

110TH CONGRESS
1ST SESSION

H. R. 3539

[Report No. 110-]

To amend the Internal Revenue Code of 1986 to extend financing for the Airport and Airway Trust Fund, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 17, 2007

Mr. RANGEL introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committee on Transportation and Infrastructure, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

SEPTEMBER --, 2007

Reported from the Committee on Ways and Means with an amendment

[Strike out all after the enacting clause and insert the part printed in italic]

[For text of introduced bill, see copy of bill as introduced on September 17, 2007]

A BILL

To amend the Internal Revenue Code of 1986 to extend financing for the Airport and Airway Trust Fund, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 *This Act may be cited as the “Airport and Airway*
3 *Trust Fund Financing Act of 2007”.*

4 **SEC. 2. EXTENSION AND MODIFICATION OF TAXES FUND-**
5 **ING AIRPORT AND AIRWAY TRUST FUND.**

6 *(a) RATE OF TAX ON AVIATION-GRADE KEROSENE*
7 *AND AVIATION GASOLINE.—*

8 *(1) AVIATION-GRADE KEROSENE.—Subparagraph*
9 *(A) of section 4081(a)(2) of the Internal Revenue*
10 *Code of 1986 (relating to rates of tax) is amended by*
11 *striking “and” at the end of clause (ii), by striking*
12 *the period at the end of clause (iii) and inserting “,*
13 *and”, and by adding at the end the following new*
14 *clause:*

15 *“(iv) in the case of aviation-grade ker-*
16 *osene, 35.9 cents per gallon.”.*

17 *(2) AVIATION GASOLINE.—Clause (ii) of section*
18 *4081(a)(2)(A) of such Code is amended by striking*
19 *“19.3 cents” and inserting “24.1 cents”.*

20 *(3) FUEL REMOVED DIRECTLY INTO FUEL TANK*
21 *OF AIRPLANE USED IN NONCOMMERCIAL AVIATION.—*
22 *Subparagraph (C) of section 4081(a)(2) of such Code*
23 *is amended to read as follows:*

24 *“(C) TAXES IMPOSED ON FUEL USED IN*
25 *COMMERCIAL AVIATION.— In the case of avia-*
26 *tion-grade kerosene which is removed from any*

1 *refinery or terminal directly into the fuel tank of*
2 *an aircraft for use in commercial aviation by a*
3 *person registered for such use under section 4101,*
4 *the rate of tax under subparagraph (A)(iv) shall*
5 *be 4.3 cents per gallon.”.*

6 (4) *CONFORMING AMENDMENTS.—*

7 (A) *Clause (iii) of section 4081(a)(2)(A) of*
8 *such Code is amended by inserting “other than*
9 *aviation-grade kerosene” after “kerosene”.*

10 (B) *The following provisions of such Code*
11 *are each amended by striking “kerosene” and in-*
12 *serting “aviation-grade kerosene”:*

13 (i) *Section 4081(a)(3)(A)(ii).*

14 (ii) *Section 4081(a)(3)(A)(iv).*

15 (iii) *Section 4081(a)(3)(D).*

16 (C) *Section 4081(a)(3)(D) of such Code is*
17 *amended—*

18 (i) *by striking “paragraph (2)(C)(i)”*
19 *in clause (i) and inserting “paragraph*
20 *(2)(C)”*, and

21 (ii) *by striking “paragraph (2)(C)(ii)”*
22 *in clause (ii) and inserting “paragraph*
23 *(2)(A)(iv)”.*

1 (D) Section 4081(a)(4) of such Code is
2 amended in the heading by striking “KEROSENE”
3 and inserting “AVIATION-GRADE KEROSENE”.

4 (E) Section 4081(d)(2) of such Code is
5 amended by inserting “, (a)(2)(A)(iv),” after
6 “subsections (a)(2)(A)(ii)”.

7 (b) *EXTENSION.*—

8 (1) *FUELS TAXES.*—Paragraph (2) of section
9 4081(d) of such Code is amended by striking “gal-
10 lon—” and all that follows and inserting “gallon
11 after September 30, 2011”.

12 (2) *TAXES ON TRANSPORTATION OF PERSONS
13 AND PROPERTY.*—

14 (A) *PERSONS.*—Clause (ii) of section
15 4261(j)(1)(A) of such Code is amended by strik-
16 ing “September 30, 2007” and inserting “Sep-
17 tember 30, 2011”.

18 (B) *PROPERTY.*—Clause (ii) of section
19 4271(d)(1)(A) of such Code is amended by strik-
20 ing “September 30, 2007” and inserting “Sep-
21 tember 30, 2011”.

