# CONGRESSIONAL BUDGET OFFICE
# COST ESTIMATE

September 5, 2007

# H.R. 2881
## FAA Reauthorization Act of 2007

*As ordered reported by the House Committee on Transportation and Infrastructure on June 28, 2007*

## SUMMARY


H.R. 2881 would authorize appropriations, mainly over the 2008-2011 period, for activities of the Federal Aviation Administration (FAA). CBO estimates that implementing the bill would have a discretionary cost of $51 billion over the 2008-2012 period, assuming the appropriation of the necessary amounts. In addition, we estimate that enacting the bill would reduce net direct spending by $336 million over the 2008-2012 period but increase it by $216 million over the 2008-2017 period. Finally, CBO and the Joint Committee on Taxation (JCT) estimate that enacting H.R. 2881 would increase revenues by $18 million over the 2008-2012 period and reduce them by $122 million over the 2008-2017 period.

H.R. 2881 contains intergovernmental mandates as defined in the Unfunded Mandates Reform Act (UMRA), but CBO estimates that the total cost of those mandates would be minimal and would be significantly below the threshold established in that act ($66 million in 2007, adjusted annually for inflation).

H.R. 2881 would impose several private-sector mandates as defined in UMRA. The bill would impose new requirements on operators of certain aircraft weighing 75,000 pounds or less, entities registering or obtaining certification with the FAA, and commercial air carriers. Based on information from the FAA and industry sources, CBO estimates that the aggregate direct cost of complying with those mandates would likely exceed the annual threshold established by UMRA for private-sector mandates ($131 million in 2007, adjusted annually for inflation) in at least one of the first five years the mandates are in effect.


## ESTIMATED COST TO THE FEDERAL GOVERNMENT

The estimated budgetary impact of H.R. 2881 is shown in Table 1. The costs of this legislation fall primarily within budget functions 400 (transportation) and 600 (income security).

**TABLE 1. ESTIMATED BUDGETARY EFFECTS OF H.R. 2881**

| | By Fiscal Year, in Millions of Dollars | | | | | |
|---|---|---|---|---|---|---|
| | 2007 | 2008 | 2009 | 2010 | 2011 | 2012 |
| **SPENDING SUBJECT TO APPROPRIATION** | | | | | | |
| Spending Under Current Law | | | | | | |
| Budget Authority/Authorization Level [a] | 11,064 | 162 | 127 | 127 | 77 | 77 |
| Estimated Outlays [b] | 15,059 | 5,161 | 2,078 | 901 | 301 | 112 |
| Proposed Changes | | | | | | |
| FAA Operations | | | | | | |
| Authorization Level | 0 | 8,726 | 8,978 | 9,305 | 9,590 | 0 |
| Estimated Outlays | 0 | 7,766 | 8,950 | 9,269 | 9,559 | 1,055 |
| Air Navigation Facilities and Equipment | | | | | | |
| Authorization Level | 0 | 3,120 | 3,246 | 3,259 | 3,353 | 0 |
| Estimated Outlays | 0 | 1,810 | 2,663 | 3,170 | 3,309 | 1,392 |
| Airport Improvement Program Outlays [c] | | | | | | |
| Authorization Level | 0 | 0 | 0 | 0 | 0 | 0 |
| Estimated Outlays | 0 | 62 | 134 | 224 | 320 | 402 |
| Changes to FAA Personnel Management System | | | | | | |
| Estimated Authorization Level | 0 | 179 | 126 | 100 | 72 | 0 |
| Estimated Outlays | 0 | 159 | 132 | 103 | 75 | 8 |
| Increased Funding for Aviation Safety Inspectors | | | | | | |
| Authorization Level | 0 | 58 | 134 | 170 | 208 | 0 |
| Estimated Outlays | 0 | 29 | 96 | 152 | 189 | 104 |
| Other Provisions | | | | | | |
| Estimated Authorization Level | 0 | 25 | 74 | 84 | 151 | 9 |
| Estimated Outlays | 0 | 22 | 59 | 77 | 132 | 47 |
| Total Changes | | | | | | |
| Estimated Authorization Level | 0 | 12,108 | 12,558 | 12,918 | 13,375 | 9 |
| Estimated Outlays | 0 | 9,848 | 12,034 | 12,995 | 13,585 | 3,008 |
| Spending Under H.R. 2881 | | | | | | |
| Estimated Authorization Level [a] | 11,064 | 12,270 | 12,685 | 13,045 | 13,452 | 86 |
| Estimated Outlays | 15,059 | 15,009 | 14,112 | 13,896 | 13,886 | 3,120 |

