

PART B: TEXT OF THE AMENDMENT TO BE CONSIDERED AS ADOPTED

AMENDMENT

OFFERED BY MR. RANGEL OF NEW YORK

At the end of the bill, add the following new title:

1 **TITLE X—AIRPORT AND AIRWAY**
2 **TRUST FUND FINANCING**

3 **SEC. 1001. SHORT TITLE.**

4 This title may be cited as the “Airport and Airway
5 Trust Fund Financing Act of 2009”.

6 **SEC. 1002. EXTENSION AND MODIFICATION OF TAXES**
7 **FUNDING AIRPORT AND AIRWAY TRUST**
8 **FUND.**

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

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

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

1 (2) AVIATION GASOLINE.—Clause (ii) of section
2 4081(a)(2)(A) of such Code is amended by striking
3 “19.3 cents” and inserting “24.1 cents”.

4 (3) FUEL REMOVED DIRECTLY INTO FUEL
5 TANK OF AIRPLANE USED IN NONCOMMERCIAL AVIA-
6 TION.—Subparagraph (C) of section 4081(a)(2) of
7 such Code is amended to read as follows:

8 “(C) TAXES IMPOSED ON FUEL USED IN
9 COMMERCIAL AVIATION.—In the case of avia-
10 tion-grade kerosene which is removed from any
11 refinery or terminal directly into the fuel tank
12 of an aircraft for use in commercial aviation by
13 a person registered for such use under section
14 4101, the rate of tax under subparagraph
15 (A)(iv) shall be 4.3 cents per gallon.”.

16 (4) CONFORMING AMENDMENTS.—

17 (A) Clause (iii) of section 4081(a)(2)(A) of
18 such Code is amended by inserting “other than
19 aviation-grade kerosene” after “kerosene”.

20 (B) The following provisions of such Code
21 are each amended by striking “kerosene” and
22 inserting “aviation-grade kerosene”:

23 (i) Section 4081(a)(3)(A)(ii).

24 (ii) Section 4081(a)(3)(A)(iv).

25 (iii) Section 4081(a)(3)(D).

1 (C) Section 4081(a)(3)(D) of such Code is
2 amended—

3 (i) by striking “paragraph (2)(C)(i)”
4 in clause (i) and inserting “paragraph
5 (2)(C)”, and

6 (ii) by striking “paragraph (2)(C)(ii)”
7 in clause (ii) and inserting “paragraph
8 (2)(A)(iv)”.

9 (D) Section 4081(a)(4) of such Code is
10 amended—

11 (i) by striking “paragraph (2)(C)(i)”
12 and inserting “paragraph (2)(C)”, and

13 (ii) by striking “KEROSENE” in the
14 heading and inserting “AVIATION-GRADE
15 KEROSENE”.

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

19 (b) EXTENSION.—

20 (1) FUELS TAXES.—Paragraph (2) of section
21 4081(d) of such Code is amended by striking “gal-
22 lon—” and all that follows and inserting “gallon
23 after September 30, 2012”.

24 (2) TAXES ON TRANSPORTATION OF PERSONS
25 AND PROPERTY.—

1 (A) PERSONS.—Clause (ii) of section
2 4261(j)(1)(A) of such Code is amended by
3 striking “September 30, 2009” and inserting
4 “September 30, 2012”.

5 (B) PROPERTY.—Clause (ii) of section
6 4271(d)(1)(A) of such Code is amended by
7 striking “September 30, 2009” and inserting
8 “September 30, 2012”.

9 (c) EXEMPTION FOR AVIATION-GRADE KEROSENE
10 REMOVED INTO AN AIRCRAFT.—Subsection (e) of section
11 4082 of such Code is amended—

12 (1) by striking “kerosene” and inserting “avia-
13 tion-grade kerosene”,

14 (2) by striking “section 4081(a)(2)(A)(iii)” and
15 inserting “section 4081(a)(2)(A)(iv)”, and

16 (3) by striking “KEROSENE” in the heading
17 and inserting “AVIATION-GRADE KEROSENE”.

