



CONGRESSIONAL BUDGET OFFICE
COST ESTIMATE

July 30, 1998

S. 2279

**Wendell H. Ford National Air Transportation System
Improvement Act of 1998**

*As ordered reported by the Senate Committee on Commerce, Science, and Transportation
on July 14, 1998*

SUMMARY

S. 2279 would reauthorize funding for programs of the Federal Aviation Administration (FAA) for fiscal years 1999 through 2002. The bill would provide \$10 billion in contract authority for the airport improvement program and would authorize the appropriation of \$32.3 billion for FAA operations, facilities, and equipment over the four-year period. In addition, the bill would authorize appropriations for a university consortium program, for the small community air service program, for development of a plan for the Wide Area Augmentation System (WAAS), and for contractual audit services to complete a report on the FAA's costs and how the agency allocates such costs among its different services and activities. That report is being prepared by the Inspector General of the Department of Transportation (DOT). CBO estimates that outlays from the funding authorized by this bill would total \$39.4 billion over the 1999-2003 period.

S. 2279 also would expand a pilot program that provides for an innovative use of airport improvement grant funds. The Joint Committee on Taxation (JCT) expects that this provision would result in an increase in tax-exempt financing and a subsequent loss of federal revenue. JCT estimates a revenue loss of \$2 million over the 1999-2003 period. CBO estimates that enacting the bill would lead to an additional loss in revenues of about \$10 million a year from a provision that would exempt Canada-to-Canada flights from the payment of U.S. overflight fees. In total, JCT and CBO estimate a net decrease in federal revenues of \$52 million over the 1999-2003 period. Because enacting S. 2279 would affect receipts, pay-as-you procedures would apply to the bill.

S. 2279 contains intergovernmental mandates as defined in the Unfunded Mandates Reform Act (UMRA), and CBO estimates that the costs of those mandates would exceed the threshold established in that act (\$50 million in 1996, adjusted annually for inflation).

S. 2279 would also impose private-sector mandates, as defined by UMRA, on owners of fixed-wing powered aircraft, operators of commercial air tours, air carriers, and owners and operators of cargo aircraft. The cost of these mandates would not exceed the annual threshold, established by UMRA, for private-sector mandates (\$100 million in 1996, adjusted for inflation).

DESCRIPTION OF THE BILL'S MAJOR PROVISIONS

Title I would reauthorize funding for the FAA's airport improvement program, and for its facilities, equipment, and operations. Title II would expand a pilot program that provides for an innovative use of airport improvement grant funds.

Title III would eliminate fees on flights over U.S. airspace—known as overflight fees—when such flights are operated from a country contiguous to the United States if both the take-off and landing of the flight is within that other country.

The bill would also amend Title 49 of the U.S. Code to extend the authorization for the aviation insurance program to December 31, 2003. In addition, the bill would make clear that an insured party could purchase an additional insurance policy from a third party under which the third party would, in the event of a claim, reimburse the insured party immediately and then seek reimbursement from the federal government. Such a contract would allow parties insured under the aviation insurance program to be assured of immediate reimbursement for any claims.

Title V would provide whistleblower protection for employees of air carriers or contractors for air carriers who notify authorities that their employer is violating a federal law relating to air carrier safety. The bill would set up a complaint and investigation process within the Department of Labor (DOL), and would authorize the agency to assess civil monetary penalties of up to \$1,000 against a person who violates this provision. In addition, the bill would establish civil penalties for individuals who interfere with or jeopardize the safety of the cabin crew or other passengers.

Title V also would authorize the appropriation of such sums as may be necessary to develop the Wide Area Augmentation System plan and to obtain contractual audit services to complete the DOT Inspector General's report on FAA's costs and the allocation of such costs among different FAA services and activities. In addition, the bill would establish an oversight committee to advise the FAA on ways to improve the training of flight crews and to develop a test program to improve nonprecision landing approaches for aircraft.

Title VI would establish a four-year pilot program to improve access to airport facilities. This pilot program would provide financial and technical assistance to up to 40 communities. Over the 1999-2002 period, the Secretary of Transportation would be allowed to obligate \$30 million for this program, of which \$20 million would come from fees collected by the FAA and \$10 million would be authorized to be appropriated. Title VI also would authorize a review and study of different programs of federal financial assistance and subsequent report. In addition, the General Accounting Office would be required to complete a study on rural air transportation.

Title VII would make clear that the FAA has the authority to regulate aircraft overflights affecting public and tribal lands, and would establish a process for the FAA and the National Park Service (NPS) to coordinate the development and implementation of such regulations. Regulations governing overflights of national parks will likely be imposed under current law, but enacting Title VII could speed up that implementation.

Finally, S. 2279 would require the Secretary of Transportation and the Administrator of the FAA to complete numerous studies, issue guidelines and rules, and publish subsequent reports.