Continued

**TABLE 1. Continued**

| | By Fiscal Year, in Millions of Dollars | | | | | |
|---|---|---|---|---|---|---|
| | 2007 | 2008 | 2009 | 2010 | 2011 | 2012 |
| **DIRECT SPENDING** [d] | | | | | | |
| Baseline Spending Under Current Law | | | | | | |
| Estimated Budget Authority [b] | 3,725 | 3,725 | 3,725 | 3,725 | 3,725 | 3,725 |
| Estimated Outlays | 40 | 50 | 50 | 50 | 50 | 50 |
| Proposed Changes | | | | | | |
| Estimated Budget Authority | 0 | -140 | 106 | 249 | 393 | 446 |
| Estimated Outlays | 0 | -78 | -140 | -90 | -41 | 13 |
| Spending Under H.R. 2881 | | | | | | |
| Estimated Budget Authority [d] | 3,725 | 3,585 | 3,831 | 3,974 | 4,118 | 4,171 |
| Estimated Outlays [d] | 40 | -28 | -90 | -40 | 9 | 63 |
| **CHANGES IN REVENUES** [e] | | | | | | |
| Estimated Revenues | 0 | 1 | 15 | 7 | 1 | -6 |

Notes: * = between -$500,000 and $500,000; FAA = Federal Aviation Administration.

a. The 2007 level is the amount appropriated for that year for FAA operations; facilities and equipment; research, engineering, and development; essential air service; and the Joint Planning and Development Office (JPDO). The 2008-2012 levels reflect amounts authorized to be appropriated under current law for essential air service, small community air service, and the JPDO.

b. Estimated outlays under current law are from amounts appropriated for 2007 and previous years for FAA operations, facilities and equipment; research, engineering, and development; essential air service; and the Joint Planning and Development Office as well as discretionary outlays from the obligation limitations for the Airport Improvement Program, as assumed to continue in the budget resolution baseline.

c. Budget authority for the Airport Improvement Program is provided as contract authority, a mandatory form of budget authority; however, outlays from that contract authority are subject to limitations on obligations specified in appropriation acts and are therefore discretionary.

d. Enacting H.R. 2881 would reduce direct spending over the 2008-2012 period, but it would increase direct spending by $216 million over the 2008-2017 period (see Table 2 for annual effects through 2017).

e. Enacting H.R. 2881 would increase revenues over the 2008-2012 period, but it would reduce revenues by $122 million over the 2008-2017 period (see Table 2 for annual effects through 2017).

## BASIS OF ESTIMATE

Implementing H.R. 2881 would result in significant discretionary spending for aviation programs. Enacting the bill would reduce net direct spending and revenues over the next five years but increase net direct spending and revenues over the 2008-2017 period. For this estimate, CBO assumes that H.R. 2881 will be enacted near the end of fiscal year 2007.

Outlay estimates are based on historical spending patterns for affected programs and on information provided by the Department of Transportation (DOT) and the FAA.

## Spending Subject to Appropriation

CBO estimates that fully funding aviation programs under H.R. 2881 would cost about $9.8 billion in 2008 and $51 billion over the 2008-2012 period. That estimate assumes that amounts authorized and estimated to be necessary will be provided near the start of each fiscal year.

**FAA Operations**. H.R. 2881 would authorize appropriations totaling $8.7 billion in 2008 and $36.6 billion over the 2008-2011 period for FAA operations, particularly for salaries and expenses related to operating the air traffic control system. (In comparison, the Congress provided $8.3 billion for operations in fiscal year 2007.) Assuming appropriation of the authorized amounts, CBO estimates such spending would total $7.8 billion in 2008 and $36.6 billion over the 2008-2012 period.

**Air Navigation Facilities and Equipment**. H.R. 2881 would authorize appropriations totaling $3.1 billion in 2008 and $13.0 billion over the 2008-2011 period for facilities and equipment—primarily infrastructure and systems for communication, navigation, and radar surveillance related to air travel. (In comparison, the Congress provided $2.5 billion for such activities during fiscal year 2007.) Assuming appropriation of the authorized amounts, CBO estimates that resulting outlays would total $1.8 billion in 2008 and $12.3 billion over the 2008-2012 period, with additional spending occurring in later years.

By authorizing appropriations for facilities and equipment over the 2008-2011 period, H.R. 2881 would authorize adjustments to contract authority for the airport improvement program in those years. Current law provides for increases to contract authority (a mandatory form of budget authority) for that program in any year that the amounts authorized to be appropriated for facilities and equipment exceed amounts actually provided in appropriation acts for such activities. Any such changes authorized under H.R. 2881 and triggered by annual appropriation acts would be considered changes in direct spending and are discussed later in this estimate (see “Direct Spending”).

**Airport Improvement Program Outlays**. H.R. 2881 would provide $3.8 billion in contract authority (a mandatory form of budget authority) in 2008 and $15.8 billion over the 2008-2011 period for the Airport Improvement Program (AIP). Through that program, the FAA provides grants to airports for projects to enhance capacity and safety. Outlays of AIP contract authority are controlled by limitations on obligations set in annual appropriation acts and are therefore considered discretionary.

