

**EXPLANATION OF THE AIRPORT AND
AIRWAY REVENUE ACT OF 1987**

**COMMITTEE AMENDMENT (REVENUE TITLE) TO BE
OFFERED TO S. 1184**

BY THE

**COMMITTEE ON FINANCE
UNITED STATES SENATE**

Lloyd Bentsen, *Chairman*



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INTRODUCTION

This document provides an explanation of the provisions of the Airport and Airway Revenue Act of 1987, as approved by the Senate Committee on Finance on August 5, 1987. The provisions were approved by voice vote as a committee amendment to be offered as a separate revenue title to S. 1184 (Airport and Airway Capacity Expansion Act of 1987) when that bill is considered by the Senate.

This explanation is to be considered as the official legislative history of the committee amendment, and is to be the equivalent of a committee report on the provisions of the committee amendment. The statutory language of the committee amendment is included as part of this document.

I. SUMMARY AND BACKGROUND

A. Summary of Committee Amendment

Extension of present aviation excise taxes

The committee amendment extends the present-law aviation excise taxes generally for four years, from January 1, 1988, through December 31, 1991. These taxes are an 8-percent tax on air passenger fares, a 5-percent tax on domestic air freight, a \$3 per person tax on international departures, and fuels taxes (12 cents per gallon on gasoline and 14 cents per gallon on other fuels) on noncommercial (general) aviation.

Reduction in tax rates if Trust Fund unobligated balance exceeds specified level

The committee amendment provides an automatic 50-percent reduction in the air passenger ticket, air freight, international departure, and general aviation fuels tax rates for 1991, if the Airport and Airway Trust Fund unobligated balance exceeds \$3 billion at the end of fiscal year 1990.

Exemption from air passenger ticket tax for certain helicopters

The committee amendment expands the current exemption for certain helicopters not using the Federally assisted airport and airway system to exempt all such helicopters from the air passenger ticket tax. Helicopters not otherwise exempt will still be subject to the fuels taxes and the air freight tax. This exemption applies to such transportation provided on or after October 1, 1988, but not to amounts paid before that date.

Extension of transfers of taxes to the Trust Fund and expenditure authority

The committee amendment extends the present-law transfer of aviation excise tax revenues to the Airport and Airway Trust Fund for four years, from January 1, 1988, through December 31, 1992, to correspond with the four-year extension of the taxes.

The committee amendment extends the authority to make expenditures from the Airport and Airway Trust Fund for three years, from October 1, 1987, through September 30, 1990. The committee amendment also updates the expenditure authority of the Trust Fund to reflect the purposes authorized under S. 1184.

B. Background of Legislation

S. 1184

S. 1184 (Airport and Airway Capacity Expansion Act of 1987) was reported by the Senate Committee on Commerce, Science, and Transportation on July 1, 1987 (S. Rep. 100-99), S. 1184 provides

Trust Fund authorizations for airport improvements, airway facilities and equipment, research engineering, and development, operations and maintenance, and NOAA weather cost reimbursement for fiscal years 1988-1990. The Trust Fund authorizations under S. 1184 total \$5.1 billion for fiscal year 1988, \$5.3 billion for fiscal year 1989, and \$5.8 billion for fiscal year 1990.

Committee amendment

The Committee on Finance held public hearings on the President's fiscal year 1988 budget revenue proposals (including the extension of the aviation excise taxes) on February 4, and March 23, 1987.¹ The Committee held a markup on August 5, 1987, and approved a committee amendment to be offered as a revenue title to S. 1184 when that bill is considered by the Senate.

¹ The President's fiscal year 1988 budget proposed a two-year extension of present-law Trust Fund excise taxes and Trust Fund expenditure authority.

II. EXPLANATION OF COMMITTEE AMENDMENT

A. Extension of Aviation Excise Taxes

Present Law

Excise taxes are imposed on air passenger tickets (8 percent), domestic air freight (5 percent), international passenger departures (\$3.00), and fuels for noncommercial aviation (12 cents per gallon on gasoline and 14 cents per gallon on other fuels).

Revenues from these taxes are deposited in the Airport and Airway Trust Fund to fund certain Federal airport and airway programs. The taxes are scheduled to expire after December 31, 1987. There is no provision for reduction or suspension of these excise taxes before the scheduled expiration if Trust Fund authorizations are not fully appropriated.

