

SUMMARY OF PROPOSALS
RELATING TO
AIRPORT AND AIRWAY TRUST FUND
TAXES AND BUDGET AUTHORIZATIONS

PREPARED FOR THE
COMMITTEE ON WAYS AND MEANS
BY THE STAFF OF THE
JOINT COMMITTEE ON TAXATION



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INTRODUCTION

This pamphlet was prepared by the staff of the Joint Committee on Taxation for the hearing scheduled by the Committee on Ways and Means for April 16, 1980, on legislative proposals concerning extension and revision of the Airport and Airway Trust Fund and the aviation excise taxes currently deposited into the trust fund.

The Administration proposal is contained in H.R. 3745, which was jointly referred to the Committees on Public Works and Transportation and Ways and Means. The Senate has passed a trust fund authorization bill (S. 1648), which does not contain tax or trust fund amendments (and which has been referred to the Committee on Public Works and Transportation). The Public Works and Transportation Subcommittee on Aviation is scheduled to markup a trust fund authorization bill (H.R. 6721) on April 15 and 16, 1980. In addition, there are several other legislative proposals concerning reduction, modification, or repeal of certain of the aviation taxes.

The first part of the pamphlet is a discussion of present law and background regarding the trust fund taxes and trust fund budget authorizations. This is followed by a summary of current legislative proposals relating to the trust fund taxes and trust fund budget authorizations. Finally, an Appendix presents projected revenue estimates of present law aviation taxes and the Administration's proposed general aviation tax increases, for fiscal years 1980-1985; the Appendix also gives a comparison of proposed trust fund authorization levels by program for fiscal years 1981-1985.

I. PRESENT LAW AND BACKGROUND OF AIRPORT AND AIRWAY TRUST FUND

A. Trust Fund Taxes

The Airport and Airway Revenue Act of 1970 (title II of the Airport and Airway Development Act of 1970) increased some existing aviation user taxes, imposed some new aviation user taxes and established the Airport and Airway Trust Fund for deposit of these user taxes. These excise taxes are scheduled either to expire or be reduced under present law on July 1, 1980.

Air passenger and air freight excise taxes

Under present law, excise taxes are imposed on the transportation of persons and property by air. In the case of air passenger transportation within the United States, this tax is 8 percent on the amount of the airfare, and it is scheduled to revert to 5 percent on July 1, 1980 (the pre-trust fund rate).

There also is a \$3 per passenger departure tax (a new tax added by the 1970 Act) for international air transportation that begins in the United States and for flights to or from Alaska and Hawaii. This tax is presently scheduled to terminate after June 30, 1980.

Air transportation between the United States and a foreign station which is not more than 225 miles from the nearest point in the continental United States, as well as between two such foreign stations, generally is subject to the 8-percent tax where payment for the travel is made in the United States. This tax does not apply to transportation between the United States and other foreign stations where payment is made outside the United States, nor does it apply to the U.S. portions of certain uninterrupted international air transportation. Also, the 8-percent passenger tax does not apply to the portion of flights to or from or between Alaska and Hawaii which are not made over the United States.

In the case of air transportation of property, the 1970 Act imposed a new tax of 5 percent of the air freight waybill charge; this tax is scheduled to terminate on July 1, 1980. In determining taxable transportation, the same rules generally apply as for transportation of persons, except that the air freight tax applies only to amounts paid for transportation of property by air which begins and ends in the U.S.

These taxes are collected as part of the fare by the air carrier, for subsequent deposit by the Treasury into the trust fund. Exemptions from these taxes are provided for transportation by small aircraft on nonestablished lines and for private air transportation services provided within a group of affiliated corporations. Aircraft not subject to these passenger or freight taxes are subject to the fuels tax, mentioned below.