CBO estimates that enacting H.R. 2881 would increase contract authority over levels assumed in the current budget resolution baseline by $1.1 billion over the 2008-2011 period specifically covered under H.R. 2881 and by $425 million annually thereafter. (See "Direct Spending" for a discussion of the budgetary treatment of AIP contract authority under the budget resolution baseline and for purposes of projecting costs under proposed legislation.)

The legislation would make several changes, such as increasing the maximum federal share of certain airport projects and expanding eligibility criteria for AIP grants, that CBO expects would increase the rate of spending of AIP funds. In total, assuming that obligation limitations of AIP spending, as set forth in annual appropriation acts, are equal to the levels of contract authority projected under H.R. 2881, CBO estimates that implementing this provision would increase discretionary spending by $1.1 billion over the 2008-2012 period, with additional spending occurring in later years. That amount includes $200 million in accelerated outlays from contract authority assumed in the current baseline and $900 million in spending from additions to contract authority under H.R. 2881.

**Changes to the FAA Personnel Management System**. Under the FAA's personnel system, many employees participate in collective bargaining units. H.R. 2881 would establish a new process for resolving disputes between the FAA and such units and apply that process to an ongoing dispute between the agency and certain collective bargaining units, the largest of which involves air traffic controllers represented by the National Air Traffic Controllers Association (NATCA). CBO estimates that fully funding those proposed changes would require additional appropriations of $179 million in 2008 and $477 million during the four-year reauthorization period covered by the bill.

*Background.* In 2005, the FAA and NATCA began negotiating an extension of the collective bargaining agreement covering air traffic controllers that was originally put into effect in 1998 and extended for two years, with minor changes, in 2003. In April 2006, negotiations stalled and the FAA declared an impasse. In the absence of a negotiated contract and under certain conditions, current law authorizes the agency to implement changes to its personnel management system. Under that authority, the FAA began to implement changes toward the end of 2006, particularly related to compensation for air traffic controllers. According to both the FAA and NATCA, FAA spending under current law—including spending resulting from changes to its personnel policies implemented during the past year—will be less than spending would have been under the parties' last mutual agreement.

*Changes Under H.R. 2881.* Under H.R. 2881, any personnel policy changes implemented by the FAA after July 25, 2005, for collective bargaining units without current contracts would be null and void, and the parties would be governed by their last mutual agreement. The bill would specify conditions under which employees could receive back pay, subject to the availability of appropriated funds, and would specifically authorize the appropriation of $20 million for such payments. Under the bill, if appropriations are insufficient to cover all claims for such pay, payments would be prorated among eligible employees. H.R. 2881 would require the FAA to resume negotiations with NATCA and other collective bargaining units that do not have current contracts. If agreements are not reached within 45 days of resuming negotiations, the new dispute resolution process set forth in the bill would apply.

*Estimated Costs.* According to the FAA and NATCA, returning to the work and pay rules under previous mutual agreements would increase costs, particularly for salaries and benefits of employees covered by those agreements. For this estimate, CBO assumes that the agreements that would be reinstated upon enactment of H.R. 2881 would remain in effect through the first half of fiscal year 2008 while the dispute resolution process prescribed by the bill unfolds. Relative to current law, CBO expects that reinstating those agreements would result in increases to base salaries of both existing employees and individuals hired between the date of enactment of H.R. 2881 and the conclusion of the dispute resolution process.

Based on information from the FAA and NATCA, CBO estimates that implementing this provision would require additional funding of $179 million in 2008 and $477 million over the four-year authorization period covered by H.R. 2881. That total includes $20 million specifically authorized for back pay and assumes that payments would be prorated, if necessary, as specified in the bill. Remaining amounts are primarily for sustaining higher levels of spending for compensation and benefits for individuals employed as of the date of enactment of H.R. 2881 or hired prior to the conclusion of the new dispute resolution process.

For this estimate, CBO assumes that process will conclude within about six months of enacting H.R. 2115. Federal costs would be greater if that process takes longer. This estimate does not include potential changes (savings or increases) in costs for individuals hired after the conclusion of the process, or changes that could result from future negotiations from the FAA's collective bargaining units as required by H.R. 2881.

**Increased Funding for Aviation Safety Inspectors**. H.R. 2881 would specifically authorize appropriations of $58 million in 2008 and $570 million over the 2008-2011 period for the FAA to hire additional staff to inspect various aspects of the aviation system, such as aircraft and parts manufacturing, aircraft operation, aircraft safety, and cabin safety. Assuming appropriation of the authorized amounts, CBO estimates that spending would total $29 million in 2008 and $570 million over the 2008-2012 period.

