

Proposed Napolitano Legislation Regarding FAA Aviation Fuel Sales Tax

Changes to current law that would be made by this amendment are in red.

49 U.S.C. § 47107

(b) Written assurances on use of revenue.--(1) The Secretary of Transportation may approve a project grant application under this subchapter for an airport development project only if the Secretary receives written assurances, satisfactory to the Secretary, that local excise taxes on aviation fuel (except taxes in effect on December 30, 1987) and the revenues generated by a public airport will be expended for the capital or operating costs of--

- (A)** the airport;
- (B)** the local airport system; or
- (C)** other local facilities owned or operated by the airport owner or operator and directly and substantially related to the air transportation of passengers or property.

(2) Paragraph (1) of this subsection does not apply if a provision enacted not later than September 2, 1982, in a law controlling financing by the airport owner or operator, or a covenant or assurance in a debt obligation issued not later than September 2, 1982, by the owner or operator, provides that the revenues, including local excise taxes on aviation fuel at public airports, from any of the facilities of the owner or operator, including the airport, be used to support not only the airport but also the general debt obligations or other facilities of the owner or operator.

(3) This subsection does not prevent the use of a State excise tax on aviation fuel to support a State aviation program or the use of airport revenue on or off the airport for a noise mitigation purpose.

(4) This subsection does not apply to State or local general sales taxes nor to State or local generally applicable sales taxes.

49 U.S.C. § 47133

(a) Prohibition.--Local excise taxes on aviation fuel (except taxes in effect on December 30, 1987) or the revenues generated by an airport that is the subject of Federal assistance may not be expended for any purpose other than the capital or operating costs of--

- (1) the airport;
- (2) the local airport system; or
- (3) any other local facility that is owned or operated by the person or entity that owns or operates the airport that is directly and substantially related to the air transportation of passengers or property.

(b) Exceptions.--

(1) Prior laws and agreements.--Subsection (a) shall not apply if a provision enacted not later than September 2, 1982, in a law controlling financing by the airport owner or operator, or a covenant or assurance in a debt obligation issued not later than September 2, 1982, by the owner or operator, provides that the revenues, including local excise taxes on aviation fuel at public airports, from any of the facilities of the owner or operator, including the airport, be used to support not only the airport but also the general debt obligations or other facilities of the owner or operator.

(2) Sale of private airport to public sponsor.--In the case of a privately owned airport, subsection (a) shall not apply to the proceeds from the sale of the airport to a public sponsor if--

- (A) the sale is approved by the Secretary;
- (B) funding is provided under this subchapter for any portion of the public sponsor's acquisition of airport land; and
- (C) an amount equal to the remaining unamortized portion of any airport improvement grant made to that airport for purposes other than land acquisition, amortized over a 20-year period, plus an amount equal to the Federal share of the current fair market value of any land acquired with an airport improvement grant made to that airport on or after October 1, 1996, is repaid to the Secretary by the private owner.

(3) Treatment of repayments.--Repayments referred to in paragraph (2)(C) shall be treated as a recovery of prior year obligations.

(c) Rule of construction.--Nothing in this section may be construed to prevent the use of a State excise tax on aviation fuel to support a State aviation program or the use of airport revenue on or off the airport for a noise mitigation purpose.

(d) Limitation of Applicability. - This section does not apply to State or local general sales taxes nor to State or local generally applicable sales taxes.