Other aviation excise taxes

In addition to the taxes on air passenger and air freight fares, there is a 7-cents-per-gallon tax on aviation fuels (gasoline and other fuels,

including jet fuels) used by noncommercial (general) aviation, an aircraft use tax,¹ and a tax on aircraft tires and tubes. The fuels tax was an increase from the previous net tax of 2 cents per gallon on gasoline for aviation use and the tax on gasoline is scheduled to be reduced to 4 cents per gallon on July 1, 1980, while the 7-cents-per-gallon tax on non-gasoline fuels (e.g., kerosene—jet fuels) would expire on July 1. The aircraft use tax was new under the 1970 Act, and is scheduled to expire on July 1, 1980; and the tax on aircraft tires and tubes was merely a transfer of revenues from the excise taxes on such tires and tubes from the Highway Trust Fund.

There is a general exemption (via a refund or credit) from the aviation fuels tax for fuel sold for use or used on a farm for farming purposes. Also, the tax on aviation fuels and the tax on aircraft use do not apply to aircraft owned by a tax-exempt aircraft museum operated exclusively for the procurement, care, and exhibition of World War II aircraft.²

The following table shows the present law aviation excise taxes and the rate scheduled for July 1, 1980 under present law. (Appendix Table A-1 shows the estimated aviation tax revenues for fiscal years 1980-1985 under present law taxes and rates.)

SCHEDULE OF AIRPORT AND AIRWAY TRUST FUND EXCISE TAXES
UNDER PRESENT LAW

Tax (and Code section)	Present rate	Rate sched- uled for July 1, 1980
Air passenger ticket tax (secs. 4261 (a) and (b))	8%	5%
Air freight waybill tax (sec. 4271)	5%	----
International departure tax (sec. 4261(c))	\$3	----
Fuels tax for noncommercial (general) aviation (per gallon) (sec. 4041(c)) ¹	7¢	4¢
Aircraft use tax (sec. 4491) ¹	(2)	----
Aircraft tires and tubes tax (secs. 4071)	(3)	(3)

¹ The tax does not apply to aircraft, owned by a tax-exempt aircraft museum defined in sec. 4041(h), which are operated exclusively for the procurement, care, and exhibition of World War II aircraft.

² A tax of two parts: (1) a \$25 annual per plane registration tax, plus (2) a weight tax of 3½ cents per pound for turbine-powered (jet) aircraft and 2 cents per pound for nonturbine-powered aircraft for each pound in excess of 2,500 pounds of "maximum certificated takeoff weight."

³ Taxed at the general rates for nonhighway tires (5 cents per pound) and tubes (10 cents per pound) under Code sec. 4071.

⁴ Tax on gasoline fuel only. As of July 1, 1980, the additional 3 cents-per-gallon tax on gasoline used in noncommercial aviation aircraft would expire, and the 7-cents-per-gallon tax on non-gasoline fuels (e.g., kerosene—jet fuel) would also expire.

¹ The aircraft use tax consists of two parts: (1) a \$25 annual per plane registration tax, plus (2) a weight tax of 3½ cents per pound for turbine-powered (jet) aircraft and 2 cents per pound for nonturbine-powered aircraft for each pound in excess of 2,500 pounds of "maximum certificated takeoff weight."

² In addition, there is a general exemption from the fuels tax for fuel sold for use or used by a State or local government, by a nonprofit educational organization, and for fuels exported.

B. Trust Fund Budget Authority

Background

1970 Act and 1971 amendment

The Airport and Airway Trust Fund was established as of July 1, 1970 (Title II of the Airport and Airway Development Act of 1970; Public Law 91-258), and is scheduled to expire as of September 30, 1980. The 1970 Act provided that new and increased aviation user taxes were to be deposited into the trust fund and, with interest earned on the deposits, were to be available to meet specified airport and airway obligations of the United States incurred under Title I of the 1970 Act, as it was in effect on the date of enactment. As a result, subsequent expansion of Title I trust fund budget authority was to require corresponding amendments to the Title II trust fund language, which is within the jurisdiction of the Ways and Means Committee.

