

# Memorandum

**To:** CHAIR AND COMMISSIONERS

**Date:** November-23, 200910

**From:** CHRIS KUNZE  
Chair of the Technical Advisory Committee on Aeronautics

Reference No. 4-18  
Action

**Ref:** **Technical Advisory Committee on Aeronautics Report on Aviation Issues**

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**Issue:** Should the Commission accept from its Technical Advisory Committee on Aeronautics (TACA) its annual report on upcoming issues?

**Recommendation:** Staff recommends that the Commission accept TACA's report on upcoming issues and use the report to develop the Commission's own annual report to the Legislature.

**Summary of TACA Recommendations:** TACA recommends that the Commission add to its annual report the upcoming issues identified in the attached TACA report and summarized below.

TACA recommends that the Commission advise the Legislature and the Administration to:

- Address State aviation system needs through legislation that would provide a stable funding source from the general aviation jet fuel and general aviation fuel sales tax for the Aeronautics Account. The Commission would program and allocate the funds to publicly-owned general aviation airports and air carrier public use airports for airport security, safety, capacity needs and comprehensive land use compatibility plans.
- Pass and sign legislation that updates the California Public Utilities Code sections 21670 through 21679 to further solidify and strengthen airport land use law to preclude and prevent incompatible land use around airports. *(Update depending on disposition of SB 1141)*
- Continue informing the California Congressional delegation of the need to maintain and increase the federal funding, including appropriations, for aeronautics in the next re-authorization.

TACA recommends that the Commission direct it to work in ~~2010~~ 2011 with representatives of the Business, Transportation and Housing Agency and the Department to:

- Identify potential roles and policies for the State in developing California's aviation system, such as NextGen initiatives.
- Support appropriate legislative proposals that would:
  - Dedicate the Aeronautics Account revenues derived from the existing general aviation fuel and jet fuel excise tax and the potential set-aside of an additional portion of future general aviation jet fuel sales tax for aviation purposes.

- Increase funding for Caltrans to assist smaller airports in securing State and federal aviation grants to ensure that California receives the maximum amount of federal funding and uses State funds effectively for planning and matching fund purposes.
  - Update the California Public Utilities Code sections 21670 through 21679 to further solidify and strengthen airport land use law to preclude and prevent incompatible land use around airports.
  - Amend current statute to allow local agencies to request Commission approval for an agency to use its own funds, to advance funding for the required match of a Federal Airport Improvement Program grant with the agreement for later repayment by the State.
  - *Amend current statute to exempt oversight of Federal Aviation Administration-approved flight training and aircraft maintenance training by the California Bureau for Private Postsecondary Education.*
- Authorize and fund the Caltrans Division of Aeronautics to provide information to pilots and business aviation departments to promote the use of a larger number of California’s airports and use more efficiently the existing system capacity. Existing and newly upgraded facilities often are under-utilized and have available capacity for more flights. Caltrans could help to manage both highway congestion and runway congestion, now and in the future, by marketing alternatives to congested airports that are within a convenient distance of major business destinations.

**Background:** The rapidly expanding role of aviation in moving people and goods in the global economy requires the State to act proactively to position itself as a practical and accessible region for commercial and business aviation use. California’s economic future depends upon efficient air and surface transportation infrastructure that will connect all areas of the State to the global economy. If California is to remain competitive in the global economy, its aviation system must:

- Be improved to facilitate future growth in air passenger and air cargo movement.
- Provide ground access for and fully integrate increasing freight, business and corporate aviation into the Statewide transportation system by having the State and local jurisdictions plan and/or provide highway and arterials in corridors to and from public airports.
- Prevent adverse community aviation impacts by having guidelines in place to provide more protection to airports from incompatible land uses and development.
- Continue a high quality of life for our citizens by integrating land use, transportation and housing, while adhering to established California noise and planning standards for airports.
- Have access to a stable funding source to promote and maintain airports Statewide as part of an overall transportation system of which aviation is part.
- *Maintain an economically viable flight training and aviation maintenance training industry in the state which would provide a long term supply of qualified pilots and maintenance personnel.*
- *Take advantage of NextGen air traffic management technology, to ensure efficient, environmentally friendly, and safety-enhanced aircraft access to the State’s airport system.*

## TACA Report on Aviation Issues

California cannot meet these goals for its aviation system if it continues to leave aviation decision-making to the unpredictable nature of local politics and priorities alone. The State, in cooperation with local, regional, and federal agencies, should provide and identify the leadership and resources needed to develop the aviation system essential to our economy in the 21<sup>st</sup> Century. California must continually assess its role in aviation to ensure that California remains competitive in the global economy.

