

STATEMENT OF MARION C. BLAKEY, ADMINISTRATOR, FEDERAL AVIATION ADMINISTRATION, BEFORE THE HOUSE TRANSPORTATION AND INFRASTRUCTURE COMMITTEE, SUBCOMMITTEE ON AVIATION, ON THE FAA'S REAUTHORIZATION PROPOSAL, THE "NEXT GENERATION AIR TRANSPORTATION SYSTEM FINANCING REFORM ACT OF 2007," ON MARCH 14, 2007.

Chairman Costello, Representative Petri, Members of the Subcommittee:

I am happy to appear before you today to provide an overview of the Administration's proposal to reform the funding structure for, and reauthorize the programs of the Federal Aviation Administration (FAA). Because we view this proposal as the foundation for the future, we entitled it the "*Next Generation Air Transportation System Financing Reform Act of 2007*." I want to thank Chairman Oberstar, Mr. Mica, Chairman Costello, and Mr. Petri for introducing our proposal, H.R. 1356, by request, and I also want to thank the Committee for holding a series of early hearings on reauthorization. They will certainly provide us with an opportunity to fully explore the important issues facing aviation today and, hopefully, lead to the development of consensus solutions. The simultaneous expirations at the end of September of the funding authorization for the FAA's current programs as well as the ten-year term for existing taxes that fund the Airport and Airway Trust Fund (Trust Fund) present us all with a unique opportunity to make a better system possible. Moreover, ten years ago, the last funding debate resulted in a lapse of the taxes. At that time, the uncommitted balance of the Aviation Trust Fund was sufficient to sustain continued funding of the aviation accounts without disruption to the system. Today, the Trust Fund balance cannot support such a lapse, and thus such a lapse would have potentially significant consequences. We all understand the importance of this industry, just as we are all committed to its success. It is because of our shared values and goals for aviation that I am confident that hard work and dedication will result in a new and better system for funding the FAA by September 30th.

When I was here last month to testify on our fiscal 2008 budget, Secretary Peters had sent our proposal to Congress that day. Even though during that hearing we touched on some of the major elements of the bill, I am grateful for the opportunity to return and discuss

our proposal in greater depth. While our proposal has generated some spirited debate already, I think we can all agree that we share two fundamental goals for reauthorization: first, that we continue to keep our air transportation as safe as we possibly can, and, second, that we have the ability to grow the system to meet our nation's future air transportation needs. The Administration's proposal leads us towards these goals by supporting the transformation of our air transportation system, responding to a changing aviation industry, and creating a rational funding system that ties revenues to costs.

The Administration's proposal supports the transformation to the Next Generation Air Transportation System (NextGen). Without this transformation, the current system is simply incapable of accommodating future demand. As we look out into the future, we see a system that will need to grow to accommodate the demands of our stakeholders and the flying public. These issues will be front and center at our annual Aviation Forecast Conference, which begins tomorrow. Passenger demand has returned to pre-9/11 levels and we project that the system must be ready to serve over 1 billion passengers annually by 2015, and continuing growth through 2025. It will be difficult to meet this challenge under the current system, where the needs of NextGen must compete with other funding priorities in the appropriations process. The Administration's proposal meets this challenge by largely funding NextGen investments through user-supported offsetting collections.

The current financing mechanisms, both in terms of taxes and spending, are not tied to FAA's cost to deliver services, and therefore are not scalable to meet these growing demands. This can be illustrated by example. Consider two identical aircraft, flying the same route from Boston to Miami, one full of passengers, and the other only half-full. Although both planes impose the same air traffic control costs on the system, the full plane will contribute far more to the funding of the air traffic control system. As another example, consider an airline that is replacing a large aircraft flying between two cities, with two smaller aircraft flying the same number of people between those cities. This change in service will impose twice as much cost on the air traffic control system, but under the current system, there is no incentive for the airline to consider those additional

costs in its decision. Finally, the greatest flaw in the current system becomes apparent when one considers that while a corporate jet consumes the same air traffic control services as a commercial airline, because the corporate jet has no passengers, under the current financing system, it contributes far less to the funding of air traffic control services than ticketed passengers flying on the commercial airline. The following table highlights this issue for a number of illustrative flights from the Los Angeles area to the San Francisco area:

