

# **SURFACE TRANSPORTATION REVENUE ACT OF 1998**

MARCH 27, 1998.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. ARCHER from, from the Committee on Ways and Means,  
submitted the following

## **REPORT**

[To accompany H.R. 2400]

[Including cost estimate of the Congressional Budget Office]

The Committee on Ways and Means, to whom was referred the bill (H.R. 2400) to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

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The amendment is as follows:

Insert after title X the following new title:

## **TITLE XI—EXTENSION AND MODIFICATION OF HIGHWAY-RELATED TAXES AND TRUST FUND**

- Sec. 1101. Short title; amendment of 1986 Code.  
 Sec. 1102. Extension of highway-related taxes and trust fund.  
 Sec. 1103. Modifications to Highway Trust Fund.  
 Sec. 1104. Provisions relating to Aquatic Resources Trust Fund.  
 Sec. 1105. Repeal of excise tax on tires.  
 Sec. 1106. Repeal of 4.3 cent excise tax on diesel fuel and gasoline used in trains.  
 Sec. 1107. Delay in effective date of new requirement for approved diesel or kerosene terminals.  
 Sec. 1108. Simplified fuel tax refund procedures.  
 Sec. 1109. Repeal of National Recreational Trails Trust Fund.

### **SEC. 1101. SHORT TITLE; AMENDMENT OF 1986 CODE.**

(a) SHORT TITLE.—This title may be cited as the “Surface Transportation Revenue Act of 1998”.

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

### **SEC. 1102. EXTENSION OF HIGHWAY-RELATED TAXES AND TRUST FUND.**

#### **(a) EXTENSION OF TAXES.—**

(1) IN GENERAL.—The following provisions are each amended by striking “1999” each place it appears and inserting “2005”:

- (A) Section 4041(a)(1)(C)(iii)(I) (relating to rate of tax on certain buses).
- (B) Section 4041(a)(2)(B) (relating to rate of tax on special motor fuels), as amended by section 907(a)(1) of the Taxpayer Relief Act of 1997.
- (C) Section 4041(m)(1)(A) (relating to certain alcohol fuels), as amended by section 907(b) of the Taxpayer Relief Act of 1997.
- (D) Section 4051(c) (relating to termination).
- (E) Section 4081(d)(1) (relating to termination).
- (F) Section 4481(e) (relating to period tax in effect).
- (G) Section 4482(c)(4) (relating to taxable period).
- (H) Section 4482(d) (relating to special rule for taxable period in which termination date occurs).

(2) TAX ON TIRES EXTENDED ONLY THROUGH SEPTEMBER 30, 2000.—Section 4071(d) (relating to termination) is amended by striking “1999” and inserting “2000”.

#### **(3) OTHER PROVISIONS.—**

(A) FLOOR STOCKS REFUNDS.—Section 6412(a)(1) (relating to floor stocks refunds) is amended—

- (i) by striking “1999” each place it appears and inserting “2005”, and
- (ii) by striking “2000” each place it appears and inserting “2006”.

(B) INSTALLMENT PAYMENTS OF HIGHWAY USE TAX.—Section 6156(e)(2) (relating to installment payments of highway use tax on use of highway motor vehicles) is amended by striking “1999” and inserting “2005”.

(b) EXTENSION OF CERTAIN EXEMPTIONS.—The following provisions are each amended by striking “1999” and inserting “2005”:

- (1) Section 4221(a) (relating to certain tax-free sales).
- (2) Section 4483(g) (relating to termination of exemptions for highway use tax).
- (c) EXTENSION OF DEPOSITS INTO, AND CERTAIN TRANSFERS FROM, TRUST FUND.—
  - (1) IN GENERAL.—Subsection (b), and paragraphs (2) and (3) of subsection (c), of section 9503 (relating to the Highway Trust Fund) are each amended—
    - (A) by striking “1999” each place it appears (other than in subsection b)(4)) and inserting “2005”, and
    - (B) by striking “2000” each place it appears and inserting “2006”.
  - (2) MOTORBOAT AND SMALL-ENGINE FUEL TAX TRANSFERS.—
    - (A) IN GENERAL.—Paragraphs (4)(A)(i) and (5)(A) of section 9503(c) are each amended by striking “1998” and inserting “2003”.
    - (B) CONFORMING AMENDMENTS TO LAND AND WATER CONSERVATION FUND.—Section 201(b) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l–11(b)) is amended—
      - (i) by striking “1997” and inserting “2003”, and
      - (ii) by striking “1998” each place it appears and inserting “2004”.
    - (3) CONFORMING AMENDMENT.—The heading for paragraph (3) of section 9503(c) is amended to read as follows:
 

