

## **Reauthorization Bill**

### **State of the Airport and Airway Trust Fund**

*What is the current balance of the Airport and Airway Trust Fund?*

- The Airport and Airway Trust Fund's uncommitted balance at the end of fiscal year 2006 was \$1.8 billion, the lowest since 1997. This is equal to less than two months of the FAA's budget.

*What are the projected balances of the Airport and Airway Trust Fund?*

- The President's Budget estimates that the uncommitted balance will be \$2.0 billion at the end of FY 2007 and \$3.1 billion at the end of FY 2008. The cash balance, as of the end of fiscal year 2006, was \$10.3 billion. However, most of this money has already been appropriated and committed to spending in future years.

### **Why Change The Current Revenue System?**

*Since the government projects tax revenue to increase under the current system, why are you proposing changes?*

- While revenue is projected to grow under the existing taxes, that is not the only metric of whether the current system is broken. The aviation system needs a revenue structure that is rational, stable, equitable, and cost-based, while providing incentives to the FAA to control costs and to operators to use resources efficiently. The current tax structure does not fit these criteria.
- The aviation system is facing the transition to NextGen, and there must be a reliable source of funding to pay for it. The current tax system is a suboptimal way to finance NextGen because year-by-year funding uncertainties constrain the pace of system transformation.

*Why not just raise the level of current taxes rather than restructure them?*

- The fundamental problems are with the tax *structure*, not the tax *rates*. The dependence of the current system on factors that have minimal connection to FAA workload (ticket prices), combined with a volatile industry, *can* create a gap between revenues and costs.
- The current system also has minimal incentives for users to use limited air traffic control resources efficiently. For instance, a flight with 50 passengers drives similar FAA workload as a flight with 200 passengers, yet they make very different tax payments.

*Will the Trust Fund be able to support transformation of the aviation system into NextGen?*

- The current system is simply not scaleable to handle this projected increase in volume. There is broad stakeholder support for moving to a modernized system sooner rather than later. The

users see it as necessary to provide increased capacity, reduce delays, and lower their unit costs. While it may be *possible* to finance NextGen through the existing taxes, it will not enable the implementation of NextGen as quickly or as rationally as a cost-based funding structure.

### **Air Traffic User Fees and Fuel Taxes**

*How will the proposal fund the Air Traffic Organization?*

- The Air Traffic Organization is funded via a hybrid structure comprised of user fees, excise taxes, and a general fund appropriation. Each of these funding sources would be based on the cost of specific services the ATO provides.

*Who would pay air traffic user fees?*

- Air traffic user fees would apply to commercial flights by turbine-powered aircraft (jets and turboprops). This includes flights by U.S. and foreign airlines, passenger and cargo carriers, charter operators, and regional airlines. Turbine-powered air taxi and fractional ownership flights would also pay these fees when they carry passengers for compensation.
- A small fraction of general aviation and commercial piston flights may be subject to a terminal user fee when they arrive or depart at one of a designated list of the 30 largest hub airports. These airports are the most congested terminal facilities. All are in metropolitan areas that have alternate airports where flights would not be subject to a user fee.

*On what basis would air traffic fees be set?*

- Fees would be based on data derived from the FAA's cost accounting and cost allocation systems. The Administration's proposal gives the FAA and its users some latitude in how the fees would be structured. There would be separate fees for domestic enroute, oceanic and terminal airspace, and there may be a different fee structure for congested or complex airspace.

*How will overflight fees be treated under your proposal?*

- Fees for overflights would be integrated into the proposed user fees, and the existing separate overflight fee program would be eliminated. Aircraft that fly over U.S. oceanic and/or domestic enroute airspace but do not land in or depart from the U.S. would pay the same domestic enroute and oceanic fees as commercial turbine users, based on the distance they travel in U.S. enroute and oceanic airspace.

