

Union Calendar No. 341

107TH CONGRESS
2D SESSION

H. R. 3479

[Report No. 107-568]

To expand aviation capacity in the Chicago area.

IN THE HOUSE OF REPRESENTATIVES

DECEMBER 13, 2001

Mr. LIPINSKI (for himself, Mr. COSTELLO, Mr. DAVIS of Illinois, Mr. RUSH, Mr. GUTIERREZ, Mr. EVANS, Mr. BLAGOJEVICH, Ms. SCHAKOWSKY, Mr. DEFazio, Mr. BOSWELL, Mr. PHELPS, Mr. RAHALL, Ms. HOOLEY of Oregon, Mr. HOFFEL, Mr. HINCHEY, Mr. FILNER, Ms. BALDWIN, Mr. BAIRD, Mr. WU, Mr. BORSKI, Mr. CLEMENT, Mr. BARCIA, Mr. LATOURETTE, Mr. SHIMKUS, Mrs. TAUSCHER, Mr. PASCRELL, Mr. HOLDEN, Mr. MATHESON, Mr. HONDA, Mr. KIRK, Mr. NADLER, Ms. BERKLEY, Mr. LARSEN of Washington, Mr. SANDLIN, Mr. CARSON of Oklahoma, Mr. HORN, Mr. EHLERS, Mr. BACHUS, Mr. ENGEL, Mr. BALDACCIO, Mr. MEEKS of New York, Mr. NEAL of Massachusetts, Mr. SAWYER, Ms. SLAUGHTER, Mr. UDALL of Colorado, Mr. TIERNEY, Mr. MENENDEZ, Mr. SANDERS, Mr. DICKS, Mr. HOYER, Mr. BRADY of Pennsylvania, Mr. MURTHA, Mr. LAFALCE, Mr. DUNCAN, Mr. RODRIGUEZ, Mr. ORTIZ, Mr. TOWNS, Mr. HINOJOSA, Mrs. MINK of Hawaii, Mr. SMITH of Washington, Mr. POMEROY, Mr. CAPUANO, Mr. COYNE, Mr. ETHERIDGE, Mr. MEEHAN, Ms. VELÁZQUEZ, Mr. MICA, Mr. COOKSEY, Mr. MASCARA, Mr. ACKERMAN, Mr. LAMPSON, Mr. PASTOR, and Mr. SERRANO) introduced the following bill; which was referred to the Committee on Transportation and Infrastructure

JULY 12, 2002

Additional sponsors: Mr. CRAMER, Mr. BECERRA, Mr. QUINN, Ms. KAPTUR, Mr. THOMPSON of California, Mr. GEORGE MILLER of California, Mr. FROST, Mr. EDWARDS, Mr. McNULTY, Mr. UDALL of New Mexico, Mr. RANGEL, Mr. GRAVES, Mr. STUPAK, Mr. HOBSON, Mr. HAYES, Mr. REYES, Mr. BERRY, Mr. NETHERCUTT, Mr. OTTER, Mr. TURNER, Mr. HALL of Texas, Mr. SHUSTER, Mr. GREEN of Wisconsin, Mr. BEREUTER, Mr. NEY, Mrs. CAPITO, Mr. BOOZMAN, Mr. THUNE, Mr. REHBERG, Mr.

McGOVERN, Mr. EHRLICH, Mr. SIMPSON, Mr. LATHAM, Mr. MORAN of Kansas, Mr. GANSKE, Mr. PETRI, Ms. HART, and Mr. BAKER

Deleted sponsors: Mr. SMITH of Washington (added December 13, 2001; deleted June 4, 2002) and Mr. KUCINICH (added December 19, 2001; deleted April 11, 2002)

JULY 12, 2002

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

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

[For text of introduced bill, see copy of bill as introduced on December 13, 2001]

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 *capacity Expansion Act of 2002”.*

