Testimony of

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"Investing in Infrastructure: The Road to Recovery"

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Chairman Oberstar, Ranking Member Mica and members of the House Transportation and Infrastructure Committee, thank you for inviting me to participate in this hearing on "Investing in Infrastructure: The Road to Recovery." I am William DeCota, the Director of Aviation for the Port Authority of New York and New Jersey (PANYNJ). The Port Authority is a multi-modal transportation authority, which operates five airports serving the New York/New Jersey metropolitan area - John F. Kennedy International, Newark Liberty International, LaGuardia, Stewart International and Teterboro airports.

I can think of no clearer linkage between a transportation investment and the road to recovery than an investment in airport infrastructure. Fundamentally airports are just exchange points – just infrastructure that gets people and goods out of land vehicles and into air vehicles – but the economic impact that such infrastructure has is enormous. Certainly there is the economic impact of construction but there are also demonstrable and measurable economic benefits from the operation of the infrastructure itself and from the transit-oriented development that evolves on the periphery of the airport.

Just in the NY / NJ region alone, the industry anchored around JFK, Newark and LaGuardia Airports has been a significant driver of the metropolitan region's economy. In providing transportation services to more than 200 cities in 70 countries, through investment in infrastructure enhancements, and through visitor spending, the air passenger and cargo industry contributes to the well-being of the region's nearly 20 million people with nearly 500,000 jobs, over $20 billion in wages and about $60 billion in economic activity.

In recent years, the Port Authority and its airline business partners invested an average of $1.5 billion annually, which has been a major source of economic benefit to the region. Projects such as enhanced roadway access, airside expansion, runway rehabilitation and even security enhancements have provided easier access, improved passenger service and convenience, and enhanced capacity and provided investment spending benefits but also enormous operating and tourism impacts. These investments, which have also occurred at airports throughout the U.S. are critical to driving the economy yet even historically have paled by comparison to investments being made in other countries like the $8 billion new Terminal 5 at London Heathrow Airport, the "colossal scale" Terminal 3 at Beijing Capital Cities International Airport, the $4 billion Terminal 3 at Dubai International or the new Doha International Airport in Qatar that is expected to open in 2010.

Unfortunately, airport investment in the U.S. is diminishing even further. Financially, this has proved to be a challenging year for the aviation industry, which has faced struggling air carriers, higher fuel prices and weak economic indicators. The confluence of this and other factors has dramatically reduced capital capacity of both the airports in this country and the airline industry.

The first factor is the state of the airline industry's finances, the airport industry's key partner in making infrastructure investments. Earlier in the year, the increasing price of fuel, which now accounts for 45% of the airline industry's operating costs, added about $13 billion in additional annualized expenses. As the price of crude oil skyrocketed to almost $150 per barrel in July, airlines responded to the enormous increase in the price they paid for fuel – and to slowing worldwide economic conditions -- by cutting capacity, deferring airport investments, reducing fleets and adding fare and fee increases. At the same time, airports received letters from airlines asking us to work with the air carriers to further reduce costs and eliminate capital projects. At Stewart Airport, to provide financial relief to carriers, we have gone so far as to waive all fees paid by airlines for six months.

Airports rely on airline investment to supplement public resources as we have developed and now seek to redevelop the airports that we operate. Some of the world's most iconic airport passenger terminals such as the one designed by Eero Saarinen for TWA at JFK, would not have been built without the use of airline investment. Without some direct airline investments, airports will not be able to embark upon some of the most critical airport projects.

Commercial service airports also rely on revenue generated from airlines, other airport tenants and passengers and cargo to meet their operational and infrastructure requirements. So, decreasing numbers of flights and passengers translate into fewer dollars for airports to use to invest in infrastructure projects that help stimulate the economy by creating jobs.

Unfortunately the uncertainly of the global financial crisis has also had an impact on the airport industry's ability to raise capital to fund airport projects. Credit rating agencies have noted that airport credit quality is stable but "flying into an uncertain future" because of instability among airlines and a weak economy. At the same time, the demand for airport bonds, which airports use to finance capital development projects, has fallen off forcing airports to either defer projects or find other sources of financing at higher rates.

