



News from the Hill

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New Strategies to Leverage FAA Funding

For many years, we have recognized the FAA is being asked to stretch its resources exceedingly thin. It simply does not have the resources to accomplish everything it would like to do; therefore, the FAA has focused its resources on the most safety-sensitive tasks.

This scarcity of resources has affected repair stations in many ways. For example, in an effort to preserve and revitalize its funding sources, the Bush Administration has proposed to Congress a radical new funding paradigm for the FAA. Unfortunately, there are some severe flaws in the mechanisms of the proposal.

New Funding Paradigm

Under the current funding structure for the FAA, a portion of the FAA's funding comes from excise taxes on items such as commercial airline tickets.

The FAA raised concerns that the current funding structure depends primarily on ticket prices and passenger numbers, and these numbers are not necessarily linked to the FAA's workload and costs. Therefore, the FAA sought an alternative funding mechanism.

What is the New Paradigm?

The FAA's user-fee proposal would shift costs from taxes on tickets to a heavier emphasis on so-called user fees (fees imposed directly on the businesses using the aviation infrastructure). The proposal would shift

some of the tax burden from air carrier passengers to the general aviation community.

The legislative proposal for user fees would eliminate the ticket price taxes that fund the aviation trust fund and, in their place, we would see fees for landings and take-off, as well as a significant increase in gas taxes.

The gas tax for general aviation fuel

Ric Peri's column in this issue of *Avionics News* presents details on the certification and registration user fees. Some of these fees will hit AEA members particularly hard.

The AEA has long been an advocate of using the existing lien registration system to secure the right to get paid. The \$5 fee for registering a lien is a small price to pay for the secu-

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would increase from a 19.3-cents-per-gallon tax on domestic general aviation gasoline and a 21.8-cents-per-gallon tax on domestic general aviation jet fuel to a 70-cents-per-gallon tax on both domestic general aviation gasoline and jet fuel. This is about a 250 percent increase in fuel taxes.

Of that 70 cents per gallon, 56.4 cents would fund air traffic control services, while 13.6 cents would fund programs such as the airport improvement program and the FAA's research, engineering and development account.

Does the New Paradigm Affect Us Directly?

For AEA members, the most significant changes in this proposal would be new aircraft certification and registration fees. These fees are not getting much scrutiny in the media; so, many people do not even know they are part of the new funding paradigm.

ity it brings. However, a \$130 fee for recording a security interest in an aircraft or in an aircraft part is a different story.

While this may seem small compared to the value of an aircraft, it can be huge when relative to the value of the work performed by the repair station and the value of the debt remaining unpaid. This would be a tremendous disincentive to the use of the FAA registry by AEA members seeking to protect their ability to get paid for their work.

As Peri points out in his column, there is authority in the proposed legislation for the FAA to charge for field approvals and other services as well.

The complete legislative proposal for the new funding mechanism can be found in the "Next Generation Air Transportation System Financing Reform Act of 2007." Copies of this bill can be found on the FAA's website

(it is split into two different files) at www.faa.gov/regulations%5Fpolicies/reauthorization/media/NextGenBILL_1.pdf and www.faa.gov/regulations%5Fpolicies/reauthorization/media/NextGenBILL_2.pdf.

Who Likes the New Paradigm?

Both the FAA and the commercial airline industry are arguing in favor of the user-fee-based funding system. They claim the proposed new funding structure would link revenues more closely with costs to ensure revenues rise with increases in the FAA's air traffic control and safety activities.

According to the FAA, cost-based user charges also would be more equitable and could create incentives for more efficient use of the system by aircraft operators.

The air carrier community has lobbied specifically for user fees because user fees would shift some of the tax burden from air carrier passengers to the general aviation community.

Air carriers say a large portion of the current funding is collected in the form of ticket taxes paid by air carriers' customers. Paying a fuel tax and other user fees likely would be less of an expense on the air carrier community because the general aviation community would pay a larger sum.

In theory, the savings could be passed on to consumers in the form of lower total prices for tickets. In practice, air carriers would be free to increase fares to reflect the difference between the ticket prices with taxes and the price without taxes, and consumers would not know how much they are paying in taxes.

