



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

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February 8, 2011

MEMORANDUM

TO: Members, Aviation Subcommittee

FROM: Thomas Petri, Subcommittee Chairman

SUBJECT: Hearings on the Reauthorization and Reform of the Federal Aviation Administration and the Airport Improvement Program, Tuesday, February 8, 2011 at 2 p.m. and Wednesday, February 9, 2011 at 10:15 a.m. in room 2167 RHOB

PURPOSE

The purpose of this hearing is to take testimony on issues related to the Federal Aviation Administration (FAA), and the programs it administers, especially the Airport Improvement Program (AIP), with a view toward reauthorizing them before they expire on March 31, 2011. The hearing will be in two parts. On February 8, 2011, the subcommittee will hear testimony by the FAA Administrator. On February 9, 2011, the subcommittee will hear from witnesses representing various aviation industry and employees groups. This memo will serve as the Summary of Subject Matter for both reauthorization hearings.

BACKGROUND

The last multi-year FAA reauthorization law, Vision 100 – Century of Aviation Reauthorization Act, was enacted in 2003. It was a four-year reauthorization, covering fiscal years 2004 – 2007. Since September 30, 2007, the FAA has been operating under a series of short-term extensions – seventeen to date. The lack of a long-term reauthorization bill has meant that airports and other aviation entities have been unable to make long-term planning and investment decisions.

Commercial aviation is a huge economic driver. However, just like other sectors, the last decade was a difficult one for the commercial airline industry. The impacts of 9/11, SARS, spikes in fuel prices and the global recession have all taken their toll. It is estimated that U.S. airlines suffered \$60 billion in net losses and 160,000 jobs were lost over the first nine years of this decade.¹ But forecasts are looking up and the industry still accounts for millions of jobs. According to the FAA, in 2007 the total economic activity attributed to civil-aviation-related goods and services was approximately \$1,315.3 billion, which generated over 11 million jobs, \$396 billion in earnings, and contributed 5.6 percent to the GDP.² U.S. commercial air carriers (including passenger and cargo) reported an operating profit of \$755 million in 2009, compared to an operating loss of \$2.0 billion in 2008.³ Over the next decade, the FAA predicts that air traffic operations will increase 2 percent each year.

Given the importance of commercial aviation to the nation's economy, it is vitally important that an updated, multi-year reauthorization bill be enacted to provide airports, airlines, manufacturers, labor representatives, and national airspace users the stability that a long-term bill affords. The FAA Reauthorization bill will provide a steady source of funding and updated, streamlined and reformed aviation policies and programs. Airports rely on a long-term FAA reauthorization to make plans for large safety and capacity projects which provide steady employment opportunities. In addition, the stability provided by a multi-year FAA reauthorization bill will allow airlines, manufacturers and others to make business plans also generating new job opportunities.

The Airport Improvement Program (AIP) is a central part of the FAA reauthorization bill. AIP is funded by contract authority provided in authorizing legislation. If it is not reauthorized by March 31st of this year, airports will not be able to receive any grants from the Airport & Airway Trust Fund (Aviation Trust Fund or Trust Fund) after that date. This sets AIP apart from the other programs funded from the Trust Fund. While the other programs should be reauthorized as well, their budget authority is provided in annual appropriations acts. Therefore, they can continue to operate as long as an appropriations act is passed.

The Aviation Trust Fund was created in 1970. The current AIP program began in 1982. This memo explains how the current program works, how the money is distributed, and discusses the issues that will be the focus of the hearings on the reauthorization of FAA's programs.

¹ "The Unrelenting Quest for Sustained Profitability", ATA Vice President and Chief Economist John Heimlich (December 2010).

² "The Economic Impact of Civil Aviation on the U.S. Economy", FAA Air Traffic Organization (December 2009) (latest available figures).

³ "Fact Sheet – FAA Forecast Fact Sheet" (March 9, 2010).

Source of Funds

The Airport Improvement Program (AIP) is funded entirely by the Airport & Airway Trust Fund. The Trust Fund, in turn, is supported entirely by the following taxes on aviation users⁴:

- 7.5% passenger ticket tax;
- \$3.70 passenger flight segment fee (does not apply to passengers departing from a rural airport, defined as those that have less than 100,000 passengers per year)
- 6.25% freight waybill tax;
- \$16.30 international departure and arrival taxes;
- 7.5% frequent flyer award tax;
- \$8.20 Alaska and Hawaii international air facilities tax; and
- Aviation fuel taxes as follows:
 - 4.3 cents on commercial aviation;
 - 19.3 cents on general aviation gasoline; and
 - 21.8 cents on general aviation jet fuel.