6 **SEC. 2. FINDINGS.**

7 *Congress finds the following:*

8 (1) *O’Hare International Airport consistently*
 9 *ranks as the Nation’s first or second busiest airport*
 10 *with nearly 34,000,000 annual passengers*
 11 *enplanements, almost all of whom travel in inter-state*
 12 *or foreign commerce. The Federal Aviation Adminis-*
 13 *tration’s most recent data, compiled in the Airport*
 14 *Capacity Benchmark Report 2001, projects demand*
 15 *at O’Hare to grow by 18 percent over the next decade.*

1 *O'Hare handles 72,100,000 passengers annually, com-*
2 *pared with 64,600,000 at London Heathrow Inter-*
3 *national Airport, Europe's busiest airport, and*
4 *36,700,000 at Kimpo International Airport, Korea's*
5 *busiest airport, 7,400,000 at Narita International*
6 *Airport, Japan's busiest airport, 23,700,000 at*
7 *Kingsford-Smith International Airport, Australia's*
8 *busiest airport, and 6,200,000 at Ezeiza Inter-*
9 *national Airport, Argentina's busiest airport, as well*
10 *as South America's busiest airport.*

11 *(2) The Airport Capacity Benchmark Report*
12 *2001 ranks O'Hare as the third most delayed airport*
13 *in the United States. Overall, slightly more than 6*
14 *percent of all flights at O'Hare are delayed signifi-*
15 *cantly (more than 15 minutes). On good weather*
16 *days, scheduled traffic is at or above capacity for 3½*
17 *hours of the day with about 2 percent of flights at*
18 *O'Hare delayed significantly. In adverse weather, ca-*
19 *capacity is lower and scheduled traffic exceeds capacity*
20 *for 8 hours of the day, with about 12 percent of the*
21 *flights delayed.*

22 *(3) The city of Chicago, Illinois, which owns and*
23 *operates O'Hare, has been unable to pursue projects*
24 *to increase the operating capability of O'Hare run-*
25 *ways and thereby reduce delays because the city of*

1 *Chicago and the State of Illinois have been unable for*
2 *more than 20 years to agree on a plan for runway*
3 *reconfiguration and development. State law states*
4 *that such projects at O'Hare require State approval.*

5 *(4) On December 5, 2001, the Governor of Illi-*
6 *nois and the Mayor of Chicago reached an agreement*
7 *to allow the city to go forward with a proposed capac-*
8 *ity enhancement project for O'Hare which involves re-*
9 *design of the airport's runway configuration.*

10 *(5) In furtherance of such agreement, the city,*
11 *with approval of the State, applied for and received*
12 *a master-planning grant from the Federal Aviation*
13 *Administration for the capacity enhancement project.*

14 *(6) The agreement between the city and the State*
15 *is not binding on future Governors of Illinois.*

16 *(7) Future Governors of Illinois could stop the*
17 *O'Hare capacity enhancement project by refusing to*
18 *issue a certificate required for such project under the*
19 *Illinois Aeronautics Act, or by refusing to submit air-*
20 *port improvement grant requests for the project, or by*
21 *improperly administering the State implementation*
22 *plan process under the Clean Air Act (42 U.S.C. 7401*
23 *et seq.) to prevent construction and operation of the*
24 *project.*

1 (8) *The city of Chicago is unwilling to continue*
2 *to go forward with the project without assurance that*
3 *future Governors of Illinois will not be able to stop*
4 *the project, thereby endangering the value of the in-*
5 *vestment of city and Federal resources in the project.*

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

22 (10) *Any application submitted by the city of*
23 *Chicago for expansion of O'Hare should be evaluated*
24 *by the Federal Aviation Administration and other*
25 *Federal agencies under all applicable Federal laws*

1 *and regulations and should be approved only if the*
2 *application meets all requirements imposed by such*
3 *laws and regulations.*

4 (11) *As part of the agreement between the city*
5 *and the State allowing the city to submit an applica-*
6 *tion for improvement of O'Hare, there has been an*
7 *agreement for the continued operation of Merrill C.*
8 *Meigs Field by the city, and it has also been agreed*
9 *that, if the city does not follow the agreement on*
10 *Meigs Field, Federal airport improvement program*
11 *funds should be withheld from the city for O'Hare.*