Reasons for Change

The Committee on Finance believes that the present-law Airport and Airway Trust Fund excise taxes should be extended generally for four years, at current tax rates, to provide financing of expanded airport and airway development and safety program expenditures for fiscal years 1988-90 as reported in S. 1184 by the authorizing committee.

The committee is very concerned, however, over the tendency in recent years to accumulate unobligated Funds in the Airport and Airway Trust Fund rather than to spend amounts raised by the aviation excise taxes at the authorized levels. For example, it is projected that the Trust Fund will have an unobligated balance of approximately \$5.6 billion as of October 1, 1987.

The committee amendment includes a "tax reduction trigger" after the third year to create incentives for the Administration to request and Appropriations Committees to fund Trust Fund programs at the authorized levels. If a tax reduction trigger is in place, the committee believes there will be less tendency to hold back needed spending on the aviation system because reduced Trust Fund spending will trigger reduced aviation tax revenues for 1991. In fact, the committee has adopted a tax reduction trigger that will not result in any reduction in taxes if S. 1184's authorizations are fully funded (based on current CBO projections).

The Committee on Finance intends to continue to monitor the spending programs associated with the Airport and Airway Trust Fund during the extension period to ensure that its financing and safety objectives are achieved.

Explanation of Provision

Extension of present-law aviation excise taxes

The committee amendment generally extends the present-law aviation excise taxes for four years, from January 1, 1988, through December 31, 1991. (See also, the provision below relating to the "tax reduction trigger.")

Reduction in aviation excise tax rates if Trust Fund unobligated balance exceeds specified level

The committee amendment provides for an automatic 50-percent reduction in the Airport and Airway Trust Fund excise tax rates for the fourth year (1991), if the Trust Fund unobligated balance at the end of fiscal year 1990 exceeds \$3 billion.

Effective Date

These provisions are effective on the date of enactment.

B. Exemption From Air Ticket Tax for Certain Helicopters

Present Law

Present law includes no general exemption from the airport and airway taxes for helicopters. Exemptions are provided from the passenger ticket tax and the aviation fuels taxes, however, for helicopters engaged in certain timber and oil, gas, or hard mineral exploration and development activities provided that the helicopters do not use the Federally assisted airport and airway system.

The air passenger and air freight taxes generally apply only with respect to amounts paid to a person engaged in the business of transporting persons or property by air for hire (i.e., commercial airlines). The air passenger and air freight taxes, however, do not apply to transportation by an aircraft having a maximum certificated takeoff weight of 6,000 pounds or less, except when such aircraft is operated on an established line. Noncommercial aviation is not subject to the ticket or freight taxes, but rather is subject to the fuels taxes. Similarly, aircraft subject to the 6,000 pound exception must pay the fuels taxes.

Reasons for Change

The committee determined that, consistent with the user tax basis of the aviation taxes, helicopters that do not use the Federally assisted airport and airway system should be exempt from the air passenger ticket tax, but should remain subject to the fuels taxes and the air freight tax.

Explanation of Provision

The committee amendment provides an exemption from the tax for helicopters where the helicopters do not use the Federally assisted airport or airway system. Such helicopter operations will be subject to the air ticket tax only for flights using the Federal system, otherwise, such helicopter operations remain subject to the

fuels taxes and the air freight tax (when transporting property for hire for helicopters over 6,000 pounds).

Effective Date

This provision generally is effective with respect to qualified helicopter transportation provided after September 30, 1988.

C. Extension of Trust Fund Authority

Present Law

Amounts equivalent to the revenues from the aviation excise taxes are transferred to the Airport and Airway Trust Fund through December 31, 1987, when the taxes are currently scheduled to expire. Authority to make expenditures from the Trust Fund expires after September 30, 1987.

The Trust Fund statute authorizes expenditures from the Trust Fund for obligations incurred under the Airport and Airway Improvement Act of 1982 (and as authorized under applicable prior acts) as in effect on the date of enactment of the 1982 Act.

Reasons for Change

The committee determined that the authority to transfer revenues from the aviation excise taxes to the Trust Fund and the authority to make expenditures from the Trust Fund should be extended to correspond to the four-year extension of the taxes in the committee amendment.

Explanation of Provision

The committee amendment provides a four-year extension of the transfer of aviation excise tax revenues to the Airport and Airway Trust Fund, through December 31, 1991.

Authority to make expenditures from the Trust Fund is extended for three years, through September 30, 1990.