Also, as I will discuss further, while construction costs have continued to soar – in many places double digits annually like in the New York/New Jersey region, the purchasing power of Airport Improvement Program (AIP) and Passenger Facility Charge (PFC), which has not increased since 2000, have declined. The net result is that the combination of the struggling economy, the scaling back or elimination of commercial air service to airports around the country and tightening credit markets has resulted in a dramatic reduction in capital investment at airports.

I also need to mention another potential challenge to airport investment in the New York/New Jersey metropolitan area, as well as potentially at 25 smaller cities that serve the region. At issue is the Administration's highly disruptive proposal to auction off airport slots at airports controlled by the Port Authority. Not only does the auction policy fail to achieve its primary objectives of reducing congestion and delays, it threatens investments in terminals already made by carriers that would lose slots through this auction process and also threatens investment here in our region and in other places where flying would become more expensive, or where service would be cut or eliminated to small cities that now have access to New York City.

It is not fully clear how badly such auctions will disrupt air service and investment. The auction schemes will strongly favor those larger airlines with the most cash on hand to buy slots at a price above those with less cash on hand. The "value" of a slot could be driven by the benefits a large carrier would reap from eliminating competitors rather than from the operation of the slot itself. The result could be that airfares will increase significantly. We are also concerned that the number of destinations, particularly small communities, served from our airports will be impacted. Our analysis has shown that this service was particularly vulnerable to market-based solutions.

US Airways said such auction rules may result in an impairment charge and an increase in its net operating loss carry forward as the number of flights it can offer will be reduced over five years. Jet Blue, as another example, also sent a letter to Secretary of Transportation Mary Peters saying the plan would result in an "immediate loss of jobs and economic activity in NY City and throughout the state" of New York. Mr. Chairman, I would like to thank you and Chairman Patty Murray of the Senate Appropriations Subcommittee for asking for further review of the legality of the administration's plan.

The economic stimulus package is the last opportunity that the Congress has to prevent the administration from proceeding with its ill-advised plan to impose federal slot auctions at the New York/New Jersey airports. The Government Accountability Office (GAO) has already rendered its opinion that the administration does not have the authority to proceed with slot auctions. In spite of nearly unanimous stakeholder opposition, and the opinion of the GAO, the administration is completely unwilling to alter its disastrous course. We are thankful to Chairman Oberstar and other members of the committee for their previous expressions of support and we hope the economic stimulus legislation will provide the legislative vehicle to prevent a slot auction, which is planned for the last week of this Administration. Withdrawal of the final slot rules is one way to help meet the infrastructure investment goals of this hearing.

More specifically to that goal, Mr. Chairman, I also want to thank you and your colleagues in the U.S. House of Representatives for including $600 million for the AIP in H.R. 7110, the economic stimulus package that the House passed in September. It is my understanding that the FAA could use that funding for safety and security projects such as runway improvements, runway lighting, signage improvements, security enhancements, amongst other very necessary projects.

Airports are grateful for your help in securing funds for airport construction projects. They realize that additional AIP funding would make their facilities safer, more secure and efficient while stimulating the economy. As Congress prepares to consider another economic stimulus package I would like to discuss AIP funding and other proposals that could simultaneously help airports and create much-needed jobs.

Increase Funding for Airport Improvement Program: On behalf of my colleagues at airports around the country, I would like to encourage you to include at least $600 million in the next economic stimulus package and consider increasing that amount to $1 billion. The higher funding level would help stimulate the economy by creating approximately 35,000 high-paying jobs. It would also expedite the construction of critical safety, security and capacity projects at airports around the country. But investing in airport infrastructure projects creates more than just jobs at the airport – it creates jobs in the local communities where the airports are located. Airports serve as a key component of our civil aviation system, which, account for almost $1.4 trillion in national output according to the Campbell-Hill Aviation Group.

Despite recent cuts in air service, airports must continue to invest in safety and security projects and they must be prepared to meet passenger demands in the longer term. The FAA recently released its National Plan of Integrated Airport System (NPIAS) for 2009-2013. The report indicates that there will be $49.7 billion of AIP-eligible projects during the next five years – an increase of 21% from the previous NPIAS that the FAA issued two years ago. (It is important to point out that this projection does not include non-AIP eligible projects such as parking garages or rental car facilities.)