According to the U.S. Treasury Department, these taxes raised about \$10.6 billion in fiscal year (FY) 2010 including the following amounts:

- \$7.3 billion from the passenger ticket taxes;
- \$395 million from the freight waybill tax;
- \$375 million from the commercial aviation fuel taxes;
- \$258 million from general aviation taxes; and
- \$2.3 billion from the international departure and arrival taxes.

The Aviation Trust Fund continues to earn interest on its cash balance, which was \$9.428 billion as of the end of FY 2010. During FY 2010, the Trust Fund received \$10.612 billion in tax revenue and \$195 million in interest. This means that total income to the Trust Fund (tax receipts and interest earnings, together with various offsetting collections) totaled about \$10.904 billion in FY 2010. According to FAA, the Trust Fund revenue forecast is \$11.9 billion in FY 2012 and \$12.7 billion in FY 2013. The uncommitted balance in the Trust Fund is estimated to be \$770 million as of the end of FY 2010.⁵

Distribution of Trust Fund Money

In addition to the AIP, the Trust Fund also fully funds the Federal Aviation Administration's air traffic control facilities and equipment (F&E) modernization program and its aviation research program. The Fund also partially pays for the salaries, expenses, and operations of the FAA. In FY 2010, these programs received the following amounts from the Trust Fund:

⁴ This list includes only those taxes that are deposited into the Trust Fund, not other fees such as the \$2.50 security fee on aviation users.

⁵ This number has not been validated by OMB.

- Airport Improvement Program \$3.515 billion in new contract authority
- Facilities and Equipment \$2.936 billion
- Research and Development \$190.5 million⁶
- FAA Operations \$4.0 billion from the Trust Fund
(the remaining \$5.35 billion from the General Fund)
- Payments to air carriers \$150 million

Distribution of AIP Funds

As of 2009, there are approximately 19,750 airports in the United States.⁷ Of those, 559 serve air-carrier operations with aircraft seating more than 9 passengers and 19,191 are general aviation airports.⁸ There are 3,380 public-use airports (3,332 existing and 48 proposed) identified in the FY 2011 National Plan of Integrated Airport System (NPIAS). Listing in the NPIAS makes them eligible for AIP grants.

Unlike some of the Committee's other programs, AIP reauthorization legislation has not included special earmarks. Instead, the AIP funds are distributed by formulas that are set forth in the law and described below.

Entitlements

The law divides AIP funding into two broad categories: entitlement funds and discretionary funds. Entitlement funds are further divided into four sub-categories. They are --

- Primary airport entitlements;
- Cargo airport entitlements;
- State and general aviation entitlements; and
- Alaskan airport entitlements.

Primary airports. If a public airport has commercial air service with at least 10,000 passenger boardings per year, it is considered a primary airport. These airports are entitled to receive AIP money each year in accordance with the following formula:

- \$7.80 for each of the first 50,000 passengers boarded;
- \$5.20 for each of the next 50,000 passengers boarded;
- \$2.60 for each of the next 400,000 passengers boarded;
- 65 cents for each of the next 500,000 passengers boarded;
- 50 cents for each additional passenger boarded.

The minimum entitlement a primary airport shall receive is \$650,000 per year and no more than \$22 million a year.⁹ However, in any year in which the total AIP funding

⁶ Jurisdiction over this program is shared with the Committee on Science and Technology.

⁷ Bureau of Transportation Statistics.

⁸ *Id.*

⁹ 49 U.S.C. 47114(c)(B).

level is \$3.2 billion or more, then the minimum entitlement for primary airports is \$1,000,000 per year and not more than \$26 million per year.¹⁰

Large and medium hub airports that choose to collect a \$3 passenger facility charge (PFC) receive only half their entitlement. Those that charge a PFC of either \$4 or \$4.50 receive only 25 percent of their entitlement.

To receive its entitlement funds, an airport must have a project, such as a runway, terminal, or noise abatement project that is eligible for AIP funding under the law. An airport can retain the right to receive its entitlement money for three years (four years in the case of smaller airports that are classified as non-hub airports). Entitlement money deferred to a later year is referred to as carryover entitlement.

In FY 2010, there were 382 primary airports. In FY 2010, the passenger entitlement will total about \$821.2 million.

