

## AVIATION TRUST FUND

Over the years, each Administration has proposed the increased use of user taxes in the Aviation Trust Fund to pay for a greater share of the FAA's administrative bureaucracy. Yet, it was never the intent of Congress to permit such a substantial level of FAA operations to be paid from the Aviation Trust Fund.

In 1970, legislation was passed which authorized the establishment of the Aviation Trust Fund, and at the same time, legislation was passed authorizing new and increased user taxes. The legislation was called the Airport and Airway Development and Revenue Acts of 1970 and was intended to provide the funds necessary for an expanded and long-term commitment to airport development and to capital improvements in the air navigation and air traffic control systems.

In House Report 91-601, issued by the Committee on Interstate and Foreign Commerce prior to passage of the new laws, the primary purpose of the newly established Aviation Trust Fund and tax levels was made explicitly clear:

"The Trust Fund is created in order to insure that the air user taxes are expended only for the expansion, improvement, and maintenance of the air transportation system."

While some trust fund dollars would be made available to help offset FAA administrative costs, it was with the clear understanding that the trust fund would be predominantly a capital investment account that the aviation community agreed to increased tax levels.

Since 1970, each subsequent Administration has attempted to siphon off more trust fund dollars for FAA operations and has chipped away at the basic philosophy--indeed promises--on which the trust fund was founded. But the legislative history of the Aviation Trust Fund clearly establishes the original intent of Congress.

### LEGISLATIVE HISTORY

The Congress and the Administration came into conflict in the first year that the new system was in use. When Congress enacted the trust fund it considered it to be primarily a capital fund, but from the start the Administration of President Richard Nixon viewed it as a user-pay system. Indeed, it was in a supplemental appropriation request for FY71 that the Nixon Administration first showed its hand by requesting far less than was authorized for airport grants and airway facilities. Then, in the FY72 budget request, the Administration proposed that the balance in the trust fund be used to fund the FAA's operations costs.

To counter the Administration's attempted raid, in November 1971, Congress amended the 1970 law and prohibited the use of trust fund dollars for FAA operations.

The Airport and Airway Development Act Amendments of 1976 reauthorized the program and focused funding attention on the need for airport development by increasing the amount authorized for the Airport Improvement Program. The act also restored a minimum level of funding from the trust fund for the maintenance of navigation facilities but, leery of abuse by the Administration, Congress placed a cap on the amount which could be spent. It also enacted a one-for-one penalty clause which reduced those expenditures for the maintenance of navigation facilities in direct proportion to any shortfall of airport grants below the authorized minimum amounts.

By the next reauthorization process in 1982, the focus of attention had shifted to airways modernization because of the unveiling of the National Airspace System Plan, and was reflected in the Airport and Airway Improvement Act of that same year. To help pay for this new "modernized" system, aviation fuel taxes paid by general aviation were increased dramatically and airline ticket taxes were returned to their 1971-1980 level of eight percent.

Additionally, in an attempt to maintain the integrity of the original law, Congress toughened the requirements on the use of trust fund money to pay for FAA operations. The new cap was set as a multiple of the actual amount made available for obligation each year for airport grants. The new two-for-one penalty clause reduced this cap amount by twice the difference between authorizations for facilities and equipment spending and the actual appropriations for the program.

The intent, once again, was to permit spending from the trust fund for operations only after the authorizations for capital spending had been funded, and to prevent unappropriated funds from being used for operations.

The Airport and Airway Safety and Capacity Expansion Act of 1987 once again reauthorized spending for aviation programs and the excise taxes to support them. It also made available some level of trust fund money for FAA operations but tied spending for operations to spending for all other research, engineering, and capital development programs.

It also set in motion a mechanism which would "trigger" reductions in aviation excise taxes if aviation capital spending fell below certain authorized levels in 1988 and 1989.

Capital spending did indeed fall below authorized levels for those two years which would have triggered user tax reductions January 1, 1990. However, at the insistence of the new Administration's Office of Management and Budget, the trigger mechanism was suspended for one year.

In December 1988, the Congressional Budget Office issued a report on the status of the Airport and Airway Trust Fund which analyzed public versus private use of the air transportation system. The effort of the CBO was to determine the fair "public" share of costs based on use.

The CBO determined that direct users should pay not only the full costs of system capital development, but also 85 percent of FAA operations costs, and that only 15 percent of FAA operational costs should be borne by the general public.

AOPA believes that the CBO analysis was seriously flawed and placed a disproportionate share of the cost burden on the user community, because it failed to factor into the equation the enormous public benefit of aviation. The CBO conducted only a cost analysis when a cost/benefit analysis would have been far more accurate and useful. In fact, the report never acknowledged that aviation benefits the entire nation beyond the boundaries of the user community.

It is clear from the legislative history of the Aviation Trust Fund that the intent of Congress in the original acts of 1970, the amendments of 1971, and the reauthorizations of 1976, 1982, and 1987 was for user taxes to be predominantly for the capital development of the airport and airway system. They were not intended to be used in a substantive manner to pay for FAA administrative costs, and were certainly not intended to be saved and used by the Administration to mask the true magnitude of the federal deficit.

Prior to the 1988 presidential election, George Bush issued an aviation policy statement in which he said:

"I am committed to fulfilling the essential commitment of our Aviation Trust Fund--that the monies collected from user fees be spent so that America will continue to grow."

As observed earlier, the original intent of the trust fund was somewhat different than President Bush has been led to believe, which may explain why, during this past legislative session, he permitted his Office of Management and Budget to try and divert one billion dollars from the trust fund to the general fund. That attempt certainly was not consistent with the "essential commitment" of the trust fund, and fortunately Congress handed the proposal an overwhelming defeat.