### **Aviation Planning**

The policy element of the California Aviation System Plan (CASP) defines the State's continuous aviation system planning process. The policy element defines the roles of federal, State, regional and local participants in the process. It covers issues affecting aviation and aviation's relationship with other modes. The policy element also defines the policies and implementing actions for guiding Caltrans' Division of Aeronautics activities and CASP development, including funding priorities for general aviation and air carrier public use airports in California.

The Caltrans role in aviation includes planning and assisting with the development of infrastructure capacity improvements and the maintenance of the airport system. For several years, the CASP policy element has emphasized how funding limitations restrict Caltrans' role, while also proposing options for increased funding of the State aviation program.

The Commission's role, in addition to providing advice to the Legislature and to the Secretary of Business, Transportation and Housing, is to provide policy direction to Caltrans in the development of the aeronautics plans and programs, adopt the CASP and its various elements, program projects in the Aeronautics Program, and allocate funds.

### **Existing State Aviation Funding** *(Insert data from the Divisions August 19 memo in this section)*

The State Aeronautics Account represents the sole State source of funding for the Division of Aeronautics and the programs it administers. Revenue sources for the Aeronautics Account include an 18-cent per gallon excise tax on general aviation gasoline and a two-cent per gallon excise tax on general aviation jet fuel. Air carrier, military aircraft and aviation manufacturing are exempt from the two-cent per gallon excise tax on jet fuel. The annual revenue transferred by the State Controller's Office (SCO) into the State Aeronautics Account has steadily decreased. In fact, the highest transfer of \$8.36 million occurred in Fiscal Year (FY) 1999-00 and since then it has declined steadily. *(Update the following)* In FY 2008-09, the SCO reported a transfer of \$ 7.23 million into the State Aeronautics Account, the Account continues to slowly decline in absolute numbers and certainly in terms of purchasing power. In the past, increased general aviation jet fuel sales have helped slow the decline, but the downward trend continues in the State Aeronautics Account until another funding source comes on line.

The Commission has long supported increasing state funding to develop an integrated system of airports that adequately meets the demands of California's economy. The Commission supports redirecting a portion of State sales tax revenues from the sale of general aviation jet fuel and general aviation fuel to fund State aviation programs. These tax revenues are a "user fee" paid by the aviation industry and users, in the same way that sales tax revenues on gasoline and diesel fuel, currently directed to highway and transit program funding are user fees on drivers.

California's general aviation system is deteriorating under current funding conditions. In California, aviation and related activities represent nine percent of the State's gross domestic product. General aviation generally receives about \$7 to \$8 million annually from excise taxes on general aviation gasoline and jet fuel, while the bulk of the approximately \$150 million in annual excise taxes goes to the General Fund. Of the \$8 million from excise taxes, about \$4 million is available for capital projects. In the Department's latest ten-year Capital Improvement Program, the local agencies are requesting \$85 million from the State. The \$4 million annual funding for general aviation is insufficient, when about twice the annual amount is required. As currently constituted, with most of the revenues directed to the General Fund, the Aeronautics Account is not an adequate, reliable dedicated funding source for important safety, security, capacity, airport land use compatibility, and other related airport projects.

If the Legislature and the Administration were to establish an additional percentage transfer from the general aviation jet fuel sales tax from the State General Fund to the State Aeronautics Account as a set minimum, it would establish a stable baseline of aviation funding. Since the State Aeronautics Account is declining, an annual baseline minimum would provide some of the resources to develop a program to meet future aviation needs. California could make significant progress in implementing State priorities for increasing airport capacity and safety, security, enhancing air passenger mobility, improving air cargo efficiency, mitigating the impacts of airport operations on local communities, and mitigating the impacts of land use encroachment on airport operations.

