



**ABA Air & Space Law Forum  
Legislative Update Panel  
February 24, 2021  
1-2pm ET**

**PANEL MEMO & BACKGROUND**

**Panel Title:** How Will Congress and the Biden Administration Move Aviation Policy Forward in 2021?

**Description:** The panel will review and analyze federal legislative measures addressing the impact of COVID-19 on the aviation industry including the Payroll Support Program (PSP) which was included in H.R. 748, the CARES Act, and H.R.133 the Consolidated Appropriations Act of 2021. Panelists will also discuss the latest proposal for airline worker assistance in the Biden administration's stimulus package, the arguments for the Biden proposal (as part of the American Rescue Plan), and whether more aid will be needed in late 2021. In addition, panelists will discuss the possibility of a major federal infrastructure investment in the coming years and the potential benefits of extending the Federal Excise Tax holiday that was included in H.R. 748, but has since expired.

**Moderator:** Jenny Rosenberg, Founder, JTR Strategies

**Panel Participants:**

- Mike Tien, Senior Counsel, United States House of Representatives Committee on Transportation and Infrastructure, Washington, DC
- Mike Reynolds, Deputy Policy Director for Aviation and Space, United States Senate Committee on Commerce, Science, and Transportation, Washington, DC
- Christa Lucas, Senior Vice President of Government Affairs, National Business Aviation Association, Washington, DC
- Dave Semanchik, Senior Attorney, Air Line Pilots Association, Washington, DC
- Rachel Devine, VP - Legal & Policy, Boom Supersonic, Washington, DC

**DISCUSSION PART I**

**How 2020 Is Influencing Aviation Policy in 2021 and the 117<sup>th</sup> Congress**

- **H.R. 748, The Coronavirus Aid, Relief, and Economic Security (CARES) Act**, enacted on March 27, 2020, created the Payroll Support Program (PSP1) for air carriers and certain contractors.
  - PSP1 provided assistance to over 600 companies, supporting hundreds of thousands of aviation jobs.
  - Minimum service guarantees through 3.1.22.

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- Federal Excise Tax holiday: suspended federal excise tax (FET) on payments for commercial air transportation through Jan. 1, 2021. The suspension was not renewed.
- **H.R.133, The Consolidated Appropriations Act of 2021**, enacted on December 27, 2020, created the **Payroll Support Program Extension (PSP2)** for passenger air carriers and certain contractors.
- Also included in **H.R. 133, The Aircraft Certification Reform and Accountability Act**
  - H.R. 133 addresses certain safety standards relating to the aircraft certification process.
  - Among other things, the bill requires the Federal Aviation Administration (FAA) to direct U.S. aircraft and aerospace industry manufacturers to adopt safety management systems consistent with international standards and practices;
  - convene an expert panel to review organizations that design and produce transport airplanes and make recommendations for improvements;
  - require manufacturers to disclose to the FAA certain safety-critical information related to an aircraft;
  - conduct a comprehensive review of each manufacturing Organization Designation Authorization holder's capability to meet FAA regulations based on the holder's organizational structures, requirements applicable to officers and employees, and safety culture;
  - establish an appeal process to review decisions regarding a manufacturer's compliance with applicable design regulations;
  - revise and improve its process of issuing amended type certificates for modifying an aircraft;
  - initiate a call to action safety review of pilot certification standards in order to bring stakeholders together to share lessons learned, best practices, and implement actions to address any safety issues identified; and
  - conduct an evaluation of tools and methods that support the better integration of human factors and system safety assessments of aircraft flight deck and flight control systems into the FAA's certification process.

**Panel Discussion:** Lessons learned from PSP1, Status of PSP2, and plan for oversight of The Aircraft Certification Reform and Accountability Act.

## **DISCUSSION PART II**

### **Looking ahead:**

### **How will the Biden Administration and Congress Support the Aviation Industry?**

### American Rescue Plan Act of 2021:

- This week, the House Budget Committee approved the \$1.9T “American Rescue Plan Act of 2021.” The bill now heads to the House Rules Committee and set for a vote in the House by Friday.
- Included in this legislation is additional support for air carriers, contractors, and manufacturers:
  - Financial Services title includes: \$14,000,000,000 for air carriers and \$1,000,000,000 for eligible contractors.
  - Transportation and Infrastructure title includes:
    - Aviation Manufacturing Jobs Protection: \$3 billion for a temporary payroll support program to retain or rehire workers.
    - Relief for Airports: \$8,000,000 to prevent, prepare for, and respond to Covid-19.