The committee amendment also updates the Trust Fund statute to include Trust Fund programs authorized under the Airport and Airway Capacity Expansion Act of 1987 (S. 1184).

Effective Date

These provisions are effective on the date of enactment of the amendment.

III. BUDGET EFFECTS OF COMMITTEE AMENDMENT AND VOTE OF THE COMMITTEE

A. Budget Effects

In compliance with paragraph 11(a) of Rule XXVI of the Standing Rules of the Senate, the following statement is made relative to the effect on the budget of the committee amendment.

The four-year extension of the present-law aviation excise taxes will have no effect on net budget receipts, as the Congressional Budget Office assumes the extension of these taxes in its baseline budget. Assuming that the Airport and Airway Trust Fund authorizations for fiscal years 1988-1990 under S. 1184 will be fully appropriated (CBO assumption), the tax rate reduction "trigger" included in the committee amendment for 1991 will not go into effect; therefore, the provision is not considered to have a budget effect. The exemption from the airpassenger ticket tax for certain helicopters is estimated to reduce net budget receipts by \$2 million per year, beginning in fiscal year 1989.

Extension of the current aviation excise taxes through 1991 is estimated to provide \$15.2 billion in tax revenues for the Airport and Airway Trust Fund for fiscal years 1988-1991, as shown in the following table.

Estimated Airport and Airway Trust Fund Tax Revenues, Fiscal Years 1988-92 ¹

[In millions of dollars]

Tax	1988	1989	1990	1991	1992
Passenger tickets (8%).....	3,001	3,215	3,503	3,816	1,616
Air freight (5%).....	177	190	203	217	91
International departure (\$3).....	97	100	106	111	45
General aviation fuel (12 cents/gal. gasoline, 14 cents/gal. other)	118	123	126	131	53
Total Trust Fund tax revenues ²	³ 3,388	3,623	3,933	4,271	1,805

¹ Trust Fund tax revenue projections are based on CBO's February 1987 economic assumptions, and assume that the tax reduction "trigger" does not go into effect for calendar year 1991.

² Net of \$5 million in refunds each year.

³ This includes \$1,323 million in tax revenues to be received under current Trust Fund taxes through December 31, 1987.

B. Vote of the Committee

In compliance with paragraph 7(c) of Rule XXVI of the Standing Rules of the Senate, the following statement is made relative to the

vote of the committee on the motion to approve the committee amendment (to be offered to S. 1184). The committee amendment was approved by voice vote.

IV. REGULATORY IMPACT AND OTHER MATTERS TO BE DISCUSSED UNDER SENATE RULES

A. Regulatory Impact

Pursuant to paragraph 11(b) of Rule XXVI of the Standing Rules of the Senate, the committee makes the following statement concerning the regulatory impact that might be incurred in carrying out the provisions of the committee amendment.

The committee amendment does not regulate individuals or businesses, as it merely provides for a four-year extension of existing aviation excise taxes going into the Airport and Airway Trust Fund.

The provisions do not relate to the personal privacy of individuals, nor will they result in increased paperwork for individuals or businesses. The exemption from the air passenger ticket tax for helicopters not using the federally assisted airport and airway system will allow such helicopter operators to not have to collect the ticket tax from passengers on such flights.

B. Other Matters

Consultation with Congressional Budget Office

In accordance with section 403 of the Budget Act, the committee advises that the Congressional Budget Office has examined the committee's budget estimates (see Part III, above), and agrees with the estimates as presented.

New Budget Authority

In compliance with section 308(a)(1) of the Budget Act, the committee states that the committee amendment involves no new or increased budget authority.

Tax Expenditures

In compliance with section 308(a)(2) of the Budget Act, the committee states that the committee amendment involves no new or increased tax expenditures.

V. STATUTORY LANGUAGE OF COMMITTEE AMENDMENT

AMENDMENT NO. _____ Calendar No. _____

Purpose: To extend the Airport and Airway Trust Fund taxes,
and for other purposes.

IN THE SENATE OF THE UNITED STATES—100th Cong., 1st Sess.

