

Congress of the United States

U.S. House of Representatives

Committee on Small Business

2361 Rayburn House Office Building

Washington, DC 20515-6515

Memorandum

To: Members, House Committee on Small Business
From: Committee Staff
Date: September 5, 2012
Re: Hearing: "User Fees in the Aviation Industry: Turbulence Ahead"

Introduction

At 1:00 PM on September 12, 2012, the Committee on Small Business will meet for the purpose of receiving testimony on proposals to impose user fees on operators in the aviation industry. The purpose of this hearing is to discuss the negative financial and regulatory impact of user fees on the aviation industry.

Aviation Industry Primer

The United States aviation system can be divided into three parts: scheduled operations, including passenger airlines and cargo shippers; general aviation; and military (the latter is beyond the scope of this hearing). This memorandum will discuss the current state of the commercial aviation industry, detail the economic impacts of the industry, and examine the potential impact of a per-flight user fee.

Before continuing, it is useful to differentiate between these various segments of the aviation industry. Scheduled operations include all of the major airlines and cargo shippers such as FedEx and UPS. Commercial aviation is a substantial global economic driver. In 2009, air carriers operating in United States airspace transported 793 million passengers over 1,039.3 billion revenue passenger miles (RPM).¹ More than 53 billion revenue ton-miles (RTM) of scheduled freight passed through American airports in 2009.²

The total impact of commercial aviation is not just measured in RPMs and RTMs. The United States civil aviation manufacturing industry continues to be a top net exporter. According to 2009 data from the United States International Trade Commission, the civilian aviation manufacturing industry supported a positive trade balance of over \$75 billion.³ Additionally, data from 2008 shows that air transportation engendered economic activity in other

¹ UNITED STATES DEPARTMENT OF TRANSPORTATION, FEDERAL AVIATION ADMINISTRATION, THE ECONOMIC IMPACT OF CIVIL AVIATION ON THE U.S. ECONOMY, 4 Aug., 2011 (hereinafter FAA ECONOMIC IMPACT).

² *Id.*

³ *Id.*

sectors of the economy with air travelers spending of \$249.2 billion on goods and services and freight valued at \$562.1 billion being transported domestically or to other countries.⁴

While there is no statutory or regulatory definition of general aviation, it typically includes all flight operations of aircraft registered in the United States under a part of the Federal Aviation Administration (FAA) rules other than Part 121.⁵ The FAA further parses general aviation into various use categories: personal (aircraft not used for any business purpose); instructional (aircraft operated under the supervision of a flight instructor); corporate (aircraft used by a business but the pilot owns the business); air taxi and tours (aircraft used to ferry passengers or cargo if the payload of the plane is below a certain weight or passenger configuration); and other miscellaneous uses (such as highway traffic reporting, search and rescue, or pest control) that do not include carrying of passengers or cargo.⁶ In addition, general aviation also includes ancillary services needed to support flight operations including flight schools, aircraft fuel suppliers and storage, aircraft maintenance, and airport operations.⁷

General aviation accounts for about 27 million flight hours and carries 166 million passengers to around 5,000 communities, many of which have no scheduled commercial air service operated under part 121 of the FAA's rules. More than two-thirds of general aviation flights are for business purposes.⁸ No precise estimate exists on the total number of small businesses involved in general aviation. However, the Small Business Administration (SBA) estimates that approximately 94 percent of the firms (about 2,700) that provide air transportation services (cargo or passenger) have fewer than 500 employees and are considered small businesses under the SBA's size standard regulations.

In addition to the businesses at the operational end of the general aviation industry, there is another set of businesses involved in the development and manufacturing of general aviation aircraft. The SBA data reveal that there are about 1,200 firms involved in the manufacturing of aircraft and parts, of which 90 percent are small businesses.⁹

Overall, general aviation, both operations and manufacturing, employ about 1.2 million people and contribute approximately \$150 billion to the overall gross domestic product.¹⁰ And this statistic could underestimate the total impact because it does not count many other businesses that rely on general aviation in some way, such as tourism associated with the use of private planes.

⁴ *Id.*

⁵ GAO, GENERAL AVIATION: STATUS OF THE INDUSTRY, RELATED INFRASTRUCTURE, AND SAFETY ISSUES 10 n. 1 (Aug. 2001) (GAO01-916). In less technical language, general aviation includes all "aspects of the aviation industry except scheduled passenger and cargo airline operations and military flying." NATIONAL AIR TRANSPORTATION ASSOCIATION, GENERAL AVIATION IN THE UNITED STATES 1 (2007).

⁶ *Id.* at 10-12.

⁷ NATIONAL AIR TRANSPORTATION ASSOCIATION, GENERAL AVIATION IN THE UNITED STATES 1 (2007).

⁸ *Id.*

⁹ Letter from Sam Graves, Chairman, House Committee on Small Business, to Erik Jensen, Chief, Policy, Plans & Stakeholder Affairs, Office of General Aviation, Transportation Security Administration, Department of Homeland Security 5 (Feb. 27, 2009) (on file with author).

¹⁰ GENERAL AVIATION MANUFACTURERS ASSOCIATION, GENERAL AVIATION STATISTICAL DATABOOK & INDUSTRY OUTLOOK ii (2008).