18 (d) RETAIL TAX ON AVIATION FUEL.—

19 (1) EXEMPTION FOR PREVIOUSLY TAXED
20 FUEL.—Paragraph (2) of section 4041(c) of such
21 Code is amended by inserting “at the rate specified
22 in subsection (a)(2)(A)(iv) thereof” after “section
23 4081”.

24 (2) RATE OF TAX.—Paragraph (3) of section
25 4041(c) of such Code is amended to read as follows:

1 “(3) RATE OF TAX.—The rate of tax imposed
2 by this subsection shall be the rate of tax in effect
3 under section 4081(a)(2)(A)(iv) (4.3 cents per gallon
4 with respect to any sale or use for commercial avia-
5 tion).”.

6 (e) REFUNDS RELATING TO AVIATION-GRADE KER-
7 ROSENE.—

8 (1) KEROSENE USED IN COMMERCIAL AVIA-
9 TION.—Clause (ii) of section 6427(l)(4)(A) of such
10 Code is amended by striking “specified in section
11 4041(e) or 4081(a)(2)(A)(iii), as the case may be,”
12 and inserting “so imposed”.

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

15 (A) by striking subparagraph (B) and re-
16 designating subparagraph (C) as subparagraph
17 (B), and

18 (B) by amending subparagraph (B), as re-
19 designated by subparagraph (A), to read as fol-
20 lows:

21 “(B) PAYMENTS TO ULTIMATE, REG-
22 ISTERED VENDOR.—With respect to any ker-
23 osene used in aviation (other than kerosene to
24 which paragraph (6) applies), if the ultimate
25 purchaser of such kerosene waives (at such time

1 and in such form and manner as the Secretary
2 shall prescribe) the right to payment under
3 paragraph (1) and assigns such right to the ul-
4 timate vendor, then the Secretary shall pay
5 (without interest) the amount which would be
6 paid under paragraph (1) to such ultimate ven-
7 dor, but only if such ultimate vendor—

8 “(i) is registered under section 4101,
9 and

10 “(ii) meets the requirements of sub-
11 paragraph (A), (B), or (D) of section
12 6416(a)(1).”.

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

18 “(5) REFUNDS FOR AVIATION-GRADE KER-
19 OSENE NOT USED IN AVIATION.—If tax has been im-
20 posed under section 4081 at the rate specified in
21 section 4081(a)(2)(A)(iv) and the fuel is used other
22 than in an aircraft, the Secretary shall pay (without
23 interest) to the ultimate purchaser of such fuel an
24 amount equal to the amount of tax imposed on such
25 fuel reduced by the amount of tax that would be im-

1 posed under section 4041 if no tax under section
2 4081 had been imposed.”.

3 (4) CONFORMING AMENDMENTS.—

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

6 (i) by striking “paragraph (4)(C) or
7 (5)” both places it appears and inserting
8 “paragraph (4)(B) or (6)”, and

9 (ii) by striking “, (l)(4)(C)(ii), and
10 (l)(5)” and inserting “and (l)(6)”.

11 (B) Section 6427(l)(1) of such Code is
12 amended by striking “paragraph (4)(C)(i)” and
13 inserting “paragraph (4)(B)(i)”.

14 (C) Section 4082(d)(2)(B) of such Code is
15 amended by striking “6427(l)(5)(B)” and in-
16 serting “6427(l)(6)(B)”.

17 (f) AIRPORT AND AIRWAY TRUST FUND.—

18 (1) EXTENSION OF TRUST FUND AUTHORI-
19 TIES.—

20 (A) EXPENDITURES FROM TRUST FUND.—

21 Paragraph (1) of section 9502(d) of such Code
22 is amended—

23 (i) by striking “October 1, 2009” in
24 the matter preceding subparagraph (A)
25 and inserting “October 1, 2012”, and

1 (ii) by inserting “or the FAA Reau-
2 thORIZATION Act of 2009” before the semi-
3 colon at the end of subparagraph (A).