In 1990 the debate will rage once again. The Administration will want more trust fund money for FAA operations and will attempt to recruit as much congressional support as possible for its initiatives.

The Administration already is advancing the notion that projected trust fund revenues from all sources in the upcoming years will be insufficient to accommodate the nation's aviation spending requirements and has proposed new tax increases.

Neither line of advocacy should go unchallenged.

Taking even one dollar from the trust fund for anything other than the capital development and maintenance of the airport and airways system violates the promises made to the aviation community in 1970. Pragmatically, however, because of the severe budget crunch, some trust fund money will

inevitably be spent in the area of FAA operations even if it means that other important airport or airway projects go unfunded.

**AOPA opposes the use of trust fund money for any purpose other than the capital development and maintenance of the airport and airway system. AOPA believes that the promises made to the aviation community when the original tax levels were set and the trust fund was established in 1970 are inviolate and should remain so, and that the intent of Congress as advanced in the 1970 legislation and the reauthorizations of 1976, 1982, and 1987 establishes clear guidance for the future and should be maintained.**

**However, AOPA also recognizes the serious budget constraints facing our national leaders.**

**Therefore, AOPA recommends that the United States Congress continue to permit a portion of aviation user excise taxes to be used for FAA administration by establishing that 50 percent of that which is authorized for F&E, RE&D, and AIP may be paid from the trust fund for FAA operations.**

**This is contingent, however, on the Congress maintaining adequate oversight over the use of the trust fund for FAA operations and ensuring a responsible level of spending by the FAA on priority capital development/improvement needs by reimposing the two-for-one penalty clause and the "trigger" mechanism as established in the Airport and Airway Safety and Capacity Expansion Act of 1987.**

## AVIATION TAXES

Since before the establishment of the Aviation Trust Fund in 1970, users of the aviation system have been taxed.

Prior to the 1970 law, aviation excise taxes consisted of a five-percent tax on airline passenger tickets for domestic flights, a two-cents-per-gallon tax on aviation gasoline (AVGAS), and taxes of 10 cents per pound on aircraft tire inner tubes and five cents per pound on aircraft tires.

The gasoline, tire, and tube taxes were deposited into the Highway Trust Fund.

The Airport and Airway Revenue Act of 1970 increased some existing taxes and established new ones. The passenger ticket tax increased to eight percent; the aviation gasoline tax increased to seven cents per gallon; a new seven-cents-per-gallon tax was placed on jet fuel used by general aviation; a five percent Freight Waybill tax and three dollar International Departure ticket tax were added as was a \$25 aircraft registration fee.

At the end of 1980, the new and increased taxes imposed by the 1970 law expired, as did the authorization to transfer the revenue from these taxes to the Aviation Trust Fund. Remaining was an airline passenger ticket tax which was reduced to five percent, a general aviation gasoline tax which was reduced to four cents per gallon, and taxes on aircraft tires and tubes.

Proceeds from the ticket tax were deposited into the general fund, and proceeds from the general aviation gasoline tax and the taxes on tires and tubes were deposited into the Highway Trust Fund.

The Airport and Airway Improvement Act of 1982 re-established new tax levels and, once again, reauthorized the depositing of that revenue into the Aviation Trust Fund.

The airline passenger ticket tax went back to eight percent; the general aviation gasoline tax jumped to 12 cents per gallon; the general aviation jet fuel tax jumped to 14 cents per gallon; the international departure ticket tax and freight waybill tax were re-established at their pre-1980 levels; and the aircraft registration fee was eliminated.

Since 1971, direct users of the nation's air transportation system have paid more than \$31 billion into the Aviation Trust Fund. An additional \$9.8 billion in interest has been added, providing total net receipts of nearly \$41 billion.

Through FY89, the FAA has spent \$27.8 billion from the trust fund, leaving a surplus of \$13.2 billion. It is interesting to note that in 16 of the last 18 years the federal government has collected more in user taxes and interest than it has spent from the Aviation Trust Fund. The only exceptions were when the trust fund temporarily expired between 1980 and 1982 (attachment #3).

FAA Administrator Busey has indicated that \$45 billion or approximately \$9 billion per year will be required to complete the airspace modernization plan, enhance the nation's airport infrastructure, and feed the growing federal aviation bureaucracy.

The agency foresees an annual need for \$2.75 billion for facilities and equipment; \$2 billion for airport improvements; \$250 million for research, engineering, and development; and a whopping \$4 billion for operations and maintenance.

Based on FAA activity forecasts, and under current tax levels, a projected \$20.2 billion in direct user taxes will be contributed to the Aviation Trust Fund between 1991 and 1995. The projected interest will total \$4.8 billion. With the expected unobligated trust fund surplus of \$6.4 billion as projected by the federal government, net trust fund dollars will total \$31.5 billion.

Under the law, the trust fund would invest \$27 billion toward the nation's aviation system, leaving a reserve of \$4 billion (attachment #4).

Clearly, there would be enough money in the Aviation Trust Fund to pay for the users fair share of system improvements, even without the prioritizations and efficiencies AOPA believes are available

and necessary. Beyond that, the aviation user community simply will not accept an increase in taxes when such an enormous surplus--\$13.2 billion--has been allowed to build up in the Aviation Trust Fund.

**AOPA believes that the airport capacity problem now facing the nation, along with a failed airways modernization effort, requires the expenditure of available resources on priority initiatives. AOPA further believes that by maintaining the current level of taxes on users, adequate resources will be available in the Aviation Trust Fund to make the necessary advances in airport and airways improvement and modernization to include a transition to a space/earth air traffic system.**

**Therefore, AOPA recommends that the United States Congress neither reduce nor increase but maintain the current levels of taxation on aviation. AOPA will oppose any attempt by the Administration to increase taxes on aviation users.**

**(AOPA)**