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Aviation Bills Take Flight, but Legislative Path Remains Unclear

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Both the House Transportation and Infrastructure Committee and the Senate Committee on Commerce, Science, and Transportation acted favorably on bills to reauthorize the Federal Aviation Administration (FAA) and other aviation programs during the last week of June. The two bills, H.R. 2997 and S. 1405, have significant differences, many of them related to provisions in the House bill that would create a not-for-profit private corporation to take over responsibility for running the national air traffic control system. The Senate bill contains no similar provisions, and the path forward for the legislation will depend on whether the two houses can reach agreement on an issue that they were unable to bridge last year. Lack of agreement on air traffic control reforms in the 114th Congress led to the passage of a one-year aviation extension (P.L. 114-190) that will expire at the end of FY2017.

Whereas S. 1405 would fund FAA programs through FY2021, H.R. 2997 would extend funding through FY2023 (see **Table 1**). Since the House committee bill provides that the proposed corporation would take over air traffic services starting in FY2021, it would eliminate all Airport and Airway Trust Fund (AATF) financing for FAA operations and air traffic facilities and equipment beyond FY2020. Consequently, taxes on airline tickets, cargo, and commercial fuel would be reduced by roughly 80% starting in FY2020. These temporary tax reductions would expire after FY2023, and would therefore need to be revisited in subsequent FAA reauthorization debate. AATF funding of facilities and equipment not directly tied to air traffic functions and general fund financing of aviation safety programs would continue through FY2023 under the House bill.

Table 1. FAA Major Account Funding Authorization and Appropriations

(in millions of dollars)

	FY2018	FY2019	FY2020	FY2021	FY2022	FY2023

Operations						
H.R. 2997	10,132	10,349	10,571	1,957	2,002	2,047
General Fund	*2,059*	*2,126*	*2,197*	*1,957*	*2,002*	*2,047*
Airport and Airway Trust Fund	*8,073*	*8,223*	*8,374*			
S. 1405	10,123	10,233	10,341	10,453		
Appropriation/Request	9,891					
Airport Improvement Program						
H.R. 2997	3,597	3,666	3,746	3,829	3,912	3,998
S. 1405	3,350	3,750	3,750	3,750		
Appropriation/Request	3,350					
Facilities and Equipment						
H.R. 2997	2,920	2,984	3,049	189	193	198
S. 1405	2,877	2,899	2,906	2,921		
Appropriation/Request	2,735					
Research, Engineering, and Development						
House[a]	181	186	190	126	130	132

S. 1405	175	175	175	175		
Appropriation/Request	150					
TOTALS						
H.R. 2997	16,649	16,999	17,366	5,975	6,107	6,243
S. 1405	16,525	17,057	17,172	17,299		
Appropriation/Request	16,126					

Sources: CRS analysis of H.R. 2997, S. 1405, and FAA FY2018 budget estimates.

a. FAA's Research, Engineering, and Development account falls under the jurisdiction of the House Committee on Science, Space, and Technology.

Reforming Air Traffic Control

Under H.R. 2997, FAA facilities and equipment would be transferred without charge to the proposed corporation, which would be run by a board comprising industry stakeholders. The FAA would become principally a safety regulator, rather than managing air traffic control with its own employees.

The bill would authorize the proposed corporation to charge user fees to cover its costs. This has been a particular point of contention; although the bill would exempt noncommercial aircraft from user fees, general aviation and business aviation groups have opposed the user-fee model, fearing that fees could be charged more broadly in the future and that airlines would have too much influence over how the aviation system is run.

Proponents argue that the user fee model would charge airlines for the services they use, would resolve the loss of revenue from the current 7.5% ticket tax stemming from airlines' increased use of untaxed ancillary fees, and would provide the corporation with a reliable long-term funding source to support investments in new air traffic control technology. Some Members of Congress have objected that aviation user fees, like the taxes they would supplant, should be subject to some level of congressional oversight rather than being left solely to the corporation's board.

Other Key Issues

The bills differ in how they address a number of other key issues:

- While both the House and Senate committee bills pave the way for delivery services using small drones and facilitate small commercial drone operations in low-altitude airspace, both bills would continue to limit FAA's authority to regulate model aircraft and drones operated strictly for hobby or recreation. Both bills, however, would allow FAA to require model aircraft to register, a practice that was halted by a recent court decision.
- The Senate committee's bill would modify training standards for airline pilots, allowing FAA to consider alternatives to the existing 1,500-flight-hour requirement. Proponents argue that the increased flexibility could help regional airlines address pilot hiring needs, while opponents argue that doing so could erode safety improvements made following the February 2009 crash of a commuter flight near Buffalo, NY.
- The House committee bill would significantly increase discretionary funding for Essential Air Service (EAS), the program that subsidizes airline service to small communities, starting in FY2021, because FAA would no longer collect the overflight fees that currently provide baseline mandatory funding for EAS if the proposed air traffic

privatization plan is implemented. The Senate committee bill authorizes appropriation for EAS at an annual level of $175 million for FY2018-2021, unchanged from the amount appropriated in FY2017.

- Both bills would ease restrictions on the ability of airports to impose passenger facility charges to fund airport improvements. However, the current limit of $4.50 per flight segment would remain.
- Both bills address complaints about crowding aboard airplanes. H.R. 2997 would require FAA to issue regulations establishing minimum dimensions for passenger seats, including seat pitch (the distance between rows), within one year of enactment. S. 1405 would require FAA to initiate a study of minimum seat pitch within 18 months of enactment, and also would require FAA to review whether changes in seat size and pitch affect the ability to evacuate an aircraft in an emergency.