March 1, 2023

RE: CSAC FAA REAUTHORIZATION PRIORITIES

Dear Members of the California Congressional Delegation:

On behalf of the California State Association of Counties (CSAC), I'm writing to convey our association's policy priorities for the reauthorization of the Federal Aviation Administration (FAA). As owners and operators of a number of major commercial airports and general aviation facilities across California, counties play a key role in our state and national air transportation systems.

<u>Key FAA Funding Priorities</u>

Airport infrastructure has suffered from chronic underfunding for many years, even before the COVID-19 pandemic led to a dramatic decline in air travel and a corresponding drop in the user-fee generated revenues that help finance aviation projects. As of March 2021, the nation's airports had a backlog of $115 billion in planned and much-needed infrastructure projects.[1] Although the $25 billion in aviation funding that was approved as part of the *Infrastructure Investment and Jobs Act* (IIJA) will help alleviate a portion of that backlog, there are still tens of billions of dollars' worth of unmet project needs. It should be noted that because of the continued lack of funding, local airports have been forced to prioritize smaller, immediate needs like maintenance of aging structures and systems at the expense of investing in larger, higher-impact projects that would modernize aviation facilities and increase capacity.

At the federal level, the Airport Improvement Program (AIP) is a core source of financial support for California's public-use airports. Pursuant to the program, AIP grants help fund critically important airport infrastructure, safety, and security projects, including the construction and repair of runways, taxiways, and other airfield priorities. A major advantage of the AIP is that the program provides funds for capital projects without the financial burden of debt financing, although airports are required to provide a local match.

Despite being a key source of federal support for aviation projects, the AIP has remained flat funded for over a decade, which has contributed to the backlog in aviation capacity and enhancement projects. Coupled with the fact that the number of passengers using the aviation system is expected to increase from 700 million passengers today to 1 billion in another 10 to 15 years, it is critically important that Congress provide the maximum

[1] *Building the Runway to Economic Growth*, ACI-NA 2021 Infrastructure Report, March 2021

level of funding for the AIP so that airport authorities are able to modernize and enhance their critical infrastructure.

In addition to the AIP, the Essential Air Service (EAS) program and the Small Community Air Service Development Program (SCASDP) are vitally important to a number of California's rural airports. For its part, the EAS program supports commercial air service to traditionally small and isolated communities by providing subsidies to carriers that offer service between EAS communities and major hub airports. Without this support, small communities would be unable to stay connected to the national aviation network.

With regard to SCASDP, this competitive grant program is designed to help small communities address air service and airfare issues. Pursuant to SCASDP's eligibility criteria, grant applicants have the opportunity to self-identify air service deficiencies and propose appropriate solutions. Participation is limited to those communities where the airport is not larger than a primary small hub, the service is insufficient, and the air fares to the community are unreasonably high. Congress should ensure that both the EAS and SCASDP programs are fully supported as part of the 2023 FAA reauthorization measure.

Passenger Facility Charge

The Passenger Facility Charge (PFC) is a small user fee on tickets that goes directly to the airports used by travelers. PFC revenues can be used for a broad range of activities, including "landside" aviation-related projects that involve everything accessible to the public, like access roadways, transit connections, and terminals. Regrettably, the federally imposed cap on the PFC is at a level that is not commensurate with current revenue needs. In fact, the cap was last raised by Congress in 2001 from $3.00 to $4.50. Accounting for increases in construction costs, the buying power of this important revenue generating tool has been nearly cut in half since it was last increased.

On top of being fiscally constrained by the amount of revenues that can be generated via the PFC, local airport authorities were required under the 2012 FAA reauthorization law (P.L. 112-95) to increase, from five to 10 percent, their local match for AIP-funded projects. Particularly for smaller jurisdictions – many of which use PFC revenue as their primary funding source for the AIP match – the higher cost-share requirement has resulted in a reduction in the number of aviation projects that are able to be performed.

Moving forward, Congress should reduce the AIP's local match requirement, particularly for small airports, and allow airport operators to make adjustments in their PFCs.

State and Local General Sales Tax Protection Act

Earlier this year, Representative Grace Napolitano (D-CA) reintroduced the *State and Local General Sales Tax Protection Act*. This important legislation (H.R. 695), which is strongly supported by CSAC, would protect states and localities from federal government intrusion regarding the use of their general sales tax revenues.

By way of background, the FAA issued a rule (*79 FR 66282*) in 2014 that requires states and local governments to spend the proceeds of *any* aviation-related tax – those derived from excise taxes and local sales taxes – for airport capital and operating costs. Incidentally, the rule contradicts the intent of the 1987 *Airport and Airway Improvement Act* (P.L. 100-223) and essentially overturns decades of legislative interpretation. Pursuant to P.L. 100-223, airports are required to spend jet fuel excise tax revenues on aviation-related purposes only. In fact, the Conference Report to the Act clearly states that the requirement that local taxes on aviation fuel must be spent on airports "is intended to apply to ***local fuel taxes only, and not to other taxes imposed by local governments, or to state taxes***."[2]

According to the California State Board of Equalization (BOE), the FAA's policy change, if fully enforced, will divert $17 million away from State law enforcement purposes and $17 million away from State health and social programs annually. Moreover, CA BOE estimates that an additional $24 million per year in local general sales taxes will be diverted from their voter-approved purposes. In California, 33 counties administer local voter-approved sales taxes, the proceeds of which support a number of critical governmental functions, including transportation, first responders, and education. The FAA's rulemaking is an affront to local control of general application sales tax initiatives, as the policy effectively overturns the decision of local voters in taxing themselves for specific purposes. Furthermore, because sales taxes on aviation fuel are not segregated from other taxable sources, states and local governments must implement an extensive new tracking system(s) in order to comply with the FAA's policy, which represents an unfunded mandate. In sum, it is critically important that Congress include the text of the *State and Local General Sales Tax Protection Act* as part of this year's FAA rewrite.

Thank you for your attention to these important issues. We look forward to working with you to advance an FAA reauthorization measure that provides strong financial support for local airports and promotes and retains local control and decision making.

Sincerely,

Graham Knaus
CSAC Executive Director

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[2]H.R. Conf. Rept. No. 484, 100th Cong., 1st Sess. 1987 accompanying P.L. 100-223