Economic Uncertainty and the Aviation Industry

The overall economic impact of non-military aviation is quite significant. In 2009, civil aviation supported over 10 million jobs, contributed \$1.3 trillion in total economic activity and accounted for 5.2 percent of total United States Gross Domestic Product.¹¹

Despite the robust contribution of commercial aviation to the economy, the last decade was a difficult one for the commercial airline and general aviation industries. The impacts of the September 11, 2001 terrorist attacks, various spikes in both fuel and manufacturing materials and the global recession have all played a part. It has been estimated that American airlines suffered \$60 billion in net losses and 160,000 jobs were lost between 2001 and 2009.¹² There also have been significant economic consequences on general aviation including substantial drop off in airplane production and delivery.¹³ And like the commercial aviation industry, general aviation has had to deal with spikes in fuel and material costs. While the commercial aviation industry has responded well through innovation and increasing revenue streams, the industry as a whole still remains as fragile as the rest of the American economy.

User Fees and their Impact on General Aviation

In his fiscal year 2013 budget, President Obama proposed to create a \$100 per flight fee, payable to the Federal Aviation Administration, by aviation operators who fly in controlled airspace. All piston aircraft, military aircraft, public aircraft, air ambulances, and aircraft operating outside of controlled airspace would be exempted.

This proposal (which would be implemented on top of all current taxes and fees) would not only create significant new economic and administrative burdens on general aviation operators (the vast majority of which are small businesses) who currently pay taxes through an efficient per-gallon fuel charge at the pump, but it also would necessitate the creation of a costly new federal collection bureaucracy.

The issue of how general aviation can best contribute to revenue to the federal government has been the subject of significant debate as part of the FAA reauthorization process. After careful consideration, both chambers of Congress passed legislation that President Obama signed¹⁴ that endorsed the per-gallon fuel charges rather than adopt a per-flight tax similar to the one proposed by President Obama.

¹¹ FAA ECONOMIC IMPACT 3.

¹² JOHN HEIMLICH, AMERICAN TRANSPORTATION ASSOCIATION, THE UNRELENTING QUEST FOR SUSTAINED PROFITABILITY, Dec. 2010. available at: <http://www.airlines.org/Pages/2010-Airline-Industry-Economic-Perspective.aspx>.

¹³ *The Global Competitiveness of the U.S. Aviation Industry: Addressing Competition Issues to Maintain U.S. Leadership in the Aerospace Market: Hearing Before the Senate Committee on Commerce, Science and Transportation, Subcommittee on Aviation Operations, Safety and Security, 112th Congress (2012)* (Statement of Pete Bunce, President and CEO, General Aviation Manufacturers Association).

¹⁴ Pub. L. No. 112-95, 126 Stat. 11 (2012).

Funds collected via aviation fuel and excise taxes go into the Airport and Airway Trust Fund (Trust Fund). Modeled on the Highway Trust Fund, this trust fund was designed to assure an adequate and consistent source of funds for federal airport and airway programs. The Trust Fund is also the primary funding source for most FAA activities in addition to federal grants for airports. These include facilities and equipment (F&E); research, engineering, and development (R, E&D); and FAA operations and maintenance (O&M). O&M also, however, receives some funding from the Treasury general fund. Air traffic system capital maintenance and improvement falls primarily under the F&E category. The Trust Fund was to have been both a capital account and, when excess funds existed, a user-pay system to help support FAA's administrative and operations costs.¹⁵

The money that goes into the Trust Fund comes from a variety of other aviation user fees and fuel taxes. The general aviation community has always financially contributed to the national air transportation system. Since the inception of the Trust Fund, the general aviation community has contributed to the system through a fuel tax. General aviation pays a 21.9 cents-per-gallon tax on jet fuel and a 19.4 cents-per-gallon tax on aviation gasoline.

Because this setup directly transfers tax revenues from the user to the government, it is highly efficient – a large bureaucracy is not required for collection. This is a contrast to the costly and burdensome per-flight collection systems used in Europe and elsewhere. Fuel-based fees are also easy to understand and simple to pay (which is especially important for small operators who do not have the benefit of tax attorneys and accountants to help them sort through tax regulations). This process also raises few audit concerns and because fuel taxes are included in the amount charged for fuel, it is nearly impossible to avoid paying.

Finally, and perhaps the most beneficial, fuel taxes are assigned fairly. Operators that fly more often or for longer periods of time, and therefore use the FAA services more frequently, pay more in fuel taxes.

Conclusion

General aviation businesses are predominantly small businesses. The fuel tax system is the easiest, fairest, and most efficient system to pay into the Airport and Airway Trust Fund because it is simple to use, nearly impossible to skirt, and requires neither burdensome paperwork for the operators nor a federal bureaucracy to collect the tax. Imposing a \$100 per-flight user fee (or any amount) on operators has the very real potential to stifle job creation in the aviation industry at a time when Congress ought to be enacting policies helping the private sector create jobs; not suppress them.

¹⁵ GAO, CONGRESSIONAL INTENT: WHETHER OR NOT THE AIRPORT AND AIRWAY TRUST FUND WAS CREATED SOLELY TO FINANCE AVIATION "INFRASTRUCTURE" 17 pages (Feb. 1999) (B-281779), *available at*: <http://www.gao.gov/assets/340/330874.pdf>.