### Relevant reading:

- [Airlines Still Don't Know When Passengers Will Return](#) – *The New York Times*, Feb. 19, 2021
- [Airline industry will gather passengers' contact-tracing info, share with public health officials](#) – *USA Today, AP* – Feb. 22, 2021

### Additional legislative opportunities to offset the impact of Covid-19:

- **Infrastructure bill – “Build Back Better” Initiative:**

According to the *Washington Post*, “Senior Democratic officials have discussed proposing as much as \$3 trillion in new spending as part of what they envision as a wide-ranging jobs and infrastructure package that would be the foundation of Biden’s Build Back Better Program.”

### Will the return of earmarks lead to a long-awaited infrastructure deal?

According to *Bloomberg*, “Senator Dick Durbin, the No. 2 Senate Democrat, said Monday (Feb. 22, 2021) he thinks there could be 60 votes -- the threshold needed to pass in the chamber -- on an economic package as large as \$3 trillion. However, to get those votes, he said the Senate needed to move forward with a plan to restore the lawmaker-directed spending custom -- known as earmarks -- that was banned a decade ago.

“We can create much more bipartisan appropriation bills and infrastructure bills with earmarks,” Durbin told reporters. “Everybody talks about it but nobody does anything about

it. I think Joe Biden -- a product-slash-creature of the Senate -- would understand that as well as anyone.”

## **H.R. 2: Moving Forward Act – A legislative vehicle to Build Back Better?**

Aviation division:

- This division reauthorizes through FY2025 airport planning and development and noise compatibility planning and programs. It also addresses environmental concerns related to aviation, including development of low-emission aviation technologies. Among other provisions, this division:
  - authorizes certain funding to be used exclusively to bring air traffic control facilities of the Federal Aviation Administration (FAA) into acceptable condition, including sustaining, rehabilitating, replacing, or modernizing such facilities and associated costs;
  - sets forth requirements for a change in airport sponsorship or operations with respect to airport operating certificates;
  - establishes a competitive grant and cost-sharing agreement program to develop, demonstrate, or apply low emission aviation technologies, and produce, transport, blend, or store sustainable aviation fuels that would reduce greenhouse gas emissions;
  - requires DOT to enter into an agreement with the National Academies of Sciences, Engineering, and Medicine to conduct a study on climate change mitigation efforts with respect to the civil aviation and aerospace industries;
  - and directs DOT to establish a Joint Task Force on Air Travel to develop recommended requirements, plans, and guidelines to address the health, safety, security, and logistical issues relating to the continuation of air travel during and after the COVID-19 (i.e., coronavirus disease 2019) public health emergency.

Additional programs division in legislation:

- Requires the Government Accountability Office to conduct a study to identify the impact of certain transportation policies on people based on their race, ethnicity, nationality, age, disability status, and gender identity.
- **American Recovery Act:** This is Part 2 of President Biden’s emergency legislative plan, [announced](#) on January 20, 2021, to fund an aggressive, two-step plan for rescue on key priorities including, “creating millions of additional good-paying jobs, combatting the climate crisis, advancing racial equity, and building back better than before.”

**Panel Discussion:**

- In addition to supporting the industry through direct stimulus payments, what is Congress discussing that would help the aviation industry recover from the downturn? Re-emerge as a competitive industry domestically and internationally?
- Industry and aviation workforce – where has Congress succeeded in responding to Covid-19? What has not been addressed in the Rescue Act that could be addressed in the Recovery Act?
  - Will a 4<sup>th</sup> PSP be necessary?
  - Will more stimulus be necessary to support manufacturing?

