

119TH CONGRESS
1ST SESSION

S. 173

To amend the Internal Revenue Code of 1986 to increase excise taxes on fuel used by private jets, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JANUARY 21, 2025

Mr. MARKEY (for himself, Mr. MURPHY, Mr. MERKLEY, Mr. SANDERS, Ms. WARREN, and Mr. WHITEHOUSE) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To amend the Internal Revenue Code of 1986 to increase excise taxes on fuel used by private jets, 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 “Fueling Alternative
5 Transportation with a Carbon Aviation Tax Act of 2025”.

6 **SEC. 2. INCREASE IN EXCISE TAX FOR FUEL USED BY PRI-**
7 **VATE JETS.**

8 (a) IN GENERAL.—

1 (1) RETAIL EXCISE TAX.—Section 4041(c) of
 2 the Internal Revenue Code of 1986 is amended by
 3 striking paragraph (3) and inserting the following:

4 “(3) RATE OF TAX.—The rate of tax imposed
 5 by this subsection shall be—

6 “(A) with respect to any sale or use for
 7 commercial aviation, 4.3 cents per gallon, and

8 “(B) with respect to any sale or use which
 9 is not described in subparagraph (A), an
 10 amount equal to the sum of—

11 “(i) 35.9 cents per gallon, plus

12 “(ii) \$1.641 per gallon.

13 “(4) INFLATION ADJUSTMENT.—In the case of
 14 any calendar year beginning after 2026, the dollar
 15 amount in paragraph (3)(B)(ii) shall be increased by
 16 an amount equal to—

17 “(A) such dollar amount, multiplied by

18 “(B) the cost-of-living adjustment deter-
 19 mined under section 1(f)(3) for the calendar
 20 year, determined by substituting ‘calendar year
 21 2025’ for ‘calendar year 2016’ in subparagraph
 22 (A)(ii) thereof.”.

23 (2) MANUFACTURERS EXCISE TAX.—Section
 24 4081(a)(2) of such Code is amended—

1 (A) in subparagraph (C), by striking
 2 clause (ii) and inserting the following:

3 “(ii) in the case of use for aviation
 4 not described in clause (i), an amount
 5 equal to the sum of—

6 “(I) 35.9 cents per gallon, plus

7 “(II) \$1.641 per gallon.”, and

8 (B) by adding at the end the following:

9 “(E) INFLATION ADJUSTMENT.—In the
 10 case of any calendar year beginning after 2026,
 11 the dollar amount in subparagraph (C)(ii)(II)
 12 shall be increased by an amount equal to—

13 “(i) such dollar amount, multiplied by

14 “(ii) the cost-of-living adjustment de-
 15 termined under section 1(f)(3) for the cal-
 16 endar year, determined by substituting
 17 ‘calendar year 2025’ for ‘calendar year
 18 2016’ in subparagraph (A)(ii) thereof.”.

19 (3) CONFORMING AMENDMENTS.—

20 (A) Section 4081(d)(2) of such Code is
 21 amended by striking “(a)(2)(C)(ii)” and insert-
 22 ing “(a)(2)(C)(ii)(I)”.

23 (B) Section 6427(l)(4)(B)(ii)(II) of such
 24 Code is amended by striking “section

1 4081(a)(2)(C)(ii)” and inserting “section
2 4081(a)(2)(C)(ii)(I)”.

3 (C) Section 9503(c)(5)(B) of such Code is
4 amended by striking “21.8 cents” and inserting
5 “35.9 cents”.

6 (b) REFUND OR CREDIT IN CASES OF REASONABLE
7 CAUSE.—Section 6427 of the Internal Revenue Code of
8 1986 is amended by inserting after subsection (e) the fol-
9 lowing new subsection:

10 “(f) EXCEPTION FROM INCREASE IN RATE OF TAX
11 FOR CERTAIN LIQUIDS USED AS FUEL IN NON-COMMER-
12 CIAL AVIATION.—

13 “(1) RETAIL EXCISE TAX.—Except as provided
14 in subsection (k), in the case of any fuel on the sale
15 of which tax was imposed under section 4041(c) for
16 which the rate of tax was determined under para-
17 graph (3)(B) of such section, if the Secretary deter-
18 mines (pursuant to such regulations as are pre-
19 scribed by the Secretary) that there is reasonable
20 cause that the increase in the rate of tax pursuant
21 to clause (ii) of such paragraph should not apply
22 with respect to such fuel (such as in cases where the
23 fuel was used in an aircraft which was engaged in
24 scientific research, an evacuation from a natural dis-
25 aster, or assistance in a medical emergency), the