12 (12) *To facilitate implementation of the agree-*
13 *ment allowing the city to submit an application for*
14 *O'Hare, it is desirable to require by law that Federal*
15 *airport improvement program funds for O'Hare be*
16 *administered to require continued operation of Mer-*
17 *rill C. Meigs Field by the city, as proposed in the*
18 *agreement.*

19 (13) *To facilitate implementation of the agree-*
20 *ment allowing the city to submit an application for*
21 *O'Hare, it is desirable to enact into law provisions of*
22 *the agreement relating to noise and public roadway*
23 *access. These provisions are not inconsistent with*
24 *Federal law.*

1 (14) *If the Federal Aviation Administration ap-*
2 *proves an airport layout plan for O'Hare directly re-*
3 *lated to the agreement reached on December 5, 2001,*
4 *such approvals will constitute an action of the United*
5 *States under Federal law and will be an important*
6 *first step in the process by which the Government*
7 *could decide that these plans should receive Federal*
8 *assistance under chapter 471 of title 49, United*
9 *States Code, relating to airport development.*

10 (15) *The agreement between the State of Illinois*
11 *and the city of Chicago includes agreement that the*
12 *construction of an airport in Peotone, Illinois, would*
13 *be proposed by the State to the Federal Aviation Ad-*
14 *ministration. Like the O'Hare expansion proposal,*
15 *the Peotone proposal should receive full consideration*
16 *by the Federal Aviation Administration under stand-*
17 *ard procedures for approving and funding an airport*
18 *improvement project, including all applicable safety,*
19 *utility and efficiency, and environmental review.*

20 (16) *Gary/Chicago Airport in Gary, Indiana,*
21 *and the Greater Rockford Airport, Illinois, may al-*
22 *leviate congestion and provide additional capacity in*
23 *the greater Chicago metropolitan region. Like the*
24 *O'Hare airport expansion proposal, expansion efforts*
25 *by Gary/Chicago and Greater Rockford airports*

1 *should receive full consideration by the Federal Avia-*
2 *tion Administration under standard procedures for*
3 *approving and funding an airport capacity improve-*
4 *ment project, including all applicable safety, utility*
5 *and efficiency, and environmental reviews.*

6 **SEC. 3. STATE, CITY, AND FAA AUTHORITY.**

7 (a) *PROHIBITION.*—*In furtherance of the purpose of*
8 *this Act to achieve significant air transportation benefits*
9 *for interstate and foreign commerce, if the Federal Aviation*
10 *Administration makes, or at any time after December 5,*
11 *2001 has made, a grant to the city of Chicago, Illinois, with*
12 *the approval of the State of Illinois for planning or con-*
13 *struction of runway improvements at O’Hare International*
14 *Airport, the State of Illinois, and any instrumentality or*
15 *political subdivision of the State, are prohibited from exer-*
16 *cising authority under sections 38.01, 47, and 48 of the Illi-*
17 *nois Aeronautics Act (620 ILCS 5/) to prevent, or have the*
18 *effect of preventing—*

19 (1) *further consideration by the Federal Aviation*
20 *Administration of an O’Hare airport layout plan di-*
21 *rectly related to the agreement reached by the State*
22 *and the city on December 5, 2001, with respect to*
23 *O’Hare;*

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

1 (3) *application by the city of Chicago for Fed-*
2 *eral airport improvement program funding for*
3 *projects approved by the Administration and shown*
4 *on such O'Hare airport layout plan.*

5 (b) *APPLICATIONS FOR FEDERAL FUNDING.—Notwith-*
6 *standing any other provision of law, the city of Chicago*
7 *is authorized to submit directly to the Federal Aviation Ad-*
8 *ministration without the approval of the State of Illinois,*
9 *applications for Federal airport improvement program*
10 *funding for planning and construction of a project shown*
11 *on an O'Hare airport layout plan directly related to the*
12 *agreement reached on December 5, 2001, and to accept, re-*
13 *ceive, and disburse such funds without the approval of the*
14 *State of Illinois.*