As airport infrastructure needs continue to increase, the purchasing power of AIP dollars and PFCs have declined due to rapidly increasing construction costs. According to the January 1, 2008 Means Construction Cost Indexes, the average construction costs for 30 major U.S. cities have increased almost 29% from 2004 to 2008 at an average rate of 5.7%. At the Port Authority, we have seen our construction costs increase by even more.

As members of this Committee know, Vision 100 authorized $3.6 billion for AIP in FY06 and $3.7 billion in FY07. Last year, the House of Representatives passed H.R. 2881, the FAA Reauthorization Act of 2007. H.R. 2881 and the Senate version of the FAA reauthorization bill called for continuing that trend of incremental increases by approving $3.8 billion for AIP in FY08 and $3.9 billion in the following year.

Despite this Committee's support for increasing AIP funding by $100 million per year, Congress has appropriated slightly more than $3.5 billion for AIP during the past three fiscal years and is expected to do so again for FY09. This means that airports will receive almost $1 billion less in AIP funds from FY06 through FY09 than this Committee approved. Providing airports with an additional $1 billion for AIP projects in the next economic stimulus package would offset that shortfall and help stimulate the economy by creating jobs.

Eliminate AMT Penalty on Airport Private Activity Bonds: In addition to AIP grants, and PFCs, which I will discuss separately, airports rely on a number of different sources of revenue to pay for capital development projects at their facilities. By far the largest source of funds for airports comes from the sale of airport revenue bonds. In 2007, airports used more than $5 billion in new money bonds to finance capital development projects. However, the sub-prime mortgage mess and resultant credit crisis have recently caused serious problems for airports. Currently, airports are experiencing unprecedented increases in their outstanding variable rate debt that they have not seen in the last 20 years.

Unfortunately, federal tax law unfairly classifies a vast majority of airport bonds as private activity bonds, which are typically used to finance various types of facilities owned or used by private entities. Private activity bonds are considered those, which are used to build infrastructure under a private business use test. Interest payments on airport private activity bonds are subject to the Alternative Minimum Tax (AMT) even though airports use the bonds to finance runways, taxiways and other critical facilities that benefit the public.

Since private activity bonds are subject to the AMT, airport bond issuers are charged higher interest rates on their borrowing. Subjecting airport private activity bonds to AMT usually adds an interest rate premium of 10 to 30 basis points (0.10% to 0.30%) on long-term borrowing. However, the demand for AMT bonds has decreased so dramatically that airports are currently being penalized 150 basis points (1.5%) or more when the bonds can be sold. This adds millions of dollars to the cost of airport projects and diverts money away other infrastructure projects that could help create jobs.

It is my understanding that recently the market has become very difficult for airports seeking bond financing especially for bonds subject to the AMT. With the credit market drying up, airports are being forced to postpone projects. For instance, the Metropolitan Washington Airports Authority (MWAA) recently deferred $250 million in private activtity bonds, not because the underlying strength of the Washington region's airport demand, but because of the collapse of the bond market.

MWAA usually issues approximately $500 million in private activity bonds per year. If the AMT penalty is eliminated, the Airports Authority could save approximately $125 million over the 30-year life of the bonds issued in any single year. That's money that

MWAA could use instead to lower its operating costs or invest in other infrastructure projects, which would help create jobs and stimulate the economy.

Airports have been urging Congress to reclassify airport private activity bonds as public purpose and allow airports to advance refund all of their bonds without limitation. However, for the purposes of the stimulus package, airports are focusing only on the narrow proposal to eliminate the AMT penalty on private activity bonds – not the overall proposal that would allow airports to advance refund their private activity bonds at a cost to the U.S. Treasury. Congress approved a similar narrow AMT fix for housing bonds earlier this when it passed H.R. 3221, the Housing and Economic Recover Act of 2008. The President signed the bill into law on July 30, 2008.

Eliminating the AMT on airport private activity bonds could help airports around the country save valuable resources that airports could use for other job-creating purposes. For instance, the San Francisco International Airport is currently renovating Terminal 2 – a $383 million renovation project that is scheduled for completion in late 2010. Terminal 2 and other capital projects are initially being funded with the airport's $200 million Commercial Paper (CP) program. The airport plans to replace the CP starting in early 2009 with long term AMT debt.

