

Union Calendar No. 207

110TH CONGRESS
1ST SESSION

H. R. 3539

[Report No. 110-334, Part I]

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 19, 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*]

SEPTEMBER 19, 2007

Committee on Transportation and Infrastructure discharged; committed to the Committee of the Whole House on the State of the Union and ordered to be printed

[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,*

3 **SECTION 1. SHORT TITLE.**

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

6 **SEC. 2. EXTENSION AND MODIFICATION OF TAXES FUND-**
7 **ING AIRPORT AND AIRWAY TRUST FUND.**

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

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

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

19 *(2) AVIATION GASOLINE.—Clause (ii) of section*
20 *4081(a)(2)(A) of such Code is amended by striking*
21 *“19.3 cents” and inserting “24.1 cents”.*

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

1 “(C) *TAXES IMPOSED ON FUEL USED IN*
2 *COMMERCIAL AVIATION.—In the case of aviation-*
3 *grade kerosene which is removed from any refin-*
4 *ery or terminal directly into the fuel tank of an*
5 *aircraft for use in commercial aviation by a per-*
6 *son registered for such use under section 4101,*
7 *the rate of tax under subparagraph (A)(iv) shall*
8 *be 4.3 cents per gallon.”.*

9 (4) *CONFORMING AMENDMENTS.—*

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

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

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

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

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

19 (C) *Section 4081(a)(3)(D) of such Code is*
20 *amended—*

21 (i) *by striking “paragraph (2)(C)(i)”*
22 *in clause (i) and inserting “paragraph*
23 *(2)(C)”, and*

1 (ii) by striking “paragraph (2)(C)(ii)”
2 in clause (ii) and inserting “paragraph
3 (2)(A)(iv)”.

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

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

10 (b) *EXTENSION.*—

11 (1) *FUELS TAXES.*—Paragraph (2) of section
12 4081(d) of such Code is amended by striking “gal-
13 lon—” and all that follows and inserting “gallon
14 after September 30, 2011”.

15 (2) *TAXES ON TRANSPORTATION OF PERSONS*
16 *AND PROPERTY.*—

17 (A) *PERSONS.*—Clause (ii) of section
18 4261(j)(1)(A) of such Code is amended by strik-
19 ing “September 30, 2007” and inserting “Sep-
20 tember 30, 2011”.

21 (B) *PROPERTY.*—Clause (ii) of section
22 4271(d)(1)(A) of such Code is amended by strik-
23 ing “September 30, 2007” and inserting “Sep-
24 tember 30, 2011”.

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

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

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

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

10 (d) *RETAIL TAX ON AVIATION FUEL.*—

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

15 (2) *RATE OF TAX.*—Paragraph (3) of section
16 *4041(c) of such Code is amended to read as follows:*

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

21 (e) *REFUNDS RELATING TO AVIATION-GRADE KER-*
22 *OSENE.*—

23 (1) *KEROSENE USED IN COMMERCIAL AVIA-*
24 *TION.*—Clause (ii) of section 6427(l)(4)(A) of such
25 *Code is amended by striking “specified in section*

1 4041(c) or 4081(a)(2)(A)(iii), as the case may be,”
2 and inserting “so imposed”.

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

5 (A) by striking subparagraph (B) and re-
6 designating subparagraph (C) as subparagraph
7 (B), and

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

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

23 “(i) is registered under section 4101,

24 and

1 “(ii) meets the requirements of sub-
2 paragraph (A), (B), or (D) of section
3 6416(a)(1).”.

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

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

19 (4) *CONFORMING AMENDMENTS.*—

20 (A) Section 6427(i)(4) of such Code is
21 amended—

22 (i) by striking “(4)(C)” the first two
23 places it occurs and inserting “(4)(B)”, and

24 (ii) by striking “, (l)(4)(C)(ii), and”
25 and inserting “and”.

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

4 (f) AIRPORT AND AIRWAY TRUST FUND.—

5 (1) EXTENSION OF TRUST FUND AUTHORITIES.—

6 (A) EXPENDITURES FROM TRUST FUND.—

7 Paragraph (1) of section 9502(d) of such Code is
8 amended—

9 (i) in the matter preceding subpara-
10 graph (A) by striking “October 1, 2007”
11 and inserting “October 1, 2011”, and

12 (ii) in subparagraph (A) by inserting
13 “or the FAA Reauthorization Act of 2007”
14 before the semicolon at the end.

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

19 (2) TRANSFERS TO TRUST FUND.—Subpara-
20 graph (C) of section 9502(b)(1) of such Code is
21 amended to read as follows:

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

24 (3) TRANSFERS ON ACCOUNT OF CERTAIN RE-
25 FUNDS.—

1 (A) *IN GENERAL.*—Subsection (d) of section
2 9502 of such Code is amended—

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

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

8 (B) *CONFORMING AMENDMENTS.*—

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

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

18 “(F) section 4041(c).”.

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

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

1 (4) *TRANSFERS ON ACCOUNT OF AVIATION-GRADE*
2 *KEROSENE NOT USED IN AVIATION.*—Section 9502(d)
3 *of such Code is amended by adding at the end the fol-*
4 *lowing new paragraph:*

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

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

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

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

1 “(i) 14.1 cents per gallon of the tax
2 imposed at the rate specified in section
3 4081(a)(2)(A)(iv) in the case of aviation-
4 grade kerosene used other than in commer-
5 cial aviation (as defined in section
6 4083(b)), and

7 “(ii) 4.8 cents per gallon of the tax im-
8 posed at the rate specified in section
9 4081(a)(2)(A)(ii) in the case of aviation
10 gasoline used other than in commercial
11 aviation (as so defined).

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

16 (g) *EFFECTIVE DATE.*—

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

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

24 (h) *FLOOR STOCKS TAX.*—

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

5 (A) *the tax which would have been imposed*
6 *before such date on such fuel had the amend-*
7 *ments made by this section been in effect at all*
8 *times before such date, reduced by*

9 (B) *the sum of—*

10 (i) *the tax imposed before such date on*
11 *such fuel under section 4081 of the Internal*
12 *Revenue Code of 1986, as in effect on such*
13 *date, and*

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

20 (2) *LIABILITY FOR TAX AND METHOD OF PAY-*
21 *MENT.*—

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

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

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

12 (4) *DEFINITIONS.*—*For purposes of this sub-*
13 *section—*

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

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

23 (C) *SECRETARY.*—*The term “Secretary”*
24 *means the Secretary of the Treasury or the Sec-*
25 *retary’s delegate.*

1 (5) *EXCEPTION FOR EXEMPT USES.*—*The tax*
2 *imposed by paragraph (1) shall not apply to any*
3 *aviation fuel held by any person exclusively for any*
4 *use to the extent a credit or refund of the tax is allow-*
5 *able under the Internal Revenue Code of 1986 for such*
6 *use.*

7 (6) *EXCEPTION FOR CERTAIN AMOUNTS OF*
8 *FUEL.*—

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

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

24 (C) *CONTROLLED GROUPS.*—*For purposes of*
25 *this subsection—*

1 (i) CORPORATIONS.—

2 (I) IN GENERAL.—All persons
3 treated as a controlled group shall be
4 treated as 1 person.

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

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

21 (7) OTHER LAWS APPLICABLE.—All provisions of
22 law, including penalties, applicable with respect to
23 the taxes imposed by section 4081 of such Code on the
24 aviation fuel involved shall, insofar as applicable and
25 not inconsistent with the provisions of this subsection,

1 *apply with respect to the floor stock taxes imposed by*
2 *paragraph (1) to the same extent as if such taxes were*
3 *imposed by such section.*

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