Cargo entitlement. Cargo service airports include airports that: (1) are served by cargo-only (freighter) aircraft with a total annual landed weight of more than 100 million pounds; and (2) other airports that Department of Transportation (DOT) finds will be served primarily by freighter aircraft. These airports are entitled to share money that equals 3.5 percent of total AIP funds. Each cargo service airport shares in this money in the proportion that the total landed weight of cargo-only aircraft landing at each airport bears to the total landed weight of such aircraft at all cargo service airports.¹¹

There are 124 airports that qualify for the cargo entitlement and they received about \$118.2 million in FY 2010 in proportion to their cargo aircrafts' landed weight.

State entitlement/general aviation. In any year in which the total AIP funding levels is \$3.2 billion or more, general aviation airports share 20 percent of total AIP funds. These are airports that are used by private planes or that have only limited commercial airline service (less than 10,000 passengers per year).

Each general aviation airport is entitled to receive the amount of money needed for its planned development as listed in the FAA's national plan known as the NPIAS. The amount of this entitlement is limited to \$150,000 per year per airport.

The remaining money is allocated to the States by a formula that takes into account the population and area of each State. General aviation airports that are seeking AIP money from this allocation usually apply directly to the FAA. Some States require their airports to channel their AIP applications through the State aviation agency. The FAA then decides which airports will get the money. Ten States (Georgia, Illinois, Michigan, Missouri, New Hampshire, North Carolina, Pennsylvania, Tennessee, Texas, and Wisconsin) participate in the State Block Grant program. Under this program, the FAA gives the State aviation agency more responsibility to manage its AIP allocation and the State, not the FAA, decides which general aviation airports will receive grants. States

¹⁰ 49 U.S.C. 47114(c)(C).

¹¹ Landed weight means the weight of aircraft transporting only cargo under regulations prescribed by the Secretary of Transportation.

that participate in the State Block Grant program do not receive more money but they do get more control over how it is distributed to airports in their State.

The State/General Aviation entitlement was about \$409.7 million in FY 2010.

Alaska entitlement. By law, Alaskan airports are entitled to receive at least the same amount of money that they received in 1980, i.e. \$10.5 million. If total AIP funding is at least \$3.2 billion in a year, that amount is doubled.

Discretionary

Any money left over after the above entitlements are funded can be spent by the FAA at its own discretion. However, this discretionary fund is subject to three set-asides.

Noise set-aside. The law sets aside 35 percent of this discretionary fund for noise projects. These could include such things as buying property for a noise buffer or soundproofing buildings. The noise set-aside was \$236.2 million in FY 2010.

Military airports. Under the military airport program (MAP), a total of 15 airports may participate in the program at any one time, including one general aviation airport. Airports may be selected or reselected to receive financial assistance for up to five years. MAP airports share in a set-aside, which is equal to 4 percent of the discretionary fund. The purpose of this program is to increase overall system capacity by promoting joint civilian-military use of military airports or by converting former military airports to civilian use.

Airports currently in the military airport program are Plattsburgh International Airport, Plattsburgh, NY; Jose Aponte de la Torre Airport at Roosevelt Roads, Ceiba, PR; Griffiss Airpark, Oneida County, NY; Okaloosa Regional Airport, Valparaiso, FL; March inland Port, Riverside, CA; Chippewa County International, Sault Ste Marie, MI; A.B.Won Pat International Airport, Agana, GU; Alexandria International Airport, Alexandria, LA; Phoenix/Mesa Gateway, Mesa, AZ; Stewart International Airport, in Newburg, NY; and Sacramento Mather Field Airport in Sacramento, CA.

The MAP airports competed for \$26.9 million in FY 2010.

Reliever Airports. For many years, the AIP program included a set-aside for reliever airports. These were small airports that the FAA determined would help relieve congestion at nearby larger airports. However, GAO issued a study that found these airports were not effective in relieving congestion. As a result, the 1996 Reauthorization Act eliminated this set-aside.

In the 2000 FAA reauthorization bill, called "AIR 21",¹² a more limited version of this set-aside was created. In order to qualify, an airport must meet the following criteria¹³:

¹² Wendell H. Ford Aviation Investment and Reform Act for the 21st Century, P.L. 106-181 (2000).

¹³ FAA Order 5090.3C.

(1) The candidate reliever airport can provide substantial capacity as evidenced by:

(a) A current activity level of at least 100 based aircraft or 25,000 annual itinerant operations (a heliport may qualify as a reliever if it has one half of this activity level).

(b) In the case of a new airport or an existing airport it must have a forecasted activity level of at least 100 based aircraft or 25,000 annual itinerant operations for the time period in which it is being designated as a reliever.

