1, 2026, the Administrator
22 shall withhold all airport grant funds respecting
23 O'Hare, other than grants involving national secu-
24 rity and safety, unless the Administrator is reason-

1 ably satisfied that the following conditions have been
2 met:

3 (A) Merrill C. Meigs Field in Chicago ei-
4 ther is being operated by Chicago as an airport
5 or has been closed by the Federal Aviation Ad-
6 ministration for reasons beyond Chicago's con-
7 trol.

8 (B) Chicago is providing, at its own ex-
9 pense, all off-airport roads and other access,
10 services, equipment, and other personal prop-
11 erty that Chicago provided in connection with
12 the operation of Meigs Field on and before to
13 December 1, 2001.

14 (C) Chicago is operating Meigs Field, at
15 its own expense, at all times as a public airport
16 in good condition and repair open to all users
17 capable of utilizing the airport, and is maintain-
18 ing the airport for such public operations at
19 least from 6 a.m. to 10 p.m. 7 days a week
20 whenever weather conditions permit.

21 (D) Chicago is providing or causing its
22 agents or independent contractors to provide all
23 services (including police and fire protection
24 services) provided or offered at Meigs Field on
25 or immediately prior to December 1, 2001, in-

cluding tie-down, terminal, refueling, and repair services, at rates that reflect actual costs of providing such goods and services.

(2) After January 1, 2006, the Administrator shall not withhold grant funds under this Act to the extent the Administrator determines that withholding grant funds would create an unreasonable burden on interstate commerce.

(3) If Meigs Field is closed by the Federal Aviation Administration for reasons beyond Chicago's control, the conditions described in subparagraphs (B) through (D) of paragraph (1) shall not apply.

(4) The Administrator shall not enforce the conditions listed in paragraph (1) if the State of Illinois enacts a law on or after January 1, 2006, authorizing the closure of Meigs Field.

(5) Net operating losses resulting from operation of Meigs Field, to the extent consistent with law, are expected to be paid by the 2 air carriers at O'Hare that paid the highest amount of airport fees and charges at O'Hare for the preceding calendar year.

(6) Notwithstanding any other provision of law, the city of Chicago may use airport revenues gen-

1 erated at O'Hare to fund the operation of Meigs
2 Field.

3 (h) JUDICIAL REVIEW.—An order issued by the Ad-
4 ministrators, in whole or in part, under this section shall
5 be deemed to be an order issued under part A of subtitle
6 VII of title 49, United States Code, and shall be reviewed
7 in accordance with the procedures in section 46110 of title
8 49, United States Code.

9 (i) DEFINITIONS.—In this section:

10 (1) The term “runway redesign plan” means—

11 (A) 6 parallel runways at O'Hare oriented
12 in the east-west direction with the capability for
13 4 simultaneous independent visual aircraft ar-
14 rivals in both directions, and all associated
15 taxiways, navigational facilities, and other re-
16 lated facilities; and

17 (B) the closure of existing runways 14L-
18 32R, 14R-32L, and 18-36.

19 (2) The term “south suburban airport” means
20 an additional air carrier airport in the vicinity of
21 Peotone, Illinois.

22 (3) The term “Administrator” means the Ad-
23 ministrator of the Federal Aviation Administration
24 or the Administrator's designee.

1 (4) The term “State” means the State of Illi-
2 nois.

3 (5) The term “implementation plan” means an
4 applicable State implementation plan, maintenance
5 plan, or revision thereof under the Clean Air Act.

6 **SEC. 4. APPLICATION WITH EXISTING LAW.**

7 Nothing in this Act shall give any priority to or affect
8 availability or amounts of funds under chapter 471 of title
9 49, United States Code, to pay the costs of the O’Hare
10 runway redesign plan or O’Hare noise mitigation de-
11 scribed in section 3.

