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Key Issues in FAA Reauthorization in the 115th Congress

Background

Reauthorization of federal civil aviation programs, including operations of the Federal Aviation Administration (FAA), has been a prominent issue in the 115th Congress. Congress has passed a series of short-term measures, extending FAA aviation programs and aviation trust fund authority through the end of FY2018. Long-term FAA reauthorization bills are under consideration in both the Senate (S. 1405) and the House (H.R. 4). In the House, a decision to set aside a controversial proposal to privatize air traffic services cleared the path for passage of H.R. 4 on April 27, 2018, and the bill now awaits consideration in the Senate.

Aviation Funding

Most FAA programs are financed through the Airport and Airway Trust Fund (AATF). Since FY2009, the AATF has provided between 66.6% and 93% of FAA's total annual funding, with the remainder coming from general fund appropriations. Taxes and fees on passenger transportation, including a 7.5% tax on tickets and a $4.20 per passenger tax on each flight segment, provide about 70% of trust fund revenue. Other revenue sources include taxes on air cargo, aviation fuels, and international arrivals and departures.

AATF revenues have been adversely affected by the recent trend among airlines to impose fees for a variety of add-on services and amenities such as checked bags, onboard wi-fi access, or seats with additional leg room. Generally, fees not included in the base ticket price are not subject to the federal excise taxes.

Financing Airport Improvements

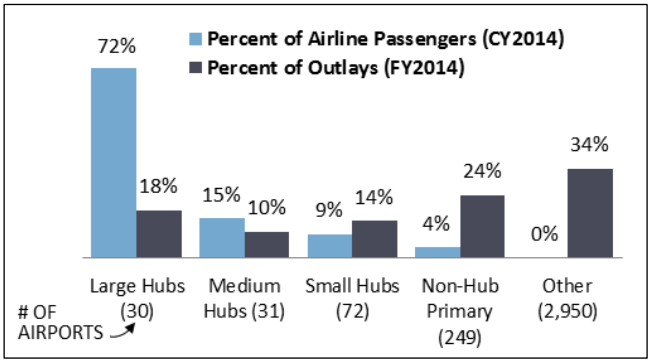
The aviation system in the United States is the largest in the world, encompassing more than 19,000 airports, of which 3,340 are eligible for federal funding. Nonetheless, air traffic is heavily concentrated at a comparatively small number of airports. Thirty large hubs account for 72% of all passenger enplanements, while the next tier of 31 medium hubs handles another 15% of passengers.

The busiest of these hubs face chronic capacity constraints that have cascading effects across the entire national airspace system. Over the past decade, several major airports have expanded their infrastructure, including new runways at Atlanta, Chicago O'Hare, and Philadelphia airports and more efficient taxiway configurations at Los Angeles and Dallas-Fort Worth.

The federal Airport Improvement Program (AIP), funded by AATF, is normally reauthorized in FAA authorization acts. AIP provides grants to airports for construction of improvements related to aircraft operations, such as runways and taxiways. Commercial revenue-producing facilities are generally not eligible for funding, nor are operating costs. Approximately $3.2 billion of grants is distributed annually according to a formula that favors smaller airports and on a discretionary basis per FAA selection criteria. Although the taxes that fund AIP are paid overwhelmingly by passengers using a relatively small number of large hub airports, 58% of outlays go to airports that have little or no commercial traffic (**Figure 1**). Large commercial airports receive relatively small amounts from AIP and rely mainly on other revenue sources, such as locally imposed passenger facility charges.

H.R. 4 would create a new supplemental funding authorization for AIP discretionary funds from the general fund appropriations, starting in FY2019 with $1.02 billion and rising to $1.11 billion in FY2023. Funds would be distributed at the discretion of FAA and could be used for airport planning and development and noise compatibility planning and programs at airports that are not designated as large hubs.

Figure 1. Distribution of Airport Improvement Grants



Source: Data from FAA Airports Branch; FAA *National Plan of Integrated Airport Systems (NPIAS) 2017-2021*.

NextGen

Future aviation capacity expansion will largely come from technology to allow more efficient routing and closer spacing of aircraft in all weather conditions. This is being carried out under the NextGen program, which is gradually shifting air traffic control from ground-based radar and radio navigation aids to more precise satellite-based navigation and aircraft tracking.