22 (c) *EXEMPTION FOR AVIATION-GRADE KEROSENE RE-
23 MOVED INTO AN AIRCRAFT.*—Subsection (e) of section 4082
24 of such Code is amended—

1 (1) *by striking “kerosene” and inserting “avia-*
2 *tion-grade kerosene”*,

3 (2) *by striking “section 4081(a)(2)(A)(iii)” and*
4 *inserting “section 4081(a)(2)(A)(iv)”*, and

5 (3) *by striking “KEROSENE” in the heading and*
6 *inserting “AVIATION-GRADE KEROSENE”*.

7 (d) *RETAIL TAX ON AVIATION FUEL.—*

8 (1) *EXEMPTION FOR PREVIOUSLY TAXED*
9 *FUEL.—Paragraph (2) of section 4041(c) of such Code*
10 *is amended by inserting “at the rate specified in sub-*
11 *section (a)(2)(A)(iv) thereof” after “section 4081”*.

12 (2) *RATE OF TAX.—Paragraph (3) of section*
13 *4041(c) of such Code is amended to read as follows:*

14 “*(3) RATE OF TAX.—The rate of tax imposed by*
15 *this subsection shall be the rate of tax in effect under*
16 *section 4081(a)(2)(A)(iv) (4.3 cents per gallon with*
17 *respect to any sale or use for commercial aviation).*”.

18 (e) *REFUNDS RELATING TO AVIATION-GRADE KER-*
19 *ROSENE.—*

20 (1) *KEROSENE USED IN COMMERCIAL AVIA-*
21 *TION.—Clause (ii) of section 6427(l)(4)(A) of such*
22 *Code is amended by striking “specified in section*
23 *4041(c) or 4081(a)(2)(A)(iii), as the case may be,”*
24 *and inserting “so imposed”*.

1 (2) *KEROSENE USED IN AVIATION.*—Paragraph
2 (4) of section 6427(l) of such Code is amended—

3 (A) by striking subparagraph (B) and re-
4 designating subparagraph (C) as subparagraph
5 (B), and

6 (B) by amending subparagraph (B), as re-
7 designated by subparagraph (A), to read as fol-
8 lows:

9 “(B) *PAYMENTS TO ULTIMATE, REGISTERED*
10 *VENDOR.*—With respect to any kerosene used in
11 aviation (other than kerosene to which para-
12 graph (6) applies), if the ultimate purchaser of
13 such kerosene waives (at such time and in such
14 form and manner as the Secretary shall pre-
15 scribe) the right to payment under paragraph
16 (1) and assigns such right to the ultimate ven-
17 dor, then the Secretary shall pay (without inter-
18 est) the amount which would be paid under
19 paragraph (1) to such ultimate vendor, but only
20 if such ultimate vendor—

21 “(i) is registered under section 4101,

22 and

23 “(ii) meets the requirements of sub-
24 paragraph (A), (B), or (D) of section
25 6416(a)(1).”.

1 (3) *AVIATION-GRADE KEROSENE NOT USED IN*
2 *AVIATION.—Subsection (l) of section 6427 of such*
3 *Code is amended by redesignating paragraph (5) as*
4 *paragraph (6) and by inserting after paragraph (4)*
5 *the following new paragraph:*

6 “(5) *REFUNDS FOR AVIATION-GRADE KEROSENE*
7 *NOT USED IN AVIATION.—If tax has been imposed*
8 *under section 4081 at the rate specified in section*
9 *4081(a)(2)(A)(iv) and the fuel is used other than in*
10 *an aircraft, the Secretary shall pay (without interest)*
11 *to the ultimate purchaser of such fuel an amount*
12 *equal to the amount of tax imposed on such fuel re-*
13 *duced by the amount of tax that would be imposed*
14 *under section 4041 if no tax under section 4081 had*
15 *been imposed.”.*

16 (4) *CONFORMING AMENDMENTS.—*

17 (A) *Section 6427(i)(4) of such Code is*
18 *amended—*

19 (i) *by striking “(4)(C)” the first two*
20 *places it occurs and inserting “(4)(B)”, and*

21 (ii) *by striking “, (l)(4)(C)(ii), and”*
22 *and inserting “and”.*

23 (B) *Section 4082(d)(2)(B) of such Code is*
24 *amended by striking “6427(l)(5)(B)” and insert-*
25 *ing “6427(l)(6)(B)”.*

1 (f) *AIRPORT AND AIRWAY TRUST FUND.*—

2 (1) *EXTENSION OF TRUST FUND AUTHORITIES.*—

3 (A) *EXPENDITURES FROM TRUST FUND.*—

4 Paragraph (1) of section 9502(d) of such Code is
5 amended—

6 (i) in the matter preceding subpara-
7 graph (A) by striking “October 1, 2007”
8 and inserting “October 1, 2011”, and

9 (ii) in subparagraph (A) by inserting
10 “or the FAA Reauthorization Act of 2007”
11 before the semicolon at the end.

