



COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE

Ranking Member Peter DeFazio

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FACT SHEET

H.R. 2997, THE “21ST CENTURY AIRR ACT,” TO PRIVATIZE THE AIR TRAFFIC CONTROL SYSTEM

Prepared by Committee on Transportation and Infrastructure Democratic Staff

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On June 27, the Committee on Transportation and Infrastructure voted, over the objections of all Democrats and one Republican, to report H.R. 2997, the “21st Century AIRR Act,” which will privatize the Nation’s air traffic control (ATC) system. The bill creates an enormous cloud of uncertainty over the future and safety of the U.S. aviation system—the largest, most complex, and safest system in the world. Specifically, the bill:

- **Jeopardizes Aviation Safety.** The bill splits the Federal Aviation Administration (FAA) in two to create a new American Air Navigation Services Corporation, jeopardizing aviation safety and leaving critical FAA safety oversight and more than 7,400 FAA inspectors and other safety-critical employees subject to year-to-year funding uncertainty. In particular, the plan leaves the FAA’s safety-critical oversight and certification processes subject to the risks of sequestration and shutdowns.
- **Disrupts Current and Critical FAA Programs.** ATC privatization will extensively disrupt all FAA programs, including airspace modernization programs known collectively as the Next Generation Air Transportation System (NextGen), a program on schedule to generate a combined \$161 billion in benefits to the government and airspace users by 2030. The Government Accountability Office (GAO) reported on September 7, 2017, that NextGen is on budget and on time, within the FAA’s 2007 estimate and already producing benefits for users.
- **May Violate the U.S. Constitution.** In July, the Congressional Research Service determined that H.R. 2997 may be unconstitutional, possibly violating several precepts of constitutional law, including the nondelegation doctrine, the Due Process Clause of the Fifth Amendment, and the Appointments Clause. If enacted, the significant constitutional questions surrounding the plan to privatize the ATC system will likely be litigated in U.S. courts for years to come, creating confusion and uncertainty for the entire aviation system.
- **Jeopardizes National Security.** The FAA and the Department of Defense (DOD) collaborate 24/7 to protect our aerial borders and homeland security. The agencies’ personnel work together seamlessly and share information openly because the FAA is a government agency. Privatizing the ATC system would sever this close relationship and create unnecessary complexity and uncertainty for U.S. military leaders. In fact, the DOD Policy Board on Federal Aviation has provided Congressional staff with a 14-page, single-spaced list of concerns and issues with regard to ATC privatization.

- **Allows a Private Corporation to Tax the Flying Public.** The bill directs the private corporation to charge system users to fund its ATC services. The plan completely removes Congressional oversight from the Corporation's assessment of user fees, leaving Members of Congress unable to protect their constituents from usurious or unreasonable user fees.
- **Hurts Consumers, Mid-Size and Smaller Communities, and General Aviation.** A bottom-line-driven private corporation will cut costs wherever possible. The Corporation—controlled by the largest commercial airlines and their allies—will prioritize investments in a few congested urban centers as opposed to the rest of the United States. Critical aviation infrastructure in rural areas could be shuttered, and mid-size and smaller communities could lose air service.
- **Eliminates Public Input on Aircraft Noise and Other Environmental Issues.** H.R. 2997 severely limits public participation in routing decisions that create aircraft noise over homes across the United States. Moreover, elected representatives in Congress will no longer have oversight over aircraft noise and other environmental issues that may arise when the private corporation runs the system.
- **Gives Away Taxpayer-Funded Assets for Free.** The bill requires the FAA to transfer to the new corporation all ATC assets—worth billions of dollars—free of charge. This is unprecedented; only two other countries (Canada and the United Kingdom) have privatized their ATC systems, but the governments of both countries received compensation for transferred assets. Taxpayers have invested more than \$50 billion in ATC facilities and equipment in the United States since 1996, and the Department of Transportation Inspector General testified this year that a portion of these assets, excluding real property, are currently worth more than \$13 billion.
- **Increases the Federal Budget Deficit by Nearly \$100 Billion.** The nonpartisan Congressional Budget Office reported on August 15, 2017, that H.R. 2997 will cause the Federal budget deficit to balloon by \$98.5 billion over the 10-year period through 2028.