“(3) FLOOR STOCKS REFUNDS.—”.
  - (d) EXTENSION AND EXPANSION OF EXPENDITURES FROM TRUST FUND.—
    - (1) HIGHWAY ACCOUNT.—
      - (A) EXTENSION OF EXPENDITURE AUTHORITY.—Paragraph (1) of section 9503(c) is amended by striking “1998” and inserting “2003”.
      - (B) EXPANSION OF PURPOSES.—Paragraph (1) of section 9503(c) is amended—
        - (i) by striking “or” at the end of subparagraph (C), and
        - (ii) by striking “1991.” in subparagraph (D) and all that follows through the end of paragraph (1) and inserting “1991, or
    - (E) authorized to be paid out of the Highway Trust Fund under the Building Efficient Surface Transportation and Equity Act of 1998.

In determining the authorizations under the Acts referred to in the preceding subparagraphs, such Acts shall be applied as in effect on the date of the enactment of the Building Efficient Surface Transportation and Equity Act of 1998.”.

    - (2) MASS TRANSIT ACCOUNT.—
      - (A) EXTENSION OF EXPENDITURE AUTHORITY.—Paragraph (3) of section 9503(e) is amended by striking “1998” and inserting “2003”.
      - (B) EXPANSION OF PURPOSES.—Paragraph (3) of section 9503(e) is amended—
        - (i) by striking “or” at the end of subparagraph (A),
        - (ii) by adding “or” at the end of subparagraph (B), and
        - (iii) by striking all that follows subparagraph (B) and inserting:
 

“(C) the Building Efficient Surface Transportation and Equity Act of 1998,

as such sections and Acts are in effect on the date of the enactment of the Building Efficient Surface Transportation and Equity Act of 1998.”.

  - (e) TECHNICAL CORRECTION RELATING TO TRANSFERS TO MASS TRANSIT ACCOUNT.—
    - (1) IN GENERAL.—Section 9503(e)(2) is amended by striking the last sentence and inserting the following: “For purposes of the preceding sentence, the term ‘mass transit portion’ means, for any fuel with respect to which tax was imposed under section 4041 or 4081 and otherwise deposited into the Highway Trust Fund, the amount determined at the rate of—
      - “(A) except as otherwise provided in this sentence, 2.86 cents per gallon,
      - “(B) 1.43 cents per gallon in the case of any partially exempt methanol or ethanol fuel (as defined in section 4041(m)) none of the alcohol in which consists of ethanol,
      - “(C) 1.86 cents per gallon in the case of liquefied natural gas,
      - “(D) 2.13 cents per gallon in the case of liquefied petroleum gas, and
      - “(E) 9.71 cents per MCF (determined at standard temperature and pressure) in the case of compressed natural gas.”.
    - (2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect as if included in the amendment made by section 901(b) of the Taxpayer Relief Act of 1997.

**SEC. 1103. MODIFICATIONS TO HIGHWAY TRUST FUND.**

- (a) DETERMINATION OF TRUST FUND BALANCES AFTER SEPTEMBER 30, 1998.—

(1) IN GENERAL.—Section 9503 (relating to Highway Trust Fund) is amended by adding at the end the following new subsection:  
“(f) DETERMINATION OF TRUST FUND BALANCES AFTER SEPTEMBER 30, 1998.—For purposes of determining the balances of the Highway Trust Fund and the Mass Transit Account after September 30, 1998—

“(1) the opening balance of the Highway Trust Fund (other than the Mass Transit Account) on October 1, 1998, shall be \$8,000,000,000,

“(2) the opening balance of the Mass Transit Account on such date shall be \$5,500,000,000, and

“(3) no interest on any obligation held by such Fund shall be credited to such Fund if such interest accrues after September 30, 1998.

