Committee on Transportation and Infrastructure
U.S. House of Representatives
Washington, DC 20515

Bill Shuster
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Christopher P. Bertram, Staff Director

Peter A. DeFazio
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Katherine W. Dedrick, Democratic Staff Director

May 19, 2015

BACKGROUND MEMO

TO: Members, Subcommittee on Aviation
FROM: Staff, Subcommittee on Aviation
RE: Roundtable Policy Discussion on "FAA Reauthorization: Airport Financing and Development"

PURPOSE

On Thursday, May 21, 2015, at 9:30 a.m., in 2167 Rayburn House Office Building, Members of the Subcommittee on Aviation will participate in a roundtable discussion on issues related to airport financing and development. The Subcommittee will hear from:

- Benito "Ben" De Leon, Deputy Associate Administrator for Airports, Federal Aviation Administration;
- Todd McNamee, Director of Airports, Ventura County Department of Airports;
- Kurt Krummenacker, Vice President, Senior Credit Officer, Moody's Investors Service;
- Robert "Bob" Montgomery, Vice President of Airport Affairs, Southwest Airlines; and
- Joseph Lopano, Chief Executive Officer, Tampa International Airport.

BACKGROUND

The United States has over 19,400 airports providing important services to our aviation system, and in many communities, they are key economic drivers. The current National Plan of Integrated Airport Systems (NPIAS) identifies 3,345 airports that are significant to national air transportation and thus eligible to receive federal grants under the Airport Improvement Program (AIP). It also includes estimates of the amount of AIP money needed to fund infrastructure development projects that will bring these airports up to current design standards and also to add capacity at congested airports. The NPIAS contains all commercial service airports, all reliever airports, and selected general aviation airports. [1]

[1] http://www.faa.gov/airports/planning_capacity/npias/

Three hundred and eighty-nine airports identified in the NPIAS are classified as primary airports because they support scheduled commercial air service, and 2,939 nonprimary airports support nonprimary commercial service, general aviation, and reliever airports.[2] Commercial and general aviation help transport millions of passengers and move billions in revenue ton-miles of freight safely and securely all across the country. Such impacts are also seen state-by-state, where airports and air operators help connect large and small communities and create jobs and increase economic output. [3]

The FAA forecasts long term aviation growth, including increased traffic, which will require increased system capacity.[4] The latest FAA forecast predicts U.S. carrier passenger growth to average two percent per year over the next 20 years.[5]

Airport Revenue

To finance daily operations, airports generate and rely on both aeronautical and non-aeronautical revenue. The primary sources of aeronautical (or airside) revenue are various fees paid by airlines and other airport users for the lease of terminal space, landing fees, and use of other airport facilities, such as jet bridges.[6] Non-aeronautical (or landside) revenue sources include airport terminal concessions, parking, rental car operations, and rental fees.[7]

Federal law sets forth requirements on the collection and permissible uses of airport revenue, including what an airport can charge the airlines and others for use of the airport. For example, the Anti-Head Tax Act (49 U.S.C. § 40116) prohibits local taxation of air transportation, including imposition of unreasonable charges for use of the airport.[8] Further, as a condition of receiving AIP grants, airports must agree to, among other things, (1) provide access to the airport on reasonable conditions and without unjust discrimination (49 U.S.C. § 47107(a)(1)); (2) to charge air carriers making similar use of the airport similar fees (49 U.S.C. § 47107(a)(2)); and (3) to maintain a rate structure that makes the airport as self-sustaining as possible (49 U.S.C. § 47107(a)(13)(A)).[9]

Airport Capital

To finance capital needs, airports use a combination of federal grants, federally-authorized local airport charges, state and local grants, and airport revenues.[10] While smaller

[2] *Id.* at vii.
[3] http://www.faa.gov/airports/planning_capacity/ga_study/
[4] FAA Aerospace Forecast for Fiscal Years 2015-2025
https://www.faa.gov/about/office_org/headquarters_offices/apl/aviation_forecasts/aerospace_forecasts/2014-2035/media/2015_National_Forecast_Report.pdf
[5] *Id.*
[6] Airports Council International-North America, Primer: Airport Financing
[7] *Id.*
[8] Testimony of Jeffrey N. Shane, Under Secretary for Policy, U.S. Department of Transportation, before the U.S. House of Representatives Committee on Transportation and Infrastructure hearing on Airport Deregulation, April 1, 2004.
[9] *Id.*
[10] Tang, Rachel Y., Kirk, Robert S., Financing Airports Improvements, Congressional Research Service. December 4, 2013.

airports are more reliant on AIP grants, medium and large airports more often rely on airport revenue and passenger facility charges (PFCs).[11] Each of these funding sources has various legal and regulatory restrictions attached to how an airport can use the funds. In 2015, the Government Accountability Office (GAO) found that, on average, airport capital spending was financed 38 percent by airport-generated income, 33 percent by AIP, 17 percent by PFCs, 6 percent by airport sponsor contributions, and 4 percent by state contributions.[12]

To more effectively finance capital projects, airports issue bonds, which are often secured by airport revenue or PFC revenue. According to the GAO, the three bond-rating agencies reported that they continue to give most airports high or stable ratings, and one agency stated it expects access to capital markets for larger airports to remain strong.[13] Since many airports are owned by state and local governments or municipal authorities, bonds issued by these entities may qualify as tax-exempt.[14] GAO reported that "[f]rom the perspective of the federal government, the foregone tax revenue from these bonds is effectively another form of federal assistance to airports."[15] It is important to note that GAO considers airport bonds as a financing mechanism, not as a direct source of funds available for capital development.[16]

