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Federal Aviation Administration Reauthorization: Legislative Action in the 118th Congress

The last multiyear Federal Aviation Administration (FAA) reauthorization, the FAA Reauthorization Act of 2018 (P.L. 115-254), was enacted in October 2018. Its key civil aviation authorizations, including Airport and Airway Trust Fund (AATF) revenue collection authority, airport grant obligation authority, and certain other FAA expenditure authorities, were set to expire at the end of FY2023, prompting FAA reauthorization debate in the 118th Congress. The Continuing Appropriations Act, 2024, and Other Extensions Act (P.L. 118-15) extends FAA authorizations and the excise taxes supporting the Airport and Airway Trust Fund through December 31, 2023, while debate on a long-term FAA reauthorization measure continues. In the last two reauthorization cycles, multiple short-term extensions were needed to prevent lapses in these authorities and one brief lapse did occur in 2011.

Legislative Activity

The current FAA reauthorization process started during the first session of the 118th Congress. The Securing Growth and Robust Leadership in American Aviation Act (H.R. 3935) was introduced in the House and was ordered reported as amended by the House Committee on Transportation and Infrastructure in June 2023. A separate bill extending Airport and Airway Trust Fund revenue collections through FY2028 (H.R. 3796) was reported by the House Committee on Ways and Means, and an FAA research and development bill (H.R. 3559) was reported by the House Committee on Science, Space, and Technology. Those two bills were appended to H.R. 3935 prior to floor consideration. The combined bill was amended and passed by the House on July 20, 2023. On June 13, 2023, the FAA Reauthorization Act of 2023 (S. 1939) was introduced in the Senate. An executive session of the Senate Committee on Commerce, Science, and Transportation to consider the bill was postponed, and the bill has not been reported in the Senate. Unless indicated differently, in the following discussion, *House bill* or H.R. 3935 refers to the bill passed by the House and S. 1939 refers to the bill introduced in the Senate. Both H.R. 3935 and S. 1939 would authorize FAA funding for five years through FY2028. Annual funding levels are slightly higher in S. 1939 (see **Table 1**).

Airport Funding

Both bills would fund the Airport Improvement Program (AIP) at an annual level of \$4 billion and would make some changes to the program. Neither includes any change to the cap on Passenger Facility Charges (PFCs) that commercial airports may impose to fund various terminal and landside projects. PFCs have been capped at \$4.50 per passenger (with an \$18 limit per round trip) since 2000.

FAA Operations and Organization

On October 24, 2023, the Senate confirmed Michael Whitaker for a five-year term as FAA Administrator. The post had been vacant since March 2022, and the selection process proved lengthy and contentious, including the withdrawal of the Biden Administration's first nominee. The House bill would modify the requirements for the FAA Administrator, clarifying that a candidate may not be active duty or retired military and must have experience in organizational management and in a field directly related to aviation. The bill also would create two FAA Deputy Administrator positions: a politically appointed post to handle programs and management, and a separate position to be filled by someone chosen by the Administrator and not politically appointed to oversee safety and operations. Currently, the FAA has one politically appointed Deputy Administrator. S. 1939 does not propose specific changes to FAA's regulatory functions and modernization efforts. The House bill would direct FAA to work with the National Academy of Public Administration to improve its rulemaking process. It also would create a position of FAA Ombudsman to coordinate responses to industry inquiries and objections pertaining to regulatory matters, aircraft and pilot certification, and approvals for flight operations. The House bill would establish an Office of Innovation within FAA to assist with complex regulatory issues, evaluate FAA internal processes, and support aerospace innovation. The Senate bill also seeks to create an Airspace Innovation Office within the FAA. The office would be responsible for developing an integrated plan for the future national airspace system. S. 1939 also would direct FAA to establish electronic data management processes for tracking certification and registration functions and would direct the Department of Transportation to form a team to review FAA regulatory processes.

