

Joint Committee on Taxation  
October 5, 1993  
JCX-12-93

**MARKUP OF WAYS AND MEANS COMMITTEE  
AMENDMENT TO H.R. 2739 (AVIATION  
INFRASTRUCTURE INVESTMENT ACT OF 1993)**

(Scheduled for October 6, 1993)

**I. Legislative Background**

H.R. 2739 ("Aviation Infrastructure Investment Act of 1993") was reported by the House Committee on Public Works and Transportation ("Public Works") on September 14, 1993 (H. Rept. 103-240). The bill, as reported, amends the Airport and Airway Improvement Act of 1982 (as amended in 1987, 1990, and 1992) to provide airport and aviation program authorizations for the Department of Transportation and the Federal Aviation Administration (FAA) (other than research and development (R&D) for fiscal years 1994, 1995, and 1996). (H.R. 2739 modifies existing authorizations for fiscal years 1994 and 1995, and adds authorizations for fiscal year 1996.)

The House Committee on Science, Space, and Technology ("Science and Technology") reported H.R. 2820 ("Federal Aviation Administration Research, Engineering, and Development Authorization Act of 1993") on August 31, 1993 (H. Rept. 103-225). H.R. 2820 provides authorizations for R&D programs for fiscal years 1994, 1995, and 1996. Science and Technology expects to offer the provisions of H.R. 2820 as an amendment to H.R. 2739, when H.R. 2739 is considered by the House. (H.R. 2820 modifies existing authorizations for fiscal year 1994, and adds R&D authorizations for fiscal years 1995 and 1996.)

Public Works has requested that the Committee on Ways and Means ("Ways and Means") provide a conforming amendment to the Airport and Airway Trust Fund ("Trust Fund") provisions in the Internal Revenue Code (sec. 9502) to reflect the proposed authorizations from the Trust Fund. Public Works is not requesting any changes in, or further extension of, the aviation excise taxes at this time.

## II. Present Law

### Aviation excise taxes; transfer of revenues to the Airport and Airway Trust Fund

#### Aviation Trust Fund taxes

Under present law, aviation excise taxes for the Trust Fund are imposed as follows: 10-percent air passenger ticket tax; 6.25-percent air cargo tax; \$6.00 per person international departure tax; and, fuels taxes for noncommercial aviation (15-cents-per-gallon tax on gasoline and 17.5-cents-per-gallon tax on jet fuel). These Trust Fund taxes are scheduled to expire after December 31, 1995.

The Omnibus Budget Reconciliation Act of 1990 ("1990 Act") provided for increases in the air passenger tax from 8 percent to 10 percent, the air cargo tax from 5 percent to 6.25 percent, the gasoline tax for noncommercial aviation from 12 cents to 15 cents per gallon, and the jet fuel tax for noncommercial aviation from 14 cents to 17.5 cents per gallon. Under the conference agreement for the 1990 Act, the revenues from these increases in the aviation taxes were to be retained in the General Fund through December 31, 1992, and to be transferred to the Trust Fund for 1993-1995.<sup>1</sup> For 1993-1995, all of the above aviation excise tax revenues are to be credited to the Trust Fund.

#### Other taxes on aviation fuels

Currently, there is also a tax of 0.1 cent per gallon imposed on all aviation fuels (commercial and noncommercial), which is deposited in the Leaking Underground Storage Tank Trust Fund (through December 31, 1995, when this tax is scheduled to expire). In addition, the Omnibus Budget Reconciliation Act of 1993 ("1993 Act") imposed a permanent 4.3-cents-per-gallon tax (beginning on October 1, 1993) on noncommercial aviation fuels, to be retained in the General Fund. Effective on October 1, 1995, commercial aviation fuels will be subject to the 4.3-cents-per-gallon General Fund tax.

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<sup>1</sup> 1990 Act Conference Report (H.Rept. 101-964), pp. 1054-1055. However, due to a statutory drafting omission in the 1990 Act, revenues from the increases in the air passenger and air cargo taxes initially were not retained in the General Fund through 1992 as intended in the conference agreement. A technical correction was enacted in 1992 (P.L. 102-581) to reflect the intent of the 1990 Act conference agreement, and the appropriate fund adjustment was made.