ESTIMATED COST TO THE FEDERAL GOVERNMENT

CBO estimates that implementing S. 2279 would result in additional outlays of \$39.4 billion over the 1999-2003 period and a net loss of federal revenues of \$52 million over the same period. The estimated budgetary impact of S. 2279 is shown in the following table. The costs of this legislation fall within budget function 400 (transportation).

BASIS OF ESTIMATE

Implementing S. 2279 would affect direct spending, spending subject to appropriation, and revenues. In particular, the bill would provide \$10 billion in contract authority (a form of direct spending) for the airport improvement program and would authorize appropriations totaling \$32.4 billion for activities of the FAA. All of the outlays from this contract authority would be controlled by annual obligation limitations imposed through the appropriation process. Therefore, all of the projected outlays, whether from appropriated budget authority or annually limited contract authority, are categorized as spending subject to appropriation. Estimates of outlays are based on historical spending patterns for the affected programs and information provided by DOT and FAA staff.

	By Fiscal Year, in Millions of Dollars					
	1998	1999	2000	2001	2002	2003
DIRECT SPENDING						
FAA Spending Under Current Law						
Budget Authority	1,935	0	0	0	0	0
Estimated Outlays	0	0	0	0	0	0
Proposed Changes						
Budget Authority	0	2,410	2,475	2,542	2,611	0
Estimated Outlays	0	0	0	0	0	0
Total FAA Spending Under S. 2297						
Budget Authority	1,935	2,410	2,475	2,542	2,611	0
Estimated Outlays	0	0	0	0	0	0
SPENDING SUBJECT TO APPROPRIATION						
FAA Spending Under Current Law						
Budget Authority ^a	7,178	0	0	0	0	0
Estimated Outlays	8,820	3,342	1,329	623	143	68
Proposed Changes						
Estimated Authorization Level	0	7,740	7,982	8,205	8,425	0
Estimated Outlays	0	6,028	8,624	9,800	10,625	4,320
Total FAA Spending Under S. 2297						
Estimated Authorization Level ^a	7,178	7,740	7,982	8,205	8,425	0
Estimated Outlays	8,820	9,371	9,953	10,423	10,768	4,388
CHANGES IN REVENUES						
Estimated Revenues	0	-10	-10	-10	-11	-11

a. The 1998 level is the amount appropriated for that year.

Spending Subject to Appropriation

For purposes of this estimate, CBO assumes that the amounts authorized for aviation programs will be appropriated for each fiscal year. S. 2279 would provide \$10 billion in contract authority for the airport improvement program and would authorize the appropriation of \$23.5 billion for FAA operations and \$8.8 billion for facilities and equipment for fiscal years 1999 through 2002. In addition, the bill would authorize the

appropriation of \$9 million a year for fiscal years 1999 through 2001 for a university consortium program, and \$10 million for the small community air service program for fiscal years 1999 through 2001.

The bill also would authorize such sums as may be necessary to develop a WAAS plan and to obtain contractual audit services to complete the Inspector General's report on the FAA's costs and allocations. Information from the FAA indicates that many of the requirements for the WAAS plan have already been completed. CBO therefore estimates that this provision would not result in any significant additional costs. Based on information from DOT's Office of Inspector General, CBO estimates that the cost of the contractual services to complete the audit would be less than \$1 million in fiscal year 1999.

The small community air service program would provide financial and technical assistance to up to 40 communities. The proposed \$30 million funding level for this program would be composed of \$20 million from overflight fees and \$10 million from an authorization of appropriations. Assuming the appropriation of that authorized amount, CBO estimates outlays of \$10 million over the 1999-2002 period. The potential spending of \$20 million from overflight fee collections would be direct spending, but that authority would take effect only if there were sufficient collections of overflight fees to fund both the essential air service program and this pilot program. Because CBO's baseline estimate of overflight fees is significantly less than the \$50 million a year that is allocated to the essential air service program under current law, CBO estimates that this provision would have no effect on direct spending.

S. 2279 contains several additional provisions that would require the FAA to conduct studies, complete reports, issue rulemakings, and develop test programs. CBO assumes that all such costs would be funded from the authorizations provided in the bill for FAA operations, facilities, and equipment. In total, CBO estimates that these studies, rulemakings, and reports would cost about \$7 million. Of that total, the flight crew training assessment and test program would cost approximately \$6 million.

Based on the current costs of operating a whistleblower protection program at the Department of Energy, CBO estimates that the administrative costs of operating the new DOL program would be less than \$1 million a year.