*What is the rationale for charging a different level of user fees for operations at night?*

- The authority to charge a lower terminal fee for nighttime operations is an option to do so, not a requirement to do so. This is a multi-faceted issue that would require some significant study, both from an economic and an environmental perspective.

- One of the points raised by cargo airlines, the primary overnight users of terminal facilities, is that user fees should consider “stress on the system” and be lower at off-peak hours.

*How will cost-based congestion fees be established and how will they relieve congestion?*

- Cost-based congestion fees would be permissible for arrivals and departures at any of the limited number of large hub airports if they meet several specific criteria including a determination that the airspace around that airport is congested and that the congestion results from a capacity limitation at the airport.
- Congestion pricing could reduce congestion and delays by setting higher prices during peak travel times and reduced prices during off-peak travel hours. Aircraft would have the flexibility of when to depart and land, but would have to factor in the cost of operating at peak hours.

*What will the FAA do with the extra revenue from congestion-based fees?*

- Because the legislation requires all air traffic user fees to be based on costs, the FAA does not anticipate any revenue “windfall” as a result of congestion pricing. Congestion pricing would cause air traffic fees at a particular airport at a particular time of day to be set higher than the FAA’s cost. However, that higher fee would be offset either by lower fees at off-peak times of day at that airport or by lower fees at other airports in the system that have excess capacity.

*If general aviation is not paying its fair share of the system’s costs under the current tax structure, why isn’t the Administration proposing user fees for GA as well?*

- As the Administration consulted with stakeholders in developing the proposal, the general aviation stakeholders have been very clear that they would prefer a fuel tax to a user fee mechanism due to the fuel tax’s efficiency and simplicity. The high number of general aviation users would likely add cost and complexity to any user fee billing and collection system, and would increase the administrative burden on users, as opposed to simply paying into the system when they buy fuel.

*What is the rationale for the increased fuel tax levels proposed for general aviation?*

- The fuel tax rates are estimated to recover the air traffic costs allocated to the groups that would be paying the tax. We estimate that even with these increases, the federal fuel excise tax as a percentage of total aircraft operating costs will be less than 5%. This is significantly lower than the comparable percentage for commercial air transportation, and only slightly higher than the federal tax incidence rate for automobile travel.

*How will turbine (jets and turboprops) be affected relative to piston aircraft?*

- The proposed tax rates for jet fuel (used by turbine operators) and aviation gasoline (used by piston operators) are the same. A turbine operation generally uses significantly more fuel per operation, so turbine operations will provide significantly more funding for the system.

*Does it make sense to increase the fuel tax when the price of fuel is already so high?*

- The fuel tax is simply a *mechanism* to collect a given amount of revenue. If the proposal did not collect this revenue through the fuel tax, it would collect the same amount of money through another mechanism, which would have the same impact on overall operating costs.
- The proposed fuel tax is a flat rate per gallon rather than based on the price of fuel; therefore, the current price of fuel is irrelevant.

*Specifically, how did FAA calculate the proposed fuel tax rates?*

- The FAA calculated a “tax yield” per penny of fuel tax, based on the fiscal year 2004 certified tax receipts at the current tax rates. This tax yield was increased based on projected growth in general aviation fuel consumption between fiscal year 2004 and fiscal year 2009.
- The FAA divided the total pool of projected FY 2009 air traffic costs allocated to general aviation and commercial piston users by the fiscal year 2009 tax yield to calculate a common fuel tax rate for this group of 56.4 cents per gallon. The AIP fuel tax of 13.6 cents per gallon was added to this figure for the proposed total of 70.0 cents per gallon.

*Why do general aviation flights have to pay a fuel tax when they use a low activity airport or an airport that does not have FAA or contract air traffic control services?*

- Unlike a discrete user fee, which can easily be set at different levels based on the type of facility used, it would be administratively burdensome to charge different fuel tax rates based on the facilities used. This would require allocating fuel use among the en route system and each terminal end, and there would be no basis for doing so.