- **Relevant Reading:**

[Remarks by President Biden Before Meeting with Senators on the Critical Need to Invest in Modern and Sustainable American Infrastructure](#), -- Feb. 11, 2021

[Biden meets with key senators to start bipartisan talks on infrastructure spending](#) – *Washington Post*, Feb. 11, 2021

[Mostly united over covid relief, Democrats face divisions over Biden’s massive second economic plan](#) – *Washington Post*, Feb. 17, 2021

[Here’s What Biden’s \\$2 Trillion Climate-Focused Infrastructure Plan Means For Stocks And The Economy](#) – *Forbes*, Feb. 12, 2021

[Biden’s Economic Legacy at Stake as Next Package Takes Shape](#) – *Bloomberg*, Feb. 21, 2020

### **DISCUSSION PART III**

#### **Progress Report: FAA Reauthorization Act of 2018 (HR 302 – 115<sup>th</sup> Congress)**

The bipartisan, five-year 2018 FAA Reauthorization Act was signed into law on Oct. 5, 2018.

- Prior to Covid-19, Congress expressed concern and frustration over the implementation of the bill.
- This conversation resurfaced recently during the U.S. Senate Commerce Committee [hearing](#) of then Secretary-designee Pete Buttigieg’s hearing to be the Secretary of the U.S. Dept. of Transportation.

- In 2019, the House Transportation and Infrastructure Committee held a Subcommittee [oversight hearing](#) on implementation of the bill entitled, “A Work in Progress: Implementation of the FAA Reauthorization Act of 2018.”
  - According to the Committee, “The FAA Reauthorization Act of 2018 altogether contains more than 400 mandates for FAA and DOT to issue regulations, prepare reports to Congress, and conduct studies in the fields of aviation safety, airport infrastructure, agency management, and aviation consumer protections.”
- **Panel Discussion:**
  - What has been successful?
  - What has stalled?
  - How has oversight of the 2018 bill been complicated by Covid-19?
  - Will public health be considered in the next FAA reauthorization?
  - Will sustainability and equity be prioritized in the FAA reauthorization?

- **Relevant Reading:**

[Add unmet congressional mandates to Buttigieg’s plate: He’ll have to implement parts of a law that passed months before he gained national prominence by declaring he was running for president](#) – *Roll Call*, Feb. 2, 2021

[Memo](#): Subcommittee Hearing on “A Work in Progress: Implementation of the FAA Reauthorization Act of 2018” – Staff, Subcommittee on Aviation, House Committee on Transportation and Infrastructure, Sept. 26, 2019

## **DISCUSSION PART IV**

### **New Entrants**

- [The FAA Strategic Plan for FY 2019-2022](#), Innovation, pp. 21-24
  - According to the FAA Strategic Plan for FY 2019-2022, the FAA aims to:
    - “Lead in the Development and Deployment of Innovative Practices and Technologies that Improve the Safety and Performance of the Nation’s Aviation System.
    - “Our ability to address the effective and secure use of new technologies will have a significant impact on the pace of innovation and improvements in safety.”
  - FAA’s Strategic Objectives for Innovation
    - 1. Development of Innovation

- Encourage, coordinate, facilitate, and foster world-class research and development to enhance the safety, security, and performance of the Nation's transportation system.
- 2. Deployment of Innovation
  - Accelerate and expand the deployment of new technologies and practices by reducing barriers to innovation and actively promoting innovations that enhance the safety and performance of the Nation's transportation system.

**Panel Discussion:** How is the FAA supporting innovation in aviation and accommodating new entrants? Does Congress believe this sector is an area of global competitiveness for the US? Will we see more interest and investment from Congress in the new entrant sector possibly in the infrastructure bill and/or the next FAA Reauthorization?

## **DISCUSSION PART V**

### **AUDIENCE Q&A**

## **DISCUSSION PART VI (OPTIONAL)**

### **Additional Discussion Topic**

#### **Future of the aviation workforce:**

- How will pilots maintain skills and proficiency while industry continues to face impact of Covid-19?

Relevant reading: [Airline pilots making in-flight errors say they're 'rusty' because of pandemic](#) – *LA Times*, Jan. 29, 2021

**Panel Discussion:** When the industry recovers from Covid-19, will there be enough pilots in the pipeline after the pandemic for current and future aviation and aerospace jobs?

## **DISCUSSION PART VII**

### **CLOSING REMARKS FROM PANELISTS**

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