<b>Operator Type</b>	<b>Aircraft Type</b>	<b># of Passengers</b>	<b>Estimated Current Taxes</b>
Airline	Boeing 777	203	\$2,000
Airline	Boeing 757	138	\$1,334
Airline	Airbus 319	86	\$837
Airline	Bombardier CRJ-200	33	\$331
Air Taxi	Learjet 35	5	\$116
Corporate Jet	Citation II	N/A	\$58
GA Piston	Bonanza 36	N/A	\$7

Under the current tax structure, it is clear that taxes paid by different user categories do not generally reflect the costs those users impose on the system. Commercial airline passengers currently pay over 95 percent of the Trust Fund taxes, but our cost allocation shows that the aircraft carrying them account for approximately 73 percent of air traffic costs. In many cases, “high end” turbine (jet and turboprop) general aviation (GA) flights are consuming similar FAA and airspace resources as the commercial operators, but paying only a fraction of what commercial operators pay through the passenger taxes. For example, as the table above shows, a corporate jet flying from Los Angeles to San Francisco today pays only 17% of what a 50-seat regional jet pays, and less than 5% of what a Boeing 757 pays. In other words, commercial operators and everyday passengers are subsidizing use of the system by corporate jets. I do not believe this is equitable.

Because of the fundamental disconnect between the existing tax structure and the FAA’s workload, we strongly believe that the FAA needs to move to a different, more rational funding mechanism. The Administration’s proposal creates a transparent financing system where aviation users pay for FAA services through user fees and fuel taxes, so that all users pay their fair share of air traffic control services. Most commercial aviation

operators would pay for their fair share of the costs of air traffic control services through user fees, while general aviation users and some commercial users would pay for these services through a cost-calibrated fuel tax. This linkage between what users pay and what FAA invests in will be critical to facilitate our transition to the NextGen modernization the air traffic control system.

I want to be clear that the primary purpose of this proposal is not about collecting more money for the FAA, it is about creating a more rational, equitable, and stable system that provides appropriate incentives to airspace users to efficiently use increasingly congested airspace, to the FAA to control costs. However, by adopting new discretionary user fees and authorizing borrowing, the Administration's proposal does allow the FAA the flexibility to meet the financing challenges of NextGen and facilitates modernization of the aviation system on an assured and predictable basis.

The new system will facilitate more reliable, more predictable, and less congested air travel for the traveling public. The FAA will continue to have strong congressional and public oversight, and our proposal adds additional oversight through a newly created Air Transportation System Advisory Board to play a role in key agency financial decisions and provide strong incentives for the FAA to control costs and meet the demand for services efficiently. The financing proposal is the product of both significant consultation with the public, including our aviation stakeholders, as well as a detailed analysis of the current financing system and various alternatives. We have attempted to balance the diverse views that our stakeholders have expressed with the need for a stable, equitable, and cost-based funding structure. Our recommended solution builds on the work of numerous bi-partisan commissions from the past two decades, including the National Civil Aviation Review Commission that Congress created and that former Secretary Mineta chaired approximately ten years ago.

Let me describe in greater detail how our proposal would fund the different parts of the FAA.

**Proposed Funding for the Air Traffic Organization (ATO)**

The cost of ATO's services will primarily be funded by those operating in the system. The manner of contribution will vary depending on the type of operation. Turbine commercial flights would primarily pay user fees; general aviation and all piston-powered flights would primarily pay fuel taxes; and the General Fund would finance the costs of services provided to public users and other programs that are in the general public interest.