The Secretary shall cancel obligations held by the Highway Trust Fund to reflect the reduction in the balances under this subsection.”.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect on October 1, 1998.

(b) REPEAL OF LIMITATION ON EXPENDITURES ADDED BY TAXPAYER RELIEF ACT OF 1997.—

(1) IN GENERAL.—Subsection (c) of section 9503 (relating to expenditures from Highway Trust Fund) is amended by striking paragraph (7).

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect as if included in the amendments made by section 901 of the Taxpayer Relief Act of 1997.

(c) LIMITATION ON EXPENDITURE AUTHORITY.—Subsection (b) of section 9503 (relating to transfers to Highway Trust Fund) is amended by adding at the end the following new paragraph:

“(6) LIMITATION ON TRANSFERS TO HIGHWAY TRUST FUND.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), no amount may be appropriated to the Highway Trust Fund on and after the date of any expenditure from the Highway Trust Fund which is not permitted by this section. The determination of whether an expenditure is so permitted shall be made without regard to—

“(i) any provision of law which is not contained or referenced in this title or in a revenue Act, and

“(ii) whether such provision of law is a subsequently enacted provision or directly or indirectly seeks to waive the application of this paragraph.

“(B) EXCEPTION FOR PRIOR OBLIGATIONS.—Subparagraph (A) shall not apply to any expenditure to liquidate any contract entered into (or for any amount otherwise obligated) before October 1, 2003, in accordance with the provisions of this section.”.

(d) MODIFICATION OF MASS TRANSIT ACCOUNT RULES ON ADJUSTMENTS OF APPORTIONMENTS.—Paragraph (4) of section 9503(e) is amended to read as follows:

“(4) LIMITATION.—Rules similar to the rules of subsection (d) shall apply to the Mass Transit Account.”.

#### SEC. 1104. PROVISIONS RELATING TO AQUATIC RESOURCES TRUST FUND.

(a) INCREASED TRANSFERS.—

(1)(A) Effective with respect to taxes imposed after September 30, 1999, and before October 1, 2000, subparagraph (D) of section 9503(b)(4) is amended by striking “11.5 cents” and inserting “14.9 cents”.

(B) Effective with respect to taxes imposed after September 30, 2000, paragraph (4) of section 9503(b) is amended by striking subparagraph (D) and by redesignating subparagraphs (E), (F), and (G) as subparagraphs (D), (E), and (F), respectively.

(2) Subparagraph (A) of section 9503(c)(4), as amended by section 1102(c)(2)(A), is amended to read as follows:

“(A) TRANSFERS TO BOAT SAFETY ACCOUNT.—

“(i) IN GENERAL.—The Secretary shall pay from time to time from the Highway Trust Fund into the Boat Safety Account in the Aquatic Resources Trust Fund amounts (as determined by the Secretary) equivalent to one-half of the motorboat fuel taxes received after September 30, 1998, and before October 1, 2003.

“(ii) LIMIT ON AMOUNT IN FUND.—No amount shall be transferred under this subparagraph during any fiscal year if the Secretary determines that such transfer would result in increasing the unobligated balance in the Boat Safety Account to a sum in excess of one-half of the total amount received as motorboat fuel taxes during the preceding fiscal year.”.

(b) EXTENSION AND EXPANSION OF EXPENDITURE AUTHORITY FROM BOAT SAFETY ACCOUNT.—Section 9504(c) (relating to expenditures from Boat Safety Account) is amended—

(1) by striking “1998” and inserting “2003”, and

(2) by striking “October 1, 1988” and inserting “the date of the enactment of the Building Efficient Surface Transportation and Equity Act of 1998”.

