

## Senate takes up five-year FAA reauthorization ahead of May 10 deadline

The Senate this week began consideration of a bipartisan, bicameral legislative package that would reauthorize the Federal Aviation Administration (FAA) and the related excise taxes that help fund its operations through September 30, 2028; but with a number of senators demanding amendments to the “must-pass” bill—including some that are unrelated to aviation policy—final congressional action on the deal is not expected until closer to (or perhaps even after) May 10, when the agency’s current authorization is scheduled to lapse.

### FAA Reauthorization Act of 2024

The FAA Reauthorization Act of 2024 (H.R. 3935: text, section-by-section summary) is the result of months of negotiations between Senate Commerce Committee Chair Maria Cantwell, D-Wash., and ranking Republican Ted Cruz of Texas, as well as House Transportation and Infrastructure Committee Chairman Sam Graves, R-Mo., and ranking Democrat Rick Larsen of Washington.

[URL: https://www.commerce.senate.gov/services/files/070A7E5D-A95A-42D8-99D2-60DEA347EE32](https://www.commerce.senate.gov/services/files/070A7E5D-A95A-42D8-99D2-60DEA347EE32)

[URL: https://www.commerce.senate.gov/services/files/E4B4E5F6-AA83-4F9E-B21C-0F03F95F5FE0](https://www.commerce.senate.gov/services/files/E4B4E5F6-AA83-4F9E-B21C-0F03F95F5FE0)

The sprawling FAA bill is long on changes to aviation policy, including making upgrades to the air traffic control system and mandating consumer refunds in certain cases when flights are disrupted, but does not make any substantive changes to existing aviation tax policy. Rather, the legislation would simply extend the current-law excise taxes on fuel and tickets, along with expenditure authority from the airport and airway trust fund, through September 30, 2028.

### Senators seek to attach other legislative priorities

The Senate this week cleared the first procedural hurdles to proceed to the bill, and voted 81-10 on May 2 to begin debate on the package.

However, with fiscal year 2024 appropriations and a Ukraine-Israel-Taiwan foreign aid package finally signed into law, a number of senators are viewing the FAA bill as one of the last “must-pass” measures to move through Congress before the November 2024 elections and are seeking to attach other—sometimes unrelated—legislative priorities.

Bills related to children’s online safety, cannabis banking, credit card competition, and a reauthorization of a program that compensates victims of nuclear radiation are among the more than 20 issues on which certain senators have been pushing for amendment votes. In addition, some aviation-related issues are also proving to be sticking points. Most notably, the four senators representing Maryland and Virginia are pushing hard to strip language from the bill that would expand the number of landing slots at Ronald Reagan National Airport—a provision they contend would exacerbate congestion at an already over-crowded facility, but which Sen. Cruz and others argue is important to facilitate easier air travel to the airport closest to the nation’s capital.

“This is, to use the oft-invoked analogy, one of the last trains leaving the station,” said Sen. Cruz, who is helping to manage the bill on the Senate floor. “And so everyone’s trying to get on board.”

**Wyden-Smith tax package not on the passenger list:** But absent so far in talks around potential amendments to the FAA package is the Tax Relief for American Families and Workers Act (H.R. 7024)—the bipartisan tax package that was negotiated by Senate Finance Committee Chairman Ron Wyden, D-Ore., and House Ways and Means Committee Chairman Jason Smith, R-Mo., that was unveiled earlier this year.

**URL:** <https://www.congress.gov/bill/118th-congress/house-bill/7024/text>

Among other things, the Wyden-Smith deal would:

- Reverse (through 2025) certain business-unfriendly tax provisions related to the treatment of research expenditures, bonus depreciation, and the deduction for business interest expenses that were included in the Tax Cuts and Jobs Act (P.L. 115-97) but did not take effect until several years after that measure was enacted;  
**URL:** <https://www.congress.gov/115/plaws/publ97/PLAW-115publ97.pdf>
- Enhance the child tax credit;
- Expand the low-income housing tax credit; and
- Clamp down on improper employee retention tax credit (ERTC) claims.

The measure cleared the House on January 31 by a vote of 357-70. It remains stuck in the Senate, however, where the vast majority of GOP lawmakers seem to have aligned with Finance Committee ranking Republican Mike Crapo of Idaho in opposing its inclusion of a lookback rule in the child tax credit provision that would allow taxpayers to qualify for the expanded credit (for tax years 2024 and 2025) based on their prior year income—something critics believe would disconnect the credit from work. (Crapo and his Republican colleagues also have voiced assorted other criticisms of the legislation. For additional details, see *Tax News & Views*, Vol. 25, No. 15, Apr. 19, 2024.)

**URL:** [https://dhub.deloitte.com/Newsletters/Tax/2024/TNV/240419\\_1.html](https://dhub.deloitte.com/Newsletters/Tax/2024/TNV/240419_1.html)

Without a firm demonstration of GOP support that would ensure the tax bill would garner at least 60 votes to clear procedural hurdles in the chamber, Senate Majority Leader Charles Schumer, D-N.Y., has thus far been reluctant to bring the measure to the floor.

Presumably, those dynamics explain much of the reason that members—so far, at least—have not been clamoring to attempt to attach the Wyden-Smith deal to the Senate FAA package.

A spokesperson for Sen. Wyden announced just before press time that Wyden intends to file an amendment the week of May 6 to attach the House-approved tax bill to the FAA measure. It is unclear, however, if that amendment will receive a floor vote.

## **Bumping against the deadline**

At press time, Senate leaders were still attempting to secure a unanimous consent agreement on a discrete set of amendment votes and a time agreement on debate prior to a vote on final passage. Already, consideration of the measure will bleed into the week of May 6, and there is a real possibility that without an agreement from all 100 senators to expedite consideration, it will be impossible to deliver the bill (which still needs House passage) to President Biden's desk prior to May 10, when the FAA's current short-term authorization is scheduled to lapse. Senate Republican Whip John Thune of South Dakota was among the senators to indicate that the chamber may need to pass a very short-term patch in the coming week to prevent a lapse of FAA authorities.

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