Titles I and II of the 1970 Act authorized trust fund expenditures through fiscal year 1975 for the maintenance and operation of air navigation facilities, qualified airport planning and construction purposes, airway facilities and equipment, research and development, safety, and related departmental administrative expenses. A 1971 amendment (Public Law 92-174) to Title I, however, removed the authority for spending trust fund monies for maintenance and operation of the airway system. This amendment also limited the authority for meeting administrative costs from the trust fund only to such administrative expenses related to the remaining authorized purposes. (The 1971 legislation was reviewed by the Ways and Means Committee, but no amendment was made to the trust fund title of the 1970 Act.)

1973 amendment

A 1973 amendment (Public Law 93-44) to Title I of the 1970 Act increased the authorization levels for airport grants for fiscal years 1974 and 1975, increased the Federal share for certain airport grants and safety and security equipment costs, and amended the definition of airport development to specifically include airport security equipment required under DOT regulations. (The 1973 legislation was not considered by the Ways and Means Committee.)

Present law

1976 amendment

The Airport and Airway Development Act Amendments of 1976 (Public Law 94-353) further amended Title I of the 1970 Act to include several additional expenditure categories to be authorized from the trust fund. The new expenditure categories were: snow removal equipment; noise suppressing equipment; construction of physical barriers and landscaping for the purpose of reducing the effect of aircraft noise in areas adjacent to public airports; acquisition of land or property interest for airport noise control purposes; airport terminal

development (the public, nonrevenue-producing areas, including baggage facilities and passenger moving equipment); and specified amounts for maintenance of airway facilities. Thus, the 1971 prohibition against authorizing airway maintenance costs from the Trust Fund was partially removed in the 1976 amendment.

In addition, the 1976 Act provided authorization levels for airport grants and other existing trust fund expenditure programs through fiscal year 1980, and increased the Federal share for certain airport grants for fiscal years 1977 and 1978. The 1976 Act also included a Ways and Means Committee amendment to the trust fund language to conform to the Public Works Committee authorization provisions added by the Act.

1979 amendment

The Aviation Safety and Noise Abatement Act of 1979 (Public Law 96-193) further amended title I of the 1970 Act to authorize trust fund appropriations for airport noise compatibility planning and airport noise compatibility grants. \$15 million was authorized for the planning grants for the fiscal year 1980, and \$25 million was authorized for fiscal year 1980 for the program grants. The Federal share of such program grants is 80 percent.

The 1979 Act also increased the ADAP authorization amounts for fiscal year 1980 from \$525 million to \$569 million for air carrier airports and from \$85 million to \$98 million for general aviation airports. In addition, the Act amended the trust fund language (sec. 208(f)(1)(A) of the Airport and Airway Revenue Act of 1970; 49 U.S.C. 1742(f)(1)(A)) to conform to the 1979 amendments. Thus, the present trust fund statute contains language to authorize obligations incurred under Title I of the 1970 Act, under the 1976 Act amendments or under the 1979 Act amendments; that is, "as such Acts were in effect on the date of enactment of the Aviation Safety and Noise Abatement Act of 1979."

Trust fund balance

As of the end of fiscal year 1979 (September 30, 1979), the Airport and Airway Trust Fund had a cash balance of \$4,392 million, of which \$2,742 million was the uncommitted balance. The trust fund balance is estimated to be \$3.5 billion at the end of fiscal year 1980 (assuming the present tax rates are extended beyond June 30, 1980).

II. SUMMARY OF LEGISLATIVE PROPOSALS

A. Aviation Excise Taxes

1. Administration proposal (H.R. 3745)

Title II of H.R. 3745 contains the Administration's aviation excise tax proposals. This bill (which has been jointly referred to the Committee on Public Works and Transportation and the Committee on Ways and Means) would provide the following:

(a) extend the 8-percent air passenger ticket tax through September 30, 1990;

(b) extend the 5-percent air freight waybill tax through September 30, 1990;

(c) extend the \$3 international departure tax through September 30, 1990;

(d) change the general aviation fuels tax from 7 cents per gallon to an *ad valorem* tax of 10 percent of the retail price, effective July 1, 1980 through September 30, 1990; and

(e) impose a new 6-percent excise tax on the retail sale or lease of general aviation aircraft and avionics (electrical or electronic equipment used for communication or navigation purposes), effective October 1, 1980 through September 30, 1990.

