

TO: AIRPORT COMMISSION

FROM: Matthew Kazmierczak
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SUBJECT: Legislative Update

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FEDERAL

Build Back Better Framework

The White House recently released the updated [Build Back Better framework](#), also known as the budget reconciliation bill. After weeks of negotiations, the plan has been cut back to \$1.75 trillion from the original \$3.5 trillion proposal. As a result, many items have been scaled back or excluded from the final framework due to cost concerns. Votes on the measure have not been scheduled.

Sustainable Aviation Fuel - The framework includes a refundable blenders tax credit for each gallon of sustainable aviation fuel sold as part of a qualified fuel mixture. The value of the credit is determined on a sliding scale, equal to \$1.25 plus an additional \$0.01 for each percentage point by which the lifecycle emissions reduction of such fuel exceeds 50%. This provision applies to fuel sold or used after December 31, 2022. The credits allowed under this provision expire after December 31, 2026.

Infrastructure Plan – The American Jobs Plan

House is expected to hold a final vote on the Senate-passed *Bipartisan Infrastructure Framework* (BIF) bill. This measure will have a separate vote in the House from the *Build Back Better* bill. The BIF contains \$25 billion in new general fund revenue over the next five fiscal years for airports and air traffic control facilities. This includes \$15 billion for airport formula grants, \$5 billion for a new airport terminal program, and \$5 billion for the FAA to improve air traffic control facilities.

Aviation Funding Stability Act

On October 27, 2021, the House Transportation Committee held a markup of several bills [including H.R. 4042, the Aviation Funding Stability Act](#). The bill passed by a vote of 58-5 in Committee. This bipartisan legislation will shield Federal Aviation Administration (FAA) programs, personnel, and regulated entities from disruptions caused by future federal-government shutdowns. The legislation authorizes the FAA during a lapse in appropriations to continue operating at authorized funding levels by drawing from unspent balances in the Airport and Airway Trust Fund.

PFAS

The Senate Environment and Public Works (EPW) Committee held a hearing on PFAS. The only witness was the Honorable Radhika Fox, Assistant Administrator for the Office of Water, U.S. Environmental Protection Agency (EPA). During her [testimony](#), Fox noted the recently released EPA [roadmap](#) on PFAS

builds on the 2019 PFAS Action Plan while committing to bolder and new policies to safeguard public health, protect the environment, and hold polluters accountable. For the first time, she said the EPA has a comprehensive approach to addressing PFAS with three directives: research, restrict, and remediate.

Fox also noted that there are several industries, including airports, where the use of PFAS will be phased out by 2023 or 2024, and the EPA is monitoring this phase out.

Senator Jim Inhofe (R-OK) said that the aviation industry has lots of questions and fears about PFAS. He wants to be sure that airport operators are not held responsible for something over which they really have no control and asked what the EPA can say to help alleviate the aviation industry's concerns. Fox noted this issue requires strong interagency coordination. She said that if the Federal Aviation Administration (FAA) or Department of Defense (DOD) are requiring airport operators to use this foam and it causes contamination, they may be responsible if PFAS is designated as a hazardous substance under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA). Fox added it is the responsibility of the federal agencies to work together to iron out these details. She noted that the EPA is working closely with the FAA and DOD to find alternatives that are safe and do not contain PFAS. She emphasized progress is being made on that front and that the industry will move in that direction.

Appropriations

The Senate released their funding [proposals](#) for fiscal year 2022 in hopes of spurring negotiations on a year-end omnibus spending measure. The measure would fully fund the Airport Improvement Program (AIP) at \$3.35 billion and provide an additional \$603 million in supplemental AIP funding (\$400 million for discretionary grants and \$203 million in congressionally directed spending for specific projects.) The measure would continue to support current staffing at TSA and CBP, and the committee report presses the agencies to prepare for increased domestic and international air travel. It also would fully fund the TSA's Law Enforcement Officer Reimbursement Program, provide funding for 126 new computed tomography machines, and direct \$30 million to continue reimbursing airports for past explosive detection system installations.

International Travel

The White House released additional [details](#) that will permit fully vaccinated non-U.S. citizens to resume traveling to the United States on November 8, 2021. Starting on November 8, non-citizen, non-immigrant air travelers to the United States will be required to be fully vaccinated and to provide proof of COVID-19 vaccination status prior to boarding an airplane to fly to the U.S., with only limited exceptions. Full vaccinated air passengers, regardless of citizenship, will be required to show a pre-departure negative COVID test within 72 hours before departure.

Any unvaccinated Americans or legal permanent residents returning to the U.S., as well as anyone else that is unvaccinated regardless of citizenship, will be subject to stricter testing requirements. Unvaccinated travelers must show a negative test result taken within one day before departure.