This could represent a windfall for air carriers — a windfall some argue is needed badly in light of cost structures among legacy carriers that do not lend themselves well to profitable operations.

Are There Opponents to the New Paradigm?

Many people are arguing against the change in the funding mechanism. The general aviation community has vocally opposed the new funding paradigm, raising concerns as to whether or not the FAA's proposed fuel tax rate would collect anticipated revenues.

There also are concerns the fuel tax may curtail some general aviation operations, which could lead to a need to further raise the aviation fuel tax to meet shortfalls — which, in turn, continues a vicious cycle that could lead to a significant cut in the amount of general aviation traffic in the United States.

In answer to the argument suggesting legacy air carriers need a change in the fee structure to survive, general aviation experts point out the general aviation community generally operates more leanly, and air carriers could achieve cost savings by adopting some of the labor-cost structures currently found throughout general aviation.

Another problem with the new funding paradigm is it will raise less revenue, according to some experts, than the old paradigm. The FAA apparently plans to make up for this shortfall (if the shortfall is realized) by increasing the general fund support of certain FAA programs. This is a problem because, if Congress does not appropriate additional general fund support for the FAA, user fees will have to be increased.

The general aviation community is not alone in opposing the proposal.

The U.S. General Accounting Office (GAO) has studied the proposed funding paradigm shift and has raised a number of questions about the FAA's proposal. The GAO has raised doubts as to whether or not the proposed funding structure would achieve its goals.

The reason for these doubts is because the new paradigm depends on

two factors: the soundness of a new FAA cost-allocation methodology, and the extent to which the proposed structure links revenues to costs. This is an economist's way of saying the new funding method is no more sound than the current one.

More importantly, argues the GAO, the current system is not broken; therefore, radical solutions (particularly solutions that may not work) are premature. The GAO has analyzed the FAA's current funding structure and concluded it can continue to support the FAA into the foreseeable future.

According to the GAO, as the number of air travelers has grown, so have excise tax revenues. Although revenues fell during the early years of this decade as demand for air travel fell, they began rising again in fiscal year 2004. The FAA has admitted, according to the GAO, if the current excise taxes remain in effect at their current rates, revenues will continue to increase. If additional revenue became necessary, GAO official said Congress could obtain more revenue by increasing the excise tax rates or the general fund contribution to the FAA's budget.

Playing Fast and Loose with the Law

The FAA is seeking a blank check from Congress. Its draft of the bill would include an exemption from the Administrative Procedures Act for any future rulemaking activity under this law. This means the FAA would be able to set user fees without seeking public comment.

User fees are supposed to be tied to the FAA's costs; so, do we really need public input into user fees? You bet we do.

Although the proposed law states that collected user fees would be tied to the FAA's costs, it also provides the FAA with several different forms

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of user-fee authority, which would actually authorize the FAA to collect more money than it needs. The FAA is allowed to collect a “reserve” as a hedge against future shortfalls. There is no limit imposed on the size of this reserve.

For those who might naively protest and say the FAA would never misuse this authority, a quick look at the history of the transportation trust funds is in order.

In the past, the U.S. government allowed surpluses to collect in the transportation trust funds because these funds are considered “on-budget;” therefore, a surplus in the trust funds masks the true size of the annual budget deficit. With the emphasis on approaching a balanced budget each year, there is a true incentive to retain these funds without spending them.

Usually, such funds are to be invested in government bonds — although the government does not pay itself interest, so the money is just spent by the government on general fund programs, then “owed” to the aviation community. Thus, in the guise of collecting a “reserve,” the FAA actually could collect a pool of money designed to help mask the true size of the budget deficit, potentially giving the budget the appearance of balance when it is not really balanced. The Administration could order an increase in user fees specifically to support such an accretion of funds — and it would be perfectly legal under this proposed legislation.

There are arguments in favor of and in opposition to a user-fee-based paradigm for funding the FAA; however, the FAA’s proposed legislation goes well beyond the scope of mere user fees — it is a license to raid the aviation community for new funding every time the FAA decides it needs more money (and even when it doesn’t).

These excesses in the proposed legislation need to be curtailed before the bill can become a law everyone can live with. □