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Modernizing the Passenger Facility Charge to Increase Airport Investment, Reduce Federal Spending, and Save Travelers Money

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The passenger facility charge (PFC) is a congressionally authorized, federally regulated local airport user fee. The PFC exists alongside the Airport Improvement Program (AIP), a federal grant program funded through aviation taxes. Together, the PFC and AIP account for approximately half of total airport funding available for capital projects.

AIP funds generally can only be used for airside projects, such as runways, taxiways, aprons, noise abatement, and land acquisitions. In contrast, the PFC funds can be used for AIP-eligible projects plus numerous landside projects, such as passenger terminal and ground transportation improvements, and can be used to service debt. For commercial airports with sizeable passenger volumes, these differences in flexibility have led to a strong preference for the PFC over AIP funding.

The federal PFC cap was last raised by Congress in 2000. Under current law, public airports in the U.S. can charge a maximum PFC of \$4.50 per boarding for the first two boardings of a one-way itinerary. Thanks to inflation, the PFC has seen its purchasing power plummet, negatively impacting airports' ability to address their growing list of needed improvements. Alternatives to the PFC are inferior from both airport revenue collection and consumer welfare perspectives. Congress should eliminate the PFC cap to promote local airport self-sufficiency, airport productive efficiency, and reduced airfares through enhanced carrier competition.

In the 115th Congress, Reps. Peter DeFazio (D-Ore.) and Thomas Massie (R-Ky.) introduced the Investing in America: Rebuilding America's Airport Infrastructure Act of 2017 (H.R. 1265). The bill called for eliminating the statutory PFC cap, requiring that large airports wishing to charge a PFC above \$4.50 to return 100 percent of their AIP funding, and proportionately reducing the annual AIP authorization by \$400 million. An identical bill for the 116th Congress (H.R. 3791) was reintroduced by Reps. Massie and Earl Blumenauer (D-Ore.) in July 2019.

Two recent research findings support the expansion of the PFC.

First, evidence suggests that PFC use has a positive effect on airport efficiency while AIP use has a negative effect. Legislation introduced in the previous Congress would have uncapped the PFC while proportionately reducing AIP authorized spending, with this change in the PFC/AIP mix expected to result in greater airport productive efficiency.

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Second, major non-aeronautical revenue sources—namely revenue from parking and rental car fees—are facing heightened risks and declining prospects as travelers opt for new ride-hailing ground transportation services to and from airports. Since the PFC charges airport users regardless of their use of airport concessions, it represents a low-risk, predictable, and sustainable revenue source.

In addition to providing airports with predictable and sustainable revenue, the PFC was also designed to promote airline competition. Beginning in the 1950s, airports negotiated long-term leases with their customer airlines to lock in airline payments so as to retire debt and finance airport improvements. In exchange for this financial support, incumbent airlines received long-term *exclusive-use* gate leases, which they used to restrict access to new and often lower-cost entrants.

In recent years, the trend has shifted. The granting of long-term exclusive-use gate leases has become less common, but limited gate availability at large and medium-sized hub airports has still been estimated to raise consumer airfares by billions of dollars every year. Therefore, the PFC serves as an important airport self-help tool that can increase airline competition, thereby diluting price-setting power by dominant incumbent airlines. This benefits air travelers in the form of improved airport facilities and lower airfares.

A Brief History of U.S. Airport Passenger User Fees. The debate over passenger user fees began more than two decades before the PFC was authorized by Congress. In the late 1960s and early 1970s, some public airports began charging passenger boarding fees of 50 cents to \$1 per passenger in an effort to recoup capital, operations, and maintenance costs from their users. Airlines filed suit against an airport authority in Indiana and the state of New Hampshire over these fees. State courts in Indiana in 1970 and New Hampshire in 1971 arrived at different conclusions on the question of whether or not these fees constituted unreasonable burdens on interstate commerce in violation of Article I, Section 8 of the Constitution. The U.S. Supreme Court granted certiorari in 1971.

