

FEDERAL AVIATION ADMINISTRATION EXTENSION ACT
OF 2007

SEPTEMBER 20, 2007.—Ordered to be printed

Mr. RANGEL, from the Committee on Ways and Means,
submitted the following

R E P O R T

[To accompany H.R. 3540]

[Including cost estimate of the Congressional Budget Office]

The Committee on Ways and Means, to whom was referred the bill (H.R. 3540) to amend the Internal Revenue Code of 1986 to extend the funding and expenditure authority of the Airport and Airway Trust Fund, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

I. SUMMARY AND BACKGROUND

A. PURPOSE AND SUMMARY

PURPOSE

The bill, H.R. 3540 (the “Federal Aviation Administration Extension Act of 2007”), temporarily extends the taxes dedicated to, and the authority to make expenditures from, the Airport and Airway Trust Fund.

SUMMARY

The bill extends, through December 31, 2007, the present-law taxes regarding the transportation of passengers by air, the transportation of cargo by air and aviation fuel taxes. The taxes are extended at their current rates. The bill also extends the expenditure authority for the Airport and Airport Trust Fund through December 31, 2007.

B. BACKGROUND AND NEED FOR LEGISLATION

The taxes dedicated to the Airport and Airway Trust Fund generally do not apply after September 30, 2007. The Trust Fund expenditure authority also terminates on October 1, 2007.

C. LEGISLATIVE HISTORY

Background

H.R. 3540 was introduced in the House of Representatives on September 17, 2007, and was referred to the Committee on Ways and Means.

Committee action

On August 1, 2007, the Subcommittee on Select Revenue Measures of the Committee on Ways and Means conducted a hearing on aviation taxes.

The Committee on Ways and Means marked up H.R. 3540 on September 18, 2007, and ordered the bill favorably reported.

II. EXPLANATION OF THE BILL

A. TEMPORARY EXTENSION OF AIRPORT AND AIRWAY TRUST FUND TAX AND EXPENDITURE PROVISIONS

PRESENT LAW

The Airport and Airway Trust Fund (“AATF”) provides funding for capital improvements to the U.S. airport and airway system and funding for Federal Aviation Administration (“FAA”) operations and programs, among other purposes. The Internal Revenue Code (the “Code”) contains the provisions that dedicate revenues from certain excise taxes to the AATF, provide the relevant expenditure provisions governing the purposes for which AATF monies may be spent, and set the period for when those expenditures may occur. The excise taxes credited to the AATF are (1) taxes imposed on the transportation of persons by air; (2) taxes imposed on the transportation of property by air; (3) fuels taxes imposed on gasoline used in commercial aviation and noncommercial aviation; and (4) fuels taxes imposed on kerosene (jet fuel) and other aviation fuels used in commercial aviation and noncommercial aviation. The tables below summarize the various tax rates.

TABLE 1.—TAXES ON COMMERCIAL AVIATION
[Other than fuel taxes]

Tax type	Tax rate
Domestic air passenger tax	7.5 percent ad valorem tax plus \$3.40 per domestic flight segment in 2007.
Use of international air facilities tax	\$15.10 per arrival or departure in 2007 (\$7.50 for departures only for domestic segments beginning or ending in Alaska or Hawaii).
Air cargo tax	6.25 percent ad valorem tax.

TABLE 2.—TAXES ON FUEL USED IN AVIATION

Fuel type	Tax rate ¹ (cents per gallon)
Jet Fuel and liquids other than aviation gasoline:	
Commercial aviation	4.3

TABLE 2.—TAXES ON FUEL USED IN AVIATION—Continued

Fuel type	Tax rate ¹ (cents per gallon)
Noncommercial aviation	21.8
Aviation gasoline:	
Commercial	4.3
Noncommercial	19.3

¹ Excluding 0.1 cent for Leaking Underground Storage Tank tax.

With the exception of 4.3 cents per gallon of the fuel tax rates, the taxes imposed and dedicated to the AATF do not apply after September 30, 2007.¹ The AATF expenditure authority expires on October 1, 2007. The purposes for which AATF funds may be expended are fixed as of the date of enactment of the Vision 100—Century of Aviation Reauthorization Act (Pub. L. No. 108–176, December 12, 2003).

REASONS FOR CHANGE

The Committee believes it is appropriate to temporarily extend the taxes and expenditure authority for the trust fund pending resolution of a longer-term reauthorization bill.

EXPLANATION OF PROVISION

The provision extends the present-law taxes dedicated to the AATF through December 31, 2007. The taxes are extended at their current rates. The provision extends the expenditure authority for the AATF through December 31, 2007, and adds the extension act as an authorizing act for purposes of determining the purposes for which AATF funds may be expended.

EFFECTIVE DATE

The provision is effective on the date of enactment.

III. VOTES OF THE COMMITTEE

In compliance with clause 3(b) of rule XIII of the Rules of the House of Representatives, the following statement is made concerning the votes of the Committee on Ways and Means in its consideration of the bill, H.R. 3540, the “Federal Aviation Administration Extension Act of 2007.”