(c) LIMITATION ON EXPENDITURE AUTHORITY.—Section 9504 (relating to Aquatic Resources Trust Fund) is amended by redesignating subsection (d) as subsection (e) and by inserting after subsection (c) the following:

“(d) LIMITATION ON TRANSFERS TO AQUATIC RESOURCES TRUST FUND.—

“(1) IN GENERAL.—Except as provided in paragraph (2), no amount may be appropriated or paid to any Account in the Aquatic Resources Trust Fund on and after the date of any expenditure from any such Account which is not permitted by this section. The determination of whether an expenditure is so permitted shall be made without regard to—

“(A) any provision of law which is not contained or referenced in this title or in a revenue Act, and

“(B) whether such provision of law is a subsequently enacted provision or directly or indirectly seeks to waive the application of this subsection.

“(2) EXCEPTION FOR PRIOR OBLIGATIONS.—Paragraph (1) shall not apply to any expenditure to liquidate any contract entered into (or for any amount otherwise obligated) before October 1, 2003, in accordance with the provisions of this section.”.

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as otherwise provided in this section, the amendments made by this section shall take effect on the date of the enactment of this Act.

(2) INCREASED TRANSFERS.—The amendment made by subsection (a)(2) shall take effect on October 1, 1998.

#### SEC. 1105. REPEAL OF EXCISE TAX ON TIRES.

(a) IN GENERAL.—Subchapter A of chapter 32 (relating to automotive and related items) is amended by striking part II.

(b) CONFORMING AMENDMENTS.—

(1) Section 4051 is amended by striking subsection (d).

(2) Section 4218 is amended—

(A) by striking “(other than a tire taxable under section 4071)” in subsection (a),

(B) by striking subsection (b), and

(C) by redesignating subsection (c) as subsection (b).

(3)(A) The third sentence of section 4221(a) is amended to read as follows: “Paragraphs (4) and (5) shall not apply to the tax imposed by section 4051 on and after October 1, 2005.”

(B) Subsection (e) of section 4221 is amended—

(i) by striking paragraphs (2) and (3),

(ii) by striking so much of such subsection as precedes the text of paragraph (1) and inserting:

“(e) RECIPROCITY REQUIRED IN CASE OF CIVIL AIRCRAFT.—”, and

(iii) by moving such text 2 ems to the left.

(4) Paragraph (1) of section 4223(b) is amended by striking “section 4218(c)” and inserting “section 4218(b)”.

(5)(A) Paragraph (1) of section 6412(a) is amended—

(i) by striking “TIRES AND TAXABLE” in the heading and inserting “TAXABLE”, and

(ii) by striking “4071 or”.

(B) Subsection (c) of section 6412 is amended by striking “sections 4071 and” and inserting “section”.

(6)(A) Paragraph (1) of section 6416(b) is amended—

(i) by striking “or (C)” in subparagraph (A), and

(ii) by striking subparagraph (C).

(B) Paragraph (2) of section 6416(b) is amended by adding “or” at the end of subparagraph (D), by striking subparagraph (E), and by redesignating subparagraph (F) as subparagraph (E).

(C) Subsection (b) of section 6416 is amended by striking paragraph (4) and redesignating paragraphs (5) and (6) as paragraphs (4) and (5), respectively.

(D) Subsection (d) of section 4216 is amended by striking “section 6416(b)(5)” and inserting “section 6416(b)(4)”.

(7) Paragraph (1) of section 9503(b) is amended by striking subparagraphs (C) and (D) and by redesignating subparagraphs (E) and (F) as subparagraphs (C) and (D), respectively.

(8) Paragraph (5) of section 9503(b) is amended by striking “and (E)” and inserting “and (C)”.

(9) The table of parts for subchapter A of chapter 32 is amended by striking the item relating to part II.

(c) **EFFECTIVE DATE.**—The amendments made by this section shall take effect on October 1, 2000; except that the amendment made by subsection (b)(6) shall not apply to amounts received in the Treasury with respect to taxes imposed before such date.

