

## Memorandum

To: Stephen Giesbrecht

From: Brad Gilman & Sebastian O'Kelly

Re: Update on Federal Aviation Administration (FAA) Reauthorization and Essential Air Service

Date: 3/3/16

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We wanted to bring to your attention legislation reauthorizing the FAA that could have significant negative impacts to rural community air service in Alaska. The fight we have seen on and off over this past decade over the Essential Air Service (EAS) has returned, plus the bill being considered in the House has broader impacts that could be harmful to rural communities.

The current law authorizing FAA programs expires on March 31<sup>st</sup>. Rep. Bill Shuster (R-PA), Chairman of the House Transportation & Infrastructure Committee has introduced H.R. 4441, the Aviation Innovation, Reform, and Reauthorization Act, to reauthorize the FAA through 2022. Title V of the bill includes provisions detrimental to rural air service, including granting the Secretary of Transportation the discretion to waive EAS provided to a community if the Secretary determines it is in the "public interest." The Title also eliminates the fees charged for overflights that have been used to partially fund EAS. Historically, this has been about 1/3<sup>rd</sup> of the program's funding, the other 2/3<sup>rd</sup>s coming from appropriations (which are not changed by the bill). While the focus of this debate is on the EAS subsidy itself, a second impact may be on service frequency. Under existing law, an EAS air carrier providing service to a community may not leave the route without another carrier taking its place. All EAS communities have minimum levels of service guaranteed under the law. If an EAS designation is waived under the proposed bill, the minimum level of service must be waived as well. We can picture scenarios where air carriers seek to reduce service levels to EAS communities to fill up flights, even when the route in question is not financially supported with an EAS subsidy.

The bill also "privatizes" the FAA's air traffic control operations through the creation of an Air Traffic Control Corporation (ATC) via the transfer of its Federal personnel and assets at no cost to the new ATC. The ATC would be self-funded through user fees and would have greater autonomy over its operations and allocation of resources. Proponents of the ATC say that using more of a business model would improve efficiency as well as speed modernization of our outdated air traffic control system and technologies.

The challenge this privatization approach poses for rural states such as Alaska is that an entity that uses a cost-benefit, fee-driven business model to guide its operations will focus its resources on the greatest profit centers. Those profit center decisions will be driven by the volume of air traffic which will favor large population States and major air passenger and cargo hubs. High cost, more remote areas where revenues are less significant could either see increases in fees for air service providers (possibly based on mileage flown) which are likely to be passed onto travelers and cargo shippers through higher fares and rates; changes in schedules, routes and slot allocations; and cutbacks in service in terms of air traffic personnel, operations, NAVAIDs, equipment, etc.; or all of the above. Because of the State's geography, distance, low population and infrastructure challenges, as you well know there is a constant struggle for

Federal services. The State and its residents continually have to combat the “subsidy” argument from Lower 48 interests, whether it is connected to air travel, postal delivery, transportation infrastructure projects, or natural resource development on Federal lands. That fight as it concerns air service will be on-going for years into the future should the ATC become law. Lastly, the ATC is governed by a Board of Directors, primarily representing “mainline” airlines (with 4 seats), pilots and unions (2 seats) and general aviation (2 seats). There are no Board Members designated from rural areas, small carriers or airports to ensure that the ATC consider Alaska or other rural states interests in its business decisions.

The Committee voted out the bill in February. Rep. Young was able to secure some beneficial changes to the bill, including eliminating the EAS funding cut and Secretarial “public interest” waiver; exempting Part 135 air taxis from user fees; and ensuring that the new ATC maintains GPS receivers, mountain pass cameras, airport lighting and other safety equipment in non-contiguous States (Alaska and Hawaii). While he supported the bill in Committee after these changes were included in the bill, he remains concerned about its impact on Alaskan rural communities and has indicated without further protections he will withhold support on the House floor. The Democrats opposed the bill in Committee because of the ATC creation. The Obama Administration has not issued a formal position on the bill. The House action has stirred Senate discussions on producing a counterpart bill. A bill is not likely to be enacted by the end of the current authorization on March 31 and a short-term extension of FAA programs will be necessary while the House and Senate further deliberate on a long-term bill the remainder of this year or into the next Congress.