Thus, the Administration proposal would extend most of the existing aviation excise taxes through September 30, 1990 (fiscal year 1990) at their present tax rates, change the general aviation fuel tax to an *ad valorem* tax at retail, and impose a new excise tax on general aviation aircraft and avionics. (The Administration proposal also would extend, as noted below, the Airport and Airway Trust Fund through September 30, 1990.)

(f) change the general aviation fuels tax from 7 cents per gallon to an *ad valorem* tax of 10 percent of the retail price, effective July 1, 1980 through September 30, 1980; and

(g) impose a new 6-percent excise tax on the sale of general aviation aircraft and avionics (electrical or electronic equipment used for communication or navigation), effective October 1, 1980 through September 30, 1990.

Thus, the Administration proposal would extend most of the existing aviation excise taxes through September 30, 1990 (fiscal 1990) at their present tax rates, change the general aviation fuel tax to an *ad valorem* tax at retail, and impose a new excise tax on general aviation aircraft and avionics. (The Administration proposal also would extend, as noted below, the Airport and Airway Trust Fund through September 30, 1990.)

Appendix Table A-2 shows the estimated aviation tax revenues for fiscal years 1980-1985 under the Administration proposal.

2. Ways and Means Oversight Subcommittee

In its fiscal 1981 budget recommendations, the Ways and Means Oversight Subcommittee recommended generally that the existing law

aviation excise taxes be extended at their present rates, but that consideration of the Administration's proposed increased or new aviation excise taxes be deferred until later. (The Ways and Means Committee made no comment concerning the proposed aviation tax increases in its fiscal year 1981 budget recommendations to the House Budget Committee.)

3. *House Budget Committee*

The House Budget Committee (in its reported first budget resolution for fiscal 1981, H. Con. Res. 307) has recommended the \$0.2 billion estimated revenue increase from the Administration's proposed increased excise taxes for general aviation. In addition, the Budget Committee has recommended that "general aviation fees and taxes be adjusted by \$0.2 billion in fiscal year 1982 and beyond . . ." (H. Rept. No. 96-857).

4. *Other House bills*

Several other House-introduced bills would provide reductions in certain of the aviation excise taxes, would repeal or provide exemptions from the aircraft use tax, or would provide certain exemptions from the fuels tax.

Aviation tax reduction

H.R. 1909 (Messrs. Bafalis and Gephardt).—This bill would, for the period October 1, 1979 through June 30, 1980, reduce the air passenger ticket tax from 8 percent to 6 percent, reduce the air freight waybill tax from 5 percent to 3 percent, and reduce the international departure tax from \$3 to \$1.

H.R. 5743 (Mr. Mathis).—This bill, referred jointly to the Committee on Ways and Means and the Committee on Public Works and Transportation, would reduce the air passenger ticket tax to 4 percent, the air freight waybill tax to 2 percent, and the general aviation fuels tax to 4 cents per gallon. (The bill does not indicate a specific effective date.)

Aircraft use tax

H.R. 5620 (Messrs. Holland and Schulze) would repeal the aircraft use tax, effective January 1, 1980. H.R. 5874 (Mr. Mathis) would exempt certain agricultural aircraft from the use tax, effective July 1, 1980; H.R. 4239 (Mr. Wolff) would exempt Civil Air Patrol Corporation aircraft from the use tax; and H.R. 357 (Mr. Goldwater) and H.R. 3887 (Mr. Paul) would exempt certain additional aircraft museums from the use tax.

General aviation fuel taxes

Also, H.R. 357 and H.R. 3887 would exempt certain additional aircraft museums from the fuel taxes, and H.R. 5874 would provide for refund of gasoline tax directly to the agricultural aircraft operator for fuel used on a farm for farming purposes.

5. *Senate bills*

S. 1582 (Administration proposal)

This bill, introduced at the request of the Administration, is the same as title II of H.R. 3745 (described above).

