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Grace F. Napolitano
Congress of the United States
House of Representatives
31st District of California

TRANSPORTATION AND INFRASTRUCTURE
WATER RESOURCES AND ENVIRONMENT - **RANKING MEMBER**

NATURAL RESOURCES

WATER, OCEANS, AND WILDLIFE

CONGRESSIONAL MENTAL HEALTH**CAUCUS**

FOUNDER AND CO-CHAIR

CONGRESSIONAL YOUTH CHALLENGE**CAUCUS**

FOUNDER AND CO-CHAIR

CONGRESSIONAL HISPANIC CAUCUS

March 17, 2023

The Honorable Sam Graves
Chairman
Committee on Transportation and Infrastructure
2165 Rayburn House Office Building
Washington, DC 20515

The Honorable Rick Larsen
Ranking Member
Committee on Transportation and Infrastructure
2164 Rayburn House Office Building
Washington, DC 20515

The Honorable Garret Graves
Chairman
Subcommittee on Aviation
2251 Rayburn House Office Building
Washington, DC 20515

The Honorable Steve Cohen
Ranking Member
Subcommittee on Aviation
2268 Rayburn House Office Building
Washington, DC 20515

RE: Legislative Priorities for the Upcoming 2023 FAA Reauthorization Bill

Dear Chairman Graves, Ranking Member Larsen, Chairman Graves, and Ranking Member Cohen:

Thank you for the opportunity to submit priorities for the upcoming Federal Aviation Administration (FAA) Reauthorization bill. I write to respectfully request that my legislation, H.R. 695- the State and Local General Sales Tax Protection Act, be included in the FAA Reauthorization bill. H.R. 695 would protect local and state governments from federal intrusion by overturning a 2014 policy change regarding aviation fuel sales taxes.

This bill simply re-establishes Congressional intent and 29 years of federal interpretation that the limitation on the use of sales taxes collected on aviation fuel for airport purposes is applied only to excise taxes on aviation fuel, and not to general sales taxes that states and localities impose on all goods.

Issue Summary

In 1987, Congress passed the FAA authorization amendments that required airports to spend aviation fuel excise tax revenue on airport uses. The conference report for the 1987 amendments to the FAA statute (H.R. Conf. Rept. No. 484, 100th Cong., 1st Sess. 1987 accompanying P.L. 100-223) clearly stated that the requirement that local taxes on aviation fuel must be spent on airports “is intended to apply to local fuel taxes only, **and not to other taxes imposed by local governments, or to state taxes**”.

For 29 years, the FAA interpreted this limitation to be on excise taxes on aviation fuel, and not general sales taxes in cities, counties, and states.

Problem


On Dec. 8th, 2014 (79 FR 66282), the FAA made a final policy change that reversed their 29 years of interpretation and said that general sales taxes are applicable to this law. The policy change forced states and local governments to siphon the revenue they receive from aviation fuel as a part of a general sales tax and direct that to airports. Many states and local governments have previously opposed this rulemaking.

This is particularly an issue in California because our local sales taxes are voter approved by a 2/3rds margin for a specific purpose (usually transportation). Therefore, this FAA rulemaking overturns the will of California voters. My legislation would revert back to the 29 years of FAA interpretation that the requirement in federal law on aviation fuel taxes is only applied to excise taxes and not general sales taxes.

Please let me know if you or your staff have any questions regarding this request. My staff member who handles this issue is Melvin Sanchez, 202-225-5256, melvin.sanchez@mail.house.gov.

Thank you for your attention to this request.

Sincerely,


Grace F. Napolitano
Member of Congress