

110TH CONGRESS
2D SESSION

H. R. 5995

To amend the Internal Revenue Code of 1986 to suspend the highway fuels taxes, to provide for a Joint Committee on Earmark Reform, and to prohibit earmarking for the remainder of the 110th Congress.

IN THE HOUSE OF REPRESENTATIVES

MAY 8, 2008

Mr. RYAN of Wisconsin (for himself, Mr. BOEHNER, Mr. BLUNT, Mr. CANTOR, Mr. PUTNAM, Mr. HENSARLING, Mr. SENSENBRENNER, Mr. FLAKE, Mr. PENCE, Mrs. BLACKBURN, Mr. CAMPBELL of California, Mr. JORDAN of Ohio, Mr. BROUN of Georgia, and Mr. McCOTTER) introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committees on Rules and Budget, 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

A BILL

To amend the Internal Revenue Code of 1986 to suspend the highway fuels taxes, to provide for a Joint Committee on Earmark Reform, and to prohibit earmarking for the remainder of the 110th Congress.

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 “Gas Tax Relief and
5 Earmark Moratorium Act of 2008”.

1 **TITLE I—GAS TAX RELIEF AND**
2 **HIGHWAY TRUST FUND PRES-**
3 **ERVATION**

4 **SEC. 101. GAS TAX RELIEF.**

5 (a) SUSPENSION OF HIGHWAY FUEL TAXES ON GAS-
6 OLINE, DIESEL FUEL, AND KEROSENE.—

7 (1) IN GENERAL.—Section 4081 of the Internal
8 Revenue Code of 1986 (relating to imposition of tax
9 on gasoline, diesel fuel, and kerosene) is amended by
10 adding at the end the following new subsection:

11 “(f) SUSPENSION OF TAXES ON GASOLINE, DIESEL
12 FUEL, AND KEROSENE.—

13 “(1) IN GENERAL.—During the suspension pe-
14 riod, each rate of tax referred to in paragraph (2)
15 shall be reduced to zero cents per gallon.

16 “(2) RATES OF TAX.—The rates of tax referred
17 to in this paragraph are the rates of tax otherwise
18 applicable under—

19 “(A) clauses (i) and (iii) of subsection
20 (a)(2)(A) (relating to gasoline, diesel fuel, and
21 kerosene), determined after application of sub-
22 section (a)(2)(B) and without regard to sub-
23 section (a)(2)(C), and

24 “(B) paragraph (1) of section 4041(a) (re-
25 lating to diesel fuel and kerosene) with respect

1 to fuel sold for use or used in a diesel-powered
2 highway vehicle.

3 “(3) SUSPENSION PERIOD.—For purposes of
4 this section, the term ‘suspension period’ means the
5 period beginning on May 26, 2008 and ending on
6 September 1, 2008.

7 “(4) MAINTENANCE OF TRUST FUND DEPOS-
8 ITS.—In determining the amounts to be appro-
9 priated to the Highway Trust Fund under section
10 9503 and to the Leaking Underground Storage
11 Tank Trust Fund under section 9508, an amount
12 equal to the reduction in revenues from highway fuel
13 taxes on gasoline, diesel, and kerosene by reason of
14 this subsection shall be treated as taxes received in
15 the Treasury under this section or section 4041.”.

16 (2) EFFECTIVE DATE.—The amendment made
17 by this subsection shall take effect on the date of the
18 enactment of this Act.

19 (b) FLOOR STOCK REFUNDS.—

20 (1) IN GENERAL.—If—

21 (A) before the tax suspension date, tax has
22 been imposed under section 4081 of the Inter-
23 nal Revenue Code of 1986 on any highway
24 motor fuel, and

1 (B) on such date such fuel is held by a
2 dealer and has not been used and is intended
3 for sale,
4 there shall be credited or refunded (without interest)
5 to the person who paid such tax (hereafter in this
6 subsection referred to as the “taxpayer”) an amount
7 equal to the excess of the tax paid by the taxpayer
8 over the tax which would be imposed on such fuel
9 had the taxable event occurred on such date.