12 (B) *LIMITATION ON TRANSFERS TO TRUST*
13 *FUND.*—Paragraph (2) of section 9502(f) of such
14 Code is amended by striking “October 1, 2007”
15 and inserting “October 1, 2011”.

16 (2) *TRANSFERS TO TRUST FUND.*—Subpara-
17 graph (C) of section 9502(b)(1) of such Code is
18 amended to read as follows:

19 “(C) section 4081 with respect to aviation
20 gasoline and aviation-grade kerosene, and”.

21 (3) *TRANSFERS ON ACCOUNT OF CERTAIN RE-*
22 *FUNDS.*—

23 (A) *IN GENERAL.*—Subsection (d) of section
24 9502 of such Code is amended—

1 (i) in paragraph (2) by striking
2 “(other than subsection (l)(4) thereof)”, and

3 (ii) in paragraph (3) by striking
4 “(other than payments made by reason of
5 paragraph (4) of section 6427(l))”.

6 (B) CONFORMING AMENDMENTS.—

7 (i) Section 9503(b)(4) of such Code is
8 amended by striking “or” at the end of sub-
9 paragraph (C), by striking the period at the
10 end of subparagraph (D) and inserting a
11 comma, and by inserting after subpara-
12 graph (D) the following:

13 “(E) section 4081 to the extent attributable
14 to the rate specified in clause (ii) or (iv) of sec-
15 tion 4081(a)(2)(A), or

16 “(F) section 4041(c).”.

17 (ii) Section 9503(c) of such Code is
18 amended by striking the last paragraph (re-
19 lating to transfers from the Trust Fund for
20 certain aviation fuel taxes).

21 (iii) Section 9502(a) of such Code is
22 amended by striking “, section 9503(c)(7),”.

23 (4) TRANSFERS ON ACCOUNT OF AVIATION-GRADE
24 KEROSENE NOT USED IN AVIATION.—Section 9502(d)

1 *of such Code is amended by adding at the end the fol-*
2 *lowing new paragraph:*

3 “(7) *TRANSFERS FROM AIRPORT AND AIRWAY*
4 *TRUST FUND ON ACCOUNT OF AVIATION-GRADE KER-*
5 *OSENE NOT USED IN AVIATION.—The Secretary of the*
6 *Treasury shall pay from time to time from the Air-*
7 *port and Airway Trust Fund into the Highway Trust*
8 *Fund amounts as determined by the Secretary of the*
9 *Treasury equivalent to amounts transferred to the*
10 *Airport and Airway Trust Fund with respect to avia-*
11 *tion-grade kerosene not used in aviation.”.*

12 “(5) *EXPENDITURES FOR AIR TRAFFIC CONTROL*
13 *MODERNIZATION.—Section 9502(d) of such Code, as*
14 *amended by this Act, is amended by adding at the*
15 *end the following new paragraph:*

16 “(8) *EXPENDITURES FOR AIR TRAFFIC CONTROL*
17 *MODERNIZATION.—The following amounts may be*
18 *used only for making expenditures to carry out air*
19 *traffic control modernization:*

20 “(A) *So much of the amounts appropriated*
21 *under subsection (b)(1)(C) as the Secretary esti-*
22 *mates are attributable to—*

23 “(i) *14.1 cents per gallon of the tax*
24 *imposed at the rate specified in section*
25 *4081(a)(2)(A)(iv) in the case of aviation-*

1 *grade kerosene used other than in commer-*
2 *cial aviation (as defined in section*
3 *4083(b)), and*

4 *“(i) 4.8 cents per gallon of the tax im-*
5 *posed at the rate specified in section*
6 *4081(a)(2)(A)(i) in the case of aviation*
7 *gasoline used other than in commercial*
8 *aviation (as so defined).*

9 *“(B) Any amounts credited to the Airport*
10 *and Airway Trust Fund under section 9602(b)*
11 *with respect to amounts described in this para-*
12 *graph.”.*

13 *(g) EFFECTIVE DATE.—*

14 *(1) MODIFICATIONS.—Except as provided in*
15 *paragraph (2), the amendments made by this section*
16 *shall apply to fuels removed, entered, or sold after De-*
17 *cember 31, 2007.*

18 *(2) EXTENSIONS.—The amendments made by*
19 *subsections (b) and (f)(1) shall take effect on the date*
20 *of the enactment of this Act.*

21 *(h) FLOOR STOCKS TAX.—*

22 *(1) IMPOSITION OF TAX.—In the case of aviation*
23 *fuel which is held on January 1, 2008, by any person,*
24 *there is hereby imposed a floor stocks tax on aviation*
25 *fuel equal to—*

1 (A) the tax which would have been imposed
2 before such date on such fuel had the amend-
3 ments made by this section been in effect at all
4 times before such date, reduced by

5 (B) the sum of—

6 (i) the tax imposed before such date on
7 such fuel under section 4081 of the Internal
8 Revenue Code of 1986, as in effect on such
9 date, and

10 (ii) in the case of kerosene held exclu-
11 sively for such person's own use, the amount
12 which such person would (but for this
13 clause) reasonably expect (as of such date)
14 to be paid as a refund under section 6427(l)
15 of such Code with respect to such kerosene.