## **Cost Allocation**

*What are the results of the FAA’s air traffic cost allocation study?*

- The FAA designed a simple, transparent, thorough, and repeatable cost allocation methodology, which is explained in detail in the separate cost allocation report.
- Using FY05 Cost Accounting System data, our cost allocation distinguishes between two types of users: 1) turbine-powered aircraft (jets and turboprops) and 2) piston aircraft and helicopters.
- FAA allocated the costs of over 600 Cost Accounting System projects between these two user types, and determined that, in most cases, piston users were responsible only for a share of incremental costs. The exception is when they use highly congested airports. In total,

87% of the FY 2005 air traffic costs were allocated to turbine users, 7% to piston users, and 6% to flight service stations

- Within each group, FAA divided costs among commercial, general aviation and public users based on their shares of activity. However, in the terminal environment, the allocation looks at costs and activity based on airports size classifications. As a result, those who use less costly facilities are not bearing the costs of the more costly facilities.

## **Aviation Safety**

*How will the proposal fund Aviation Safety programs?*

- The proposal funds Aviation Safety (AVS) through a combination of user fees for select programs and a general fund appropriation. FAA's current estimates are that approximately 10% of AVS funding would come from user fees and 90% from the general fund.

*What Aviation Safety services will be subject to user fees?*

- The legislation proposes user fees for the direct costs associated with:
  - Aircraft registration
  - Airmen certificates
  - Airmen medical certificates
  - Certificates for flight schools and training centers
  - Certificates for repair stations and maintenance technical schools
  - Designee appointment and training
  - Training provided to international aviation authorities

*How were the Aviation Safety services subject to user fees selected?*

- The proposed user fees are for services that are clearly driven by customer action, such as buying an airplane or starting a business—as opposed to surveillance, which is initiated by the FAA.

*How did you determine the level of the fees in your proposal given that the cost accounting system has not yet been fully implemented for that part of the FAA?*

- The Aviation Registry is a single-function organization with its own budget. The fee structure is designed to recoup the cost associated with this budget. Aviation Registry figures are based on program tracking through a number of codes that were established several years ago specifically for Registry-unique activities. These are the only AVS fees that are specified in the legislation.

*How do the proposed Aviation Registry fees compare to the current fees?*

- The Aviation Registry presently collects nominal fees for many of the services identified in the proposal. These fees presently collected bear no relation to the actual cost of providing

the service. It currently costs significantly less to register an airplane or get a pilot's license than it does to register a car or get a driver's license.

*How does the financing proposal support the FAA's safety mission?*

- User fees will help AVS plan, schedule, and manage work proposed by applicants, and will provide a stable funding source directly linked to the level of effort required to provide the requested services.
- Because surveillance and continued operational safety functions are not subject to fees, there will be no impact on FAA's independent ability to determine the level of surveillance required of an individual carrier or manufacturer.

### **Airport Improvement Program**

*How will the proposal fund the Airport Improvement Program?*

- The proposal funds AIP via a set of simplified excise taxes, consisting of a flat, universal 13.6 cents per gallon AIP fuel tax for domestic commercial and GA flights and a \$6.39 passenger tax for international commercial passenger flights. This 13.6 cents per gallon AIP fuel tax is a subset of the proposed 70.0 cents per gallon fuel tax for GA users.
- These AIP taxes would be deposited into the Airport and Airway Trust Fund and be subject to appropriation.

*Why is the Administration proposing this AIP funding mechanism?*

- AIP is an airport development grant program, and under the current system, most funding is collected at large airports, some of which is distributed to smaller locations. These taxes are administratively simple and build on existing collection mechanisms.

*Why does the proposal retain the international head tax?*

- Fuel taxes cannot be applied to fuel used in international flights, as this would be considered a tax on international trade and therefore unconstitutional. The proposal retains the head tax so that international flights would continue to contribute to AIP.