User fees would apply to turbine commercial flights, including those by U.S. and foreign airlines, passenger and freight carriers, domestic and international flights, charter operators, and regional airlines. They would cover all flights by jet aircraft that are considered commercial under the current tax code, including air taxis and flights operated under fractional ownership. Collecting user fees for air traffic services is an internationally accepted practice in widespread use around the world, and would be consistent with the recommendations of at least seven bi-partisan commissions that have studied this issue over the last two decades. These fees would be based on data derived from the agency's cost accounting and cost allocation systems—including the operations, maintenance, and overhead expenses for the services provided, the facilities and equipment used in such services, and the projected costs for the period during which the services are provided. Existing U.S. overflight fees would be integrated into these new user fees. While the proposal gives the FAA and its users latitude in how the fees would be structured, these fees would clearly tie FAA revenues much more closely to the actual cost of the services provided. We anticipate that approximately three-fourths of the Air Traffic Organization's budget would come from these user fees.

The fees would be dedicated to air traffic control and related services and would be subject to oversight through the annual budget and appropriations process and treated as discretionary offsetting collections for budget purposes. Congressional appropriators would receive credit for these collections and would make them available for expenditure through annual appropriations action. The user fee spending would be fully offset by the user fee collections. It would rise or fall based on FAA's costs and would not compete

with any other discretionary budget priorities (as spending Trust Fund revenues do today).

The general aviation (GA) community and piston commercial operations would contribute their allocated share of air traffic control costs primarily via a fuel tax. We have considered stakeholder feedback from this community and accept the argument that the efficiency and simplicity of the fuel tax mechanism merit its continued use as the primary mechanism for GA's contribution to FAA funding. We identified the costs associated with these users and then set the fuel tax rates to recover those costs. We anticipate that just over 10 percent of the ATO's budget would come from these taxes, which would continue to be deposited in the Trust Fund and be subject to appropriation. The bill proposes periodically recalibrating the portion of the GA fuel tax dedicated to funding ATO based on updates to FAA's cost allocation study.

In addition to the fuel tax, GA and piston commercial flights may be subject to a terminal user fee when they arrive or depart at one of a limited number of large hub airports. In general, these airports are the most congested terminal facilities in the aviation system, and all users at congested facilities contribute to congestion for other users. Given that large hub airports are in metropolitan areas that have alternative airports, which would not be subject to this fee, we believe it is appropriate to apply fees to all users of the most congested airports.

The costs associated with air traffic control service for military and other public users, as well as other functions and services deemed to be in the general public interest would be funded from the General Fund appropriation, as discussed below.

### **Proposed Funding for Aviation Safety**

The funding proposal includes modest user fees to pay for the costs of 25 activities in the areas of certification and registration. These include issuance of certain certificates, appointment and training of designees, registration of aircraft and airmen, airmen medical certificates, and training provided to other aviation authorities. All of these activities are

specific services that FAA provides for individual businesses; other federal, state and local government agencies charge for similar services, as do many international aviation authorities. They are FAA products and services that have value to those who receive them, and that are initiated by customer action. In fact, FAA currently charges fees for many of these services; however, the current fees are set significantly below the cost of providing the service—and below the price of other comparable services. For example, the \$5 it currently costs to register an airplane would not go very far toward registering a car in most states. The legislation specifies the amount to be charged for 12 specific services. Thirteen other activities are identified for which fees will be collected, but do not have the unit charge specified as FAA's cost accounting system is still being implemented with respect to regulation and certification activities. As with the ATO fees, the charges for these activities will be determined based on the available data derived from the agency's cost accounting and cost allocation systems and revenue from the fees would be treated as offsetting collections. Based on the historical cost of these activities, DOT anticipates that approximately 10 percent of FAA's Aviation Safety budget will come from user fees.

Regardless of the type of product or amount of fee determined for that product, FAA will always make fee decisions considering safety first. We are also mindful of the significant international leadership role of both the FAA and the U.S. industry, and the fact that benefits from many aviation safety functions (such as ongoing surveillance) are widely dispersed to the traveling and non-traveling public. No fee structure will compromise the FAA's statutory safety responsibilities or the U.S. aviation community's ability to remain the world's principal system innovator. As a result, we are proposing that the vast majority of FAA's aviation safety responsibilities remain funded from the General Fund.