10 (2) TIME FOR FILING CLAIMS.—No credit or re-
11 fund shall be allowed or made under this subsection
12 unless—

13 (A) claim therefor is filed with the Sec-
14 retary of the Treasury before the date which is
15 6 months after the tax suspension date based
16 on a request submitted to the taxpayer before
17 the date which is 3 months after the tax sus-
18 pension date by the dealer who held the high-
19 way motor fuel on such date, and

20 (B) the taxpayer has repaid or agreed to
21 repay the amount so claimed to such dealer or
22 has obtained the written consent of such dealer
23 to the allowance of the credit or the making of
24 the refund.

1 (3) EXCEPTION FOR FUEL HELD IN RETAIL
2 STOCKS.—No credit or refund shall be allowed under
3 this subsection with respect to any highway motor
4 fuel in retail stocks held at the place where intended
5 to be sold at retail.

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

8 (A) TAX SUSPENSION DATE.—The term
9 “tax suspension date” means the first day of
10 the suspension period in effect under section
11 4081(f) of the Internal Revenue Code of 1986
12 (as added by subsection (a) of this section).

13 (B) HIGHWAY MOTOR FUEL.—The term
14 “highway motor fuel” has the meaning given
15 such term for purposes of subsection (c).

16 (C) OTHER TERMS.—The terms “dealer”
17 and “held by a dealer” have the respective
18 meanings given to such terms by section 6412
19 of such Code.

20 (5) CERTAIN RULES TO APPLY.—Rules similar
21 to the rules of subsections (b) and (c) of section
22 6412 of such Code shall apply for purposes of this
23 subsection.

24 (c) FLOOR STOCKS TAX RESTORATION.—

1 (1) RESTORATION OF EXCISE TAX.—In the case
2 of any highway motor fuel which is held on the tax
3 restoration date by any person, there shall be a floor
4 stocks tax equal to the excess of the tax which would
5 be imposed on such fuel had the taxable event oc-
6 curred on such date over the tax (if any) previously
7 paid (and not credited or refunded) on such fuel.

8 (2) LIABILITY FOR TAX AND METHOD OF PAY-
9 MENT.—

10 (A) LIABILITY FOR TAX.—The person
11 holding highway motor fuel on the tax restora-
12 tion date to which the tax imposed by para-
13 graph (1) applies shall be liable for such tax.

14 (B) METHOD OF PAYMENT.—The tax re-
15 ferred to in paragraph (1) shall be paid in such
16 manner as the Secretary shall prescribe.

17 (C) TIME FOR PAYMENT.—The tax re-
18 ferred to in paragraph (1) shall be paid on or
19 before the 45th day after the tax restoration
20 date.

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

23 (A) TAX RESTORATION DATE.—The term
24 “tax restoration date” means the first day after

1 the suspension period (as defined in section
2 4081(f) of the Internal Revenue Code of 1986).

3 (B) HIGHWAY MOTOR FUEL.—The term
4 “highway motor fuel” means any liquid on
5 which tax would have been imposed under sec-
6 tion 4081 of the Internal Revenue Code of 1986
7 during the suspension period in effect under
8 section 4081(f) of such Code but for the
9 amendments made by subsection (a).

10 (C) HELD BY A PERSON.—A highway
11 motor fuel shall be considered as held by a per-
12 son if title thereto has passed to such person
13 (whether or not delivery to the person has been
14 made).

15 (D) SECRETARY.—The term “Secretary”
16 means the Secretary of the Treasury.

17 (4) EXCEPTION FOR EXEMPT USES.—The tax
18 referred to in paragraph (1) shall not apply to any
19 highway motor fuel held by any person exclusively
20 for any use to the extent a credit or refund of the
21 tax is allowable for such use.