12 **SECTION 1. SHORT TITLE.**

13 *This Act may be cited as the “National Aviation Ca-
14 pacity Expansion Act of 2002”.*

15 **SEC. 2. FINDINGS.**

16 *Congress makes the following findings:*

17 (1) *Prior to September 11, 2001, the United
18 States air transportation system faced severe limita-
19 tions in airport capacity. As the aviation system re-
20 turns to its pre-September 11 levels, interstate com-
21 merce will be substantially constrained without air-
22 port expansion.*

23 (2) *Meeting the future demand of air travelers,
24 expected to top 1,000,000,000 by 2013, is a challenge
25 facing the United States today. Knowing that airport*

1 *development, runway construction, and runway re-*
2 *configuration is a multiyear process, action is needed*
3 *now.*

4 (3) *Communities, small and large, throughout*
5 *the United States recognize, particularly after Sep-*
6 *tember 11, how critical air transportation is to local*
7 *economies.*

8 (4) *Airport delays, because of lack of runway ca-*
9 *capacity, are a serious impediment to interstate com-*
10 *merce.*

11 (5) *Airport expansion, nationwide and at*
12 *O'Hare International Airport (in this Act referred to*
13 *as "O'Hare") and in the Chicago area, is essential to*
14 *interstate commerce. Given the agreement of December*
15 *5, 2001, between the Mayor of Chicago and the Gov-*
16 *ernor of Illinois concerning Chicago area airports,*
17 *Congress wants to ensure that interstate commerce is*
18 *not inhibited by future action or inaction on such ex-*
19 *pansion.*

20 (6) *New runway construction projects are local*
21 *decisions that are supported by the Federal Govern-*
22 *ment through the Airport Improvement Program and*
23 *other programs, subject to Federal regulation of avia-*
24 *tion safety. For years, a debate over airport expan-*

1 *sion in Illinois has stifled redesign of O'Hare and in-*
2 *hibited action on a new south suburban airport.*

3 *(7) Because of O'Hare's central location, and the*
4 *magnitude of the demand for air transportation serv-*
5 *ices in northeast Illinois and northwest Indiana,*
6 *O'Hare has an essential role in the national air*
7 *transportation system. The reliability and efficiency*
8 *of interstate air transportation for residents and busi-*
9 *nesses in many States depend on efficient processing*
10 *of air traffic operations at O'Hare.*

11 *(8) On June 15, 2001, the Senate Committee on*
12 *Commerce, Science, and Transportation held a field*
13 *hearing in Chicago and directed the parties to settle*
14 *their differences because of the importance of O'Hare*
15 *and expansion to the national air transportation sys-*
16 *tem.*

17 *(9) The Governor of Illinois and the Mayor of*
18 *Chicago have determined that redesign of O'Hare and*
19 *the development of an additional air carrier airport*
20 *located near Peotone, Illinois, as described in this Act,*
21 *are each necessary and desirable to provide reliable*
22 *and efficient air commerce.*

23 *(10) On December 5, 2001, the Governor of Illi-*
24 *nois and the Mayor of Chicago entered into a historic*

1 *agreement concerning regional airport improvements*
 2 *and the regional air transportation system.*

3 *(11) This decision will benefit travelers through-*
 4 *out the country and should make the air transpor-*
 5 *tation system more efficient.*

6 *(12) The importance of utilizing existing infra-*
 7 *structure, such as the Gary/Chicago Airport in Gary,*
 8 *Indiana, and the Greater Rockford Airport, to allevi-*
 9 *ate air traffic congestion and provide additional ca-*
 10 *capacity in the greater Chicago metropolitan region is*
 11 *also recognized. Current or future operations at the*
 12 *Gary/Chicago Airport or the Greater Rockford Air-*
 13 *port may become a more important component of air*
 14 *service in the region and the Federal Aviation Ad-*
 15 *ministration, in reviewing various expansion plans,*
 16 *should take into account the role of these airports.*

17 **SEC. 3. AIRPORT CONSTRUCTION AND REDESIGN.**

18 *(a) O'HARE RUNWAY REDESIGN AND DEVELOPMENT*
 19 *OF SOUTH SUBURBAN AIRPORT.—*

20 *(1) It is the policy of Congress that, given the*
 21 *agreement between the Governor of Illinois and the*
 22 *Mayor of the City of Chicago, redesign and recon-*
 23 *struction of Chicago O'Hare International Airport in*
 24 *Cook and DuPage Counties, Illinois, in accordance*
 25 *with the runway redesign plan, and the development*

1 of a south suburban airport in the Chicago metropoli-
 2 tan region, are each necessary to improve the effi-
 3 ciency of, and relieve congestion in, the national air
 4 transportation system.

