

~~DISCUSSION DRAFT~~

NOVEMBER 6, 2013

113<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

**H. R.** \_\_\_\_\_

To amend the Internal Revenue Code of 1986 to increase the excise tax  
on gasoline, diesel, and kerosene fuels.

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IN THE HOUSE OF REPRESENTATIVES

Mr. BLUMENAUER introduced the following bill; which was referred to the  
Committee on \_\_\_\_\_

\_\_\_\_\_

**A BILL**

To amend the Internal Revenue Code of 1986 to increase  
the excise tax on gasoline, diesel, and kerosene fuels.

- 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 “Update, Promote, and  
5 Develop America’s Transportation Essentials Act of  
6 2013”.

7 **SEC. 2. FINDINGS; SENSE OF CONGRESS.**

- 8 (a) FINDINGS.—The Congress finds the following:

1 (1) Since the passage of SAFETEA-LU, Con-  
2 gress has transferred over \$50 billion from the Gen-  
3 eral Fund to the Highway Trust Fund, in order to  
4 maintain solvency.

5 (2) The Congressional Budget Office estimates  
6 after the end of Fiscal year 2014, annual General  
7 Fund transfers of approximately \$15 billion will be  
8 necessary in order to maintain current Highway  
9 Trust Fund spending levels.

10 (3) The Congressional Budget Office also esti-  
11 mates that in order to provide funding for surface  
12 transportation projects where the Federal benefit  
13 outweighs the cost, an additional \$83 billion a year  
14 would need to be allocated to the Highway and  
15 Transit Trust Funds.

16 (4) The American Society for Civil Engineers  
17 estimates that in order to meet our economic and  
18 transportation needs, the United States should in-  
19 vest at least an additional \$500 billion in our sur-  
20 face transportation system by 2020.

21 (5) The National Commission on Fiscal Reform  
22 and Responsibility report, often referred to as the  
23 “Simpson-Bowles” plan, includes a recommendation  
24 to raise the gas tax by fifteen cents.

1 (6) The National Surface Transportation Infra-  
2 structure Financing Commission recommended, in  
3 their 2009 report, that Congress take action to pre-  
4 vent the Highway Trust Fund from becoming insol-  
5 vent, and to avoid any reductions in infrastructure  
6 spending. The Commission also noted that a Federal  
7 funding system based on a vehicle miles traveled sys-  
8 tem, is the consensus choice for the future.

9 (b) SENSE OF CONGRESS REGARDING REPLACEMENT  
10 OF GAS TAX.—It is the sense of Congress that by 2024  
11 the gas tax should be repealed and replaced with a more  
12 sustainable, stable funding source.

13 **SEC. 3. TAX ON MOTOR FUELS.**

14 (a) GASOLINE OTHER THAN AVIATION GASOLINE.—  
15 Section 4081(a)(2)(A)(i) of the Internal Revenue Code of  
16 1986 is amended to read as follows:

17 “(i) in the case of gasoline other than  
18 aviation gasoline—

19 “(I) for tax imposed before 2014,  
20 18.3 cents per gallon,

21 “(II) for tax imposed during  
22 2014, 26.3 cents per gallon,

23 “(III) for tax imposed during  
24 2015, 30.3 cents per gallon, and

1 “(IV) for tax imposed after 2015  
2 and before 2025, 33.3 cents per gal-  
3 lon.”

4 (b) DIESEL FUEL OR KEROSENE.—Section  
5 4081(a)(2)(A)(iii) of the Internal Revenue Code of 1986  
6 is amended to read as follows:

7 “(iii) in the case of diesel fuel or ker-  
8 osene—

9 “(I) for tax imposed before 2014,  
10 ~~19.3~~<sup>24.3</sup> cents per gallon,

11 “(II) for tax imposed during  
12 2014, ~~35.3~~<sup>32.3</sup> cents per gallon,

13 “(III) for tax imposed during  
14 2015, ~~38.3~~<sup>36.3</sup> cents per gallon, and

15 “(IV) for tax imposed after 2015  
16 and before 2025, 39.3 cents per gal-  
17 lon.”

18 (c) INCREASE FOR INFLATION.—Paragraph (2) of  
19 section 4081(a) of such Code is amended by adding at  
20 the end the following:

21 “(E) ADJUSTMENT FOR INFLATION.—In  
22 the case of any calendar year beginning after  
23 2016, the rates of tax contained in clauses  
24 (i)(IV) and (ii)(IV) of subparagraph (A) shall  
25 each be increased by an amount equal to—

1 “(i) such rate, multiplied by

2 “(ii) the cost of living adjustment de-  
3 termined under section 1(f)(3) for the cal-  
4 endar year, determined by substituting  
5 ‘calendar year 2015’ for ‘calendar year  
6 1992’ in subparagraph (B) thereof.

7 Any increase under the preceding sentence shall  
8 be rounded to the nearest 0.1 cents.”

9 (d) DIESEL-WATER FUEL EMULSION.—Section  
10 4081(a)(2)(D) of the Internal Revenue Code of 1986 is  
11 amended by striking “19.7 cents” for “24.3 cents” and  
12 inserting “a rate equal to 71 percent of the rate in effect  
13 under subparagraph (A) (without regard to this subpara-  
14 graph)”.