FAA has invested more than $5 billion in NextGen so far and seeks annual appropriations of about $1 billion for the next several years to implement the system. System users who must equip their aircraft for NextGen are particularly concerned that FAA may not be able to deliver NextGen's promised benefits in a timely fashion. Small general

aviation operators have objected to being required to install avionics compatible with NextGen, arguing that this will bring them limited benefits while streamlining the airspace system for commercial users. Airlines have likewise objected to equipage mandates. Funding uncertainties, cumbersome procurement processes, and poor management have all been cited as factors slowing implementation of NextGen, although, in August 2017, the Government Accountability Office (GAO) concluded that implementation is largely proceeding as planned consistent with initial cost estimates. H.R. 4 includes language that would require FAA to carry out a pilot study exploring the use of preferential access to airports and airspace to incentivize NextGen equipage.

Community Noise Concerns

Changes in flight patterns intended to exploit NextGen capabilities to increase airport efficiency and capacity have, in some cases, increased noise in residential communities, triggering complaints. A provision in P.L. 112-95 directed FAA to expedite the rollout of NextGen procedures and authorized FAA to streamline its environmental reviews of these changes. Around some airports, outcry from communities that had not previously experienced extensive overflights prompted Congress to revisit this approach, requiring FAA to more thoroughly examine potential community impacts of some of these actions and better engage local authorities and neighborhoods before implementing procedural changes to flight patterns (see P.L. 114-328, §341). Additional provisions in H.R. 4 would direct FAA to consider additional actions, including fanning and dispersing flights to avoid high concentrations of noise over particular neighborhoods; use alternative metrics and criteria to assess noise impacts; and sponsor research to assess the potential health impacts of aircraft noise.

Safety Oversight

Recent changes in FAA's approach to safety oversight have raised concerns over whether the agency is appropriately balancing efforts to promote a culture of safety and data sharing among airlines, repair stations, and other regulated entities with its authority to carry out enforcement actions when safety violations occur. H.R. 4 would require GAO to study whether FAA's shift in oversight philosophy is effective in keeping safety incidents and regulatory compliance in check.

H.R. 4 would also revamp FAA certification of organizations that design aircraft and aircraft parts, modernize technical training for FAA safety personnel, improve the consistency of regulatory interpretations and actions, require fuel system upgrades in all newly built helicopters, lift restrictions on FAA's authority to regulate lithium battery shipments, and impose medical certification requirements on commercial hot air balloon pilots. H.R. 4 would strengthen FAA's authority over unmanned aircraft, including hobby drones, and would direct it to expedite rules to permit drone package delivery.

Contract Tower Program

FAA contracts out operations at about half of all airport control towers. The contract tower program, which was initiated in 1982, has had broad bipartisan support over the years. Advocates for air traffic control privatization point to it as an example of delivering air traffic services at lower cost without compromising safety. The program largely benefits general aviation airports that might otherwise not have control tower staffing. Future advances in technology may, however, make staffed control towers less necessary.

Serving Rural Communities

In stark contrast to the handful of busy airports that struggle to expand capacity, many smaller communities struggle to retain the limited commercial passenger air service that they have. The Essential Air Service (EAS) program provides subsidized links with hub airports at over 170 airports that otherwise would lack commercial air service.

The subsidy has been controversial. Past legislation has significantly limited the eligibility of additional airports to receive EAS subsidies, but only a small number of airports already participating have been removed from the program. Although Congress has set limits on the maximum per-passenger cost of service to any airport and has required a minimum number of enplanements, the Department of Transportation has repeatedly issued waivers to communities that were threatened with loss of EAS service. Funding, which comes from fees on flights between other countries that use FAA's air traffic control services as well as from appropriations, has increased from $120 million in FY2008 to $263 million in FY2017. H.R. 4 includes language requiring the U.S. Comptroller General to analyze the impact of EAS reform options.

Airport Privatization

Almost all commercial service airports in the United States are owned by local, state, or federal governments, or by public airport authorities. In 1996, Congress established the Airport Privatization Pilot Program to explore the prospect of privatizing publicly owned airports and using private capital to improve and develop them. In addition to reducing demand for government funds, privatization has been promoted as a way to make airports more efficient and financially viable.

H.R. 4 would allow more airports to enter the pilot program. Two airports have completed the privatization process to date, and one of them later reverted to public ownership. The limited interest in privatization has numerous causes. Among them are the ability of publicly owned airports to issue tax-exempt debt, a federal prohibition on the use of privatization proceeds for non-airport purposes, and the potential implications for major stakeholders.

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