1 Secretary shall pay (without interest) to the ultimate
2 purchaser of such fuel an amount equal to the in-
3 crease in the amount of the tax imposed on such
4 fuel pursuant to such clause.

5 “(2) MANUFACTURERS EXCISE TAX.—Except as
6 provided in subsection (k), in the case of any ker-
7 osene on which tax was imposed under section 4081
8 for which the rate of tax was determined under sub-
9 section (a)(2)(C)(ii) of such section, if the Secretary
10 determines (pursuant to such regulations as are pre-
11 scribed by the Secretary) that there is reasonable
12 cause that the increase in the rate of tax pursuant
13 to subclause (II) of such subsection should not apply
14 with respect to such kerosene (such as in cases
15 where the kerosene was used in an aircraft which
16 was engaged in scientific research, an evacuation
17 from a natural disaster, or assistance in a medical
18 emergency), the Secretary shall pay (without inter-
19 est) to the ultimate purchaser of such kerosene an
20 amount equal to the increase in the amount of the
21 tax imposed on such kerosene pursuant to such sub-
22 clause.

23 “(3) TERMINATION.—This subsection shall not
24 apply to any fuel sold or used after January 1,
25 2028.”.

1 (c) ELIMINATION OF EXEMPTION FROM AIR TRANS-
 2 PORTATION EXCISE TAX.—Section 4261(f) of the Internal
 3 Revenue Code of 1986 is amended to read as follows:

4 “(f) EXEMPTION FOR CERTAIN USES.—

5 “(1) IN GENERAL.—No tax shall be imposed
 6 under subsection (a) or (b) on air transportation by
 7 helicopter or by fixed-wing aircraft for the purpose
 8 of the planting, cultivation, cutting, or transpor-
 9 tation of, or caring for, trees.

10 “(2) REQUIREMENT.—Paragraph (1) shall
 11 apply only if the helicopter or fixed-wing aircraft
 12 does not take off from, or land at, a facility eligible
 13 for assistance under the Airport and Airway Devel-
 14 opment Act of 1970, or otherwise use services pro-
 15 vided pursuant to section 44509 or 44913(b) or sub-
 16 chapter I of chapter 471 of title 49, United States
 17 Code, during such use.”.

18 (d) EFFECTIVE DATE.—The amendments made by
 19 this section shall take effect on January 1, 2026.

20 **SEC. 3. FUNDING TO SUPPORT CLEAN COMMUNITIES**
 21 **TRUST FUND.**

22 (a) IN GENERAL.—Subchapter A of chapter 98 of the
 23 Internal Revenue Code of 1986 is amended by adding at
 24 the end the following new section:

1 **“SEC. 9512. FUNDING TO SUPPORT CLEAN COMMUNITIES**
 2 **TRUST FUND.**

3 “(a) ESTABLISHMENT AND FUNDING.—There is
 4 hereby established in the Treasury of the United States
 5 a trust fund to be referred to as the ‘Funding to Support
 6 Clean Communities Trust Fund’, consisting of such
 7 amounts as may be appropriated or credited to such trust
 8 fund as provided for in this section and section 9602(b).

9 “(b) TRANSFERS TO TRUST FUND.—There are here-
 10 by appropriated to the Funding to Support Clean Commu-
 11 nities Trust Fund amounts equivalent to the taxes re-
 12 ceived in the Treasury under—

13 “(1) section 4041(c) to the extent attributable
 14 to the rate specified in paragraph (3)(B)(ii) of such
 15 section, and

16 “(2) section 4081 with respect to kerosene to
 17 the extent attributable to the rate specified in sec-
 18 tion 4081(a)(2)(C)(ii)(II).