**Offsetting Collections from Registration and Certification Fees**. The FAA administers a regulatory program designed to ensure the safety of air travel. The agency oversees and regulates the registration of aircraft, certification of pilots, and other related activities. Under current law, the FAA issues most registrations and certificates free of charge or at nominal prices. CBO estimates that fees charged by the agency currently total about $1 million annually.

H.R. 2881 would require the FAA to charge specific fees for services related to processing certain registrations and certificates. Based on information from the agency regarding the annual volume of such actions, CBO estimates that the proposed fees would generate discretionary offsetting collections totaling $50 million in 2008 and $375 million over the 2008-2011 reauthorization period specifically covered by H.R. 2881. Because H.R. 2881 would authorize the FAA to spend such collections, we estimate that implementing this provision would have no significant net effect on federal spending.

**Other Provisions**. CBO estimates that implementing other provisions of H.R. 2881 would require appropriations totaling $343 million over the 2008-2012 period. (In comparison, CBO estimates that the Congress provided nearly $230 million for related programs in 2007.) That amount includes:

- $111 million for research on technologies to reduce environmental impacts of operating aircraft and aircraft engines;

- $105 million to extend, through 2011, the authorization of appropriations totaling $35 million a year for the Small Community Air Service Development Program (currently authorized at that level through 2008);

- $50 million to continue, though 2011, activities of the Joint Planning and Development Office, currently authorized at $50 million a year through 2010, which coordinates multiple agencies' activities related to modernizing the nation's air traffic control system;

- $30 million to increase, by $6 million a year, the amount authorized to be appropriated for the Essential Air Service program (currently permanently authorized at $77 million a year);

- $22 million for data collection and analysis related to aviation; and

- $25 million for various studies, reports, and activities to be carried out by the FAA, DOT, and other agencies.

Assuming appropriation of amounts specified and estimated to be necessary, CBO estimates that fully funding those activities would cost $22 million in 2008 and $337 million over the 2008-2012 period.

## Direct Spending

CBO estimates enacting H.R. 2881 would reduce direct spending by $336 million over the 2008-2012 period but increase it by $216 million over the 2008-2017 period. Those changes, presented in Table 2, result primarily from provisions that would provide additional contract authority for the AIP, increase direct spending of overflight fees, increase spending for retirement benefits for certain FAA employees, increase the mandatory retirement age for pilots, and extend the FAA's authority to sell certain insurance.

**Airport Improvement Program Contract Authority**. H.R. 2881 would provide $3.7 billion in additional contract authority for the AIP over the 2008-2017 period. As previously noted, additional spending from such contract authority would be controlled by obligation limitations specified in annual appropriation acts. Thus, outlays for the AIP are considered discretionary.

*Baseline Treatment of AIP Contract Authority.* The Balanced Budget and Emergency Deficit Control Act of 1985, which established rules that govern the calculation of CBO's baseline, expired on September 30, 2006. Nevertheless, CBO continues to prepare baselines and estimate costs of proposed legislation according to the methodology prescribed in that law, including the requirement that funding for certain expiring programs—such as contract authority for AIP—be assumed to continue for budget projection purposes. Consistent with that practice, the budget resolution baseline assumes that AIP contract authority over the 2008-2017 period will remain at the 2007 level of nearly $3.7 billion.

*Net Increases to Contract Authority.* Under H.R. 2881, AIP contract authority would total $3.8 billion in 2008 and increase gradually to $4.1 billion in 2011. Consistent with CBO's methodology for projecting contract authority under proposed legislation, we assume that contract authority for AIP would continue after 2011 and would remain at $4.1 billion annually over the 2012-2017 period. In total, CBO estimates that contract authority under H.R. 2881 would exceed levels of contract authority assumed in the current budget resolution baseline by $125 million in 2008, $1.1 billion over the four-year period covered by the bill, and $3.7 billion over the 2008-2017 period.