(2) The relieved airport:

(a) Is a commercial service airport that serves a metropolitan area with a population of at least 250,000 persons or at least 250,000 annual enplaned passengers, and

(b) Operates at 60 percent of its capacity, or would be operated at such a level before being relieved by one or more reliever airports, or is subject to restrictions that limit activity that would otherwise reach 60 percent of capacity.

Two-thirds of 1 percent of the discretionary funds is set aside specifically for reliever airports that meet the following additional criteria:

- have more than 75,000 annual operations;
- have a 5,000 foot runway;
- have a precision instrument landing procedure;
- have a minimum number of aircraft based at the airport; and
- be designated by FAA as a reliever airport to an airport with at least 20,000 hours of annual delays.

The reliever set aside was \$4.671 million in FY 2010.

Pure discretionary. After the entitlements and set-asides are funded, the remaining money can be spent as the FAA sees fit. This is often referred to as pure discretionary AIP money. Even here, however, there are restrictions. The law requires that 75 percent of the available discretionary money in a fiscal year be spent on airport projects that will enhance capacity, safety, or security, or reduce noise. There was \$305,450,586 million in discretionary funding set aside for capacity, safety, or security, or to reduce noise during fiscal calendar year 2010.

Federal share

The Federal share of an AIP project's cost varies. The federal share, whether funded by formula or discretionary grants, is as follows:

- 75 percent for large and medium hub airports (80 percent for noise compatibility projects);
- 95 percent for other airports;
- "not more than" 95 percent for airport projects in states participating in the state block grant program; and

- 70% for projects funded from the discretionary fund at airports receiving exemptions under the pilot program for private ownership of airports.¹⁴

The 2003 FAA Reauthorization bill, known as “Vision 100”¹⁵ included a sunset clause that returns the federal share of the projects eligible for 95 percent share to 90 percent after September 30, 2007. The increase in share to 95 percent was established to provide relief to operators of small airports after the 9/11 terrorist attacks.¹⁶ The 95 percent share has been continued in legislation that has extended AIP’s authorization through March 31, 2011.

Passenger Facility Charge

In 1990, the Committee became concerned that the AIP program would not be able to meet the future infrastructure needs of U.S. airports. Consequently, in 1990 airports were permitted to assess a fee on passengers. This is known as the passenger facility charge (PFC). PFCs are a local fee, with Federal approval, collected by the airlines and paid directly to the airport without going through the Federal treasury. They are intended to supplement AIP by providing more money for runways, taxiways, terminals, gates, and other airport improvements.

Initially the PFC was capped at \$3 per passenger. In 2000, Congress raised the PFC cap to \$4.50. No airport may charge a PFC of more than \$4.50 per passenger and no passenger has to pay more than \$18 in PFCs per round-trip regardless of the number of airports through which the passenger connects. No airport can charge a PFC until FAA approves it.

FAA has approved PFCs at 380 airports, of which 353 are actually collecting charges. The total approved collections are over \$78 billion. In FY 2010, \$2.70 billion was collected and \$2.67 billion is expected to be collected in FY 2011.

If a medium or large hub airport charges a \$3 PFC, it must forego up to 50 percent of its AIP passenger entitlement. If it charges more than \$3, it must forego 75 percent of its AIP passenger entitlement. Of the foregone entitlements, 87.5 percent go into a special small airport fund to be distributed as follows:

- 57.1 percent to non-hub airports;
- 28.6 percent to non-commercial service airports; and
- 14.3 percent to small hub airports.

In fiscal year 2010, non-hubs received \$285 million, non-commercial service airports received \$142.5 million, and small hubs received \$71.2 million from the small airport fund.

¹⁴ 49 U.S.C 47134.

¹⁵ VISION 100—Century of Aviation Reauthorization Act, P.L. 108-176 (2003).

¹⁶ “Airport Improvement Program (AIP): Reauthorization Issues for Congress” Congressional Research Service Report, Robert S. Kirk (May 29, 2009).

Where the money goes

FAA has reported that in fiscal year 2010 AIP money was spent on the following types of projects:

- 55 percent for runways, taxiways, and aprons;
- 6 percent on noise control projects;
- 2 percent for land purchases;
- 9 percent on safety and security;
- 2 percent on buildings;
- 1 percent on airport roads; and
- The remainder on miscellaneous projects such as lighting and planning.

According to the FAA in FY 2010, AIP money was distributed by airport size, as follows:

- 16.8 percent to 28 large hub airports;
- 11.4 percent to 35 medium hub airports;
- 13.7 percent to 67 small hub airports;
- 21.8 percent to 218 non-hub airports;
- 25.7 percent to 1,231 general aviation airports.