S. 1649 (Senators Cannon, Packwood and others)

This bill, which has been recommended by the Senate Committee on Commerce, Science, and Transportation, would (for the period July 1, 1980 through September 30, 1990):

(a) reduce the air passenger ticket tax to 2 percent;

(b) extend the 5-percent air freight waybill tax;

(c) change the general aviation fuel taxes to a 6-percent *ad valorem* tax at retail; and

(d) extend the present aircraft use tax.

(S. 1649 also would extend the Airport and Airway Trust Fund through September 30, 1990.)

S. Con. Res. 86 (Senate Budget Committee)

In its reported first budget resolution for fiscal year 1981, the Senate Budget Committee also has assumed the \$0.2 billion increase in aviation excise taxes over the present law revenue level (S. Rept. No. 96-654).

B. Airport and Airway Trust Fund

1. *Extension of the trust fund*

The Administration proposal (in H.R. 3745 and S. 1582) and S. 1649 would extend the Airport and Airway Trust Fund for 10 years, or through September 30, 1990 (fiscal year 1990).

2. *Trust fund budget authorization levels*

While the above-mentioned proposals would extend the life of the trust fund through fiscal year 1990, each (as well as the Senate-passed authorization bill, S. 1648)¹ would only provide specific trust fund budget authorizations for 5 years, or through fiscal year 1985.

Subsequent to the Senate passage of S. 1648, H.R. 6721 (the Airport and Airway Improvement Act of 1980) was introduced by Messrs. Anderson of California, Johnson of California, Harsha and Snyder, and was referred to the House Committees on Public Works and Transportation and Science and Technology. The Public Works and Transportation Subcommittee on Aviation held hearings on H.R. 6721 on March 18 and 25-27, 1980. (The Aviation Subcommittee has markup on the bill scheduled for April 15 and 16, 1980.)

Appendix Table A-3 gives a summary comparison of the Airport and Airway Trust Fund program authorization levels for fiscal years 1981-1985 under the above proposals.

¹ S. 1648 (the Airport and Airway System Development Act of 1979) was reported by the Senate Committee on Commerce, Science, and Transportation on November 15, 1979 (S. Rept. No. 96-415), and was passed by the Senate on February 5, 1980. While S. 1648 authorizes appropriations from the Airport and Airway Trust Fund for fiscal years 1981-1985, the bill does not specifically amend the trust fund language nor does it amend the aviation excise tax provisions. (S. 1648 has been referred to the House Committee on Public Works and Transportation).

APPENDIX:

**Statistical Data on Airport and
Airway Trust Fund Taxes
and Authorizations, Fiscal
Years 1980-1985**

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Table A-1.—Estimated Revenues From Present Law Airport Trust Fund Taxes, Fiscal Years 1980–1985¹

[Millions of dollars]

Tax	1980	1981	1982	1983	1984	1985	1981–85 Total
Passenger ticket tax (8 percent)---	1,444	1,533	1,669	1,847	2,043	2,298	9,390
Air freight waybill tax (5 percent)---	96	113	132	153	174	199	771
International departure tax (\$3 per person)-----	80	84	87	92	98	103	464
Fuels tax for non-commercial aviation (7 cents/gallon)-----	69	76	80	84	91	98	429
Aircraft use tax----	30	32	34	36	38	40	180
Tires and tubes----	1	1	1	1	1	1	5
Total, present law-----	1,719	1,838	2,004	2,213	2,446	2,738	11,239

¹ This table assumes extension throughout the period of the existing rate structure.

Note: Details may not add to totals due to rounding.

Source: FAA: Dec. 14, 1979 projections.

