



February 7, 2019

The Honorable Peter DeFazio  
Chairman  
Transportation and Infrastructure Committee  
2134 Rayburn House Office Building  
Washington, D.C. 20515

The Honorable Sam Graves  
Ranking Member  
Transportation and Infrastructure Committee  
1135 Longworth House Office Building  
Washington, D.C. 20515

Dear Chairman DeFazio and Ranking Member Graves:

On behalf of the supporters of National Taxpayers Union (NTU), the nation's oldest taxpayer advocate organization, I write to offer our comments regarding a hearing the Committee is holding this week entitled, "The Cost of Doing Nothing: Why Investing in Our Nation's Infrastructure Cannot Wait." At this hearing you will have the opportunity to seek answers for important questions regarding infrastructure spending and taxes from a variety of experts. It is our hope that your questions will reflect the direct role taxpayers have in this debate.

It is widely believed that a bipartisan infrastructure package could possibly become law in this Congress. While details on such a package have yet to be revealed, including the all-important funding and financing mechanisms, it should be a priority for the Committee to pass legislation to adhere to a set of basic, commonsense principles, such as: private investment comes first; public investment must be accountable and results-driven; regulations have to be sensible and flexible; and, revenue discussions must begin from a transparent, user-pays perspective. As you may recall, for example, NTU was a signatory to a January 24 letter to Members urging their continued support for thoughtful exploration of an interoperable user charge system for highways as an eventual replacement for fuel taxes.

While there are many topics to be discussed at the hearing that are of interest to taxpayers, one specific area that could be raised is whether to increase the maximum federally authorized Passenger Facility Charge (PFC) that airports can levy for local improvement projects. NTU would urge caution on this matter, for the following reasons:

- The federal cap on the PFC – currently \$4.50 per passenger enplanement or \$18 total per itinerary – has not been increased since 2000, despite a doubling of revenue generated from the charge. This rise in revenue, without a rise in the rate, has remained ahead of inflation plus passenger enplanements at primary U.S. airports.
- Rather than increasing the PFC, the 2018 FAA Reauthorization Act required a study of airport diversion of PFC revenues -- a sign of at least some concern on Congress's part that proceeds from the charge may

be suffering from inefficient or ineffective utilization. It would be premature to expand the PFC in such an environment, without considering other systemic reforms.

- Unlike the chronically anemic Highway Trust Fund, which faces serious shortages absent major structural changes in financing and expenditures, the Airport Trust Fund is in a strong fiscal position with uncommitted resources that could exceed \$7.5 billion this year. In recent years airport capital expenditures have been rising dramatically, a trend that is likely to be encouraged since the passage of the Tax Cuts and Jobs Act (TCJA). That law wisely avoided detrimental changes in private activity bond tax rules that could have harmed airports, while also repealing the corporate Alternative Minimum Tax that plagued the treatment of airport-related debt instruments. These features, combined with more robust concession revenues, privately-financed terminal improvements, and other positive developments will likely be more effective than PFCs in providing dependable revenue streams going forward.
- The PFC has been historically linked to Airport Improvement Program (AIP) grants, which were funded at a stable five-year amount in the FAA Reauthorization Act of 2018. Currently, large and medium sized airports lose part of their AIP funding if they are recipients of a PFC above a certain level. Unfortunately, taxpayers do not benefit from this exchange -- the “lost” AIP grants for these hubs have often been reprogrammed to other FAA funds that can be used for airport projects. NTU has yet to see a viable plan that would phase out other forms of federal support for airports and truly offset the rise in current PFC revenues -- let alone offset a legislated PFC hike. Again, the net result is a loss for taxpayers.
- Typically, taxes and fees can account for more than 20 percent (or more than \$60) of a typical \$300 round-trip ticket. A \$4 PFC increase, as some proposed in the previous Congress, could result in a middle class family of four paying \$100 or more in PFCs alone -- a significant expense for many Americans. While it is important that Americans have access to modernized airports, such access will be of little consequence if government-imposed burdens on air travel such as these make the purchase of tickets prohibitive for travelers in the first place.

It is likewise important to contrast the PFC with other concepts (such as Vehicle Miles Traveled taxes or National Park Admission fees) that are better grounded in “user-pays” principles. Ultimately, the PFC is a federally overseen charge that falls upon travelers, just as airline ticket excise taxes do. If this charge truly is to be structured as a user fee that enables “local control,” then the technology is evolving to remove the federal government from the process entirely and allow each facility to collect whatever it wishes at the point of entry. Although a 2013 Government Accountability Office report cited “considerable challenges” to this approach, it also noted that “in the future ... it is possible that some of these challenges will be reduced as technology advances or that airports might be willing to accept the additional costs and impose additional passenger burdens in return for an increase in their capital funding.” Six years later, that future is taking shape: Las Vegas International Airport allows customers to use common kiosks where they can check in and purchase services from any airline operating there. It would not be terribly difficult to adapt this emerging innovation to PFCs.

A bold infrastructure package is possible, but taxpayer interests should be at the forefront of all policymakers’ minds. As far as aviation infrastructure goes, Congress moved in the right direction by including an expansion of the Airport Privatization Pilot Program in last year’s reauthorization. More steps, such as allowing greater

latitude with private security screening contracts and moving toward a user-financed air traffic control system, can be taken. Congress also has pro-taxpayer building blocks for other areas of infrastructure, such as the Public Buildings Renewal Act (HR 960) and the Revamping American Infrastructure Act (HR 2714) from the last session.

NTU would welcome the opportunity to work with all Members of the Committee in advancing an infrastructure package that serves all Americans in a bipartisan, fiscally responsible manner. Should you or your staff have any questions, we are at your service. Thank you for your consideration.

Sincerely,

Pete Sepp  
President