22 (5) EXCEPTION FOR CERTAIN AMOUNTS OF
23 FUEL.—

24 (A) IN GENERAL.—No tax referred to in
25 paragraph (1) shall be applied against any

1 highway motor fuel held on the tax restoration
2 date by any person if the aggregate amount of
3 such highway motor fuel held by such person on
4 such date does not exceed 2,000 gallons. The
5 preceding sentence shall apply only if such per-
6 son submits to the Secretary (at the time and
7 in the manner required by the Secretary) such
8 information as the Secretary shall require for
9 purposes of this subparagraph.

10 (B) EXEMPT FUEL.—For purposes of sub-
11 paragraph (A), there shall not be taken into ac-
12 count any highway motor fuel held by any per-
13 son which is exempt from the tax referred to in
14 paragraph (1) by reason of paragraph (4).

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

17 (i) CORPORATIONS.—

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

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

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

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

12 (6) OTHER LAWS APPLICABLE.—All provisions
 13 of law, including penalties, applicable with respect to
 14 the taxes imposed by section 4081 of such Code
 15 shall, insofar as applicable and not inconsistent with
 16 the provisions of this subsection, apply with respect
 17 to the floor stock taxes referred to in paragraph (1)
 18 to the same extent as if such taxes were imposed by
 19 such section.

20 **SEC. 102. HIGHWAY TRUST FUND PRESERVATION.**

21 (a) IN GENERAL.—Section 9503(b) of the Internal
 22 Revenue Code of 1986 is amended—

23 (1) by adding at the end the following new
 24 paragraph:

1 “(7) SPENDING REPLENISHMENT.—If the Sec-
 2 retary of the Treasury determines that the amount
 3 in the Highway Trust Fund (other than the Mass
 4 Transit Account) is insufficient to timely meet the
 5 anticipated payments from the account for fiscal
 6 year 2009, the Secretary shall transfer to such fund
 7 (excluding the Mass Transit Account) from the gen-
 8 eral fund of the Treasury an amount up to the in-
 9 sufficiency.”

10 (2) by striking “**AMOUNTS EQUIVALENT TO**
 11 **CERTAIN TAXES AND PENALTIES**” in the heading
 12 and inserting “**CERTAIN AMOUNTS**”.

13 (b) REVENUE-ALIGNED BUDGET AUTHORITY AD-
 14 JUSTMENT.—No adjustment shall be made pursuant to
 15 section 1105 of the Safe, Accountable, Flexible, Efficient
 16 Transportation Equity Act: A Legacy for Users Act of
 17 2005 as a result of the enactment of this title.

18 **TITLE II—EARMARK REFORM**

19 **SEC. 201. JOINT SELECT COMMITTEE ON EARMARK RE-** 20 **FORM.**

21 (a) ESTABLISHMENT AND COMPOSITION.—There is
 22 hereby established a Joint Select Committee on Earmark
 23 Reform. The joint select committee shall be composed of
 24 16 members as follows:

1 (1) 8 Members of the House of Representatives,
2 4 appointed from the majority party by the Speaker
3 of the House, and 4 from the minority party to be
4 appointed by the minority leader; and

5 (2) 8 Members of the Senate, 4 appointed from
6 the majority party by the majority leader of the Sen-
7 ate, and 4 from the minority party to be appointed
8 by the minority leader.

9 A vacancy in the joint select committee shall not affect
10 the power of the remaining members to execute the func-
11 tions of the joint select committee, and shall be filled in
12 the same manner as the original selection.

13 (b) STUDY AND REPORT.—

14 (1) STUDY.—The joint select committee shall
15 make a full study of the practices of the House, Sen-
16 ate, and Executive Branch regarding earmarks in
17 authorizing, appropriation, tax, and tariff measures.
18 As part of the study, the joint select committee shall
19 consider the efficacy of—

20 (A) the disclosure requirements of clause 9
21 of rule XXI and clause 17 of rule XXIII of the
22 Rules of the House of Representatives, House
23 Resolution 491, and rule XLIV of the Standing
24 Rules of the Senate, and the definitions con-
25 tained therein;