If the AMT penalty is eliminated, the airport could save more than $54 million over the 30-year life of the bonds. Furthermore, the airport could save almost $87 million in debt service costs on $685 million in new debt issues for projects in its five-year capital plan if it could sell all of its bonds – including those for the Terminal 2 renovation project – without the AMT penalty. These savings would expand the financial capacity of the airport and would be available for other important priorities that could help create jobs.

Eliminating the AMT on airport bonds would create a larger market for airport bonds, which will translate into greater capacity to fund important safety, and security projects that will help create new jobs. It is essential to recognize the public good provided by an efficient air transportation system, and bonds issued in furtherance of this goal should be treated accordingly. There is no reason why these projects, most of which are eligible for some form of public financing (either AIP, PFCs or both) should not be recognized as public projects making the bonds eligible for fully tax-exempt status.

It is important to note that airports are not asking for something Congress has not done before. In fact, earlier this year the housing industry was granted similar relief from the AMT in the Housing and Economic Recovery Act of 2008 (H.R. 3221). Effective August 2008, housing bonds are now considered a special class of non-AMT bonds, where the interest is not subject to the AMT. Airports require similar relief.

Give Airports Greater Flexibility to Use PFC Revenue and AIP Entitlements for Debt Service: As a result of current market conditions airports are facing a significant spike in debt service costs and have limited refunding and restructuring opportunities. To help mitigate the increase in financing costs, airports also urge you to include provisions in the next economic stimulus package that would give airports greater flexibility on how they can use PFC revenue or AIP entitlements for debt service.

Currently, airports are allowed to use PFC revenue for debt service and other financing costs on PFC-eligible projects. As a result of a provision contained in Vision 100, airports may possibly use PFC revenue for debt service on non-eligible projects if the Department of Transportation determines it is "necessary due to the financial need of the airport." By contrast, airports are not allowed to use AIP funds for debt service or financing costs.

Airports are urging Congress to include a provision in the next economic stimulus package that would allow airports to temporarily use PFC revenue for debt service on all airport projects just like they can on PFC-funded projects. Some airports would also like the option of using their AIP entitlements for debt service costs on a temporary basis after they certify that their capital safety and security needs have been met.

Both of these temporary debt service proposals would help airports reduce their operating costs during these challenging financial times. In some instances these changes would also help to preserve jobs because some airports would be able to devote more airport revenue for traditional operating purposes rather than debt service costs. That, in turn, could prevent airports that are experiencing service cuts and corresponding revenue reductions from being forced to layoff airport employees.

Pass a Multi-Year FAA Reauthorization Bill: Mr. Chairman, while the focus of today's hearing is the economic stimulus package, it is also important to have this discussion against a backdrop of further FAA funding that is critical to our airports' ability to generate economic benefits. I would like to thank you and your colleagues on the Transportation and Infrastructure Committee for your leadership on H.R. 2881, the FAA Reauthorization Act of 2007. Airports are particularly grateful that the House-passed bill would raise the PFC cap to $7.00 and increase AIP funding by $100 million per year.

These two funding provisions would go a long way toward helping airports build the infrastructure they need to improve safety and security and increase capacity. Raising the PFC cap and increasing AIP funding in the next FAA reauthorization bill would also help create more construction jobs. Raising the PFC cap from $4.50 to $7.00 is expected to generate approximately $1.1 billion per year. So that provision alone would help create approximately 35,000 jobs per year.

In addition to the increased funding levels for airport infrastructure projects, H.R. 2881 includes a number of key provisions that would help modernize our Air Traffic Control system and expedite the deployment of the Next Generation Air Transportation System (NextGen).

Modernize the Air Traffic Control System: There is no doubt that investments in the modernization of the air traffic control system also are critical to the U.S. economy. NextGen addresses the impact of air traffic growth by increasing the capacity of the national airspace system, and improving its efficiency while simultaneously improving safety, environmental impacts, and user access to the system. Unfortunately, with all the progress made in the world of technology, for instance, I am now able to house my entire collection of 12" vinyl gramophone 33 1/3 RPM long playing albums and my collection of 45 RPM records in my shirt pocket, and with the advances made in transportation, and especially in the aviation industry, it's incomprehensible that we still rely upon air traffic control technology developed in the immediate aftermath of World War II. We're using equipment developed when Harry Truman and Dwight Eisenhower occupied the White House, to move modern aircraft featuring the latest in high technology through increasingly congested skies. It's like trying to use a buggy whip to get your hybrid car moving: It just doesn't work.

