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

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June 12, 2014

SUMMARY OF SUBJECT MATTER

TO: Members, Subcommittee on Aviation
FROM: Staff, Subcommittee on Aviation
RE: Subcommittee Hearing on "Airport Financing and Development"

PURPOSE

The Subcommittee on Aviation will meet on Wednesday, June 18, 2014, at 10:00 a.m. in 2167 Rayburn House Office Building to consider issues related to airport financing and development. The Subcommittee will receive testimony from the Federal Aviation Administration (FAA), Government Accountability Office (GAO), and industry stakeholders on the state and future of airport financing and development.

BACKGROUND

The United States has over 19,700 airports providing important services to our aviation system, and in many communities they are key economic drivers. The National Plan of Integrated Airport Systems (NPIAS) identifies 3,330 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 add capacity to congested airports. The NPIAS contains all commercial service airports, all reliever airports, and selected general aviation airports. [1]

While 378 of the federally-funded airports included in the NPIAS support scheduled commercial air service, 2,952 public use landing sites support general and other aviation needs.[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. Impacts are also seen

[1] http://www.faa.gov/airports/planning_capacity/npias/
[2] http://download.aopa.org/advocacy/faa-aip-white-paper.pdf

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 air traffic which will require increased system capacity. [4] The current FAA forecast calls for U.S. carrier passenger growth over the next 20 years to average 2.2 percent per year.[5] One estimate, by the Eno Center for Transportation, states that in 2016 alone, the United States economy will lose out on over $6 billion in lost travel spending due to unmet demand at JFK and Newark International Airports; they estimate this figure will reach $48 billion annually by 2034.[6]

Airport Revenue

To finance daily operations, airports generate and rely on both aeronautical and non-aeronautical revenue. The primary source of aeronautical (or airside) revenue is derived from fees that airlines pay for the use and maintenance of the airport facilities, including terminal rents, landing fees, and other airport services (i.e. use of a jet bridge). [7] Non-aeronautical (or terminal and landside) revenue includes those funds generated through things such as concessions, parking and airport access, rental car operations, and land rent.[8]

Federal law sets forth requirements for the collection and permissible uses of airport revenue, including what an airport can charge airlines and others for the 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.[9] Further, as a condition of receiving AIP grants, airports must agree to (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)).[10]

Airport Capital

To finance capital needs, airports use a combination of federal funding (through the AIP grant program and passenger facility charges (PFCs)), tax-exempt bonds (often secured by

[3] (http://www.faa.gov/airports/planning_capacity/ga_study/)
[4] FAA Aerospace Forecast for Fiscal Years 2013-2023 http://www.faa.gov/about/office_org/headquarters_offices/apl/aviation_forecasts/aerospace_forecasts/2013-2033/media/2013_Forecast.pdf
[5] http://www.faa.gov/about/office_org/headquarters_offices/apl/aviation_forecasts/aerospace_forecasts/2013-2033/media/2013_Forecast.pdf
[6] https://www.enotrans.org/news/thanksgiving-like-crowds-at-n-j-area-airports-will-be-more-common-and-costly-studies-say.
[7] Airports Council International-North America, Primer: Airport Financing
[8] *Id.*
[9] 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.
[10] *Id.*

airport revenue or PFCs), state and local grants, and airport revenues.[11] While smaller airports are more reliant on AIP grants, medium and large airports more often rely on tax-exempt bonds or PFCs.[12] Each of these funding sources has various restrictions attached to how an airport can use the funds. In 2007, the GAO found that airport capital spending was financed 50 percent by bonds, 29 percent by AIP, 17 percent by PFCs, 4 percent by state and local contributions, and 4 percent by airport revenue.[13]

Airport Improvement Program (AIP)

Created in the Airport and Airway Improvement Act of 1982 (P.L. 97-248), the 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. The AIP is fully funded by the Airport and Airway Trust Fund, the revenue of which is derived from aviation-related excise taxes on passengers, cargo, and fuel.[14]

AIP grants are distributed by formula to four 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 above $3 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 the 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.

The AIP has been amended several times since its creation. Most recently, *The FAA Modernization and Reform Act of 2012* (P.L. 112-95) authorized annual AIP funding of $3.35 billion for four years from fiscal year 2012 to fiscal year 2015. P.L. 112-95 also included several airport-related finance provisions:

- Permits economically-distressed communities to be eligible for up to a 95 percent federal share of subsidized air service project costs.
- Allows small airports reclassified as medium hubs to preserve eligibility for up to a 90 percent federal share for a two-year transition period.
- Expands the airport privatization pilot program by increasing the number of airports that can participate from 5 to 10.

[11] Tang, Rachel Y., Kirk, Robert S., Financing Airports Improvements, Congressional Research Service. December 4, 2013.
[12] *Id*.
[13] Government Accountability Office, *Airport Finance: Observations on Planned Airport Development Costs and Funding Levels and the Administration's Proposed Changes in the Airport Improvement Program*, GAO-07-885, 2007, p. 8.
[14] Tang, December 2013 CRS Report.

The NPIAS estimates $42.5 billion in AIP-eligible projects between 2013 and 2017 (or $8.5 billion per year). The Airports Council International-North America 2013 Capital Needs Survey estimates that airports have $71.3 billion in capital needs over the next five years (or $14.3 billion annually) for AIP-eligible and other non-AIP-eligible airport projects.[15]

<u>Passenger Facility Charge (PFC)</u>

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 2013, 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.

The FAA has approved PFCs at 390 airports, and 358 are actually collecting money at this time.[16] Large and medium hub airports must apply to the FAA and demonstrate capital needs in order to impose a PFC. The airport must also provide reasonable notice to, and an opportunity for consultation with, air carriers and foreign air carriers operating at the airport. An application may not 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 which 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 FAA Modernization and Reform Act of 2012 (P.L. 112-95) made two updates to the PFC program:

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[15] http://www.aci-na.org/sites/default/files/2013_capital_needs_survey_report.pdf
[16] http://www.faa.gov/airports/pfc/monthly_reports/media/stats.pdf

- 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. (see Government Accountability Office, *Transportation: Alternative Methods for Collecting Airport Passenger Facility Charges*, GAO-13-262R, 2014).

WITNESS LIST

PANEL I

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