1 (B) requiring full transparency in the proc-
2 ess, with earmarks listed in bills at the outset
3 of the legislative process and continuing
4 throughout consideration;

5 (C) requiring that earmarks not be placed
6 in any bill after initial committee consideration;

7 (D) requiring that Members be permitted
8 to offer amendments to remove earmarks at
9 subcommittee, full committee, floor consider-
10 ation, and during conference committee meet-
11 ings;

12 (E) requiring that bill sponsors and major-
13 ity and minority managers certify the validity of
14 earmarks contained in their bills;

15 (F) recommending changes to earmark re-
16 quests made by the Executive Branch through
17 the annual budget submitted to Congress pur-
18 suant to section 1105 of title 31, United States
19 Code;

20 (G) requiring that House and Senate
21 amendments meet earmark disclosure require-
22 ments, including amendments adopted pursuant
23 to a special order of business;

24 (H) establishing new categories for ear-
25 marks, including—

- 1 (i) projects with National scope;
2 (ii) military projects; and
3 (iii) local or provincial projects, in-
4 cluding the level of matching funds re-
5 quired for such project.

6 (2) REPORT.—

7 (A) The joint select committee shall submit
8 to the House of Representatives and the Senate
9 a report of its findings and recommendations
10 not later than 6 months after adoption of this
11 concurrent resolution.

12 (B) No recommendation shall be made by
13 the joint select committee except upon the ma-
14 jority vote of the members from each House, re-
15 spectively.

16 (C) Notwithstanding any other provision of
17 this resolution, any recommendation with re-
18 spect to the rules and procedures of one House
19 that only affects matters related solely to that
20 House may only be made and voted on by mem-
21 bers of the joint select committee from that
22 House and, upon its adoption by a majority of
23 such members, shall be considered to have been
24 adopted by the full committee as a rec-
25 ommendation of the joint select committee.

1 In conducting the study under paragraph (1), the
2 joint select committee shall hold not fewer than 5
3 public hearings.

4 (c) RESOURCES AND DISSOLUTION.—

5 (1) The joint select committee may utilize the
6 resources of the House of Representatives and the
7 Senate.

8 (2) The joint select committee shall cease to
9 exist 30 days after the submission of the report de-
10 scribed in subsection(a)(2).

11 (d) DEFINITION.—For purposes of this section, the
12 term “earmark” shall include congressional earmarks,
13 congressionally directed spending items, limited tax bene-
14 fits, or limited tariff benefits as those terms are defined
15 by clause 9 of rule XXI of the Rules of the House of Rep-
16 resentatives and rule XLIV of the Standing Rules of the
17 Senate. Nothing in this subsection shall confine the study
18 of the joint select committee or otherwise limit its rec-
19 ommendations.

20 **SEC. 202. MORATORIUM ON CONSIDERATION OF EAR-**
21 **MARKS.**

22 (a) IN THE HOUSE.—In the 110th Congress, it shall
23 not be in order to consider a bill, joint resolution, amend-
24 ment, or conference report containing a congressional ear-
25 mark, limited tax benefit, or limited tariff benefit (as such

1 terms are defined by clause 9 of rule XXI of the Rules
2 of the House of Representatives).

3 (b) IN THE SENATE.—【To be inserted by the Sen-
4 ate】

5 **SEC. 203. REVISION OF CONCURRENT RESOLUTION ON THE**
6 **BUDGET.**

7 (a) Upon the enactment of this Act, the chairmen of
8 the Committees on the Budget of the House and the Sen-
9 ate shall reduce the allocation of new budget authority and
10 the outlays flowing therefrom to the Committees on Ap-
11 propriations of the House and the Senate set forth pursu-
12 ant to section 302(a) of the Congressional Budget Act of
13 1974 for fiscal year 2009 by \$14.8 billion.

14 (b) The chairmen of the Committees on the Budget
15 of the House and the Senate shall make any other nec-
16 essary and conforming adjustments in the concurrent res-
17 olution on the budget for fiscal year 2009.

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