In addition to establishing an additional funding source, the existing Aeronautics Account must be protected to prevent the transfer of funds to other accounts. The State's adopted 2009-2010 budget transferred \$4 million from the Aeronautics Account to the General Fund, thus eliminating existing funds that should be dedicated to the State's three airport funding programs. That budget action also suspended for the 2009-2010 fiscal year the Public Utilities Code provisions establishing the funding programs. Therefore, aviation fuel excise taxes can continue to be collected and deposited in the Aeronautics Account, but those funds lie fallow and cannot be used for airport purposes.

As such, what is needed to provide adequate Aeronautics Fund resources to address the State's aviation needs, is:

- 1) The user-funded Aeronautics Fund should not be diverted to non-aviation uses
- 2) At least the most recent diversion (of the 3 during the past 10 years) of \$4m should be reimbursed
- 3) This past fiscal year's suspension of grant programs should be rescinded and not repeated
- 4) An additional percentage of aviation user fee revenue should be allocated to the Aeronautics Fund, in order to address the approximately \$9m annual State underfunding of California's primarily general aviation airport capital needs

### **Federal Re-authorization of Vision 100**

Vision 100, Century of Flight Authorization Act of 2003, is a four-year statute that lapsed in September of 2007. The Act provides funding for the Federal Aviation Administration's Airport Improvement Program. These revenues are extremely important for the overall preservation and enhancement of California's Public Use Airport System. Nationwide the annual authorized AIP funding levels averaged around \$3.55 billion. California typically receives around eight to ten percent of the funds appropriated.

Over the past several years, the Federal Aviation Administration proposed smaller appropriations than the authorized levels for the AIP program, including general aviation airport allocations, and the Small Community Air Service Development Program. Smaller appropriations have negatively impacted the funding for nearly 200 of California's general aviation airports. The Legislature and Governor should continue to inform the California Congressional delegation of the need to maintain and increase the federal funding, including appropriations, for aeronautics in the next re-authorization.

This year Congress attempted to pass a three-year extension of Vision 100. Congress, however, was unable to agree on a long-term reauthorization of federal aviation policies and programs. Congress extended the current taxes and FAA spending authority through December 31, 2009–2010. FAA can continue to collect taxes for and make expenditures from the Airport and Airway Trust Fund. The extension gives Congress and the Administration time to consider crafting a multi-year measure. A complete reauthorization package must provide long-term stability and continue to modernize America's aviation system through accelerated implementation of NextGen technology. The complete package should also increase the user-fee based grant funding for airport capital needs, should increase the cap on Passenger Facilities Charges (PFCs) which airports can collect to support capital needs, and should increase funding for Essential Air Service/Small Community Air Service Development/Contract Tower/Voluntary Airport Low Emission programs. Finally, the complete reauthorization package should not include any legislated requirements for new fire fighting standards, which if needed should be done through the established FAA led Aviation Rulemaking Advisory Committee process.

### **Continuing Aeronautics Issues**

The Commission, based on proposals from TACA, should recommend that the Legislature and the Administration act to address State aviation system needs through legislation that would provide a *an additional* stable funding source of about \$9 million per year from the general aviation sales ~~and excise~~ tax on jet fuel ~~and aviation fuel~~ for the Aeronautics Account. The Commission would program and allocate the funding to publicly owned general aviation airports and air carrier public use airports for activities addressing airport safety/security, capacity needs, and needed studies such as economic and land use studies, and comprehensive land use compatibility plans to enhance the capacity and capability of those airports.

