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February 10, 2016

Chairman Bill Shuster  
U.S. House of Representatives  
2165 Rayburn House Office Building  
Washington, DC 20515

Ranking Member Peter A. DeFazio  
U.S. House of Representatives  
2163 Rayburn House Office Building  
Washington, DC 20515

**RE: H.R. 4441 – Aviation Innovation, Reform, and Reauthorization Act of 2016**

Dear Chairman Shuster and Ranking Member De Fazio:

As you begin deliberations on H.R. 4441, the Aviation Innovation, Reform, and Reauthorization Act of 2016, I write to request assistance with several issues that directly impact the financial security and public safety of California's cities. It is not often the League of California Cities (League), which represents the interests of California's 482 cities, finds cause to write on this bill, but due to several recent decisions by the Federal Aviation Administration (FAA), we must request your help.

**Aviation Fuel Taxes**

On December 8, 2014, the Federal Aviation Administration (FAA) finalized a rule (79 FR 66282) that we believe misinterprets a statute related to taxes on aviation fuel and could result in millions of dollars lost to localities. The FAA Revenue Use Policy, which was originally adopted in 1999, interprets federal law to require that airport operators that have received federal assistance may use airport revenues only for aviation related purposes. The finalized December 2014 FAA rule extends this requirement to proceeds of taxes on aviation fuel. That is, with certain exceptions, the FAA's revenue use requirements apply to "state and local government taxes on aviation fuel, as well as to revenues received directly by an airport operator."

Many state and local governments had instead interpreted the rule to apply to fuel taxes, not to sales taxes on fuel. For California, revenues affected by the rule include about \$53 million of State revenues (including \$35 million allocated to local programs) and \$24 million of local revenue from Local Add-On Rates.

The League believes that the 2014 FAA rule is contrary to what Congress intended in the FAA statute. As such, we request inclusion of language to affirm that it was never the intention of Congress to divert general sales tax revenue to airports and to clarify that state and local sales taxes paid by the purchaser are not subject to 49 U.S.C. Sections 47107(b)(1) and 47133(a).

**Registration of Small Unmanned Aircraft (Drones)**

On December 16, 2015, the FAA adopted a rule (80 FR 78593) regarding registration requirements for small unmanned aircraft, more commonly known as drones. California cities have noted with growing alarm the increasing frequency of incidents in which drones have interfered with first responder aircraft attempting to battle wildfires in California--to the point that on multiple occasions those aircraft have had to be grounded for safety reasons due to drones illegally operating in what was at that time flight-restricted airspace.

The new FAA regulations, requiring registration before first flight for newly purchased drones, registration by February 19, 2016 for drones acquired and operated prior to December 21, 2015, as well as the recently launched FAA website, <http://knowbeforeyoufly.org/>, are all progressive steps that will help close the gap between what the general public knows and what it needs to know to safely operate drones.

However, all of the wayward drone activity that poses a threat to public safety cannot be attributed to consumer ignorance. In light of the breadth and intensity of illegal activity involving this technology, and the continuing threat of harm to first responders, commercial aviation, and the general public that this activity represents, stronger federal regulations would seem to be in order. Specifically, the League has urged the FAA to require registration prior to purchase.

H.R. 4441 requires the FAA to assess compliance with and effectiveness of the registration requirements and report the findings to Congress no later than one year after H.R. 4441 is enacted. The League respectfully requests that these provisions be strengthened to require registration prior to purchase of a drone.

### **Revisions of Flight Paths**

Finally, the Federal Aviation Administration Modernization and Reform Act of 2012 (FAA Reauthorization) provided the FAA with authority to expedite environmental reviews of new RNAV (Area Navigation) flight routes through the use of a 'categorical exclusion'. The provision directed the FAA to avoid overlaying previously existing routes on to RNAV routes where practicable, even if existing routes have supported land use compatibility. Unfortunately, the new RNAV flight routes often have significant associated noise impacts that affect communities, even if the associated noise impacts do not meet the FAA's threshold (DNL level of 65dB) requiring mitigation. Furthermore, a categorical exclusion deprives, and has deprived, affected communities from full participation in the review process.

The League supports Sections 137 and 138 of HR 4441, which would require the FAA to have appropriate community consultation and engagement and consider the use of alternative flight paths if a new flight procedure will have a significant impact on a community.

Thank you for your leadership on these issues. Should you have any questions or require additional information, please feel free to contact our federal representative, Leslie Pollner ([Leslie.Pollner@hklaw.com](mailto:Leslie.Pollner@hklaw.com)), at (202) 469-5149. We look forward to working with you and the California delegation on these issues.

Sincerely,



Chris McKenzie  
Executive Director  
League of California Cities

cc: California Congressional Delegation