**SEC. 1106. REPEAL OF 4.3 CENT EXCISE TAX ON DIESEL FUEL AND GASOLINE USED IN TRAINS.**

(a) **DIESEL FUEL.**—

(1) **IN GENERAL.**—Clause (ii) of section 4041(a)(1)(C) (relating to rate of tax) is amended to read as follows:

“(ii) **RATE OF TAX ON TRAINS.**—In the case of any sale for use, or use, of diesel fuel in a train, the rate of tax imposed by this paragraph shall be—

“(I) 5.55 cents per gallon after September 30, 1995, and before October 1, 1999,

“(II) 4.3 cents per gallon after September 30, 1999, and before October 1, 2000, and

“(III) zero after September 30, 2000.”.

(2) **CONFORMING AMENDMENT.**—Subparagraph (B) of section 6427(l)(3) is amended to read as follows:

“(B) so much of the rate specified in section 4081(a)(2)(A) as does not exceed—

“(i) 5.55 cents per gallon after September 30, 1995, and before October 1, 1999,

“(ii) 4.3 cents per gallon after September 30, 1999, and before October 1, 2000, and

“(iii) zero after September 30, 2000.”.

(b) **GASOLINE.**—Subparagraph (B) of section 6421(f)(3) is amended to read as follows:

“(B) so much of the rate specified in section 4081(a)(2)(A) as does not exceed—

“(i) 5.55 cents per gallon after September 30, 1995, and before October 1, 1999,

“(ii) 4.3 cents per gallon after September 30, 1999, and before October 1, 2000, and

“(iii) zero after September 30, 2000.”.

(c) **EFFECTIVE DATE.**—The amendments made by this section shall take effect on the date of the enactment of this Act.

**SEC. 1107. DELAY IN EFFECTIVE DATE OF NEW REQUIREMENT FOR APPROVED DIESEL OR KEROSENE TERMINALS.**

Subsection (f) of section 1032 of the Taxpayer Relief Act of 1997 is amended to read as follows:

“(f) **EFFECTIVE DATES.**—

“(1) Except as provided in paragraph (2), the amendments made by this section shall take effect on July 1, 1998.

“(2) The amendment made by subsection (d) shall take effect on July 1, 2000.”.

**SEC. 1108. SIMPLIFIED FUEL TAX REFUND PROCEDURES.**

(a) **IN GENERAL.**—Subparagraph (A) of section 6427(i)(2) is amended to read as follows:

“(A) **IN GENERAL.**—If, at the close of any quarter of the taxable year of any person, at least \$750 is payable in the aggregate under subsections (a), (b), (d), (h), (l), and (q) of this section and section 6421 to such person with respect to fuel used—

“(i) during such quarter, or

“(ii) any prior quarter during such taxable year for which no other claim has been filed,

a claim may be filed under this section with respect to such fuel.”.

(b) **CONFORMING AMENDMENTS.**—

(1) Subsection (i) of section 6427 is amended by striking paragraph (4) and by redesignating paragraph (5) as paragraph (4).

(2) Paragraph (2) of section 6427(k) is amended to read as follows:

“(2) EXCEPTION.—Paragraph (1) shall not apply to a payment of a claim filed under paragraph (2), (3), or (4) of subsection (i).”

(3) Paragraph (2) of section 6421(d) is amended to read as follows:

“(2) EXCEPTION.—

“For payments per quarter based on aggregate amounts payable under this section and section 6427, see section 6427(i)(2).”

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 1998.

#### **SEC. 1109. REPEAL OF NATIONAL RECREATIONAL TRAILS TRUST FUND.**

(a) IN GENERAL.—Section 9511 (relating to National Recreational Trails Trust Fund) is repealed.

(b) CONFORMING AMENDMENTS.—

(1) Section 9503(c) is amended by striking paragraph (6).

(2) The table of sections for subchapter A of chapter 98 is amended by striking the item relating to section 9511.