Based on information from the NPS and the FAA, CBO estimates that discretionary outlays to conduct planning and rulemaking for park overflights, complete air tour management plans (including environmental analyses), and monitor any overflight limits established in such plans would total about \$29 million over the 1999-2008 period. This process is already under way, and we expect that these costs will be incurred within the next 10 years under current

law, assuming appropriation of the estimated amounts. Title VII would require the NPS and the FAA to complete the air tour management plans (ATMPs) within three years of enactment. Therefore, enacting Title VII could increase discretionary outlays in the short term if the agencies completed these plans more quickly than they would under current law. If so, and if those plans limited overflights, the FAA would begin incurring monitoring costs sooner, thereby increasing total monitoring costs. However, CBO estimates that the provisions dealing with park overflights would cause no significant change in FAA or NPS spending over the next five years. We estimate that operating the joint advisory group would cost the agencies a total of about \$25,000 each year. Any such spending would be subject to appropriation action.

Revenues

S. 2279 would expand a pilot program that provides for an innovative use of airport improvement grants to implement innovative financing techniques for airport capital projects. These techniques include payment of interest, purchase of bond insurance, and other credit enhancement associated with airport bonds. While the first pilot program, enacted in 1996, included these provisions, the early use of the program was geared more toward changing federal/local matching ratios. In addition, the earlier authorization provided for no more than 10 projects. This provision represents an expansion to 20 pilot projects. It is designed to leverage new investment financed by additional tax-exempt debt. JCT expects that this provision would lead to an increase in tax-exempt financing and a resulting loss of federal revenue. JCT estimates a loss of revenue of \$2 million over the 1999-2003 period and \$6 million over the 1999-2008 period.

The exemption from overflight fees for flights operated from a country contiguous to the United States, which have both the take-off and landing within that country, would result in a loss of revenue because flights from Canada to Canada represented 50 percent of the overflight fees collected in fiscal year 1997. Under baseline projections, CBO estimates that the FAA would collect \$20 million a year from overflight fees from 1999 through 2008. We estimate that the exemption would reduce collections to approximately \$10 million a year.

The provision imposing a maximum civil penalty of \$10,000 for an individual who interferes with the duties and responsibilities of the flight crew or cabin crew of a civil aircraft, or who poses an imminent threat to the safety of the aircraft or other individuals on the aircraft, could also affect revenues. Based on information from the FAA, CBO estimates that this provision would increase revenues, but the effect is likely to be less than \$500,000 annually.

In addition, the provisions establishing new civil penalties for the whistleblower protection program could affect revenues, but CBO estimates that any such effects would not be significant.

Direct Spending

S. 2279 would extend the authorization for the FAA's aviation insurance program through December 31, 2003, and would clarify existing law. Under current law, the aviation insurance program will end on December 31, 1998. Enacting the bill could affect federal spending if new claims occur from extending the insurance program. Moreover, such new spending could be very large, particularly if a claim exceeded the balance of the trust fund and the FAA had to seek a supplemental appropriation. But historical experience suggests that claims under this program are very rare; therefore, extending the aviation insurance program would probably have no significant impact on the federal budget over the next five years.

The bill also would clarify existing law regarding insurance obtained from a third party. Enacting this provision could affect federal spending if the clarification made the aviation insurance program more acceptable to carriers and thereby increased the number of insured flights—and potential claims—under the program. CBO expects, however, that this provision would have no significant budgetary effect over the next five years.

As noted above, the bill's proposed funding for small community air service could increase direct spending if sufficient collections from overflight fees are available, but CBO estimates that the provision would have no effect.

PAY-AS-YOU-GO CONSIDERATIONS

The Balanced Budget and Emergency Deficit Control Act sets up pay-as-you-go procedures for legislation affecting direct spending and receipts. The net changes in outlays and governmental receipts that are subject to pay-as-you-go procedures are shown in the following table. For the purposes of enforcing such procedures, only the effects in the current year, the budget year, and the succeeding four years are counted.

	By Fiscal Year, in Millions of Dollars										
	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008
Changes in outlays	0	0	0	0	0	0	0	0	0	0	0
Changes in receipts	0	-10	-10	-10	-11	-11	-11	-11	-11	-11	-11

ESTIMATED IMPACT ON STATE, LOCAL, AND TRIBAL GOVERNMENTS

S. 2279 contains intergovernmental mandates as defined in UMRA that CBO estimates would exceed the threshold established in that act (\$50 million in 1996, adjusted annually for inflation). CBO's estimate of the bill's impact on state, local, and tribal governments is provided as a separate enclosure.

ESTIMATED IMPACT ON THE PRIVATE SECTOR

S. 2279 would impose private-sector mandates, as defined by UMRA, on owners of fixed-wing powered aircraft, operators of commercial air tours, air carriers, and owners and operators of cargo aircraft. However, CBO estimates that the total direct costs of the mandates would not exceed the annual threshold for private-sector mandates (\$100 million in 1996, adjusted for inflation).