**TABLE 2. EFFECTS ON DIRECT SPENDING AND REVENUES UNDER H.R. 2881**

| | By Fiscal Year, in Millions of Dollars | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | 2008 | 2009 | 2010 | 2011 | 2012 | 2013 | 2014 | 2015 | 2016 | 2017 | 2008-2012 | 2008-2017 |
| **CHANGES IN DIRECT SPENDING** | | | | | | | | | | | | |
| AIP Contract Authority [a] | | | | | | | | | | | | |
| Budget Authority | -71 | 225 | 325 | 425 | 425 | 425 | 425 | 425 | 425 | 425 | 1,329 | 3,454 |
| Estimated Outlays | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Increased Spending from Overflight Fees | | | | | | | | | | | | |
| Estimated Budget Authority | 0 | 18 | 18 | 19 | 19 | 20 | 20 | 21 | 21 | 21 | 74 | 177 |
| Estimated Outlays | 0 | 14 | 18 | 19 | 19 | 20 | 20 | 21 | 21 | 21 | 70 | 173 |
| Changes to FAA Personnel Management System | | | | | | | | | | | | |
| Estimated Budget Authority | 1 | 3 | 6 | 9 | 12 | 16 | 19 | 21 | 21 | 21 | 31 | 129 |
| Estimated Outlays | 1 | 3 | 6 | 9 | 12 | 16 | 19 | 21 | 21 | 21 | 31 | 129 |
| Retirement Benefits for Pilots | | | | | | | | | | | | |
| Estimated Budget Authority | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Estimated Outlays | -9 | -17 | -14 | -9 | -8 | -3 | 1 | 1 | 1 | 1 | -57 | -56 |
| Aviation War-Risk Insurance | | | | | | | | | | | | |
| Estimated Budget Authority | -70 | -140 | -100 | -60 | -10 | 30 | 60 | 70 | 90 | 100 | -380 | -30 |
| Estimated Outlays | -70 | -140 | -100 | -60 | -10 | 30 | 60 | 70 | 90 | 100 | -380 | -30 |
| Total Changes | | | | | | | | | | | | |
| Estimated Budget Authority | -140 | 106 | 249 | 393 | 446 | 491 | 524 | 537 | 557 | 567 | 1,054 | 3,730 |
| Estimated Outlays | -78 | -140 | -90 | -41 | 13 | 63 | 100 | 113 | 133 | 143 | -336 | 216 |
| **CHANGES IN REVENUES** | | | | | | | | | | | | |
| Estimated Revenues | 1 | 15 | 7 | 1 | -6 | -13 | -21 | -27 | -35 | -44 | 18 | -122 |

Note: AIP = Airport Improvement Program.

a. Budget authority for the Airport Improvement Program is provided as contract authority, a mandatory form of budget authority; however, outlays from that contract authority are subject to limitations on obligations specified in appropriation acts and are therefore discretionary.

Upon enactment, H.R. 2881 would effectively cancel balances of contract authority that, under current law, the agency is not authorized to obligate. Such “excess” contract authority reflects the cumulative difference between contract authority provided in prior years and obligation limitations specified in annual appropriation acts for those years. Based on information from the FAA, CBO estimates that excess contract authority at the start of fiscal year 2008 (when we assume H.R. 2881 will take effect) will total $196 million. Cancelling those balances would result in a savings of contract authority that would more than offset the proposed increase of $125 million for 2008, reducing net budget authority by $71 million.

*Adjustments to AIP Contract Authority.* Public Law 106-181, enacted in 2000, reauthorized FAA programs for fiscal years 1999 through 2003. That law created a permanent mechanism that provides for an increase to AIP contract authority in any year that the amount authorized to be appropriated for air navigation and facilities exceeds the amount provided for such activities in an appropriation act. By authorizing appropriations for facilities and equipment over the 2008-2011 period, H.R. 2881—in conjunction with that provision of current law—would authorize adjustments to AIP contract authority for those years as well. Any adjustment authorized under this legislation, once triggered by annual appropriation acts, would constitute new direct spending authority. All spending for AIP—including spending triggered by such adjustments—would still be subject to obligation limitations established in appropriation acts. Although H.R. 2881 could result in additional AIP contract authority of as much as $13.0 billion over the 2008-2011 period if no appropriations were provided for air navigation facilities and equipment, CBO assumes that appropriations will equal or exceed the amounts authorized by the bill; thus, we project no additional increases to AIP contract authority under H.R. 2881.

**Increased Spending of Overflight Fees**. Under current law, DOT has authority to spend, without further appropriation, revenues from overflight fees paid by air carriers to reimburse the FAA for costs to provide navigational support to flights that neither take off nor land in the United States. As discussed below, H.R. 2881 would increase revenues from such fees starting in 2009. CBO estimates that resulting increases in direct spending would total $173 million over the 2009-2017 period. Under the bill, such spending would support activities related to enhancing air service to rural communities.

**Changes to FAA Personnel Management System**. Section 601 would modify the dispute resolution process for the proposed changes to the FAA's personnel management system and would replace it with new procedures. The new system would be used to address an existing dispute between the National Air Traffic Controllers Association and the FAA relating to the compensation paid to air traffic controllers. The bill would restore the terms of the labor contract in effect in June 2006 until the new dispute resolution process has reached its conclusion.

Assuming that the dispute resolution process would take most or all of the time allowed under limits established by the bill, this section would boost the salaries of air traffic controllers by awarding them annual increases for 2007 and 2008. Those increases would raise the salary bases used in the calculation of retirement benefits by 7.5 percent for all new retirees after 2008. Based on data provided by the FAA on the characteristics (salary, years of service, and retirement system) of recent retirees and the agency's projections of retirements over the next decade, CBO estimates that civil service retirement benefits would increase by $1 million in 2008, $31 million over the 2008-2012 period, and $129 million over the 2008-2017 period. This provision also would affect employee contributions to the Civil Service Retirement System which is discussed below under "Revenues."