Air Traffic Controller Staffing

The House bill would direct FAA to increase hiring of air traffic controllers in response to growing concerns over the shortage of fully qualified controllers. Existing shortages at certain air traffic facilities have prompted FAA to ask airlines to voluntarily curtail flight schedules to and from New York City area airports as a stopgap measure to minimize delays and disruptions. S. 1939 calls for a study to assess realignment of air traffic control facilities to improve efficiency and enhance flexibilities, especially in areas prone to congestion and staffing shortages, but does not direct FAA to hire more controllers.

Industry Workforce Development

Both H.R. 3935 and S. 1939 would reauthorize and expand two aviation workforce development grant programs to

train future pilots and aircraft maintainers that were established under the FAA Reauthorization Act of 2018. Both bills also seek to create a third grant program focusing on education and recruitment of aviation manufacturing workers. The House bill would authorize annual funding amounts of \$15 million for each of the three programs through FY2028. S. 1939 specifies annual authorizations of \$10 million for each program.

Airline Pilot Qualifications

H.R. 3935, as reported by the Committee on Transportation and Infrastructure, included a provision that would have allowed up to 150 hours of training in advanced flight simulators to count toward the 1,500 hours of flight time required for an Airline Transport Pilot (ATP) certificate. However, a successful floor amendment struck this provision. S. 1939 does not contain any provisions modifying existing qualification requirements for airline pilots. While regional airlines have pushed for greater flexibilities in setting pilot qualifications, labor organizations representing pilots have expressed concerns that modifications could potentially erode safety.

Retirement Age for Airline Pilots

The House bill would raise the maximum age for U.S. airline pilots from the current limit of 65 to 67. The change would pertain only to domestic routes, since International Civil Aviation Organization (ICAO) standards generally restrict pilots flying international routes to under the age of 65. The FAA reauthorization bill introduced in the Senate does not address pilot retirement age, but the Let Experienced Pilots Fly Act (S. 893) also would boost the age limit to 67.

Drones and Advanced Air Mobility

Both H.R. 3935 and S. 1939 would require FAA to advance rulemaking on beyond visual line-of-sight drone operations, a key step toward routine drone deliveries. They also would direct FAA to permit transport of certain hazardous materials by drone. Both bills would direct FAA to prioritize rulemaking allowing for operations of powered-lift aircraft, such as electric vertical takeoff and landing vehicles. Doing so is seen as a needed step toward accommodating Advanced Air Mobility (AAM) operations that encompass urban air taxi flights and other uses of these novel aircraft designs.

COVID-19 Pandemic Response

Title X of the House bill, the Freedom to Fly Act of 2023, would impose prohibitions on vaccination mandates and federally imposed masking requirements for FAA employees and contractors as well as airline employees and passengers. S. 1939 does not include any related provisions.

Washington, DC, Flights

The House bill leaves in place existing slots and perimeter rules at Reagan National Airport (DCA). Federal law and regulation set the total number of flights at DCA to a maximum of 67 hourly slots. In addition, a statutory perimeter rule limits nonstop flights to a 1,250-mile radius unless granted an exemption in law. Currently, there are 40 daily slots exempted from the perimeter rule. Stand-alone bills (H.R. 3185 and S. 1933) seek to add 56 new slots at DCA. A more limited proposal to add 14 new slots was offered as an amendment to the House FAA reauthorization bill but was not agreed to. S. 1939 does not address DCA slots.

Table I. FAA Major Account Funding Authorization (in millions of dollars)

	FY2024	FY2025	FY2026	FY2027	FY2028
Operations					
H.R. 3935	12,730	13,035	13,334	13,640	13,954
S. 1939	12,740	13,033	13,500	13,900	14,400
Airport Improvement Program					
H.R. 3935	4,000	4,000	4,000	4,000	4,000
S. 1939	4,000	4,000	4,000	4,000	4,000
Facilities and Equipment					
H.R. 3935	3,375	3,425	3,475	3,475	3,475
S. 1939	3,575	3,625	3,675	3,675	3,675
Research, Engineering, and Development					
H.R. 3935	255	261	267	273	279
S. 1939	344	360	367	374	390
TOTALS					
H.R. 3935	20,360	20,721	21,076	21,388	21,708
S. 1939	20,659	21,018	21,542	21,949	22,465

Source: CRS analysis of H.R. 3935 (as passed) and S. 1939 (as introduced).

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