In *Evansville Airport v. Delta Airlines, Inc.*, 405 U.S. 707 (1972), the Supreme Court ruled in favor of the airports. It held that user fees for state-provided facilities were constitutional because they were reasonably related to the costs of those facilities and did not discriminate between intrastate and interstate commerce. In direct response, Congress enacted the Anti-Head Tax Act as part of the Airport Development Acceleration Act of 1973.¹ This law remains on the books today and generally prohibits airports from imposing taxes or fees on air travelers.²

By the mid-1980s, the Reagan administration and members of Congress became concerned that federal aviation policy was having adverse impacts on airports and passengers. Airports had become heavily reliant on federal grant funding, and this funding relationship led to reduced airline competition at large airports to the detriment of the traveling public. Rather than eliminating the Anti-Head Tax Act, supporters of increased airport self-help and airline competition sought to create a narrow exemption to the general prohibition, allowing a federally authorized local passenger enplanement fee.

In its 1990 National Transportation Policy, known as *Moving America*, the Bush administration formally proposed the PFC.³ This proposal called for “[r]elax[ing] restrictions on the ability of State and local governments to raise revenues and use them for transportation facilities and services,” but ignored the competition benefits of this policy.⁴ This omission was noted by Thomas Gale Moore, an economist who served as a member of the Council of Economic Advisors during 1985-1989, who wrote in 1990 that “[PFC] revenue would also make airports less financially dependent on their tenant carriers and would encourage them to provide more facilities for new carriers. ... Competition at airports that are dominated by one or two carriers could thus be enhanced.”⁵

In 1990, Congress passed the Aviation Safety and Capacity Expansion Act, which established the PFC.⁶ Airports began collecting PFCs in 1992. Initially, the maximum PFC was set at \$3 and airports charging the \$3 PFC were required to return 50 percent of their AIP apportionments. In 2000, Congress passed the Wendell H. Ford Aviation Investment and Reform Act for the 21st Century, which increased the maximum PFC to \$4.50 with an increased AIP apportionment turn-back of 75 percent for imposing PFCs greater than \$3.⁷ This was the last time the PFC cap was raised. Efforts to increase the cap or eliminate it entirely have so far been unsuccessful.

The PFC’s Advantages over AIP Funding. Airports in the U.S. have a variety of revenue sources for capital projects, but the largest sources are the PFC and AIP. These two sources combined account for half of total airport funding available for capital projects, according to a Government Accountability Office review of Federal Aviation Administration data and interviews with airport officials.⁸ The PFC is a local user fee collected by airlines and remitted directly to airports, with those funds never touching the federal treasury. In contrast, AIP is a federal grant program under the Airport and Airway Trust Fund that is funded by aviation taxes on tickets, flight segments, cargo waybills, fuel, international arrivals and departures, and frequent flyer awards.⁹

PFCs and AIP funds complement one another by supporting different classes of airport projects, which is largely a function of differences in project eligibility.¹⁰ This is because AIP-eligible projects are PFC-eligible projects, but not vice versa. AIP is generally used to fund airside construction projects, such as runways, taxiways, aprons, noise abatement, and land acquisition. In contrast, PFCs are generally used to finance landside improvements such as new gates and new passenger terminals at hub airports, which are not eligible for AIP funding.

Importantly, the PFC, unlike AIP funds, can be used to service debt, such as airport revenue bonds.¹¹ Moreover, because the PFC is a local user fee, federal statutory and regulatory requirements on labor and procurement that impact AIP funding do not apply to projects solely funded or financed by PFC revenue.¹² The table below from the Congressional Research Service provides a comparative breakdown of the use of these complementary programs.

Table 1. Distribution of PFC Approvals and AIP Grants, FY 2018¹³

Type of Project	Percentage of PFC	Percentage of AIP
Airside	9.1	67.4
Landside	48.1	12.8
Noise	0.3	4.5
Roads/ Access	11.7	1.0
Interest on bonds	30.9	n/a
Unclassified, state block grants, misc.	n/a	14.2
Total	100	100

The flexibility of the PFC vis-à-vis AIP also has consequences for airport productivity. Recent research has found that increasing airport reliance on PFC revenue while decreasing airport reliance on AIP revenue increases airport productive efficiency.¹⁴ This enhanced productivity is thought by researchers to be the result of the PFC being available to finance for a wider array of airport projects than AIP funding, which allows airports to better prioritize their infrastructure needs and undertake projects with greater returns on investment. The implication is that leaving the PFC cap at the current \$4.50 while increasing AIP funding by spending down the unobligated funds in the Airport and Airway Trust Fund would have a negative efficiency impact.