Airport Improvement Program (AIP)

Created by the Airport and Airway Improvement Act of 1982 (P.L. 97-248), AIP is a major source of funding for airport development and planning. AIP funds are primarily used for improvements related to enhancing airport safety, capacity, security, and environmental concerns. Airport sponsors can also use AIP funds, in most cases, on airfield capital improvements or repairs and, in some specific situations, for terminals and hangars. AIP is fully funded by the Airport and Airway Trust Fund, the revenue of which is derived from aviation-related excise taxes on passenger tickets, cargo waybills, and fuel.[17]

AIP grants are distributed by formula to four airport categories, including primary airports, cargo service airports, general aviation airports, and Alaska supplemental funds. However, large and medium hub airports that collect a PFC of $3 or less are required to forego 50 percent of their AIP formula grants; airports that collect a PFC for any amount above $3 must forego 75 percent of their AIP formula grants. Of the foregone entitlements, 87.5 percent go to a small airport fund and 12.5 percent go to AIP discretionary funds.

Discretionary funds include any funds not distributed by formula. These grants are approved by FAA based on project priorities and include specific allocations for airport noise set-asides, the military airport program, and grants for reliever airports.

[11] *Id.*
[12] Government Accountability Office, *Airport Finance: Information on Funding Sources and Planned Capital Development*, GAO-15-306, 2015, p. 10.
[13] *Id.* at 33-34.
[14] *Id.* at 8.
[15] *Id.*
[16] *Id.* at 9.
[17] Tang, December 2013 CRS Report.

AIP has been amended several times since its creation. Most recently, *The FAA Modernization and Reform Act of 2012* (*Reform Act*, P.L. 112-95) included several airports-related finance provisions. The *Reform Act*:

- Permitted airports that participate in the Essential Air Service Program and are located in economically distressed communities to be eligible for up to a 95 percent federal share of subsidized air service project costs.
- Allowed small airports reclassified as medium hubs to preserve eligibility for up to a 90 percent federal share for a two-year transition period.
- Expanded the airport privatization pilot program by increasing the number of airports that could participate from five to ten.

P.L. 112-95 authorized annual AIP funding of $3.35 billion for four years from FY2012 to FY2015. However, AIP funding only meets a portion of airport infrastructure needs. The NPIAS estimates $33.5 billion in AIP-eligible projects between 2015 and 2019 (or $6.7 billion per year). This figure is twice the $3.35 billion airports will receive in AIP funding in FY2015. Furthermore, the Airports Council International-North America 2015 Capital Needs Survey estimates that airports have $75.7 billion in capital needs over the next five years (or $15.1 billion annually) for AIP-eligible and non-AIP-eligible airport projects.[18]

Passenger Facility Charge (PFC)

To provide additional resources for airport improvements, the *Omnibus Budget Reconciliation Act of 1990* (P.L. 101-508) permitted an airport to collect a fee on passengers or the PFC. A PFC is approved by the federal government, collected by the airlines, and paid directly to the airport without going through the federal Treasury. The PFC is intended to supplement, not replace, AIP funds.

Airports can use PFCs to build critical infrastructure projects at their facilities. However, unlike AIP funds, airports can use PFC revenue for gates, airline ticket areas, and debt service on bonds that airports issue to finance airport infrastructure projects. In 2014, the FAA estimated that airports collected approximately $2.8 billion from PFCs. Airports use these fees to fund FAA-approved projects for one or a combination of the following purposes:

- Preserve or enhance safety, security, and capacity of the national air transportation system.
- Reduce noise from an airport that is part of the system.
- Provide opportunities for enhanced competition between or among air carriers.

Initially, there was a $3 cap on each airport's PFC and a $12 limit on the total PFCs that are collected per round trip. In 2000, The Wendell H. Ford Aviation Investment and Reform Act for the 21st Century (P.L. 106-181) increased the cap (to the current levels) on the PFC from $3 to $4.50 per passenger per leg of a trip, and no passenger can be required to pay more than $18 in PFCs per round-trip.

[18] http://www.aci-na.org/sites/default/files/2014-15_capital_needs_survey_report_final.pdf

The FAA has approved PFCs at 390 airports, and 358 are actually collecting money at this time.[19] Unlike AIP funds, PFC funds may be used to service debt incurred to carry out projects. Large and medium hub airports must apply to the FAA and demonstrate capital needs in order to impose a PFC. PFCs cannot be approved unless the airport has submitted a written competition plan to the FAA with a justification of the capital projects for which the revenue will be used that includes information about the availability of gates, leasing arrangements, gate-use requirements, controls over airside and ground-side capacity, and intentions to build gates that could be used as common facilities.

The Reform Act made two updates to the PFC program:

- Made permanent the pilot program that authorized non-hub small airports to impose PFCs.
- Required GAO to study alternative means of collecting PFCs without including the PFC in the ticket price. (Government Accountability Office, *Transportation: Alternative Methods for Collecting Airport Passenger Facility Charges,* GAO-13-262R, 2014).

[19] http://www.faa.gov/airports/pfc/monthly_reports/media/stats.pdf