5 (2)(A) *The Administrator, consistent with Fed-*
 6 *eral environmental and aviation laws and procedures,*
 7 *shall implement the Federal policy described in para-*
 8 *graph (1) by facilitating all agency reviews, and fa-*
 9 *cilitating funding, construction, and implementation*
 10 *of—*

11 *(i) the runway redesign plan upon receipt*
 12 *of an application from Chicago for approval of*
 13 *an airport layout plan that includes the runway*
 14 *redesign plan; and*

15 *(ii) the south suburban airport upon receipt*
 16 *of an application from the State of Illinois or a*
 17 *political subdivision thereof for approval of an*
 18 *airport layout plan for a south suburban air-*
 19 *port.*

20 (B) *The Administrator's actions under this sub-*
 21 *section and implementation of each plan described in*
 22 *subparagraph (A) shall be subject to application of*
 23 *Federal laws with respect to environmental protection*
 24 *and environmental analysis, including the National*
 25 *Environmental Policy Act. Nothing in this section*

1 *shall be deemed to amend or otherwise be inconsistent*
2 *with such laws.*

3 (C) *Implementation of each plan described in*
4 *subparagraph (A) shall be subject to determination by*
5 *the Administrator that the plan meets Federal avia-*
6 *tion criteria regarding practicability, safety, and effi-*
7 *ciency, and is consistent with Federal Aviation Ad-*
8 *ministration design criteria.*

9 (D) *The Administrator may not approve the*
10 *runway redesign plan unless the Administrator deter-*
11 *mines that the plan should achieve improved capacity*
12 *under both Instrument Flight Rule and Visual Flight*
13 *Rule conditions.*

14 (E) *Nothing in this subsection shall be deemed to*
15 *affect the property rights of any airport user at*
16 *O'Hare.*

17 (3) *If the Administrator at any time after De-*
18 *cember 5, 2001, provides (or has provided) funds for*
19 *planning of the runway redesign plan or construction*
20 *of a runway pursuant to that plan, neither the State*
21 *nor any instrumentality or political subdivision of*
22 *the State, may enforce section 38.01 or section 47 of*
23 *the Illinois Aeronautics Act with respect to the run-*
24 *way redesign plan. This paragraph shall not apply*
25 *after the Administrator certifies that no additional*

1 *funds will be provided under chapter 471 of title 49,*
 2 *United States Code, for planning of the runway rede-*
 3 *sign plan or construction of a runway pursuant to*
 4 *that plan.*

5 *(4) The State of Illinois, a political subdivision*
 6 *of the State, or authority of the State, or political*
 7 *subdivision that is not the owner or operator of*
 8 *O'Hare, may not regulate or otherwise attempt to*
 9 *control in any manner—*

10 *(A) aviation safety with respect to the de-*
 11 *sign and construction of the runway redesign*
 12 *plan, except that construction of the runway*
 13 *may not begin unless the Administrator finds*
 14 *that the plan satisfies the requirements of Fed-*
 15 *eral law with respect to aviation safety;*

16 *(B) application by the owner or operator of*
 17 *O'Hare for a grant under chapter 471 of title 49,*
 18 *United States Code, to pay a portion of the costs*
 19 *of planning or construction of the runway rede-*
 20 *sign plan, or the receipt, collection, or use of the*
 21 *proceeds thereof; or*

22 *(C) design, operation, or use of the runway*
 23 *redesign plan to the extent such regulation or*
 24 *other control by the State is otherwise prohibited.*