This also suggests that bipartisan legislation introduced in both the 115th and 116th Congresses to eliminate the PFC cap, require 100-percent AIP funding turn-back for charges over \$4.50, and proportionately reduce the total annual AIP authorization by \$400 million would not only reduce federal spending and promote local self-help, it would raise airport productivity.¹⁵

The PFC Is Superior to Alternative Non-Aeronautical Revenue Sources. It has been claimed that airports should rely more on non-aeronautical revenue as a substitute for raising or eliminating the PFC cap.¹⁶ Certainly, airports should examine opportunities to generate non-aeronautical revenue, as the collection of revenue from these sources generally does not impact airfares and air travel demand. In 2018, nationwide PFC collections totaled \$3.51 billion.¹⁷ In the same year U.S. commercial service airports generated \$22.42 billion in total operating revenue.¹⁸ Of that total, 45.6 percent came from non-aeronautical revenue sources.¹⁹ The table below breaks down non-aeronautical revenue for 474 reporting commercial airports:

Table 2. Airport Non-Aeronautical Revenue Sources, FY 2018²⁰

Land and non-terminal facility leases/revenues	\$768,262,542 (07.5%)
Terminal-food and beverage	\$821,386,722 (08.0%)
Terminal-retail stores and duty free	\$821,505,005 (08.0%)
Terminal-services and other	\$488,355,574 (04.8%)
Rental cars-excludes customer facility charges	\$1,829,773,160 (17.9%)
Parking and ground transportation	\$4,279,600,849 (41.9%)
Hotel	\$186,525,122 (01.8%)
Other	\$1,028,815,669 (10.1%)
Total Non-Aeronautical Revenue	\$10,224,224,643 (100%)

As the data show, 59.8 percent of non-aeronautical airport revenue came from rental cars, parking, and other ground transportation, with that revenue being largely used to fund airport operations as well as revenue-generating capital projects not eligible for either AIP or PFC support. Yet this dominant portion of non-aeronautical revenue also carries the greatest revenue risk. In recent years, Americans have been increasingly using ride-hailing services such as Uber and Lyft to travel to and from airports. A recent study from the Airport Cooperative Research Program found that the introduction of ride-hailing has led to an 18 to 30 percent decline in the use of shared-ride vans, a 4 to 13 percent decline in rental car transactions, and a 5 to 10 percent decline in parking transactions.²¹

While these estimates are based on a limited sample and research is ongoing, preliminary data suggest these declines in revenue are likely to exceed any new airport fee revenue generated from ride-hailing.²² This means that as ride-hailing services continue to grow in popularity, this ground transportation net revenue decline may get worse. Increasingly risky non-aeronautical airport revenue is not a viable substitute for proportional and predictable passenger user fee revenue.

A Modernized PFC Can Enhance Airline Competition and Reduce Airfares.

As noted above in the discussion of the history of the PFC, a second non-fiscal aim of the PFC was to enhance airline competition and promote lower consumer airfares. In the 1950s and 1960s, in exchange for airlines committing to rents and other fees to service existing airport debt and other financing arrangements, many airports granted incumbent airlines long-term exclusive-use gate leases. This led to a minority of gates being available for new carrier entrants.²³

These gate access limitations harm consumers. Economists have estimated that airfares are \$5.72 billion higher in 2018 dollars than they would be with adequate gate access to support new carrier entrants at large and mid-sized airports.²⁴ This figure dwarfs the \$3.51 billion in nationwide PFC collections in 2018.²⁵

That the PFC serves as a sustainable revenue source insulated from airline control is uncontroversial. And, as noted above, hub airport gate expansions are not eligible for AIP funding. Further expanding the purchasing power of the PFC by eliminating the statutory cap with a focus on improving airline competition—especially through the expansion of common use gates available to new carrier entrants—could result in substantial fare savings for consumers. These savings could more than counteract the modest negative marginal impact on travel demand of increased PFCs, as estimated by the Government Accountability Office, especially if airline ancillary fees were to be included in the full price unit of analysis.²⁶

Airlines may not be as concerned about the impact of an increased PFC on their business operations as they publicly claim, the most obvious example being the rise in airline ancillary charges for checked baggage, carry-on baggage, seat selection, and other services previously bundled into fares. To be sure, theory and evidence suggests the unbundling of baggage and other services from fares can benefit consumers by providing lower base fares and a menu of options.²⁷ However, the same theory is ambiguous on total price effects (base

fare plus ancillary charges for previously bundled services) and evidence suggests consumers do not enjoy the full benefits of airfare unbundling.²⁸ This suggests that ancillary fees increase total full fares paid by consumers who choose to pay for the same services that were previously included in base airfares prior to unbundling.