4 (B) LIMITATION ON TRANSFERS TO TRUST
5 FUND.—Paragraph (2) of section 9502(e) of
6 such Code is amended by striking “October 1,
7 2009” and inserting “October 1, 2012”.

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

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

13 (3) TRANSFERS ON ACCOUNT OF CERTAIN RE-
14 FUNDS.—

15 (A) IN GENERAL.—Subsection (d) of sec-
16 tion 9502 of such Code is amended—

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

19 (ii) by striking “(other than payments
20 made by reason of paragraph (4) of section
21 6427(l))” in paragraph (3).

22 (B) CONFORMING AMENDMENTS.—

23 (i) Section 9503(b)(4) of such Code is
24 amended by striking “or” at the end of
25 subparagraph (C), by striking the period

1 at the end of subparagraph (D) and insert-
2 ing a comma, and by inserting after sub-
3 paragraph (D) the following:

4 “(E) section 4081 to the extent attrib-
5 utable to the rate specified in clause (ii) or (iv)
6 of section 4081(a)(2)(A), or

7 “(F) section 4041(c).”.

8 (ii) Section 9503(c) of such Code is
9 amended by striking the last paragraph
10 (relating to transfers from the Trust Fund
11 for certain aviation fuel taxes).

12 (iii) Section 9502(a) of such Code is
13 amended by striking “, section
14 9503(c)(7),”.

15 (4) TRANSFERS ON ACCOUNT OF AVIATION-
16 GRADE KEROSENE NOT USED IN AVIATION.—Section
17 9502(d) of such Code is amended by adding at the
18 end the following new paragraph:

19 “(7) TRANSFERS FROM AIRPORT AND AIRWAY
20 TRUST FUND ON ACCOUNT OF AVIATION-GRADE
21 KEROSENE NOT USED IN AVIATION.—The Secretary
22 of the Treasury shall pay from time to time from the
23 Airport and Airway Trust Fund into the Highway
24 Trust Fund amounts as determined by the Secretary
25 of the Treasury equivalent to amounts transferred to

1 the Airport and Airway Trust Fund with respect to
2 aviation-grade kerosene not used in aviation.”.

3 (5) EXPENDITURES FOR AIR TRAFFIC CONTROL
4 MODERNIZATION.—Section 9502(d) of such Code, as
5 amended by this title, is amended by adding at the
6 end the following new paragraph:

7 “(8) EXPENDITURES FOR AIR TRAFFIC CON-
8 TROL MODERNIZATION.—The following amounts
9 may be used only for making expenditures to carry
10 out air traffic control modernization:

11 “(A) So much of the amounts appropriated
12 under subsection (b)(1)(C) as the Secretary es-
13 timates are attributable to—

14 “(i) 14.1 cents per gallon of the tax
15 imposed at the rate specified in section
16 4081(a)(2)(A)(iv) in the case of aviation-
17 grade kerosene used other than in commer-
18 cial aviation (as defined in section
19 4083(b)), and

20 “(ii) 4.8 cents per gallon of the tax
21 imposed at the rate specified in section
22 4081(a)(2)(A)(ii) in the case of aviation
23 gasoline used other than in commercial
24 aviation (as so defined).

1 “(B) Any amounts credited to the Airport
2 and Airway Trust Fund under section 9602(b)
3 with respect to amounts described in this para-
4 graph.”.

5 (g) EFFECTIVE DATE.—

6 (1) MODIFICATIONS.—Except as provided in
7 paragraph (2), the amendments made by this section
8 shall apply to fuels removed, entered, or sold after
9 December 31, 2009.

10 (2) EXTENSIONS.—The amendments made by
11 subsections (b) and (f)(1) shall take effect on the
12 date of the enactment of this Act.