### **General Fund Proposal**

The Administration derived its General Fund proposal by evaluating specific activities to determine whether they are in the general public interest and have a compelling case for a General Fund appropriation. The dollar figures in the reauthorization proposal are based on the following activities and services:

- *Air traffic costs allocated to public users* (military, other government aircraft, and air ambulances), because providing air traffic control services to these flights as serving the public good;
- *Flight service stations*, because charging user fees for these services would encourage general aviation pilots to fly “outside the system,” which would have a negative safety impact;
- *Low activity towers*, because they help provide safe access to the aviation system to numerous small communities and are a critical part of the national aviation infrastructure; the primary users of these terminals (piston aircraft) likely cannot bear the cost of funding them, even though many of these towers are contract towers, which are the FAA’s most cost-efficient facilities;
- *Safety regulation and oversight* that are not recovered by user fees, because these regulatory functions benefit the general public by contributing to a safe and reliable air transportation system;
- *Commercial Space Transportation*, because, given the early and volatile state of the industry, it would be virtually impossible to develop a schedule of fees that would generate significant revenue without unduly burdening the industry and placing U.S. companies at a competitive disadvantage compared to heavily subsidized firms from other countries; and
- *The portion of Research, Engineering and Development (RE&D)*, sponsored by FAA’s Aviation Safety organization, related to aging aircraft and aircraft catastrophic failure prevention (approximately \$17 million of the RE&D budget<sup>1</sup>), because this research supports FAA’s “public good” regulatory functions.

### **Transition and Elimination of Other Aviation Excise Taxes**

The Administration proposes that the changes to the aviation financing system take effect at the start of fiscal year 2009, in order to provide the FAA with sufficient time to establish user fees and implement a billing and collection system. Our proposal therefore

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<sup>1</sup> The remainder of RE&D would be funded from the Airport and Airway Trust Fund, and is included in the universal fuel tax rate discussed below under “Proposed Funding for AIP, RE&D and EAS”.

extends the current excise taxes for one year to ensure that the FAA has sufficient funding in FY 2008.

As of FY 2009, the existing domestic ticket tax (including the tax on mileage awards), domestic segment tax, cargo waybill tax, and Alaska/Hawaii departure tax would expire under our proposal. The proposed user fees, adjusted fuel taxes, and the adjusted international arrival and departure tax would replace these taxes. This represents a significant simplification of the aviation excise tax system.

### **FAA Governance**

A review of air traffic service providers around the world shows that one of the common changes accompanying the introduction of user fees is adoption of a “user pays, user says” policy – according users a significant role in decisions relating to the setting of fees and the use of moneys collected.

Therefore, our proposal creates an Air Transportation System Advisory Board, comprised of user representatives and public interest members appointed by the Secretary, which would have a significant role in the decisions of the agency. Although the FAA Administrator and the Secretary retain ultimate responsibility for the safety and operation of the National Airspace System and thus have the final decision authority, the Board would provide advice and recommendations on the creation and adoption of user fees, and would propose modifications to them on a periodic basis. Under our proposal, if the Board does not approve the establishment or modification of a fee, the Administrator can only implement it after publishing a written determination in the Federal Register. This Board would also review and make recommendations with respect to major capital infrastructure decisions and modernization projects, the agency’s strategic plan, and the development and adoption of ATO’s operational performance metrics. Finally, the Board would review and provide advice on FAA’s safety programs, budget, and cost accounting system. Of course, as the FAA is a government agency, Congress will always have the ultimate oversight authority.

The FAA Administrator and a representative from the Department of Defense would be Board members, along with members representing airports, air carriers, general aviation, business aviation, aviation manufacturing, and the public interest. The Management Advisory Council and Air Traffic Services Committee would be discontinued with the creation of this new Board.