The bill, H.R. 3540, was ordered favorably reported by voice vote (with a quorum being present).

IV. BUDGET EFFECTS OF THE BILL

A. COMMITTEE ESTIMATE OF BUDGETARY EFFECTS

In compliance with clause 3(d)(2) of rule XIII of the Rules of the House of Representatives, the following statement is made con-

¹ The fuel tax consists of two components: 4.3 cents per gallon dedicated to the AATF and 0.1 cent per gallon dedicated to the Leaking Underground Storage Tank Trust Fund. The higher fuel tax imposed on noncommercial aviation similarly consists of an AATF component (21.8 cents per gallon for jet fuel, 19.3 cents for aviation gasoline) plus 0.1 cent per gallon for the Leaking Underground Storage Tank Trust Fund. For an exempt use (such as for the exclusive use of a State or local government), only the Leaking Underground Storage Tank Trust Fund tax of 0.1 cent per gallon applies. Except where specifically stated, the rates stated in this document are the AATF rates (i.e., do not include the 0.1 cent-per-gallon Leaking Underground Storage Tank Trust Fund rate).

cerning the effects on the budget of the revenue provisions of the bill, H.R. 3540 as reported.

The bill is estimated to have the following effects on Federal budget receipts for fiscal years 2008–2017:

ESTIMATED REVENUE AND TRUST FUND EFFECTS OF H.R. 3540,
 THE "FEDERAL AVIATION ADMINISTRATION EXTENSION ACT OF 2007,"
 AS REPORTED BY THE COMMITTEE ON WAYS AND MEANS

Fiscal Years 2008 - 2017

[Millions of Dollars]

	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2008-12	2008-17
Provision	Effective											

Extension of All the Current Air Transportation and Aviation Fuels Tax (sunset 12/31/07)												
	10/1/07											
												No Revenue or Trust Fund Effects

Joint Committee on Taxation

NOTE: Details may not add to totals due to rounding. Date of enactment is assumed to be October 1, 2007.

**B. STATEMENT REGARDING NEW BUDGET AUTHORITY AND TAX
EXPENDITURES BUDGET AUTHORITY**

In compliance with clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, the Committee states that the bill involves no new or increased budget authority.

**C. COST ESTIMATE PREPARED BY THE CONGRESSIONAL BUDGET
OFFICE**

In compliance with clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, requiring a cost estimate prepared by the CBO, the statement by CBO was requested. However, it has not been provided at this time.

D. MACROECONOMIC IMPACT ANALYSIS

In compliance with clause 3(h)(2) of rule XIII of the Rules of the House of Representatives, the following statement is made by the Joint Committee on Taxation with respect to the provisions of the bill amending the Internal Revenue Code of 1986: the effects of the bill on economic activity are so small as to be incalculable within the context of a model of the aggregate economy.

E. PAY-GO RULE

In compliance with clause 10 of rule XXI of the Rules of the House of Representatives, the following statement is made concerning the effects on the budget of the revenue provisions of the bill, H.R. 3540, as reported: the provisions of the bill affecting revenues have no effect on the deficit or the surplus for either: (1) the period comprising the current fiscal year and the five fiscal years beginning with the fiscal year that ends in the following calendar year; and (2) the period comprising the current fiscal year and the ten fiscal years beginning with the fiscal year that ends in the following calendar year.

**V. OTHER MATTERS TO BE DISCUSSED UNDER THE
RULES OF THE HOUSE**

A. COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

With respect to clause 3(c)(1) of rule XIII of the Rules of the House of Representatives (relating to oversight findings), the Committee advises that it is appropriate and timely to enact the revenue provisions included in the bill as reported.

B. STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

With respect to clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the Committee advises that the bill contains no measure that authorizes funding, so no statement of general performance goals and objectives for which any measure authorizes funding is required.

C. CONSTITUTIONAL AUTHORITY STATEMENT

With respect to clause 3(d)(1) of rule XIII of the Rules of the House of Representatives (relating to Constitutional Authority), the

Committee states that the Committee's action in reporting this bill is derived from Article I of the Constitution, Section 8 ("The Congress shall have Power To lay and collect Taxes, Duties, Imposts and Excises * * *").

D. INFORMATION RELATING TO UNFUNDED MANDATES

This information is provided in accordance with section 423 of the Unfunded Mandates Act of 1995 (Pub. L. No. 104-4).

The Committee has determined that the revenue provisions of the bill contain no Federal private sector mandates or Federal intergovernmental mandates on State, local, or tribal governments.

E. APPLICABILITY OF HOUSE RULE XXI 5(b)

Clause 5 of rule XXI of the Rules of the House of Representatives provides, in part, that "A bill or joint resolution, amendment, or conference report carrying a Federal income tax rate increase may not be considered as passed or agreed to unless so determined by a vote of not less than three-fifths of the Members voting, a quorum being present." The Committee has carefully reviewed the provisions of the bill, and states that the provisions of the bill do not involve any Federal income tax rate increases within the meaning of the rule.