*How were the AIP tax rates determined?*

- The 2009 tax rates were set to generate receipts sufficient to cover the cost of the AIP program as outlined in the President's Budget. If additional money is appropriated for AIP, the tax rates may need to be adjusted. The international head tax share of the total AIP revenue was set to recover approximately the share of AIP these flights would bear if the fuel tax did apply to them.

## **General Fund**

*What FAA activities will be supported by the general fund and why?*

- The General Fund contribution would cover the agency's public good functions that should not or cannot be funded by users. These include air traffic services provided to public users, flight service stations, low activity towers, safety regulation and oversight that is not recovered by user fees, the FAA's Commercial Space Transportation organization, and Research, Engineering and Development (RE&D) costs related to aging aircraft and aircraft catastrophic failure prevention.
- The general fund levels in our proposal compute to approximately 18-19% of FAA's total funding. This is consistent with recent years.

## **FAA Oversight and Organization**

*Under the Administration's proposal, what funds would be subject to annual appropriations?*

- All of FAA's funding would remain subject to the appropriations process.
- We expect that setting up the proposed user fees as offsetting collections will encourage Congress to affirm the FAA's ability to spend the fees collected in a timely manner and for the purposes for which they are collected. This should significantly reduce uncertainty associated with roughly three-fourths of the Air Traffic Organization's annual funding.

*Does the FAA have plans to outsource or privatize any part of the air traffic control system?*

- The FAA has no plans to privatize the entire air traffic control system. The FAA will continue to look for opportunities to achieve cost savings and efficiency improvements throughout the FAA. Some of these opportunities may involve partnering with the private sector.

*How will the proposed oversight board fit into the FAA governance structure?*

- The majority of the proposed 13-member oversight board is composed of stakeholder representatives. It is important to have broad user representation on the board from all major segments of the stakeholder community. There will also be public interest and government members.
- The board will have advisory authority on issues such as fee-setting, capital investments, cost control, and other important issues. The ultimate decisions remain in the hands of government officials, such as the Secretary of Transportation and FAA Administrator. Congress will retain its oversight role through the appropriations and authorizing process.

*Given that major carriers will continue to contribute the most to FAA's funding, why aren't there more representatives from major carriers on the proposed oversight board?*

- Although there is one representative from the major carriers, there are four airline representatives in total (out of 13 board members). It is also important to maintain balance on the Board and make sure that one group alone cannot drive the Board's decisions.

*What role would the Board have with regard to the safety responsibilities of the agency?*

- The Board is empowered to review and provide advice on the FAA's safety programs, including the FAA's strategic plan for safety programs, but does not have the power to approve the FAA's safety programs.

### **Implementation Issues**

*When will the new system take effect? Will there be a transition period?*

- The Administration's proposal would extend the existing system for one year, with the new system taking effect at the start of FY09.

*How will the system transition from the existing structure to the new structure?*

- The user fees and revised tax rates will be effective on October 1, 2008, which will provide the FAA with sufficient time to establish interim user fees and implement a billing and collection system. Our proposal therefore extends the current excise taxes for one year to ensure that the FAA has sufficient funding in FY 2008.

*Will the proposal increase administrative burdens and costs for operators or the FAA?*

- The proposal is designed to minimize administrative burdens for operators and the FAA.
- Air traffic service providers all over the world charge user fees with very little administrative burden on operators or the service provider. Due to the scope of the general aviation community in the United States, charging user fees for all GA flights could result in some administrative burden for both operators and the agency. Therefore, the proposal uses the fuel tax as the primary funding mechanism for this group.

*Will the FAA actually be capable of accurately billing and collecting the proposed user fees without a huge bureaucracy?*

- The FAA has had very few problems with the existing overflight fees. Billing and collection has always gone smoothly. Barriers to implementation all came from fee-setting processes that permitted air carriers to tie up the fees in the courts for years.

