

July 18, 2017

21st Century AIRR Act Ensures National Security and National Defense

Dear Colleague:

Entrenched interest groups who oppose H.R. 2997 (the 21st Century AIRR Act) are now spreading misinformation about supposed impacts of air traffic control reform on our national defense. These claims are false, and the legislation goes to great lengths to ensure the continuity of air services for the Department of Defense (DoD) and other federal agencies.

According to Secretary of Defense James Mattis: **“The DoD is supportive of possible privatization of ATC services.... We are and will continue to be engaged with interagency forums led by representatives from the Office of Management and Budget, National Economic Council and National Security Council to ensure privatization efforts going forward preserve our national security interests.”** (*letter dated May 4, 2017*)

The facts about the 21st Century AIRR Act (H.R. 2997):

- Keeps sole responsibility for national defense, national intelligence, and the national airspace with the federal government. The new entity will provide a service, nothing more. **(Sec. 90302, p. 57)**
- Requires the Secretary of Transportation to establish processes to ensure that the Corporation supports all United States government flight activities currently supported by the FAA after the date of transfer. **(Sec. 90903, p. 121)**
 - Every day, in the U.S. and overseas, DoD and other government aircraft operate alongside civilian aircraft in the same airspace operated by the same air traffic controllers.
 - DoD and other government aircraft operate in airspace controlled by private ATC service providers every day without any impact to national security.
 - In fact, in the U.S, half of all military operations at civilian airports are handled by privately employed air traffic controllers in contract towers.
 - Under H.R. 2997, none of this would change unless approved by the FAA with the input of the DoD and other federal government stakeholders.
- Ensures that the DoD will continue to provide ATC services within U.S. airspace, same as it does today. **(Sec. 90302, p. 57; see also Sec. 90901, p. 121)**
 - Currently, the DoD provides ATC services in the U.S. and overseas—in certain places, the DoD provides those services to both military and civilian aircraft.
 - There are also certain sensitive DoD operations that communicate only with military air traffic controllers and do not interact with civilian controllers. This will not change under the bill.
 - H.R. 2997 does not disturb DoD’s operation of ATC services or facilities in the U.S. or abroad.
- Requires agreements between the Corporation, Department of Transportation (DOT), and other federal agencies supported by FAA’s current operation of ATC services, including DoD, to ensure cooperation, facilitate the safe provision of ATC services, and address coordination

- Preserves the Armed Forces' emergency powers for national defense or military emergency. **(Sec. 90904, p. 121)**
- Vests in the Secretary of Transportation the authority, in consultation with the Secretary of Defense, to establish provisions that will encourage and allow maximum use of the navigable airspace by civil aircraft consistent with national security. **(Sec. 223, page 162)**
- Ensures adherence to international agreements related to operations of Armed Forces. **(Sec. 90905, p. 122)**
 - Overseas, DoD works with foreign governments to control airspace over and around certain U.S. bases under various agreements.
 - H.R. 2997 does not disturb DoD's operation of ATC services or facilities abroad, nor does it disturb any agreements with foreign governments to provide such services abroad.
- Retains and clarifies the President's authority to temporarily transfer air traffic control to the Secretary of Defense in times of war. **(Sec. 90906, p. 122; Sec. 225, p. 163)**
 - In the event of a terrorist attack or other national emergency, the President must be able to take over ATC services when necessary.
 - The bill will be amended to clarify that the President will also be able to temporarily take over the assets, operations, and employees of the air traffic service provider in times of national emergency.
- Provides the Department of Defense with a seat on the Advisory Board of the Corporation. **(Sec. 90310, p. 76)**
- Exempts the Department of Defense and other government agencies from paying users fees or charges for ATC. **(Sec. 90313(d)(6), p. 83; see also Sec. 90902, p. 121)**
- Requires the Secretary of Transportation to consult the Secretary of Defense when determining the impacts on military aviation operations of a proposed contract tower closure. **(Sec. 90703, p. 115)**
- Mandates that all federally issued credentials and clearances held by an employee of the FAA in the operation of ATC services that are valid and effective on the date of transfer remain valid unless revoked or equivalent credentials and clearances are issued. **(Sec. 90316, p. 91)**
 - FAA air traffic controllers must be U.S. citizens and take an oath because they receive appointments in the "competitive service."
 - Air traffic controllers at contract towers operated by private companies include both U.S. citizens and foreign nationals who are permanent residents of the U.S.
 - All air traffic controllers, both federal and privately-contracted, are subject to FAA suitability checks and background checks.
 - Currently certain air traffic controllers, such as those handling flights that are en-route or those stationed on military bases, require security clearances; other controllers do not require security clearances.
 - FAA maintains its own security requirements at its facilities.
 - Depending on the location of ATC facilities, at certain airports TSA-Security Identification Display Area (SIDA) credentials may be required for air traffic controllers; at other airports SIDA requirements may not apply.

Please contact the Aviation Subcommittee staff (ext.63220) to cosponsor this legislation or to follow up with any questions.

Bill Shuster

Member of Congress