Table A-2.—Estimated Revenues From Airport Trust Fund Taxes Under the Administration Proposal, Fiscal Years 1980-1985¹

[Millions of dollars]

Tax	1980	1981	1982	1983	1984	1985	1981-85 Total
Passenger ticket tax (8 percent)---	1, 444	1, 533	1, 669	1, 847	2, 043	2, 298	9, 390
Air freight waybill tax (5 percent)---	96	113	132	153	174	199	771
International departure tax (\$3 per person)-----	80	84	87	92	98	103	464
Fuels tax on non-commercial aviation (10% <i>ad valorem</i>) ² -----	¹ 84	163	192	220	259	300	1, 134
Aircraft use tax----	30	32	34	36	38	40	180
Tires and tubes----	1	1	1	1	1	1	5
General aviation aircraft and avionics (6 percent) ² -----		⁴ 158	166	176	184	186	870
Total, with Administration's proposals-----	1, 734	2, 083	2, 282	2, 525	2, 798	3, 126	12, 814
Present law total--	1, 719	1, 838	2, 004	2, 2, 3	2, 446	2, 738	11, 239
Increase over present law----	15	245	278	312	352	388	1, 575

Note: Details may not add to totals due to rounding.

¹ This table assumes extension throughout the period of the existing rate structure, except for the Administration proposals (as indicated by footnote 2).

² Administration's proposal.

³ Effective July 1, 1980.

⁴ Effective Oct. 1, 1980.

Source: FAA: Dec. 14, 1979 projections.

Table A-3.—Comparison of Proposed Airport and Airway Trust Fund Program Authorization Levels for Fiscal Years 1981–85 (and Present Law Level for Fiscal 1980)

[Millions of dollars]

Fiscal year	Administra- tion (H.R. 3745)	H.R. 6721	S. 1648
<i>Airport Development and Planning (ADAP)</i>			
1980 (present law) -----	682	682	682
1981 -----	¹ 700	875	825
1982 -----	750	936	600
1983 -----	800	1,002	550
1984 -----	850	1,072	600
1985 -----	900	1,147	650
1981–85 subtotal -----	4,000	5,032	² 3,225
<i>Airway Facilities and Equipment (F & E)</i>			
1980 (present law) -----	250	250	250
1981 -----	350	525	400
1982 -----	385	562	450
1983 -----	420	601	550
1984 -----	455	643	600
1985 -----	490	688	750
1981–85 subtotal -----	2,100	3,109	2,750
<i>Operations and Maintenance (O & M)</i>			
1980 (present law) -----	325	325	325
1981 -----	1,300	400	350
1982 -----	1,450	428	375
1983 -----	1,600	458	400
1984 -----	1,750	490	425
1985 -----	1,900	524	450
1981–85 subtotal -----	8,000	2,300	2,000

¹ In its revised fiscal 1981 budget proposal, the Administration reduced this amount to \$650 million.

² For fiscal years beginning after 1981, S. 1648 would "defederalize" the medium and large-sized airports, thereby reducing the amount of ADAP funds after fiscal 1981.

Table A-3.—Continued

[Millions of dollars]

Fiscal year	Administra- tion (H.R. 3745)	H.R. 6721	S. 1648
<i>Research and Development (R&D)</i>			
1980 (present law)-----	50	50	50
1981-----	90	³ 85	90
1982-----	95	(3)	95
1983-----	100	(3)	100
1984-----	105	(3)	105
1985-----	110	(3)	110
1981-85 subtotal -----	500	³ 85	500
<i>Noise Abatement Planning and Programs</i>			
1980 (present law)-----	40	40	40
1981-----	(4)	150	(4)
1982-----	(4)	165	(4)
1983-----	(4)	180	(4)
1984-----	(4)	195	(4)
1985-----	(4)	210	(4)
1981-85 subtotal -----	(4)	900	(4)
Total Trust Fund Authorizations			
1980 (present law)-----	1, 347	1, 347	1, 347
1981-----	2, 455	2, 035	1, 680
1982-----	2, 695	2, 091	1, 535
1983-----	2, 935	2, 241	1, 615
1984-----	3, 175	2, 400	1, 745
1985-----	3, 415	2, 569	1, 975
1981-85 total -----	14, 675	11, 396	8, 550

³ The 1-year R. & D. amount included in H.R. 6721 for \$85 million is at the recommendation of the House Committee on Science and Technology; R. & D. authorizations for fiscal years 1982-85 would be made later.

⁴ H.R. 3745 and S. 1648 would include certain noise abatement purposes within the ADAP funding authorization amount rather than authorizing separate, additional amounts as under H.R. 6721.