1 (5)(A) *An implementation plan shall be pre-*
2 *pared by the State of Illinois under the Clean Air Act*
3 *in accordance with the State's customary practices for*
4 *accounting for and regulating emissions associated*
5 *with activity at commercial service airports. The*
6 *State shall not deviate from its customary practices*
7 *under the Clean Air Act for the purpose of interfering*
8 *with the construction of a runway pursuant to the re-*
9 *design plan or the south suburban airport. At the re-*
10 *quest of the Administrator, the Administrator of the*
11 *Environmental Protection Agency shall, in consulta-*
12 *tion with the Administrator, determine that the fore-*
13 *going condition has been satisfied before approving an*
14 *implementation plan. Nothing in this section shall be*
15 *construed to affect the obligations of the State under*
16 *section 176(c) of the Clean Air Act.*

17 (B) *The Administrator shall not approve the*
18 *runway redesign plan unless the Administrator deter-*
19 *mines that the construction and operation will in-*
20 *clude, to the maximum extent feasible, the best man-*
21 *agement practices then reasonably available to and*
22 *used by operators of commercial service airports to*
23 *mitigate emissions regulated under the implementa-*
24 *tion plan.*

1 (6) *Notwithstanding any other provision of this*
 2 *Act, the Administrator is not required to approve the*
 3 *proposed runway redesign plan.*

4 (b) *AIRPORT SAFETY.*—*Notwithstanding any other*
 5 *provision of this Act, the Administrator shall not approve*
 6 *the proposed runway redesign plan for O'Hare if the Ad-*
 7 *ministrator determines that implementation of the plan*
 8 *may increase the rate of runway incursions or degrade the*
 9 *safety of departing aircraft or the safety of arriving aircraft*
 10 *(including safety relating to the terminal approach control*
 11 *or the vectoring of aircraft from the contiguous enroute air-*
 12 *traffic airspace).*

13 (c) *PHASING OF CONSTRUCTION.*—*Approval by the*
 14 *Administrator of an airport layout plan that includes the*
 15 *runway redesign plan shall provide that construction shall*
 16 *not begin before January 1, 2011, on any runway oriented*
 17 *substantially in the east-west direction and located more*
 18 *than 2,500 feet south of existing runway 9R–27L.*

19 (d) *WESTERN PUBLIC ROADWAY ACCESS.*—*The Ad-*
 20 *ministrator shall not consider an airport layout plan sub-*
 21 *mitted by Chicago that includes the runway redesign plan,*
 22 *unless it includes public roadway access through the exist-*
 23 *ing western boundary of O'Hare to passenger terminal and*
 24 *parking facilities located inside the boundary of O'Hare*
 25 *and reasonably accessible to such western access. Approval*

1 of western public roadway access shall be subject to the con-
 2 dition that the costs of construction will be paid from air-
 3 port revenues only to the extent that such costs are con-
 4 sistent with Federal Aviation Administration revenue use
 5 requirements.

6 (e) NOISE MITIGATION.—

7 (1) Approval by the Administrator of an airport
 8 layout plan that includes the runway redesign plan
 9 shall require Chicago to offer acoustical treatment of
 10 all residential units and schools located within the 65
 11 DNL noise contour for each construction phase of the
 12 runway redesign plan, subject to Federal Aviation
 13 Administration guidelines and specifications of gen-
 14 eral applicability. The Administrator may not ap-
 15 prove the runway redesign plan unless Chicago pro-
 16 vides the Administrator with information sufficient to
 17 demonstrate that the acoustical treatment required by
 18 this paragraph is feasible.