15 (c) *LIMITATION.—If the Federal Aviation Administra-*
16 *tion determines that an O'Hare airport layout plan directly*
17 *related to the agreement reached on December 5, 2001, will*
18 *not be approved by the Administration, subsections (a) and*
19 *(b) of this section shall expire and be of no further effect*
20 *on the date of such determination.*

21 (d) *WESTERN PUBLIC ROADWAY ACCESS.—As pro-*
22 *vided in the December 5, 2001, agreement referred to in*
23 *subsection (a), the Administrator of the Federal Aviation*
24 *Administration shall not consider an airport layout plan*
25 *submitted by the city of Chicago that includes the runway*

1 redesign plan, unless the airport layout plan includes pub-
2 lic roadway access through the existing western boundary
3 of O'Hare to passenger terminal and parking facilities lo-
4 cated inside the boundary of O'Hare and reasonably acces-
5 sible to such western access. Approval of western public
6 roadway access shall be subject to the condition that the
7 cost of construction be paid for from airport revenues con-
8 sistent with Administration revenue use requirements.

9 (e) NOISE MITIGATION.—As provided in the December
10 5, 2001, agreement referred to in subsection (a), the fol-
11 lowing apply:

12 (1) Approval by the Administrator of an airport
13 layout plan that includes the runway redesign plan
14 shall require the city of Chicago to offer acoustical
15 treatment of all single-family houses and schools lo-
16 cated within the 65 DNL noise contour for each con-
17 struction phase of the runway redesign plan, subject
18 to Administration guidelines and specifications of
19 general applicability. The Administrator may not ap-
20 prove the runway redesign plan unless the city pro-
21 vides the Administrator with information sufficient to
22 demonstrate that the acoustical treatment required by
23 this paragraph is feasible.

24 (2)(A) Approval by the Administrator of an air-
25 port layout plan that includes the runway redesign

1 *plan shall be subject to the condition that noise im-*
2 *pect of aircraft operations at O'Hare in the calendar*
3 *year immediately following the year in which the first*
4 *new runway is first used and in each calendar year*
5 *thereafter will be less than the noise impact in cal-*
6 *endar year 2000.*

7 *(B) The Administrator shall make the deter-*
8 *mination described in subparagraph (A)—*

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

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

14 *(iii) by determining noise impact solely in*
15 *terms of the aggregate number of square miles*
16 *and the aggregate number of single-family houses*
17 *and schools exposed to 65 or greater decibels*
18 *using the DNL metric, including only single-*
19 *family houses and schools in existence on the last*
20 *day of calendar year 2000. The Administrator*
21 *shall make such determination based on informa-*
22 *tion provided by the city of Chicago, which shall*
23 *be independently verified by the Administrator.*

24 *(C) The conditions described in this subsection*
25 *shall be enforceable exclusively through the submission*

1 *and approval of a noise compatibility plan under*
2 *part 150 of title 14, Code of Federal Regulations. The*
3 *noise compatibility plan submitted by the city of Chi-*
4 *cago shall provide for compliance with this subsection.*
5 *The Administrator shall approve measures sufficient*
6 *for compliance with this subsection in accordance*
7 *with procedures under such part 150. The United*
8 *States shall have no financial responsibility or liabil-*
9 *ity if operations at O'Hare in any year do not satisfy*
10 *the conditions in this subsection.*

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

21 *(g) JUDICIAL REVIEW.— An order issued by the Ad-*
22 *ministrator, in whole or in part, under this section shall*
23 *be deemed to be an order issued under part A of subtitle*
24 *VII of title 49, United States Code, and shall be reviewed*

1 *in accordance with the procedure in section 46110 of such*
2 *title.*

3 (h) *DEFINITION.*—*In this section, the terms “airport*
4 *layout plan directly related to the agreement reached on De-*
5 *cember 5, 2001” and “such airport layout plan” mean a*
6 *plan that shows—*