15 (e) TERMINATION.—Section 4081(d)(1) of the Inter-  
16 nal Revenue Code of 1986 is amended by striking “Sep-  
17 tember 30, 2016” and inserting “December 31, 2024”.

18 (f) EFFECTIVE DATE.—The amendments made by  
19 this section shall apply to fuels or liquids removed, en-  
20 tered, or sold after December 31, 2013.

#### 21 SEC. 4. FLOOR STOCKS TAX.

22 (a) IMPOSITION OF TAX.—In the case of any taxable  
23 liquid which is held on the floor stocks tax date by any  
24 person, there is hereby imposed a floor stocks tax equal  
25 to the excess of the tax which would be imposed on such

1 liquid under section 4041 or 4081 of the Internal Revenue  
2 Code of 1986 had the taxable event occurred on the floor  
3 stocks tax date over the tax paid under any such section  
4 on such liquid.

5 (b) LIABILITY FOR TAX AND METHOD OF PAY-  
6 MENT.—

7 (1) LIABILITY FOR TAX.—A person holding a  
8 liquid on the floor stocks tax date to which the tax  
9 imposed by subsection (a) applies shall be liable for  
10 such tax.

11 (2) METHOD OF PAYMENT.—The tax imposed  
12 by subsection (a) shall be paid in such manner as  
13 the Secretary shall prescribe.

14 (3) TIME OF PAYMENT.—The tax imposed by  
15 subsection (a) shall be paid on or before the date  
16 which is 6 months after the floor stocks tax date.

17 (c) DEFINITIONS.—For purposes of this section—  
18 (1) HELD BY A PERSON.—A liquid shall be con-  
19 sidered as held by a person if title thereto has  
20 passed to such person (whether or not delivery to  
21 the person has been made).

22 (2) TAXABLE LIQUID.—The term “taxable liq-  
23 uid” means diesel fuel and kerosene (other than  
24 aviation-grade kerosene).

1 (3) FLOOR STOCKS DATE.—The term “Floor  
2 stocks tax date” means any January 1 of any cal-  
3 endar year beginning after the date of the enactment  
4 of this Act on which a rate of tax under section  
5 4041 or 4081 of such Code increases pursuant to an  
6 amendment made by section 2.

7 (4) SECRETARY.—The term “Secretary” means  
8 the Secretary of the Treasury.

9 (d) EXCEPTION FOR EXEMPT USES.—The tax im-  
10 posed by subsection (a) shall not apply to taxable liquid  
11 held by any person exclusively for any use to the extent  
12 a credit or refund of the tax imposed by a section of such  
13 Code is allowable for such use.

14 (e) EXCEPTION FOR FUEL HELD IN VEHICLE  
15 TANK.—No tax shall be imposed by subsection (a) on tax-  
16 able liquid held in the tank of a motor vehicle or motor-  
17 boat.

18 (f) EXCEPTION FOR CERTAIN AMOUNTS OF FUEL.—  
19 (1) IN GENERAL.—No tax shall be imposed by  
20 subsection (A) on any liquid held on the floor stocks  
21 tax date by any person if the aggregate amount of  
22 liquid held by such person on such date does not ex-  
23 ceed 2,000 gallons. The preceding sentence shall  
24 apply only if such person submits to the Secretary  
25 (at the time and in the manner required by the Sec-

1       retary) such information as the Secretary shall re-  
2       quire for purposes of this paragraph.

3       (2) EXEMPT FUEL.—For purposes of para-  
4       graph (1), there shall not be taken into account fuel  
5       held by any person which is exempt from the tax im-  
6       posed by subsection (a) by reason of subsection (d)  
7       or (e).

8       (3) CONTROLLED GROUPS.—For purposes of  
9       this section—

10       (A) CORPORATIONS.—

11       (i) IN GENERAL.—All persons treated  
12       as a controlled group shall be treated as 1  
13       person.

14       (ii) CONTROLLED GROUP.—The term  
15       “controlled group” has the meaning given  
16       to such term by subsection (a) of section  
17       1563 of such Code; except that for such  
18       purposes the phrase “more than 50 per-  
19       cent” shall be substituted for the phrase  
20       “at least 80 percent” each place it appears  
21       in such subsection.

22       (B) NONINCORPORATED PERSONS UNDER  
23       COMMON CONTROL.—Under regulations pre-  
24       scribed by the Secretary, principles similar to  
25       the principles of clause (i) shall apply to a

1 group of persons under common control where  
2 1 or more of such persons is not a corporation.  
3 (g) OTHER LAWS APPLICABLE.—All provisions of  
4 law, including penalties, applicable with respect to the  
5 taxes imposed by chapter 31 or 32 of such Code shall,  
6 insofar as applicable and not inconsistent with the provi-  
7 sions of this section, apply with respect to the floor stock  
8 taxes imposed by subsection (a) to the same extent as if  
9 such taxes were imposed by such chapter.