*In 2009, the legislature passed and the Governor signed the California Postsecondary Education Act of 2009 (AB 48). This legislation was enacted without any notification to or collaboration with the aviation industry. The prior legislation, enacted in 1989, included a provision that partially exempted flight training and aircraft maintenance training activities approved by the Federal Aviation Administration from the provisions of the implementing regulations. Over concern about the impact of the failure of a major national flight training company in 2008, which reportedly left thousands of students with large debts and no completed training, AB 48 eliminated the exemption for FAA approved schools. The California Bureau for Private Postsecondary Education (BPPE) interprets the provisions of AB 48 to apply to all flight training and aviation maintenance training, without regard to the size of the facility, including application to independent Certified Flight Instructors. Many flight schools and independent instructors report that the fees required to obtain BPPE approval to operate will put them out of business. Two bills were introduced to delay enforcement of AB 48 on FAA approved schools pending a legislature review of the situation. AB 1140 was a stand alone bill to delay enforcement. It was placed on the Senate inactive file on August 31. AB 1889 contained similar provisions, in addition to lengthy corrections to AB 48 not involving aviation. AB 1889 passed on August 31 with bipartisan support and was enrolled. (Need to update prior to final report.) However, this bill only delays*

*enforcement of AB 48 with regards to aviation until July 1, 2011. A long term legislative solution will be required to allow for some state oversight of FAA approved schools while maintaining the economic viability of the flight training and aircraft maintenance training industry in the state.*

At the Commission's direction, TACA will work in 2010-2011 with representatives of the Business, Transportation and Housing Agency and the Department to:

- Identify potential roles and policies for the State in developing California's aviation system, including remote area access and State-wide emergency response support.
- Support appropriate legislative proposals that would:
  - dedicate the Aeronautics Account revenues derived from the existing general aviation jet fuel and general aviation excise tax and the potential set-aside of a portion future general aviation jet fuel sales tax for aviation purposes.
  - increase funding for Caltrans to assist smaller airports in securing State and federal aviation grants, to ensure that California receives the maximum amount of federal funding and uses State funds effectively for planning and matching fund purposes.
  - ~~— update the California Public Utilities code sections 21670 through 21679 to further solidify and strengthen airport land use law to preclude and prevent incompatible land use around airports.~~
  - amend current statute to allow local agencies to request Commission approval for an agency to use its own funds, to advance funding for the required match of a Federal Airport Improvement Program grant with the agreement for later repayment by the State.
  - *Amend current statute to (OK) oversight of Federal Aviation Administration approved flight training and aircraft maintenance training by the California Bureau for Private Postsecondary Education*
- Authorize and fund the Caltrans Division of Aeronautics to provide information to pilots and business aviation departments to promote the use of a larger number of California's airports and use more efficiently the existing system capacity. Existing and newly upgraded facilities often are under-utilized and have available capacity for more flights. Now and in the future, Caltrans could help to manage both highway congestion and runway congestion by marketing alternatives to congested airports that are within a convenient distance of major business destinations.
- Continue working on "Focus Points" identified by TACA as important to its on-going efforts to support California aviation and properly advise the Commission:
  - Communicate through and to the Commission and others the importance of Division of Aeronautics and Aeronautics CIP funding,

Support goals and the mission of Commission and Caltrans Aeronautics Division through such activities as the review and input on:

the CASP System Requirements Element,  
NextGen activities and implementation, and  
ALUC information and education materials.

Solicit and receive input from stakeholders regarding needs that the State should address at its level (e.g. ALUC handbook, participation in State stakeholders summits, and direct communications with aeronautics groups.)

Identify and track aviation and airport dynamics on a proactive basis, as well as identifying Statewide interests and responsibilities. This could include making recommendations for updates to the CASP System Requirements Element, recommendations based on consideration of the increasing importance of reliever/regional airports in light of hub-airport capacity constraints, population location, and opportunities provided by military base reuse, and recommendations based on consideration of the air travel infrastructure needs associated with evolving trends.

Track, and recommend State involvement where appropriate, in evolving areas with potential airport impacts, such as aviation safety and security.

Support Division of Aeronautics activity to promote use of alternate airports for general aviation, air cargo, air taxi, and other uses, as well as near-term NextGen applications for enhanced system safety, capacity and efficiency.

Ensure that TACA membership well-represents aviation stakeholders within the State