7 (1) *6 parallel runways at O’Hare oriented in the*
8 *east-west direction with the capability for 4 simulta-*
9 *neous independent visual aircraft arrivals in both di-*
10 *rections, and all associated taxiways, navigational fa-*
11 *cilities, and other related facilities; and*

12 (2) *closure of existing runways 14L–32R, 14R–*
13 *32L and 18–36 at O’Hare.*

14 **SEC. 4. CLEAN AIR ACT.**

15 (a) *IMPLEMENTATION PLAN.*—*An implementation*
16 *plan shall be prepared by the State of Illinois under the*
17 *Clean Air Act (42 U.S.C. 7401 et seq.) in accordance with*
18 *the State’s customary practices for accounting for and regu-*
19 *lating emissions associated with activity at commercial*
20 *service airports. The State shall not deviate from its cus-*
21 *tomary practices under the Clean Air Act for the purpose*
22 *of interfering with the construction of a runway pursuant*
23 *to the redesign plan or the south suburban airport. At the*
24 *request of the Administrator of the Federal Aviation Ad-*
25 *ministration, the Administrator of the Environmental Pro-*

1 *tection Agency shall, in consultation with the Adminis-*
2 *trator of the Federal Aviation Administration, determine*
3 *that the foregoing condition has been satisfied before ap-*
4 *proving an implementation plan. Nothing in this section*
5 *shall be construed to affect the obligations of the State under*
6 *section 176(c) of the Clean Air Act (42 U.S.C. 7506(c)).*

7 *(b) LIMITATION ON APPROVAL.—The Administrator of*
8 *the Federal Aviation Administration shall not approve the*
9 *runway redesign plan unless the Administrator of the Fed-*
10 *eral Aviation Administration determines that the construc-*
11 *tion and operation will include, to the maximum extent fea-*
12 *sible, the best management practices then reasonably avail-*
13 *able to and used by operators of commercial service airports*
14 *to mitigate emissions regulated under the implementation*
15 *plan.*

16 **SEC. 5. MERRILL C. MEIGS FIELD.**

17 *The State of Illinois and the city of Chicago, Illinois,*
18 *have agreed to the following:*

19 *(1) Until January 1, 2026, the Administrator of*
20 *the Federal Aviation Administration shall withhold*
21 *all Federal airport grant funds respecting O’Hare*
22 *International Airport, other than grants involving*
23 *national security and safety, unless the Administrator*
24 *is reasonably satisfied that the following conditions*
25 *have been met:*

1 (A) *Merrill C. Meigs Field in Chicago either*
2 *is being operated by the city of Chicago as an*
3 *airport or has been closed by the Administration*
4 *for reasons beyond the city's control.*

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

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

18 (D) *The city of Chicago is providing or*
19 *causing its agents or independent contractors to*
20 *provide all services (including police and fire*
21 *protection services) provided or offered at Meigs*
22 *Field on or immediately prior to December 1,*
23 *2001, including tie-down, terminal, refueling,*
24 *and repair services, at rates that reflect actual*
25 *costs of providing such goods and services.*

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

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

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

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

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

24 *Nothing in this Act shall give any priority to or affect*
25 *availability or amounts of funds under chapter 471 of title*

1 49, *United States Code*, to pay the costs of O'Hare Inter-
2 *national Airport, improvements shown on an airport lay-*
3 *out plan directly related to the agreement reached by the*
4 *State of Illinois and the city of Chicago, Illinois, on Decem-*
5 *ber 5, 2001.*

6 **SEC. 7. SENSE OF CONGRESS ON QUIET AIRCRAFT TECH-**
7 **NOLOGY RESEARCH AND DEVELOPMENT.**

8 *It is the sense of the Congress that the Office of Envi-*
9 *ronment and Energy of the Federal Aviation Administra-*
10 *tion should be funded to carry out noise mitigation pro-*
11 *gramming and quiet aircraft technology research and devel-*
12 *opment at a level of \$37,000,000 for fiscal year 2004 and*
13 *\$47,000,000 for fiscal year 2005.*

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