## **I. SUMMARY AND BACKGROUND**

### **A. PURPOSE AND SUMMARY**

The revenue title to H.R. 2400 (Title XI), as approved by the Committee on Ways and Means, extends the Highway Trust Fund excise taxes and certain exemptions, extends and modifies Highway Trust Fund and Aquatic Resources Trust Fund expenditure provisions, provides that no interest will be earned on Highway Trust Fund balances, transfers the General Fund portion of taxes on motorboat gasoline and special motor fuels and small-engine gasoline to the Aquatic Resources Trust Fund, repeals the tire excise tax and the tax on railroad diesel fuel, delays for two years the requirement that terminals offer dyed diesel fuel and kerosene, simplifies fuels tax refund procedures, and repeals the National Recreational Trails Trust Fund.

### **B. BACKGROUND AND NEED FOR LEGISLATION**

The revenue title to H.R. 2400 provides revenues to finance the various highway, mass transit, and other programs financed through the Highway Trust Fund and the Aquatic Resources Trust Fund, as extended and modified in the authorizing provisions of the bill (Titles I–X).

### **C. LEGISLATIVE HISTORY**

H.R. 2400, as amended (the “Building Efficient Surface Transportation and Equity Act of 1998”), was reported by the House Committee on Transportation and Infrastructure on March 25, 1998 (H. Rept. 105–467, Part 1), and was sequentially referred to the Committee on Ways and Means for a period ending not later than March 27, 1998. The revenue title to H.R. 2400 (Title XI) was considered by the Committee on Ways and Means in a markup on March 26, 1998, and was ordered favorably reported by voice vote on March 26, 1998, with a quorum present.

## II. EXPLANATION OF THE BILL

### A. PRESENT-LAW HIGHWAY TRUST FUND, AQUATIC RESOURCES TRUST FUND, AND NATIONAL RECREATIONAL TRAILS TRUST FUND EXCISE TAXES

#### *Overview of highway excise taxes*

The current Highway Trust Fund (“Highway Fund”) excise taxes consist of:

- (1) taxes on gasoline, diesel fuel, kerosene, and special motor fuels;
- (2) a retail sales tax imposed on trucks and trailers having gross vehicle weights in excess of prescribed thresholds;
- (3) a tax on manufacturers of tires designed for use on heavy highway vehicles; and
- (4) an annual use tax imposed on trucks and tractors having taxable gross weights in excess of prescribed thresholds.

Special motor fuels include liquefied natural gas (“LNG”), benzol, naphtha, liquefied petroleum gas (e.g., propane), natural gasoline, and any other liquid (e.g., ethanol and methanol) other than gasoline or diesel fuel. Compressed natural gas (“CNG”) also is subject to tax as a special motor fuel, but at a lower rate than other special motor fuels.

With the exception of 4.3 cents per gallon of the motor fuels excise tax rates, these highway taxes are scheduled to expire after September 30, 1999.

#### *Highway motor fuels taxes*

##### *Highway motor fuels tax rates*

The current highway motor fuels excise tax rates are shown in Table 1.

TABLE 1.—FEDERAL HIGHWAY TRUST FUND MOTOR FUELS EXCISE TAX RATES <sup>1</sup>

[Rates shown in cents per gallon]

Highway fuel	Highway trust fund tax rate <sup>2</sup>
Gasoline .....	18.3
Diesel Fuel <sup>3</sup> .....	24.3
Special Motor Fuels Generally .....	<sup>4</sup> 18.3
CNG .....	<sup>5</sup> 4.3

<sup>1</sup> The rates shown include the 4.3-cents-per-gallon tax rate as transferred to the Highway Fund beginning on October 1, 1997, pursuant to the Taxpayer Relief Act of 1997.

<sup>2</sup> Effective on October 1, 1997, an additional 0.1-cent-per-gallon rate applies on these motor fuels to finance the Leaking Underground Storage Tank Trust Fund.

<sup>3</sup> Kerosene is taxed under the same rules as diesel fuel (as of July 1, 1998).

<sup>4</sup> The rate is 13.6 cents per gallon for propane, 11.9 cents per gallon for liquefied natural gas, and 9.15 cents per gallon for methanol fuel from natural gas, in each case based on the relative energy equivalence of the fuel to gasoline.