### **Proposed Funding for AIP, RE&D and EAS**

The Subcommittee has scheduled a separate hearing on the airport-related portion of reauthorization for later this month, at which time we will provide detailed testimony on those aspects of our proposal. For the moment, we would briefly note the funding aspects of our proposal. Airports are a key part of the system, and that includes small primary and general aviation airports that rely on AIP funding to help meet their capital needs. We have proposed changes to Federal funding programs that will stabilize and enhance these funding sources for airports. Our proposal ensures that smaller airports that cannot generate sufficient funding on their own can rely on their entitlement funds to complete strategic projects. These airports play an important role in the national aviation system.

We propose to continue financing the AIP program through taxes. The proposed taxes are administratively simple and build on existing collection mechanisms. Specifically, our bill would fund the AIP program via a set of simplified excise taxes, consisting of a flat, universal fuel tax for domestic commercial and all GA flights and an international passenger head tax for international commercial passenger flights. This universal fuel tax would be in addition to the proposed GA ATO fuel taxes for GA users and piston commercial users. Like the ATO taxes, these taxes would be deposited into the Airport and Airway Trust Fund and be subject to Congressional appropriation. The proposed taxes are expected to generate receipts sufficient to cover the proposed authorization levels for AIP, the Essential Air Service (EAS) program, and the Trust Fund's portion of RE&D. If the enacted authorization levels are different from the proposed levels, the tax rates proposed could be adjusted accordingly. The bill also proposes indexing both the AIP portion of the fuel tax and the international passenger tax to keep pace with inflation.

The universal fuel tax and international passenger tax would also be the funding sources for all of EAS and most of RE&D. As in the case of AIP, it is appropriate for users to fund most research and development because it ultimately benefits them, but it is challenging to allocate research costs to specific users. Similarly, EAS has a long history of being funded by users through overflight fees; however, it is not part of air traffic control costs, and similar to AIP, is largely a grant program to assist small communities that cannot support service on their own. Therefore, the Administration has included EAS and RE&D funding requirements in the proposed universal fuel tax and international passenger tax rates. However, AIP is the primary driver of the tax rates.

#### **NextGen – Funding of Major Capital Projects**

As I stated at the outset, one of the drivers of our proposed changes to how the FAA is funded is to the challenge of funding NextGen. Implementing NextGen will be a unique transition from the technology of 50 years ago to the technologies of tomorrow and it will require a substantial investment of capital. Financing this investment is something I have very strong views about. Business as usual is not an option. As noted above, the new discretionary user fees we propose will enable us to fund several important NextGen investments. However, to avoid spikes in the user fee levels our proposal would also authorize us to borrow through the Secretary of the Treasury beginning in FY 2013, with debt service recovered from users of the system by FY 2017. This authority would contribute to a more business like funding structure, leverage limited resources, and further accelerate the transition to NextGen by better aligning payment for a project with the benefits that project generates and providing greater flexibility to take advantage of capital investment opportunities as technology changes.

Examples of FAA projects that may be appropriate for debt financing include safety-critical and mission-essential software and systems that controllers and traffic flow managers will use to support trajectory based operations in the NextGen system, enhancements to the global positioning system (GPS) technology related to civil aviation,

surveillance technology for homeland security and defense, and potential facility consolidation. This authority would be targeted, as noted, for a limited time period (FY 2013 to FY2017) and would be capped at \$5 billion. We think this innovative authority will give us what we need when we need it.

### **Congestion Charges at Certain Capacity-Constrained Airports**

While our bill will provide us the tools to be prepared for the future, we must also manage our current system safely and efficiently. To that end, I wish to briefly note two provisions in our bill that would authorize the use of market-based mechanisms (e.g., auctions or congestion pricing) to control congestion and delay at capacity-constrained airports. While FAA's policy is to expand capacity to meet demand, physical expansion is not feasible at certain airports, most notably at New York's LaGuardia Airport. Therefore, specifically with regard to LaGuardia, our bill would give the Secretary and the FAA statutory authority to authorize the Port Authority of New York and New Jersey (Port Authority) to use market-based mechanisms at the airport. The language generally complements rulemaking FAA is currently undertaking with respect to LaGuardia to replace the expired High Density Rule (HDR). If the Port Authority implements a market-based mechanism and such mechanism produces annual revenue in excess of associated administrative costs, the Port Authority would have to deposit the excess revenue in an escrow account. It could then use those funds on otherwise eligible airport related projects or any other project that the Secretary finds is in the public interest. If the Port Authority fails to implement a market-based mechanism at LaGuardia within one year of the Secretary's determination, the Secretary would have authority to implement such a mechanism at the airport.