19 “(c) EXPENDITURES FROM TRUST FUND.—

20 “(1) IN GENERAL.—Subject to paragraph (2),
 21 amounts in the Funding to Support Clean Commu-
 22 nities Trust Fund shall be available, as provided by
 23 appropriation Acts, for making expenditures for
 24 grants and other activities—

25 “(A) authorized under subsections (a)
 26 through (c) of section 103 and section 105 of

1 the Clean Air Act (42 U.S.C. 7403(a)–(c),
2 7405), including grants and other activities
3 to—

4 “(i) deploy, integrate, support, and
5 maintain fenceline air monitoring, screen-
6 ing air monitoring, national air toxics
7 trend stations, and other air toxics and
8 community monitoring,

9 “(ii) expand the national ambient air
10 quality monitoring network with new
11 multipollutant monitoring stations,

12 “(iii) replace, repair, operate, and
13 maintain existing monitors, and

14 “(iv) deploy, integrate, and operate
15 air quality sensors in low-income and dis-
16 advantaged communities,

17 “(B) to expand, connect, replace, repair,
18 operate, and maintain public transit and pas-
19 senger rail infrastructure or systems that are
20 located 20 miles or less from an airport, and

21 “(C) to improve public transportation, par-
22 ticularly in disadvantaged communities, includ-
23 ing costs associated with efforts to provide more
24 safe, frequent, and reliable bus service.

1 “(2) SET ASIDE FOR DISADVANTAGED COMMU-
2 NITIES.—

3 “(A) IN GENERAL.—For any calendar
4 year, not less than 50 percent of the amounts
5 made available under paragraph (1) shall be
6 designated for expenditures for grants and
7 other activities within disadvantaged commu-
8 nities.

9 “(B) PRIORITIZATION OF FUNDS FOR COM-
10 MUNITIES DISPROPORTIONALLY IMPACTED BY
11 AIR POLLUTION.—With respect to making ex-
12 penditures for grants and other activities de-
13 scribed in paragraph (1) to disadvantaged com-
14 munities, priority shall be given to communities
15 that are disproportionately impacted by air pol-
16 lution (as determined by the Secretary in con-
17 sultation with the Administrator of the Envi-
18 ronmental Protection Agency).

19 “(d) DISADVANTAGED COMMUNITY.—For purposes
20 of this section—

21 “(1) IN GENERAL.—The term ‘disadvantaged
22 community’ means a community with significant
23 representation of low-income communities or socially
24 disadvantaged groups (as defined in section 2501(a)
25 of the Food, Agriculture, Conservation, and Trade

1 Act of 1990 (7 U.S.C. 2279(a))) that experiences or
 2 is at risk of experiencing higher or more adverse
 3 human health or environmental effects.

4 “(2) LOW-INCOME COMMUNITY.—For purposes
 5 of paragraph (1), the term ‘low-income community’
 6 means any census block group in which 30 percent
 7 or more of the population are individuals with an
 8 annual household income equal to, or less than, the
 9 greater of—

10 “(A) an amount equal to 80 percent of the
 11 median income of the area in which the house-
 12 hold is located, as reported by the Department
 13 of Housing and Urban Development, and

14 “(B) 200 percent of the Federal poverty
 15 line.”.

16 (b) CONFORMING AMENDMENTS TO AIRPORT AND
 17 AIRWAY TRUST FUND.—Section 9502(b)(1) of the Inter-
 18 nal Revenue Code of 1986 is amended—

19 (1) in subparagraph (A), by inserting “to the
 20 extent attributable to the rates specified in subpara-
 21 graphs (A) and (B)(i) of section 4041(c)(3),” after
 22 “(relating to aviation fuels),”, and

23 (2) in subparagraph (D), by striking “rate
 24 specified in” and inserting “rates specified in clauses
 25 (i) and (ii)(I) of”.

1 (c) CLERICAL AMENDMENT.—The table of sections
2 for subchapter A of chapter 98 of the Internal Revenue
3 Code of 1986 is amended by adding at the end the fol-
4 lowing new item:

“Sec. 9512. Funding to Support Clean Communities Trust Fund.”.

5 (d) EFFECTIVE DATE.—The amendments made by
6 this section shall take effect on January 1, 2026.