Another noteworthy example is the failure by numerous airlines to disclose possible PFC increases as a risk to their investors in required annual reports filed with the Securities and Exchange Commission (SEC). In recent congressional testimony, the CEO of ultra-low-cost carrier Spirit Airlines, which unbundles nearly all services from fares and has a lengthy menu of ancillary services and fees, alleged that PFC increases would uniquely threaten his particularly price-sensitive customer business model.²⁹ But if that is the case, then why did Spirit's most recent annual Form 10-K filing did not mention this as a business risk, as some other airlines do in their SEC filings? This is especially curious given Spirit's 10-K filing specifically cites its ability to "access sufficient gates" as a significant risk factor, and one that could be mitigated by PFC-financed gate expansions.³⁰ Perhaps PFC increases are not such a big threat to airline business after all.

Conclusion. The passenger facility charge is a valuable airport financing tool that is often misunderstood in Washington. Not only does this user fee offer advantages over taxpayer funding, the PFC's flexible nature relative to Airport Improvement Program grants can promote both increased airport productive efficiency and increased airline competition, leading to lower fares.

Fortunately, there is growing support for modernizing the PFC. In the 115th Congress, one of the most conservative House members joined forces with a former chair of the Congressional Progressive Caucus to introduce legislation to uncap the PFC. The Investing in America: Rebuilding America's Airport Infrastructure Act earned broad support across the political spectrum and was reintroduced with bipartisan cosponsors in the 116th Congress.

As Congress continues to discuss a potential comprehensive infrastructure bill, it should include provisions to modernize the PFC to meet airport investment needs. Alternatives to the PFC are either inadequate from a revenue-collection perspective or come with costly regulatory strings that unnecessarily increase airport development costs and thereby depress investment. Uninformed conflation of the PFC with a tax will likely continue from airlines and their allies, but it appears members of Congress are increasingly informed on the virtues of the PFC relative to its alternatives.

To maximize fairness and efficiency in PFC reform, Congress should pass legislation along the lines of the Investing in America: Rebuilding America's Airport Infrastructure Act. The PFC cap should be eliminated and any airport that opts to charge a PFC in excess of the current \$4.50 maximum should be required to forgo 100 percent of its AIP funding. From there, the total annual AIP authorization should be proportionately reduced, rather than recycling the forgone AIP funding from airports that opt for a PFC greater than \$4.50 back into AIP formula or discretionary programs. This change in federal policy would increase

airport investment, promote greater airport productive efficiency and local self-help, and reduce federal spending by hundreds of millions of dollars per year.

Notes

¹ S. Rep. No. 12, 93rd Congress, First Session 12 (1973), reading in part: “The provision is in response to a situation which has been brought about by [*Evansville Airport v. Delta Airlines, Inc.*], upholding passenger head taxes enacted by New Hampshire and by Evansville, Indiana, for ‘aviation-related purposes.’ While this decision has invited state and local governments to enact head taxes or fees on air travelers, the Court decision does not provide adequate safeguards to prevent undue or discriminatory taxation.”

² 49 U.S.C. § 40116.

³ U.S. Department of Transportation, *Moving America: New Directions, New Opportunities—A Statement of National Transportation Policy Strategies for Action*, February 1990, p. 57, <https://rosap.ntl.bts.gov/view/dot/531>.

⁴ *Ibid.*

⁵ Thomas Gale Moore, “Good Enough for Government Work: Why Moving America Is Unsatisfactory,” *Regulation*, Vol. 13, No. 1, Summer 1990, p. 15, <https://object.cato.org/sites/cato.org/files/serials/files/regulation/1990/7/v13n2-2.pdf>.

⁶ Presently codified as amended at 49 U.S.C. § 40117.

⁷ 49 U.S.C. §§ 40117(b)(4) & 47114(f)(1)(B).

⁸ Statement for the Record to the Subcommittee on Aviation Operations, Safety, and Security, Committee on Commerce, Science, and Transportation, U.S. Senate of Gerald L. Dillingham, Ph.D., Director, Physical Infrastructure Issues, Government Accountability Office, March 23, 2017, p. 7, <https://www.gao.gov/assets/690/683640.pdf>.

⁹ Federal Aviation Administration, “Current Aviation Excise Tax Structure,” accessed March 19, 2019, https://www.faa.gov/about/budget/aatf/media/Excise_Tax_Rate_Structure_2018.pdf.