S. 1184To amend the Airport and Airway Improvement Act of 1982
to improve the safety and efficiency of air travel, and for
other purposes.Referred to the Committee on _____
and ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT intended to be proposed by Mr. BENTSEN (for
himself and Mr. PACKWOOD), on behalf of the Committee
on Finance

Viz:

1 At the end of the bill, insert the following new title:

2 **TITLE II—AMENDMENTS TO THE**
3 **INTERNAL REVENUE CODE OF 1986**4 **SEC. 201. SHORT TITLE; AMENDMENT OF 1986 CODE.**5 (a) **SHORT TITLE.**—This title may be cited as the
6 “Airport and Airway Revenue Act of 1987”.7 (b) **AMENDMENT OF 1986 CODE.**—Except as otherwise
8 expressly provided, whenever in this title an amendment is
9 expressed in terms of an amendment to a section or other

1 provision, the reference shall be considered to be made to
2 a section or other provision of the Internal Revenue Code
3 of 1986.

4 **SEC. 202. 4-YEAR EXTENSION OF TAXES ON TRANSPORTATION BY**
5 **AIR; REDUCTION OF TAXES IN 1991 IF FUNDS**
6 **REMAIN UNOBLIGATED.**

7 (a) **TAX ON TRANSPORTATION OF PERSONS BY AIR.—**

8 Section 4261(f) (relating to termination of tax on transpor-
9 tation by air) is amended to read as follows:

10 “(f) **TERMINATION; REDUCTION IN 1991 IF FUNDS**
11 **REMAIN UNOBLIGATED.—**

12 “(1) **IN GENERAL.—**Except as provided in para-
13 graph (2), the taxes imposed by this section shall
14 apply with respect to transportation beginning after
15 August 31, 1982, and before January 1, 1992.

16 “(2) **REDUCTION OF RATE IN 1991.—**In the case
17 of transportation beginning in 1991, if the unobligat-
18 ed balance in the Airport and Airway Trust Fund as
19 of September 30, 1990 (as determined by the Secre-
20 tary) exceeds \$3,000,000,000, then—

21 “(A) subsections (a) and (b) shall each be
22 applied by substituting ‘4 percent’ for ‘8 per-
23 cent’, and

24 “(B) subsection (c) shall be applied by
25 substituting ‘\$1.50’ for ‘\$3’.

1 “(3) TREATMENT OF OBLIGATIONS.—For pur-
2 poses of determining the unobligated balance of the
3 Airport and Airway Trust Fund under paragraph
4 (2)—

5 “(A) IN GENERAL.—Except as provided in
6 subparagraph (B), an amount shall be treated as
7 obligated when it is appropriated.

8 “(B) AMOUNTS OBLIGATED UNDER SECTION
9 505 OF AIRWAY IMPROVEMENT ACT.—An amount
10 shall be treated as obligated under section 505
11 of the Airport and Airway Improvement Act of
12 1982 when such amount is authorized.”

13 (b) TAX ON FUELS USED IN NONCOMMERCIAL AVIA-
14 TION.—

15 (1) IN GENERAL.—Section 4041(c)(5) (relating to
16 termination) is amended to read as follows:

17 “(5) TERMINATION; REDUCTION IN 1991 IF FUNDS
18 REMAIN UNOBLIGATED.—

19 “(A) IN GENERAL.—Except as provided in
20 subparagraph (B), the taxes imposed by para-
21 graphs (1) and (2) shall apply during the period
22 beginning on September 1, 1982, and ending on
23 December 31, 1991.

24 “(B) REDUCTION OF RATE IN 1991.—In the
25 case of any sale or use during 1991, if para-

1 graph (2) of section 4261(f) applies during
2 1991, then—

3 “(i) paragraph (1) shall be applied by
4 substituting ‘7 cents’ for ‘14 cents’, and

5 “(ii) no tax shall be imposed under
6 paragraph (2).”.

7 (2) REFUND OF FUEL TAXES ON NONCOMMERCIAL
8 AVIATION.—

9 (A) IN GENERAL.—Section 6427 (relating to
10 fuels not used for taxable purposes) is amended
11 by redesignating subsection (p) as subsection
12 (q) and by inserting after subsection (o) the fol-
13 lowing new subsection:

14 “(p) GASOLINE USED IN NONCOMMERCIAL AVIATION
15 DURING 1991.—Except as provided in subsection (k), if sec-
16 tion 4041(c)(5)(B) applies during 1991 and—

17 “(1) any tax is imposed by section 4041(c)(2)
18 or 4081 on any gasoline sold during 1991, and

19 “(2) such gasoline is used as a fuel in any air-
20 craft in noncommercial aviation (as defined in sec-
21 tion 4041(c)(4)),

22 the Secretary shall pay (without interest) to the ultimate
23 purchaser of such gasoline an amount equal to the excess
24 (if any) of the aggregate amount of tax paid under sections
25 4041(c)(2) and 4081 on the gasoline so used over an

1 amount equal to 6 cents multiplied by the number of gal-
2 lons of gasoline so used.’’.