16 (2) *LIABILITY FOR TAX AND METHOD OF PAY-*
17 *MENT.—*

18 (A) *LIABILITY FOR TAX.—*A person holding
19 aviation fuel on January 1, 2008, shall be liable
20 for such tax.

21 (B) *TIME AND METHOD OF PAYMENT.—*The
22 tax imposed by paragraph (1) shall be paid on
23 April 30, 2008, and in such manner as the Sec-
24 retary of the Treasury shall prescribe.

1 (3) *TRANSFER OF FLOOR STOCK TAX REVENUES*
2 *TO TRUST FUNDS.*—For purposes of determining the
3 amount transferred to the Airport and Airway Trust
4 Fund, the tax imposed by this subsection shall be
5 treated as imposed by the provision of section 4081 of
6 the Internal Revenue Code of 1986 which applies with
7 respect to the aviation fuel involved.

8 (4) *DEFINITIONS.*—For purposes of this sub-
9 section—

10 (A) *AVIATION FUEL.*—The term “aviation
11 fuel” means aviation-grade kerosene and avia-
12 tion gasoline, as such terms are used within the
13 meaning of section 4081 of the Internal Revenue
14 Code of 1986.

15 (B) *HELD BY A PERSON.*—Aviation fuel
16 shall be considered as held by a person if title
17 thereto has passed to such person (whether or not
18 delivery to the person has been made).

19 (C) *SECRETARY.*—The term “Secretary”
20 means the Secretary of the Treasury or the Sec-
21 retary’s delegate.

22 (5) *EXCEPTION FOR EXEMPT USES.*—The tax
23 imposed by paragraph (1) shall not apply to any
24 aviation fuel held by any person exclusively for any
25 use to the extent a credit or refund of the tax is allow-

1 *able under the Internal Revenue Code of 1986 for such*
2 *use.*

3 (6) *EXCEPTION FOR CERTAIN AMOUNTS OF*
4 *FUEL.—*

5 (A) *IN GENERAL.—No tax shall be imposed*
6 *by paragraph (1) on any aviation fuel held on*
7 *January 1, 2008, by any person if the aggregate*
8 *amount of such aviation fuel held by such person*
9 *on such date does not exceed 2,000 gallons. The*
10 *preceding sentence shall apply only if such per-*
11 *son submits to the Secretary (at the time and in*
12 *the manner required by the Secretary) such in-*
13 *formation as the Secretary shall require for pur-*
14 *poses of this subparagraph.*

15 (B) *EXEMPT FUEL.—For purposes of sub-*
16 *paragraph (A), there shall not be taken into ac-*
17 *count any aviation fuel held by any person*
18 *which is exempt from the tax imposed by para-*
19 *graph (1) by reason of paragraph (6).*

20 (C) *CONTROLLED GROUPS.—For purposes of*
21 *this subsection—*

22 (i) *CORPORATIONS.—*

23 (I) *IN GENERAL.—All persons*
24 *treated as a controlled group shall be*
25 *treated as 1 person.*

1 (ii) *CONTROLLED GROUP.*—The
2 term “controlled group” has the mean-
3 ing given to such term by subsection
4 (a) of section 1563 of such Code; except
5 that for such purposes the phrase
6 “more than 50 percent” shall be sub-
7 stituted for the phrase “at least 80 per-
8 cent” each place it appears in such
9 subsection.

10 (ii) *NONINCORPORATED PERSONS*
11 *UNDER COMMON CONTROL.*—Under regula-
12 tions prescribed by the Secretary, principles
13 similar to the principles of subparagraph
14 (A) shall apply to a group of persons under
15 common control if 1 or more of such persons
16 is not a corporation.

17 (7) *OTHER LAWS APPLICABLE.*—All provisions of
18 law, including penalties, applicable with respect to
19 the taxes imposed by section 4081 of such Code on the
20 aviation fuel involved shall, insofar as applicable and
21 not inconsistent with the provisions of this subsection,
22 apply with respect to the floor stock taxes imposed by
23 paragraph (1) to the same extent as if such taxes were
24 imposed by such section.