¹⁰ Federal Aviation Administration Order 5500.1, “Passenger Facility Charge,” August 9, 2001, pp. 12-13, https://www.faa.gov/documentLibrary/media/Order/PFC_55001.pdf.

¹¹ Rachel Y. Tang, “Financing Airport Improvements,” Congressional Research Service, March 15, 2019, p. 15, <https://crsreports.congress.gov/product/pdf/R/R43327>.

¹² Federal Aviation Administration, “PFC and the AIP,” accessed March 19, 2019, https://www.faa.gov/airports/central/pfc/pfc_aip/.

¹³ Table replicated from Yang, “Financing Airport Improvements,” p. 15. Amounts rounded up to 100 percent.

¹⁴ Bo Zou et al., “US airport financial reform and its implications for airport efficiency: An exploratory investigation,” *Journal of Air Transport Management*, Vol. 47, August 2015, pp. 66-78.

¹⁵ Investing in America: Rebuilding America’s Airport Infrastructure Act, H.R.1265, 115th Cong., 1st Sess. (2017). Investing in America: Rebuilding America’s Airport Infrastructure Act, H.R. 3791, 116th Cong., 1st Sess. (2019).

¹⁶ Letter from Pete Sepp, President, National Taxpayers Union to Reps. Peter DeFazio and Sam Graves, February 7, 2019, <https://www.ntu.org/publications/detail/ntu-pens-letter-to-transportation-committee-regarding-the-passenger-facility-charge>.

¹⁷ Federal Aviation Administration, “Key Passenger Facility Charge Statistics as of June 30, 2019,” https://www.faa.gov/airports/pfc/monthly_reports/media/stats.pdf.

¹⁸ Federal Aviation Administration, CATS, Form FAA-5100-127 Report data, <https://cats.airports.faa.gov/Reports/reports.cfm>.

¹⁹ *Ibid.*

²⁰ Form FAA-5100-127 Report data (2018).

²¹ Peter Mandle and Stephanie Box, “Transportation Network Companies: Challenges and Opportunities for Airport Operators,” *Airport Cooperative Research Program Synthesis 84*, National Academies of Sciences,

Engineering, and Medicine, 2017, p. 5, <https://www.nap.edu/catalog/24867/transportation-network-companies-challenges-and-opportunities-for-airport-operators>.

²² Ibid., pp. 28, 33.

²³ Steven A. Morrison and Clifford Winston, “Delayed! U.S. Aviation Infrastructure Policy at a Crossroads,” *Aviation Infrastructure Performance: A Study in Comparative Political Economy*, eds. Clifford Winston and Gines de Rus, 2008, pp. 20-22, https://www.brookings.edu/wp-content/uploads/2016/06/Winston_aviation_chpt2.pdf.

²⁴ Ibid, p. 22. \$4.4 billion in January 2005 dollars adjusted by Consumer Price Index to January 2018 dollars via Bureau of Labor Statistics’ CPI Inflation Calculator, <https://data.bls.gov/cgi-bin/cpicalc.pl>.

²⁵ Federal Aviation Administration, “Key Passenger Facility Charge Statistics as of June 30, 2019.”

²⁶ Government Accountability Office, “Raising Passenger Facility Charges Would Increase Airport Funding, but Other Effects Less Certain,” GAO-15-107, December 2014, <https://www.gao.gov/assets/670/667444.pdf>.

²⁷ Jan K. Brueckner, Darin N. Lee, Pierre M. Picard, and Ethan Singer, “Product Unbundling in the Travel Industry: The Economics of Airline Bag Fees,” *Journal of Economics and Management Strategy*, Vol. 24, No. 3, September 2015, pp. 457-484, http://www.socsci.uci.edu/~jkbrueck/course%20readings/bag_fee.pdf.

²⁸ Ibid.

²⁹ Written testimony of Ted Christie, President and CEO, Spirit Airlines, Inc., before the House Transportation and Infrastructure Committee, March 26, 2019, [https://transportation.house.gov/imo/media/doc/Christie%20Testimony%20\(corrected\).pdf](https://transportation.house.gov/imo/media/doc/Christie%20Testimony%20(corrected).pdf).

³⁰ Spirit Airlines, Form 10-K for the fiscal year ended December 31, 2018, p. 22, <https://www.sec.gov/ix?doc=/Archives/edgar/data/1498710/000149871019000015/save-20181231x10k.htm>.