3 (B) TECHNICAL AMENDMENTS.—

4 (i) Paragraph (1) of section 6427(i) is
5 amended by striking out “or (h)” and in-
6 serting in lieu thereof “(h), or (p)”.

7 (ii) Clause (i) of section 6427(i)(2)(A)
8 is amended by striking out “and (h)” and
9 inserting in lieu thereof “(h), and (p)”.

10 (c) TAX ON TRANSPORTATION OF PROPERTY BY AIR.—

11 Section 4271(d) (relating to termination) is amended to
12 read as follows:

13 “(f) TERMINATION; REDUCTION IN 1991 IF FUNDS
14 REMAIN UNOBLIGATED.—

15 “(1) IN GENERAL.—Except as provided in para-
16 graph (2), the taxes imposed by this section shall
17 apply with respect to transportation beginning after
18 August 31, 1982, and before January 1, 1992.

19 “(2) REDUCTION IN RATE IN 1991.—In the case
20 of transportation beginning in 1991, if paragraph (2)
21 of section 4261(f) applies during 1991, then subsec-
22 tion (a) shall be applied by substituting ‘2.5 percent’
23 for ‘5 percent’.”.

24 (d) EXPENDITURES FROM TRUST FUND.—

1 (1) **IN GENERAL.**—Section 9502(b) (relating to
2 transfer to Airport and Airway Trust Fund of
3 amounts equivalent to certain taxes) is amended by
4 striking out “January 1, 1988” each place it appears
5 and inserting in lieu thereof “January 1, 1992”.

6 (2) **EXPENDITURES FROM TRUST FUND.**—The ma-
7 terial preceding subparagraph (A) of paragraph (1) of
8 section 9502(d) (relating to expenditures from Air-
9 port and Airway Trust Fund) is amended by striking
10 out “October 1, 1987” and inserting in lieu thereof
11 “October 1, 1990”.

12 (3) **TRUST FUND PURPOSES.**—Subparagraph (A)
13 of section 9502(d)(1) is amended by inserting before
14 the semicolon “or under the Airport and Airway Ca-
15 pacity Expansion Act of 1987 (as such Act was in
16 effect on the date of the enactment thereof)”.

17 **SEC. 203. EXEMPTION OF CERTAIN HELICOPTERS FROM TAX ON**
18 **TRANSPORTATION OF PERSONS BY AIR.**

19 (a) **EXEMPTION.**—Subsection (e) of section 4261 (re-
20 lating to exemption for certain helicopter uses) is amended
21 by striking out “or” at the end of paragraph (1), by insert-
22 ing “or” at the end of paragraph (2), and by adding after
23 paragraph (2) the following new paragraph:

1 “(3) any other use if tax is imposed under sec-
2 tion 4041(c) or 4081 on fuel used in connection with
3 such use.”.

4 (b) IMPOSITION OF TAX ON FUELS USED BY HELICOP-
5 TERS EXEMPT FROM TAX ON TRANSPORTATION OF PER-
6 SONS.—Paragraph (4) of section 4041(c) (defining non-
7 commercial aviation) is amended by adding at the end
8 thereof the following new sentence: “Except as provided
9 in subsection (l), the term ‘noncommercial aviation’ shall
10 include the use of any helicopter which does not take off
11 from, or land at, a facility eligible for assistance under the
12 Airport and Airway Development Act of 1970 or otherwise.
13 uses services provided pursuant to the Airport and Airway
14 Improvement Act of 1982.”.

15 (c) TECHNICAL AMENDMENTS.—Sections 4261(e) and
16 4041(l) are each amended by striking out “System Im-
17 provement Act” and inserting in lieu thereof “Improve-
18 ment Act”.

19 (d) EFFECTIVE DATE.—

20 (1) EXEMPTION.—The amendments made by
21 subsection (a) shall apply to transportation beginning
22 after September 30, 1988, but shall not apply to any
23 amount paid on or before such date.

1 (2) **FUELS TAX.**—The amendment made by sub-
2 section (b) shall apply to sales or uses after Septem-
3 ber 30, 1988.

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