Similarly, the second provision establishes a pilot program allowing for broader evaluation of market-based mechanisms. The Secretary could approve the participation of up to 15 airports in the program. For airports experiencing congestion that results in delays affecting the regional airspace, participating airports could implement a market-based mechanism, for domestic flights, to the extent necessary to achieve a target reduction in congestion and operating delays. The amount of the fee would be set by the

airport operator. Any surplus revenue that results would be placed in an escrow account to be used only for airport related projects or any other project the Secretary finds is in the public interest with priority given to projects at the airport where the fees were collected. The program would also provide for participation of airports experiencing congestion that results in more widespread delays.

### **Environmental Stewardship and Streamlining**

Part of our NextGen vision is to provide environmental protection that allows for sustained growth in our aviation system. Our proposal includes provisions to enhance the FAA's ability to work cooperatively with our partners to preserve the environment by developing technologies, operational procedures, and best practices to minimize the impact of aviation. Our goal is an aviation future that is quieter, cleaner, and more energy efficient. Key environmental stewardship provisions include:

- A research consortium for the development, maturing, and certification of lower energy, emissions, and noise engine and airframe technology over the next ten years;
- A permanent Airport Cooperative Research Program for research and development specifically related to the airport environment; and
- An environmental mitigation demonstration pilot program to demonstrate the noise, air quality, or water quality benefits of promising research concepts at airports.

We have also proposed environmental streamlining provisions that are intended to improve the administration of current programs without affecting environmental quality in such areas as the state block grant program and the air tour management program.

### **Realignment and Consolidation of Aviation Facilities and Services**

As we plan to transform our air transportation system, we must also transform ourselves as an agency—a provider of services to the aviation community. Our bill includes a proposal that would create a specific process for the comprehensive study and analysis of how we could realign and consolidate our services and facilities to help us reduce capital,

operating, maintenance, and administrative costs on an agency-wide basis with no adverse effect on safety. In addition to our current authority, this provision would provide a critical tool that the FAA could use to operate in a more business-like fashion. Any realignments or consolidations recommended by the Administrator under to this section would only be implemented after a thorough review by a newly created Commission of experts, and the opportunity for the public, and ultimately, Congress, to examine the recommendations.

### **Extension of Aviation Insurance Program**

Finally, I wish to mention our proposal for the FAA's aviation insurance program. This is a program that has been very important in recent years to the continued operations of the industry, but which, we feel needs some adjustments. Our bill would extend the Secretary's overall authority to provide aviation insurance, now set to expire on March 30, 2008, to March 30, 2013. It also removes current requirements for the program to provide first dollar coverage, thus permitting deductibles and the opportunity for commercial coverage of those deductibles. Current law allows the Secretary to limit an airline's third-party liability to \$100 million and also prohibits punitive damages against an airline, aircraft or engine manufacturer, as well as the Government for any cause resulting from a terrorist event. This authority to limit liability is also extended by this section.

### **Conclusion**

Mr. Chairman, I want to conclude by emphasizing that I know we all share the same basic goals for an industry that we all care about deeply. We want a safe system that can meet future demand - one that is cost effective and efficient and that meet the needs of the flying public. We all appreciate the importance of this industry, not only to those of us lucky enough to be a part of it, but to every American. While I anticipate and look forward to a frank and wide-ranging discussion of this proposal and others that I am sure will be put on the table, I cannot overstate my personal commitment to the need for a funding system that better ties FAA's costs to its revenues and its revenues to its

spending. Changing how we fund and operate our system will be hard, but maintaining the *status quo* will not get us what we all want: a more efficient, modern aviation system.

This concludes my prepared statement. I will be happy to answer your questions at this time.