But somehow, we've come to accept our arcane, archaic air traffic control system as the norm, begrudgingly perhaps, and certainly with great reluctance, but accepting all the same. Let's give credit where it is due, we have made some progress. But we've made it only in tiny increments, relative to the breadth, depth and scope of this enormous problem and the truth remains that through years of inaction, we've in effect accepted an unacceptable system for moving aircraft which often involves going from Point A to Point B via Points F, G, and V, simply because that's the way they did it in 1958.

By failing to make the necessary upgrades, we have surrendered to the problem when instead we should be confronting it, combating it as fiercely as ever because our lives and livelihoods depend on it. And as long as we continue to ignore the issue, or make minimal changes that fail to address the underlying and fundamental deterioration of this broken system, we'll continue to pay a steep price for our lack of foresight and our refusal to make sweeping changes.

Every flight that is delayed or canceled is multiplied exponentially for every passenger on an affected flight. Every business meeting missed, every family gathering undone, multiplies the impact of delays and cancellations by an even greater factor. You keep multiplying and multiplying until it's finally easier to calculate who isn't affected than who is. And the answer, quite, frankly, is no one. We've all, unfortunately, been there and done that.

In his book, "The Geography of Transport Systems," Hofstra University Associate Professor Dr. Jean-Paul Rodrigue notes that the inefficient pre-19th century transportation systems available then forced the overwhelming majority of trade to remain local in its scope. Obviously, in the two centuries since, the planet has evolved into a truly global marketplace. But have transportation systems kept pace? Have they too evolved to meet the needs of the world's business and leisure industries? Perhaps they have in some respects, but certainly not in all. Planes are bigger and faster than ever, sure, but in relation to those planes, the traffic control system that moves them has in fact devolved over the decades. What was modern, sleek and exciting 50 years ago is a dinosaur today. But, and nothing I say today is more important, so if I make only one point today, let this be it, we have the power to positively change the air traffic control system through available Next-Generation technology; we just need the will to do it.

In many ways, frankly, I am tired of discussing acronyms like RNAV RNP, G-BAS, ASDE-X; we need a concrete plan. We need a schedule, with deliverables. And we need to know who's responsible for the delivery, and we need a business plan that will tell us how we are going to pay for it.

Conclusion

Again, Chairman Oberstar, Ranking Member Mica and members of the House Transportation and Infrastructure Committee, thank you for inviting me to participate in today's hearing. Clearly this is a time that is testing the mettle of all Americans, including our country's airports. Many years ago, at a time when the U.S. economy faced even more dire economic challenges, many airports, like the original terminal at Newark Liberty International Airport came about because of sound federal infrastructure investment policies. Newark, an airport serving 35 million passengers, was built in 1934 under the auspices of the federal Civil Works Administration. And that first terminal is still in existence today, serving as the airport administration building.

It has been more than a year since Vision 100, the last FAA reauthorization bill that Congress approved, expired. Since Congress has been unable to send a multi-year bill to the President's desk, lawmakers have approved a series of short-term extensions instead. Airports appreciate the successful efforts to extend FAA programs and prevent lapses in aviation excise taxes. However, short-term extensions and uncertain funding levels can be very disruptive to airports as they try to plan their construction projects. Moreover, every month that goes by without a $7.00 PFC cap costs airports approximately $100 million, which means that there is $100 million not being spent on new job creation.

The House of Representatives should be commended for passing H.R. 2881, the FAA Reauthorization Act of 2007. Unfortunately, the FAA reauthorization bill has been stalled on the other side of the Capitol for a variety of reasons. Airports around the country hope that with your help Congress will pass a multi-year FAA reauthorization bill early next year that raises the PFC cap to $7.00, increases AIP funding by $100 million per year and helps expedite the deployment of NextGen.

I can assure you that with your support, we will maintain our commitment to our travelers and the communities we serve to provide the infrastructure to maintain regional economic prosperity and meet current and future demand that will keep us on the road to recovery.