**Trust Fund expenditure purposes**

The present Trust Fund statute (Code sec. 9502(d)) authorizes amounts to be paid out of the Trust Fund for obligations incurred under the previous airport and airway authorization Acts from 1970 to 1992 (as those Acts were in effect on the date of enactment of the Airport and Airway Safety, Capacity, Noise Improvement and Intermodal Transportation Act of 1992). Also, amounts are authorized to be paid out of the Trust Fund for obligations incurred under the Federal Aviation Act of 1958, as amended, which are attributable to planning, research and development, construction, or operations and maintenance of (1) air traffic control, (2) air navigation, (3) communications, or (4) supporting services for the airway system.<sup>2</sup> In addition, administrative expenses of the Department of Transportation attributable to Trust Fund-related activities described above are authorized from the Trust Fund. Trust Fund expenditures currently are authorized through September 30, 1995.

**III. Proposed Airport and Airway Trust Fund  
Authorizations for Fiscal Years 1994-1996  
(H.R. 2739 and H.R. 2820)**

**Trust Fund authorization amounts**

H.R. 2739, as reported by Public Works, and H.R. 2820, as reported by Science and Technology, would provide total Trust Fund authorizations of \$6.7 billion for fiscal year 1994, \$6.9 billion for fiscal year 1995, and \$7.1 billion for fiscal year 1996, as compared to \$6.7 billion for fiscal year 1993.

Table 1 shows the Trust Fund authorization amounts for fiscal year 1993 under present law and for fiscal years 1994, 1995, and 1996 under H.R. 2739 and H.R. 2820, respectively, as reported.

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<sup>2</sup> The Airport and Airway Trust Fund expenditure programs authorized under present law include: the airport improvement program (AIP) (airport planning, airport construction and repair, certain airport terminal facilities, land acquisition, airport-related equipment, airport noise abatement, and interactive training programs); airway facilities and equipment (F&E) (FAA air navigation facilities); research, engineering, and development (R&D); operations and maintenance (O&M) (FAA air controller system); small community air service ("essential air service" for certain small communities); and grants to up to four vocational institutions for the acquisition of facilities for the advanced training of maintenance technicians for air carrier aircraft.

**Table 1.--Airport and Airway Trust Fund Program  
Authorizations, Fiscal Years 1993-1996**

(millions of dollars)

<u>Program</u>	<u>1993</u> (Present Law)	<u>1994</u>	<u>1995</u> (Projected)	<u>1996</u>
			<u>H.R. 2739</u>	
Airport Improvement Program (AIP)	1,800	2,105	2,161	2,214
Facilities & Equipment (F&E)	2,350	2,524	2,670	2,735
Operations & Maintenance (O&M)	2,279	1,725	1,745	1,803
Small Community Air Service	39	39	39	39
Rental Payments (GSA lease)	<u>30</u>	<u>37</u>	<u>38</u>	<u>39</u>
Subtotal (H.R. 2739)	6,498	6,430	6,653	6,830
			<u>H.R. 2820</u>	
Research, Engineering, and Development (H.R. 2820)	<u>230</u>	<u>250</u>	<u>275</u>	<u>302</u>
<b>Total Trust Fund</b>	<u>6,728</u>	<u>6,680</u>	<u>6,928</u>	<u>7,132</u>

These authorizations are subject to appropriations. Thus, the amounts actually spent on aviation programs could be smaller than the amounts shown above. The uncommitted balances in the Trust Fund at the end of fiscal years 1994, 1995 and 1996, respectively, will depend upon the amounts actually appropriated and the Trust Fund revenues actually received. Further, the uncommitted balance in fiscal year 1996 will be affected by whether or not (and at what level) the Trust Fund taxes are extended beyond their current expiration date of December 31, 1995.

**Modification of Trust Fund expenditure programs**

1. Limit on FAA operations amounts.--As reported, H.R. 2739 would reduce the current overall limit on Trust Fund financing of the FAA budget from a maximum of 75 percent to 70 percent for each fiscal year. Further, the Trust Fund amount for FAA operations and maintenance could not exceed 50 percent of the amounts appropriated each year for airport improvements, airway facilities and equipment, and research and development. (The intent of this provision is to limit the portion of Trust Fund spending to approximately one-third for FAA operations and maintenance (O&M) and two-thirds for FAA's capital-related programs (AIP, F&E, and R&D).)

2. Airport equipment.--As reported, H.R. 2739 would clarify (specify) that security equipment eligible for AIP funding includes explosive detection devices and universal access systems.

3. Noise abatement program.--As reported, H.R. 2739 would make permanent the existing authorization for soundproofing of certain residential buildings.

#### **IV. Possible Trust Fund Option**

Adopt amendments to the Trust Fund statute to:

(1) allow expenditures from the Trust Fund for the purposes provided in H.R. 2739 and H.R. 2820; and

(2) extend authority to make expenditures from the Trust Fund through September 30, 1996 (fiscal year 1996).