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

1 *thereafter, will be less than the noise impact in cal-*
2 *endar year 2000.*

3 *(B) The noise impact shall be calculated by the*
4 *City of Chicago—*

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

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

10 *(iii) by determining noise impact solely in*
11 *terms of the aggregate number of square miles*
12 *and the aggregate number of residential units*
13 *and schools exposed to 65 or greater decibels*
14 *using the DNL metric, including only residential*
15 *units and schools in existence on the last day of*
16 *calendar year 2000.*

17 *(C) The Administrator shall independently*
18 *verify the calculation described in subparagraph (B)*
19 *based on information provided by the City of Chicago,*
20 *which shall be certified by the City as true and com-*
21 *plete, consistent with part 150 procedures.*

22 *(D) The noise mitigation condition described in*
23 *this paragraph shall be implemented and monitored*
24 *exclusively through the submission and approval of a*
25 *noise compatibility plan under part 150 of title 14,*

1 *Code of Federal Regulations. The noise compatibility*
 2 *plan submitted by the city of Chicago shall provide*
 3 *for compliance with this paragraph. The Adminis-*
 4 *trator shall approve measures submitted for compli-*
 5 *ance with this paragraph in accordance with proce-*
 6 *dures and criteria under such part 150.*

7 *(E) The United States shall have no financial*
 8 *responsibility or liability if operations at O'Hare in*
 9 *any year do not satisfy the noise mitigation condition*
 10 *of this paragraph.*

11 *(f) SOUTH SUBURBAN AIRPORT FUNDING.—The Ad-*
 12 *ministrator shall give priority consideration to a letter of*
 13 *intent application submitted by the State of Illinois or a*
 14 *political subdivision thereof for the construction of the south*
 15 *suburban airport. The Administrator shall consider the let-*
 16 *ter not later than 90 days after the Administrator issues*
 17 *final approval of the airport layout plan for the south sub-*
 18 *urban airport.*

19 *(g) GARY/CHICAGO AIRPORT FUNDING.—The Admin-*
 20 *istrator shall give priority consideration to a letter of intent*
 21 *application for funding submitted by the City of Gary, In-*
 22 *diana, or the State of Indiana, for the extension of the main*
 23 *runway at the Gary/Chicago Airport. The letter of intent*
 24 *application shall be considered upon completion of the envi-*
 25 *ronmental impact statement and benefit cost analysis in*

1 *accordance with Federal Aviation Administration require-*
 2 *ments. The Administrator shall consider the letter not later*
 3 *than 90 days after receiving it from the applicant.*

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

14 *(i) MERRILL C. MEIGS FIELD.—*

15 *(1) Until January 1, 2026, the Administrator*
 16 *shall withhold all airport grant funds respecting*
 17 *O'Hare, other than grants involving national security*
 18 *and safety, unless the Administrator is reasonably*
 19 *satisfied that the following conditions have been met:*

20 *(A) Merrill C. Meigs Field in Chicago either*
 21 *is being operated by Chicago as an airport or*
 22 *has been closed by the Federal Aviation Adminis-*
 23 *tration for reasons beyond Chicago's control.*

24 *(B) Chicago is providing, at its own ex-*
 25 *pense, all off-airport roads and other access,*

1 *services, equipment, and other personal property*
2 *that Chicago provided in connection with the op-*
3 *eration of Meigs Field on and before December 1,*
4 *2001.*

5 *(C) Chicago is operating Meigs Field, at its*
6 *own expense, at all times as a public airport in*
7 *good condition and repair open to all users ca-*
8 *pable of utilizing the airport, and is maintain-*
9 *ing the airport for such public operations at*
10 *least from 6 a.m. to 10 p.m. 7 days a week*
11 *whenever weather conditions permit.*

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

20 *(2) After January 1, 2006, the Administrator*
21 *shall not withhold grant funds under this Act to the*
22 *extent the Administrator determines that withholding*
23 *grant funds would create an unreasonable burden on*
24 *interstate commerce.*

1 (3) *If Meigs Field is closed by the Federal Avia-*
 2 *tion Administration for reasons beyond Chicago's*
 3 *control, the conditions described in subparagraphs*
 4 *(B) through (D) of paragraph (1) shall not apply.*

5 (4) *The Administrator shall not enforce the con-*
 6 *ditions listed in paragraph (1) if the State of Illinois*
 7 *enacts a law on or after January 1, 2006, authorizing*
 8 *the closure of Meigs Field.*