It should be noted that a hub designation is determined by the number of passengers enplaned at an airport, not whether an airline uses the airport as a connecting facility.

FACILITIES AND EQUIPMENT

Unlike AIP, there are no facilities and equipment (F&E) grants. Rather the FAA uses the money in this program to purchase and install radars, computers, navigation aids, and other equipment that air traffic controllers use to guide planes through the air safely and efficiently.

NextGen

In the early eighties, the FAA embarked on an ambitious program to modernize air traffic control equipment. Over time, this program has had several names, but it is now known as the Next Generation Air Transportation System (NextGen). NextGen is the FAA's plan to modernize the National Airspace System (NAS) in the mid-term, defined as through 2018 and beyond through 2025. It was originally projected to cost \$12 billion and be completed in 10 years. But now, 30 years later, it is projected to cost \$40 billion with no set completion date. Although many of the projects started 20 years ago have been completed, others have not and new ones are being added. The FAA views air traffic control modernization as an ongoing effort.

One of the main reasons for the increase in costs is that FAA and its contractors under-estimated the complexity of the software development that will be needed.

ISSUES

In addition to the issues discussed above, the hearings may also touch on the following subjects:

- *Safety Oversight.* The U.S. commercial aviation system has an impressive safety record, but recent accidents, including the crash of Colgan Flight 3407 in Buffalo, NY in February 2009, are stark reminders that any accident is one too many. Aviation safety is reliant on excellent training, the sharing of safety critical data and information, and strong oversight. A safe civil aviation system is important to the overall U.S. economy, not just because of the millions of jobs it supports, but also because of the global nature of the marketplace and the need to transport people and goods safely and efficiently.
- *NextGen.* According to the Government Accountability Office (GAO), implementing the highest performance levels envisioned for NextGen for ground and aircraft capabilities by 2025 could increase NextGen's costs significantly beyond the current cost estimate of \$40 billion (e.g., in some scenarios that require every aircraft to be equipped with extensive avionics in a shorter time frame, estimated costs can go as high as \$160 billion).¹⁷ If the highest performance levels are implemented over a longer period, by 2035, the cost estimates would be lower, but still would be considerably higher than \$40 billion.¹⁸ NextGen is vital. Not only will the U.S. realize true environmental benefits in terms of noise and emissions reductions, but operators will benefit from lower fuel burn and greater efficiencies in a much safer system.
- *Essential air service program.* This program was created in 1978 to ensure that no communities lost air service as a result of the Airline Deregulation Act. It provides subsidies to airlines to provide service to small communities where there are not enough passengers to operate profitably. The cost of this program has ballooned since its inception.
- *Consolidation and Realignment of FAA Facilities.* Many of the FAA facilities are 30, 40, even 50 years old. Additionally, the number and location of these facilities is based upon the capabilities and limitations of 1960's technology.¹⁹ According to the Department of Transportation Inspector General Scovel (DOT IG), a major factor in both capital and operating costs for NextGen is the degree to which the Agency eliminates or consolidates FAA facilities.²⁰

¹⁷ "Integration of Current Implementation Efforts with Long-term Planning for the Next Generation Air Transportation System", GAO-11-132R (November 2010).

¹⁸ *Id.*

¹⁹ Statement of Bruce Johnson, Vice President of Terminal Services before the Committee on Transportation and Infrastructure, Subcommittee on Aviation, on FAA's Aging ATC Facilities: Investigating the Need to Improve Facilities and Worker Conditions, July 24, 2007.

²⁰ Statement of The Honorable Calvin L. Scovel III Inspector General U.S. Department of Transportation, before the Committee on Transportation and Infrastructure, Subcommittee on Aviation, on Challenges in Meeting FAA's Long-Term Goals for the Next Generation Air Transportation System, page 5, April 21, 2010

WITNESSES

The Subcommittee will hear testimony from the following witnesses:

February 8, 2011:

- The Honorable Randy Babbitt
Administrator
Federal Aviation Administration

February 9, 2011:

- Ms. Kelly Johnson
Chairperson
American Association of Airport Executives
- Mr. Nicholas E. Calio
President and Chief Executive Officer
Air Transport Association
- Mr. Craig Fuller
President and CEO
Aircraft Owners and Pilots Association
- Mr. Peter Bunce
President and CEO
General Aviation Manufacturers Association
- Ms. Marion Blakey
President and CEO
Aerospace Industries Association
- Mr. David Conley
President
FAA Manager's Association
- Mr. Paul Rinaldi
President
National Air Traffic Controllers Association