*The proposal would require commercial users to pay user fees. How would you determine whether an operation is commercial?*



- Today, there are a number of operators who sometimes have to pay the general aviation fuel tax and sometimes have to pay the commercial taxes, depending on whether they are carrying passengers for compensation. Each operator makes this determination for each flight subject to IRS regulations, and the IRS is the ultimate enforcement mechanism to ensure users are reporting their flights correctly.
- The legislation also requires users to declare truthfully in their flight plans whether they are operating as GA or commercial for tax/fee purposes. This will help streamline the user fee billing and collection process, and should result in minimal administrative burden, since users must know this information under today's structure.

*What happens if user fees and tax revenue fall short of expected levels?*

- The proposal establishes a reserve fund with a portion of the user fee revenue, similar to international models. This fund could be tapped if fee revenue falls short of expected levels and additional funding is needed. The Trust Fund may also continue to maintain a small balance to enable it to withstand lower than expected tax revenues.
- Part of the point of a cost-based revenue structure is that the same metrics that drive FAA costs also largely drive FAA revenues, so to the degree the revenue shortfall is due to reduced activity, FAA costs should partially reduce naturally. This connection is largely nonexistent in today's system.

### **System Transformation**

*How will the Administration's proposal facilitate the transformation of the aviation system into NextGen?*

- There is a critical need to fund NextGen to handle projected aviation growth, reduce delays, and lower costs both for users and for FAA. In order to prevent gridlock, we must develop a reliable financing structure for NextGen.
- It is possible to finance system transformation through traditional means; however, this may not get us to the next generation system as quickly as more flexible financing methods would.

*Why does the Administration link the 2008 financing reauthorization to the Next Generation Air Transportation System?*

- The new funding structure must be flexible enough to meet whatever needs are imposed on the system by external demands. This includes the need to transform the system into one that can handle three times today's demand.

- There is broad stakeholder support for moving to this new system sooner rather than later. The users see it as necessary to provide the capacity, reduce delays, and lower their unit costs.

### **Other Issues**

*How will aviation excise taxes change under the proposal?*

- The proposal eliminates the 7.5% ticket tax, the domestic segment tax, the Alaska/Hawaii tax, 6.25% cargo waybill tax, and 7.5% frequent flyer tax. These taxes would all be superseded by the proposed commercial turbine user fees.
- The aviation fuel tax for domestic commercial flights would increase from 4.3 cents per gallon to 13.6 cents per gallon. This fuel tax would fund this user group's contribution to the Airport Improvement Program.
- The general aviation fuel tax would increase from 21.8 cents per gallon for jet fuel and 19.3 cents per gallon for aviation gasoline to 70.0 cents per gallon for either type of fuel. For administrative simplicity, commercial piston-powered flights would also pay this fuel tax rather than user fees. This increase is intended to recover the costs allocated to these users for air traffic control (excluding General Fund functions), plus the 13.6 cents per gallon AIP fuel tax.
- The international arrival and departure tax would decrease from \$14.50 per passenger (in 2006) to \$6.39 in 2009. This would fund this user group's contribution to the Airport Improvement Program. The remainder of the existing tax would be replaced by the proposed commercial turbine user fees.

*Why is the commercial fuel tax increasing?*

- Although the commercial fuel tax rate is increasing from 4.3 cents to 13.6 cents, the net tax burden for commercial users is decreasing. The proposal puts this group's AIP contribution all in the fuel tax for administrative simplicity and because the fuel tax mechanism would remain in place in any case to collect the 0.1 cent per gallon Leaking Underground Storage Tank tax.

*How will the proposal fund the Essential Air Service Program?*

- Under current law, \$50 million for the Essential Air Service (EAS) program comes from FAA overflight fees. However, under the Administration's proposal, overflight fees will be subsumed into the new system of air traffic fees. It does not make sense to take \$50 million from the new air traffic user fee account, because the EAS program cannot be part of the cost basis for the fees, as it is unrelated to air traffic services.

- The Administration's proposal therefore funds the EAS program from the Airport and Airway Trust Fund, and includes \$50 million in the AIP fuel tax for this purpose. This is logical, as EAS is a grant program, similar to AIP.