**Pilots' Mandatory Retirement Age**. H.R. 2881 would raise the mandatory retirement age for commercial pilots from age 60 to age 65 within 30 days of the bill's enactment. That change would allow pilots to continue flying for up to five additional years, which in some cases would enable them to accrue higher pension benefits or to receive higher guaranteed pension insurance payments from the Pension Benefit Guaranty Corporation (PBGC). CBO estimates that the change would reduce direct spending by $9 million in 2008, $57 million over the 2008-2012 period, and $56 million over the 2008-2017 period.

Under current law, FAA regulations require that commercial airline pilots retire from service when they reach age 60. (This standard has been in place since 1959.) As a result, age 60 is frequently the age at which pilots begin to receive their pension benefits. For pilots participating in pension plans that have been terminated by the PBGC, the age-60 requirement means that many pilots will receive benefits limited to the agency's maximum guaranteed benefits for participants who retire at age 60, which is about 35 percent less than the age-65 guarantee. (Special rules apply to participants who were eligible for benefits within three years of a plan's termination.)

In January 2007, the FAA announced that it was initiating the rulemaking process that would allow it to raise the mandatory retirement age to age 65, a process that the agency indicated would likely take 18 months to 24 months.

For this estimate, CBO assumes that the proposed increase in the mandatory retirement age for pilots would take place around the beginning of fiscal year 2008, effectively accelerating the implementation of the higher retirement age by about one year relative to current law.

Based on data provided by the PBGC, CBO anticipates that about 600 pilots participating in terminated pension plans will turn 60 years old in fiscal year 2008, and would have the opportunity to continue flying until age 65 if H.R. 2881 were enacted. CBO expects that those pilots would continue to fly for up to five more years and retire at ages similar to other workers under Social Security. (That is, about one-third would begin collecting pension benefits at age 62 and about one-half at age 65.) The postponed retirements would reduce PBGC outlays—net of reimbursements from the pension plans—by $9 million in 2008, $57 million over the 2008-2012 period, and $56 million over the 2008-2017 period. However, because the PBGC guarantees are intended to be actuarially fair, the net impact of the retirement age change would likely be only a small increase and would result from the likelihood that the pilots affected would probably be significantly healthier than the general population of pension recipients.

**Aviation Insurance**. Under current law, the FAA offers a commercial aviation insurance program that, in exchange for a premium payment, insures air carriers and certain manufacturers against liabilities arising from losses caused by terrorist events. The FAA also offers a nonpremium insurance program to air carriers that participate in the Civil Reserve Air Fleet (CRAF). The FAA's authority to operate both of those programs is scheduled to expire on March 30, 2008. H.R. 2881 would extend that authority through October 1, 2017. CBO estimates that extending the CRAF program through that time would have no significant budgetary impact; however, extending the FAA's authority to offer commercial aviation insurance through fiscal year 2017 would reduce net direct spending by $30 million over the 2008-2017 period. Over the long run, however, we estimate that extending the authority to operate the program would result in net costs to the federal government after 2017.

*Program Extension Through 2017*. Initial savings under this provision of H.R. 2881 would result because the FAA would collect premiums in full when coverage is sold, while payments for expected losses would likely begin slowly and occur over several years. For this estimate, CBO assumes that the FAA would continue to offer commercial aviation insurance at rates that would not fully offset the government's cost of providing that coverage. Based on information from the FAA about current insurance rates, CBO estimates that increased offsetting receipts from premiums (which are credited against direct spending) would total just over $1.8 billion over the 2008-2017 period. We also estimate that total expected losses for claims will total $3.3 billion, resulting in net nominal costs over time of $1.5 billion. Of those total claims payments, however, we expect that just under $1.8 billion would be spent over the 2008-2017 period, resulting in net cash-flow savings of $30 million over that period. Remaining cash outlays for claims would occur after 2017.

CBO cannot predict how much damage terrorists might cause in any specific year. Instead, our estimate of the cost of insurance coverage under H.R. 2881 represents an expected value of payments from the program—a weighted average that reflects the probabilities of various outcomes, from zero damages up to very large damages due to possible future terrorist attacks. The expected value can be thought of as the amount of an insurance premium that would be necessary to just offset the risk of providing this insurance; indeed, our estimate of the expected cost for H.R. 2881 is based on private-sector premiums for terrorism insurance that have been adjusted for differences in costs faced by private insurance firms that are not borne by the federal government. While this cost estimate reflects CBO's best judgment on the basis of available information, costs are a function of inherently unpredictable future terrorist attacks. As such, actual costs could fall anywhere within an extremely broad range.