Commercial Air Tour Operations

Section 702 would require operators of commercial air tours to apply for authority from the FAA before they would be able to conduct tours over a national park or tribal land. Those tour operators that currently operate over national parks or tribal lands would be able to conduct tours for an interim period if they apply to the FAA for that authority. Air tour management plans would be developed for every park where an air tour operator flies. The ATMPs would affect all commercial air tour operations up to a half-mile outside each national park boundary. The plans could prohibit commercial air tour operations in whole or in part and could establish conditions for operation, such as maximum and minimum altitudes, the maximum number of flights, and time-of-day restrictions.

The major air tour areas are the Grand Canyon, Alaska, and Hawaii. According to testimony provided in a Congressional hearing, the industry consists of approximately 270 air tour operators with about \$500 million in annual revenues. Commercial air tour operations in the Grand Canyon generate about half of those revenues and tours in Hawaii generate approximately \$75 million. S. 2279 would exempt commercial air tour operations over the Grand Canyon and Alaska. In November 1997, the National Parks Overflights Working Group, an interagency working group composed of representatives from the FAA, the NPS, the aviation industry, environmental groups, and Native Americans, released recommendations for proposed rules to reduce or prevent the adverse effects of commercial air tour operations over national parks. The FAA is currently drafting proposed rules on overflights of national parks.

CBO estimates that section 702 would impose no additional costs on the private sector beyond those that are likely to be imposed by FAA regulations under current law. Although the cost of those regulations cannot be estimated with confidence until they are published, S. 2279 would not add any conditions that would significantly change the likely cost to the private sector. Based on information provided by a private-sector participant in the working group, CBO expects that the cost of applying to the FAA for authority would be negligible. The more significant cost would be the loss of revenues to the commercial air tour operators if the number of tours was reduced by the ATMPs.

Air Carriers

Section 306 would expand the criteria that would trigger a criminal history record check for employment investigations for screeners of passengers, baggage, and property. The cost of this mandate would depend upon the additional conditions that the FAA would require for such record checks. Based on information from the FAA and from air carrier representatives, the cost per security check would range from \$28 to \$52 per person. CBO estimates that the total cost would be less than \$5 million annually.

Section 609 would make it an unfair and deceptive practice for any carrier utilizing electronically transmitted tickets to fail to notify the purchaser of an electronic ticket of the expiration date of such ticket. The cost of notification would depend upon how the FAA would direct airlines to implement this requirement. Based on information from representatives of the air carriers, CBO estimates that the cost to air carriers would be negligible if the FAA specifies the most efficient method of notification.

Section 519 would protect employees of air carriers, contractors, or subcontractors that provide air safety information to the United States government. Those firms would not be able to discharge or discriminate against such employees with respect to compensation, terms, conditions, or privileges of employment. Based on information provided by one of the major air carriers and the Occupational Safety and Health Administration, the agency that would enforce those provisions, CBO estimates that neither the air carriers nor their contractors would incur any direct costs in complying with this requirement.

Owners of Fixed-Wing Powered Aircraft

Section 504 would require the installation of emergency locator transmitters in certain fixed-wing powered civil aircraft, by amending existing law to reduce the types of aircraft excluded from that requirement. Most aircraft that would lose their existing exemption and currently

do not have emergency locator transmitters are general aviation aircraft. According to information from the National Air Transportation Association, the trade association representing general aviation, the cost of acquiring and installing an emergency locator transmitter would range from \$2,000 to \$7,000 per aircraft, with an average cost of \$4,500. CBO estimates that fewer than 5,000 aircraft that would be affected, and that the cost of this mandate would be between \$15 million and \$30 million.

Owners and Operators of Cargo Aircraft

Section 502 would mandate that a collision avoidance system be installed on each cargo aircraft with a payload capacity of 15,000 kilograms or more by December 31, 2002. The FAA would be required to approve the equipment. Cargo industry representatives say they are currently developing a collision avoidance system using next-generation technology and expect it to be installed in such cargo aircraft by the deadline. Assuming the FAA would approve that system, CBO estimates that this bill would impose no additional costs on owners and operators of cargo aircraft.

PREVIOUS CBO ESTIMATES

On July 17, 1998, CBO provided a cost estimate for H.R. 4057, the Airport Improvement Program Reauthorization Act of 1998, as ordered reported by the House Committee on Transportation and Infrastructure on June 25, 1998. S. 2279 would reauthorize the same programs as H.R. 4057; however, the House bill would only provide a one-year reauthorization.

On July 9, 1998, CBO provided a cost estimate for H.R. 4058, as ordered reported by the House Committee on Transportation and Infrastructure on June 25, 1998. The section of S. 2279 pertaining to aviation insurance extension and third-party liability is virtually identical to provisions in H.R. 4058.

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