13 (h) FLOOR STOCKS TAX.—

14 (1) IMPOSITION OF TAX.—In the case of avia-
15 tion fuel which is held on January 1, 2010, by any
16 person, there is hereby imposed a floor stocks tax on
17 aviation fuel equal to—

18 (A) the tax which would have been imposed
19 before such date on such fuel had the amend-
20 ments made by this section been in effect at all
21 times before such date, reduced by

22 (B) the sum of—

23 (i) the tax imposed before such date
24 on such fuel under section 4081 of the In-

1 ternal Revenue Code of 1986, as in effect
2 on such date, and

3 (ii) in the case of kerosene held exclu-
4 sively for such person's own use, the
5 amount which such person would (but for
6 this clause) reasonably expect (as of such
7 date) to be paid as a refund under section
8 6427(l) of such Code with respect to such
9 kerosene.

10 (2) LIABILITY FOR TAX AND METHOD OF PAY-
11 MENT.—

12 (A) LIABILITY FOR TAX.—A person hold-
13 ing aviation fuel on January 1, 2010, shall be
14 liable for such tax.

15 (B) TIME AND METHOD OF PAYMENT.—
16 The tax imposed by paragraph (1) shall be paid
17 on April 30, 2010, and in such manner as the
18 Secretary of the Treasury shall prescribe.

19 (3) TRANSFER OF FLOOR STOCK TAX REVE-
20 NUES TO TRUST FUNDS.—For purposes of deter-
21 mining the amount transferred to the Airport and
22 Airway Trust Fund, the tax imposed by this sub-
23 section shall be treated as imposed by the provision
24 of section 4081 of the Internal Revenue Code of

1 1986 which applies with respect to the aviation fuel
2 involved.

3 (4) DEFINITIONS.—For purposes of this sub-
4 section—

5 (A) AVIATION FUEL.—The term “aviation
6 fuel” means aviation-grade kerosene and avia-
7 tion gasoline, as such terms are used within the
8 meaning of section 4081 of the Internal Rev-
9 enue Code of 1986.

10 (B) HELD BY A PERSON.—Aviation fuel
11 shall be considered as held by a person if title
12 thereto has passed to such person (whether or
13 not delivery to the person has been made).

14 (C) SECRETARY.—The term “Secretary”
15 means the Secretary of the Treasury or the
16 Secretary’s delegate.

17 (5) EXCEPTION FOR EXEMPT USES.—The tax
18 imposed by paragraph (1) shall not apply to any
19 aviation fuel held by any person exclusively for any
20 use to the extent a credit or refund of the tax is al-
21 lowable under the Internal Revenue Code of 1986
22 for such use.

23 (6) EXCEPTION FOR CERTAIN AMOUNTS OF
24 FUEL.—

1 (A) IN GENERAL.—No tax shall be im-
2 posed by paragraph (1) on any aviation fuel
3 held on January 1, 2010, by any person if the
4 aggregate amount of such aviation fuel held by
5 such person on such date does not exceed 2,000
6 gallons. The preceding sentence shall apply only
7 if such person submits to the Secretary (at the
8 time and in the manner required by the Sec-
9 retary) such information as the Secretary shall
10 require for purposes of this subparagraph.

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

16 (C) CONTROLLED GROUPS.—For purposes
17 of this subsection—

18 (i) CORPORATIONS.—

19 (I) IN GENERAL.—All persons
20 treated as a controlled group shall be
21 treated as 1 person.

22 (II) CONTROLLED GROUP.—The
23 term “controlled group” has the
24 meaning given to such term by sub-
25 section (a) of section 1563 of such

1 Code; except that for such purposes
2 the phrase “more than 50 percent”
3 shall be substituted for the phrase “at
4 least 80 percent” each place it ap-
5 pears in such subsection.

6 (ii) NONINCORPORATED PERSONS
7 UNDER COMMON CONTROL.—Under regula-
8 tions prescribed by the Secretary, prin-
9 ciples similar to the principles of subpara-
10 graph (A) shall apply to a group of per-
11 sons under common control if 1 or more of
12 such persons is not a corporation.

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