*Successor Program.* Under H.R. 2881, after the Secretary of Treasury's authority to offer commercial insurance ends on December 31, 2017, air carriers could seek coverage through risk-pooling arrangements sponsored by the airline industry and approved by the Secretary. The bill would authorize the Secretary to transfer net premiums earned over the period from September 22, 2001, through December 31, 2017, to a nonfederal risk pool; any such transfers would be net of estimates of pending claims. Transferring those amounts to a nonfederal entity would be recorded in the budget as an increase in direct spending in fiscal year 2018. Based on information from the FAA about premiums collected since September 22, 2001, and anticipated levels of premium collections expected under H.R. 2881, such increased spending could range from zero (if a covered event requires the FAA to use all premiums to pay claims) to nearly $3 billion (if the FAA's program incurs no losses through 2017).

## Revenues

CBO and JCT estimate that enacting H.R. 2881 would increase net revenues by $7 million over the 2008-2012 period but reduce them by $138 million over the 2008-2017 period. The estimated changes stem from provisions related to passenger facility fees, overflight fees, and the changes to FAA personnel management.

**Passenger Facility Fees**. Under current law, airport agencies may collect, subject to DOT approval, fees of up to $4.50 per passenger to fund airport infrastructure programs. (Such fees are collected and spent by airport agencies and are not included in the federal budget.) H.R. 2881 would allow the Secretary of Transportation to authorize airport agencies to charge fees of up to $7.00 per passenger. JCT expects that the proposed change would increase revenues to airports from such fees, subsequently lead to increased tax-exempt financing for airport construction and related projects and, consequently, reduce federal revenues. JCT estimates that federal revenue losses would total $67 million over the 2008-2012 period and $315 million over the 2008-2017 period.

**Overflight Fees**. H.R. 2881 would amend current law to authorize the FAA to increase fees for certain navigational services provided for flights that neither take off nor land in the United States—commonly known as overflight fees. Such fees are typically paid by foreign air carriers and are recorded as revenues. (CBO estimates that the agency will collect about $50 million in overflight fees in 2007.) H.R. 2881 would direct the agency to update the amounts charged, through an expedited rulemaking, to fully recover its costs starting in fiscal year 2009. Based on information from the FAA, CBO estimates that the agency's costs to provide support for overflights currently exceeds revenues from fees by about $18 million annually. CBO estimates that raising fees to cover that shortfall would increase revenues by

$74 million over the 2009-2012 period and $177 million over the 2009-2017 period. (As discussed earlier, those increased revenues would result in corresponding increases in direct spending for certain activities related to enhancing air service to rural communities.)

**Changes to FAA Personnel Management System**. As discussed previously, the changes to the FAA management system, including the dispute resolution process, would result in the agency paying more in salaries than it would under current practices. Pay raises required for 2007 and 2008 would result in higher salaries subject to the withholding of employee contributions to the Civil Service Retirement trust fund. The increase in contributions would begin to fade out over time as those workers retire or otherwise leave FAA employment. The additional revenues would total $11 million over the 2008-2012 period and $16 million over the 2008-2017 period.

## ESTIMATED IMPACT ON STATE, LOCAL, AND TRIBAL GOVERNMENTS

H.R. 2881 contains intergovernmental mandates as defined in UMRA, but CBO estimates that the total cost of those mandates would be minimal and would be significantly below the threshold established in that act ($66 million in 2007, adjusted annually for inflation).

### Contingency Plans

The bill would require certain airport operators to submit to DOT contingency plans for emergency circumstances that ground aircraft. This administrative duty is a mandate under UMRA, but CBO estimates that the costs of this requirement to airport operators would be minimal.

### Access to Criminal History Records

The bill would give the FAA the right to (1) access criminal justice data maintained by the states, (2) use state or local radio, data links, or warning systems that provide public safety information, and (3) receive communications from state or local police officers. Those provisions constitute intergovernmental mandates as defined in UMRA because state and local governments would be required to comply with requests for information from the FAA. Although we cannot predict the extent to which the FAA would access state or local data systems, or make inquiries of state or local police officers, CBO estimates that the additional costs to state, local, and tribal governments of complying with those requests would be small.

The bill would benefit state and local governments by authorizing grants to airports for planning, development, noise mitigation, and other initiatives. In addition, states would benefit from provisions that would authorize an increase in the passenger facility fees used to fund FAA-approved projects. Any costs that they might incur would result from complying with conditions of federal assistance.

## ESTIMATED IMPACT ON THE PRIVATE SECTOR

H.R. 2881 contains several private-sector mandates as defined in UMRA. Those mandates include:

- A prohibition on operating certain aircraft not in compliance with low-noise criteria,
- A revised schedule of fees for certain services and activities of the FAA, and
- Requirements on air carriers related to airline service.

Based on information from the FAA and industry sources, CBO estimates that the aggregate direct cost of complying with the bill's mandates would likely exceed the annual threshold established by UMRA for private-sector mandates ($131 million in 2007, adjusted annually for inflation) in at least one of the first five years the mandates are in effect.