F. TAX COMPLEXITY ANALYSIS

Section 4022(b) of the Internal Revenue Service Reform and Restructuring Act of 1998 (the "IRS Reform Act") requires the Joint Committee on Taxation (in consultation with the Internal Revenue Service and the Department of the Treasury) to provide a tax complexity analysis. The complexity analysis is required for all legislation reported by the Senate Committee on Finance, the House Committee on Ways and Means, or any committee of conference if the legislation includes a provision that directly or indirectly amends the Internal Revenue Code and has widespread applicability to individuals or small businesses.

The staff of the Joint Committee on Taxation has determined that a complexity analysis is not required under section 4022(b) of the IRS Reform Act because the bill contains no provisions that amend the Code and that have "widespread applicability" to individuals or small businesses.

G. LIMITED TAX BENEFITS

Pursuant to clause 9 of rule XXI of the Rules of the House of Representatives, the Ways and Means Committee has determined that the bill as reported contains no congressional earmarks, limited tax benefits, or limited tariff benefits within the meaning of that Rule.

VI. CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omit-

ted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

INTERNAL REVENUE CODE OF 1986

* * * * *

Subtitle A—Miscellaneous Excise Taxes

* * * * *

CHAPTER 32—MANUFACTURERS EXCISE TAXES

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Subchapter A—Automotive and Related Items

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PART III—PETROLEUM PRODUCTS

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Subpart A—Motor and Aviation Fuel

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SEC. 4081. IMPOSITION OF TAX.

(a) * * *

* * * * *

(d) TERMINATION.—

(1) * * *

(2) AVIATION FUELS.—The rates of tax specified in subsection

(a)(2)(A)(ii) and (a)(2)(C)(ii) shall be 4.3 cents per gallon—

(A) * * *

(B) after **[September 30, 2007]** *December 31, 2007*.

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CHAPTER 33—FACILITIES AND SERVICES

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Subchapter C—Transportation by Air

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PART I—PERSONS

* * * * *

SEC. 4261. IMPOSITION OF TAX.

(a) * * *

* * * * *

(j) APPLICATION OF TAXES.—

(1) IN GENERAL.—The taxes imposed by this section shall apply to—

(A) transportation beginning during the period—

(i) * * *

(ii) ending on [September 30, 2007] *December 31, 2007*, and

* * * * *

PART II—PROPERTY

* * * * *

SEC. 4271. IMPOSITION OF TAX.

(a) * * *

* * * * *

(d) APPLICATION OF TAX.—

(1) IN GENERAL.—The tax imposed by subsection (a) shall apply to—

(A) transportation beginning during the period—

(i) * * *

(ii) ending on [September 30, 2007] *December 31, 2007*, and

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Subtitle I—Trust Fund Code

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CHAPTER 98—TRUST FUND CODE

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Subchapter A—Establishment of Trust Funds

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SEC. 9502. AIRPORT AND AIRWAY TRUST FUND.

(a) * * *

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(d) EXPENDITURES FROM AIRPORT AND AIRWAY TRUST FUND.—

(1) Amounts in the Airport and Airway Trust Fund shall be available, as provided by appropriation Acts, for making expenditures before [October 1, 2007] *January 1, 2008*, to meet those obligations of the United States—

(A) incurred under title I of the Airport and Airway Development Act of 1970 or of the Airport and Airway Development Act Amendments of 1976 or of the Aviation Safety and Noise Abatement Act of 1979 or under the Fiscal Year 1981 Airport Development Authorization Act or the provisions of the Airport and Airway Improvement Act of 1982 or the Airport and Airway Safety and Capacity Expansion Act of 1987 or the Federal Aviation Administration Research, Engineering, and Development Authorization Act of 1990 or the Aviation Safety and Capacity Expansion Act

of 1990 or the Airport and Airway Safety, Capacity, Noise Improvement, and Intermodal Transportation Act of 1992 or the Airport Improvement Program Temporary Extension Act of 1994 or the Federal Aviation Administration Authorization Act of 1994 or the Federal Aviation Reauthorization Act of 1996 or the provisions of the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999 providing for payments from the Airport and Airway Trust Fund or the Interim Federal Aviation Administration Authorization Act or section 6002 of the 1999 Emergency Supplemental Appropriations Act, Public Law 106-59, or the Wendell H. Ford Aviation Investment and Reform Act for the 21st Century or the Aviation and Transportation Security Act or the Vision 100—Century of Aviation Reauthorization Act or the *Federal Aviation Administration Extension Act of 2007*;

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(f) LIMITATION ON TRANSFERS TO TRUST FUND.—

(1) * * *

(2) Exception for prior obligations Paragraph (1) shall not apply to any expenditure to liquidate any contract entered into (or for any amount otherwise obligated) before **【October 1, 2007】** *January 1, 2008*, in accordance with the provisions of this section.

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