9 (5) *Net operating losses resulting from operation*
 10 *of Meigs Field, to the extent consistent with law, are*
 11 *expected to be paid by the 2 air carriers at O'Hare*
 12 *that paid the highest amount of airport fees and*
 13 *charges at O'Hare for the preceding calendar year.*

14 (6) *Notwithstanding any provision of title 49,*
 15 *United States Code, the city of Chicago may use air-*
 16 *port revenues generated at O'Hare to fund operating*
 17 *and maintenance costs associated with Meigs Field.*

18 (j) *JUDICIAL REVIEW.*—*An order issued by the Admin-*
 19 *istrator, in whole or in part, under this section shall be*
 20 *deemed to be an order issued under part A of subtitle VII*
 21 *of title 49, United States Code, and shall be reviewed in*
 22 *accordance with the procedures in section 46110 of title 49,*
 23 *United States Code.*

24 (k) *DEFINITIONS.*—*In this section:*

25 (1) *The term “runway redesign plan” means—*

1 (A) 6 parallel runways at O'Hare oriented
 2 in the east-west direction with the capability for
 3 4 simultaneous independent visual aircraft ar-
 4 rivals in both directions, and all associated
 5 taxiways, navigational facilities, and other re-
 6 lated facilities; and

7 (B) the closure of existing runways 14L-
 8 32R, 14R-32L, and 18-36.

9 (2) The term "south suburban airport" means
 10 an additional air carrier airport in the vicinity of
 11 Peotone, Illinois.

12 (3) The term "Administrator" means the Admin-
 13 istrator of the Federal Aviation Administration or the
 14 Administrator's designee.

15 (4) The term "State" means the State of Illinois.

16 (5) The term "implementation plan" means an
 17 applicable State implementation plan, maintenance
 18 plan, or revision thereof under the Clean Air Act.

19 **SEC. 4. APPLICATION WITH EXISTING LAW.**

20 Nothing in this Act shall give any priority to an ap-
 21 plication for or affect availability or amounts of funds
 22 under chapter 471 of title 49, United States Code, to pay
 23 the costs of the O'Hare runway redesign plan or O'Hare
 24 noise mitigation described in section 3.

1 **SEC. 5. COMPETITIVE ACCESS REQUIREMENTS.**

2 *In providing funds to implement the runway redesign*
 3 *plans under section 3, the Administrator of the Federal*
 4 *Aviation Administration shall receive adequate assurances*
 5 *from the City of Chicago that—*

6 *(1) gates and associated facilities are available,*
 7 *or will be made available, at costs that are fair, rea-*
 8 *sonable, and non-discriminatory to all air carriers*
 9 *currently serving or seeking to serve Chicago O'Hare*
 10 *International Airport with scheduled air service;*

11 *(2) gates and associated facilities subject to ex-*
 12 *clusive use agreements as of the date of the enactment*
 13 *of this Act are, or will be, converted to preferential-*
 14 *use or common-use as soon as practicable;*

15 *(3) gates and associated facilities either relin-*
 16 *quished by terminal signatories or added to the base*
 17 *of facilities at that airport as the result of projects to*
 18 *expand, redevelop, or redesign existing facilities or to*
 19 *construct new facilities, are, or will be, designated for*
 20 *preferential-use or common-use agreements; and*

21 *(4) it will conduct a comprehensive inventory of*
 22 *gates and associated facilities as of the date of the en-*
 23 *actment of this Act to establish the base of facilities*
 24 *at Chicago O'Hare International Airport that—*

- 1 *(A) identifies the type of use or lease agree-*
- 2 *ment in effect for every gate and associated facil-*
- 3 *ity at that airport; and*
- 4 *(B) will be made publicly available.*

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107TH CONGRESS
2^D SESSION

S. 2039

[Report No. 107-161]

A BILL

To expand aviation capacity in the Chicago area.

JUNE 11, 2002

Reported with an amendment