### Prohibition on Aircraft Noise Levels Below Stage 3

The FAA classifies aircraft into three stages based on measurements of noise level: stage 1, stage 2, and stage 3—in order from loudest to the least noisy. Section 506 would prohibit, with certain exemptions, operation of civil aircraft weighing 75,000 pounds or less in the 48 contiguous states that do not comply with stage-3 noise levels. The prohibition would take affect after December 31, 2012. According to industry sources, compliance could require engine modifications to be made on existing aircraft when possible, or decommissioning of aircraft that cannot be modified to meet the noise requirement. Those sources estimate that the total cost of bringing existing aircraft into compliance could range from a low of $300 million to more than $1 billion depending on the technology used. CBO expects that the direct cost to comply with the mandate would be highest in 2012, the year before the prohibition would take effect, and would likely exceed the UMRA's annual threshold for private-sector mandates in that year.

**FAA Registration, Certification, and Related Fees**

Section 122 would require the FAA to establish a new schedule of fees for certain services and activities of the agency. This requirement would impose a new mandate on entities who are required to register with the FAA or obtain specific certifications, such as aircraft owners and pilots. Based on the number of entities required to register with the FAA or obtain certification, CBO expects that the incremental cost in new fees for those private-sector entities would be about $44 million per year.

**Air Carriers: Airline Service Requirements**

The bill would impose several new requirements on air carriers related to airline service. Based on information from industry sources, CBO expects that the aggregate direct cost to comply with those mandates would be small relative to the annual threshold.

Section 401 would require an air carrier to file with the Secretary of Transportation a monthly report with specific information on each flight that is diverted from its scheduled destination to another airport and on each flight that departs the gate at the originating airport but is cancelled before take off.

Section 406 would require each air carrier serving large and medium hub airports to develop and submit to the Secretary an emergency contingency plan for each airport it serves no later than 90 days after the date of enactment. Each plan would be required to contain a description of how the air carrier will provide food, water, restroom facilities, cabin ventilation, and access to medical treatment for passengers onboard an aircraft that is on the ground for an extended period of time without access to the terminal. The plan also would be required to describe how the air carrier would share facilities and make gates available at the airport in an emergency. Air carriers would be required to update the plan every three years and submit the updated plan to the Secretary.

Section 406 also would prohibit an air carrier from selling tickets for a flight on which insecticide is planned to be used in the aircraft while passengers are on board the aircraft unless the air carrier informs such passengers purchasing the ticket of the planned use of the insecticide, including the name of the insecticide.

## PREVIOUS CBO ESTIMATE

On July 17, 2007, CBO transmitted a cost estimate for S. 1300, the Aviation Investment and Modernization Act of 2007, as ordered reported by the Senate Committee on Commerce, Science, and Transportation on May 16, 2007. Many provisions of S. 1300 are substantively similar to H.R. 2881. Both bills would authorize appropriations for major FAA programs over the 2008-2011 period.

Differences in our estimates of spending subject to appropriation reflect differences in amounts authorized to be appropriated to the FAA. The estimate of spending under H.R. 2881 is higher, primarily because it would provide more funding than S. 1300 for facilities and equipment and aviation safety inspectors.

Direct spending estimates related to AIP contract authority, spending of overflight fees, retirement benefits for pilots, and aviation war-risk insurance are the same under H.R. 2881 and S. 1300. In total, S. 1300 would result in a greater increase in net direct spending than H.R. 2881, primarily because S. 1300 would provide new direct spending authority for FAA to modernize the U.S. air traffic control system. S. 1300 also would establish a new surcharge intended to offset such increased spending, but CBO estimates such fees would not fully offset the increased spending over the 2008-2017 period.

While CBO and the JCT estimate that enacting S. 1300 would increase revenues over the 2008-2017 period, we estimate that H.R. 2881 would reduce revenues during that time, primarily because it would lead to a greater increase in airport agencies' use of tax-exempt financing and, consequently, larger reductions in federal revenues.

CBO estimates both H.R. 2881 and S. 1300 would impose several new private-sector mandates with aggregate direct costs that would exceed UMRA's annual threshold. The mandate provisions prohibiting the operation of certain aircraft below stage-3 noise levels and requiring air carriers to provide contingency plans related air passenger service improvements are contained in both bills. S. 1300 also contains private-sector mandates—per-flight surcharge and safety requirements on certain helicopters—not contained in H.R. 2881.

**ESTIMATE PREPARED BY:**

Federal Costs: FAA spending—Megan Carroll
Retirement Benefits—David Rafferty
Revenues—Andrew Langan

Impact on State, Local, and Tribal Governments: Elizabeth Cove

Impact on the Private Sector: Paige Piper/Bach and Justin Hall

**ESTIMATE APPROVED BY:**

Peter H. Fontaine
Assistant Director for Budget Analysis

G. Thomas Woodward
Assistant Director for Tax Analysis