<sup>5</sup> The statutory rate is 48.54 cents per thousand cubic feet (“MCF”).

##### *Administration of highway motor fuels excise taxes*

The gasoline, diesel fuel, and kerosene excise taxes are imposed on removal of the fuel from a refinery or on importation, unless the fuel is transferred by pipeline or barge to a registered terminal facility. In such a case, tax is imposed on removal of the fuel from



the terminal facility (i.e., at the “terminal rack”).<sup>1</sup> A large majority of these taxes are imposed at the terminal rack. The special motor fuels tax, which accounts for a relatively small portion of motor fuels tax revenues, is imposed at the retail level. Present law imposes tax on all gasoline, diesel fuel, and kerosene that is removed from a terminal facility, except diesel fuel that is destined for non-taxable use (including a partially taxable use in an intercity bus or a train) and that is indelibly dyed in accordance with Treasury Department regulations. Effective July 1, 1998, as a condition of holding untaxed fuel, terminals that sell diesel fuels must offer both dyed and undyed fuel to their customers and terminals that sell kerosene must offer both dyed and undyed kerosene. The person holding an inventory position in the terminal at the time the fuel is removed from that facility (the “position holder”) is liable for payment of the tax.

#### *Highway fuels tax exemptions*

Present law includes numerous exemptions (including partial exemptions for specified uses of taxable fuels or for specified fuels) typically for governments or for uses not involving use of the highway system. Because the gasoline and diesel fuel taxes generally are imposed before the end use of the fuel is known, many of these exemptions are realized through refunds to end users of tax paid by a party that processed the fuel earlier in the distribution chain. These exempt uses and fuels include:

- (1) use in State and local government and nonprofit educational organization vehicles;
- (2) use in buses engaged in transporting students and employees of schools;
- (3) use in private local mass transit buses having a seating capacity of at least 20 adults (not including the driver) when the buses operate under contract with (or are subsidized by) a State or local governmental unit;
- (4) use in private intercity buses serving the general public along scheduled routes (totally exempt from the gasoline tax and exempt from 17 cents per gallon of the diesel tax); and
- (5) use in off-highway uses such as farming.

LNG, propane, and methanol derived from natural gas are subject to reduced tax rates based on the energy equivalence of these fuels to gasoline.

Ethanol and methanol derived from renewable sources (e.g., biomass) are eligible for income tax benefits (the “alcohol fuels credit”) equal to 54 cents per gallon (ethanol) and 60 cents per gallon (methanol).<sup>2</sup> In addition, small ethanol producers are eligible for a separate

<sup>1</sup> Gasoline and diesel motor fuel may be removed from a refinery without payment of tax only if the party removing the fuel and all subsequent parties before its removal from a terminal facility are registered with the Internal Revenue Service. If fuel is sold to an unregistered party before leaving the terminal facility, tax immediately is imposed. This tax does not preclude imposition of a second tax at the terminal rack; however, the second tax may be refunded upon request. This dual tax regime was enacted in 1990 in response to reports that fuel was being removed tax-free from terminals upon a claim that tax had already been paid, when in fact it had not been paid.

<sup>2</sup> The alcohol fuels credit is scheduled to expire after December 31, 2000, or earlier, if the Highway Fund excise taxes actually expire before that date.

10-cents-per-gallon credit.<sup>3</sup> The 54-cents-per-gallon ethanol and 60-cents-per-gallon renewable source methanol tax credits may be claimed through reduced excise taxes paid on gasoline and special motor fuels as well as through credits against income tax.<sup>4</sup>

#### NON-FUEL HIGHWAY FUND EXCISE TAXES

In addition to the highway motor fuels excise tax revenues, the Highway Fund receives revenues produced by three excise taxes imposed exclusively on heavy highway vehicles or tires. These taxes are:

- (1) A 12-percent excise tax imposed on the first retail sale of highway vehicles, tractors, and trailers (generally, trucks having a gross vehicle weight in excess of 33,000 pounds and trailers having such a weight in excess of 26,000 pounds);
- (2) An excise tax imposed at graduated rates on highway tires weighing more than 40 pounds; and
- (3) An annual use tax imposed on highway vehicles having a taxable gross weight of 55,000 pounds or more. (The maximum rate for this tax is \$550 per year, imposed on vehicles having a taxable gross weight over 75,000 pounds.)

#### AQUATIC RESOURCES TRUST FUND AND NATIONAL RECREATIONAL TRAILS TRUST FUND TAXES

Gasoline and special motor fuels used in motorboats and in certain off-highway recreational vehicles and in small engines are subject to tax in the same manner and at the same rates as gasoline and special motor fuels used in highway vehicles. Of the tax revenues from these uses, 6.8 cents per gallon is retained in the General Fund; the remaining 11.5 cents per gallon is deposited in the Aquatic Resources Trust Fund ("Aquatic Fund") (motorboat gasoline and special motor fuels and small-engine gasoline), the Land and Water Conservation Fund ("Land and Water Fund") (\$1 million of motorboat fuels tax revenues), and the National Recreational Trails Trust Fund (the "Trails Fund") (fuels used in off-highway recreational vehicles).<sup>5</sup> Transfers to these Funds are scheduled to terminate after September 30, 1998. Transfers to the Trails Fund are contingent on appropriations occurring from that Trust Fund; to date, no appropriations have been enacted.

<sup>3</sup>The small ethanol producer credit is available on up to 15 million gallons of ethanol produced by persons whose annual production capacity does not exceed 30 million gallons.

<sup>4</sup>Authority to claim the ethanol and renewable source methanol tax benefits through excise tax reductions are scheduled to expire after September 30, 2000 (or earlier, if the underlying excise taxes actually expire before September 30, 2000).

<sup>5</sup>Nonhighway recreational fuels taxes are the taxes imposed on (1) fuel used in vehicles and equipment on recreational trails or back country terrain or (2) fuel used in camp stores and other outdoor recreational equipment. Such revenues do not include small-engine gasoline tax revenues, which are transferred to the Aquatic Fund. "Small-engine" fuel means gasoline used as a fuel in the nonbusiness use of small-engine outdoor power equipment (to the extent of the Highway Fund tax rate).

## B. HIGHWAY TRUST FUND, AQUATIC RESOURCES TRUST FUND, AND NATIONAL RECREATIONAL TRAILS TRUST FUND EXPENDITURE PROVISIONS

### 1. PRESENT-LAW PROVISIONS

#### *In general*

Dedication of excise tax revenues to the Highway Fund and expenditures from the Highway Fund are governed by provisions of the Code (sec. 9503).<sup>6</sup> Under present law, revenues from the highway excise taxes, as imposed through September 30, 1999, are dedicated to the Highway Fund. Also, the Highway Fund earns interest on its cash balances each year from investments in Treasury securities (sec. 9602). Further, the Code authorizes expenditures (subject to appropriations) from the Highway Fund through September 30, 1998, for the purposes provided in authorizing legislation, as in effect on the date of enactment of Public Law 105-130.

Highway Fund provisions also govern transfer of 11.5 cents per gallon of the revenues from the tax imposed on gasoline used in motorboats, small engines, and off-highway recreational vehicles. Those revenues are transferred from the Highway Fund (after being received from the General Fund) to the Aquatic Fund, the Land and Water Fund, and the Trails Fund, respectively, through September 30, 1998.

#### *Present-law Highway Fund expenditure purposes*

##### *Overview*

The Highway Fund is divided into two accounts: a Highway Account and a Mass Transit Account, each of which is the funding source for specific programs.

Highway and Mass Transit Account expenditure purposes have been revised with passage of each authorization Act enacted since establishment of the Highway Fund in 1956. In general, expenditures authorized under those Acts (as the Acts were in effect on the date of enactment of the most recent such authorizing Act) are approved Highway Fund expenditure purposes.<sup>7</sup> Authority to make expenditures from the Highway Fund is currently scheduled to expire after September 30, 1998. Thus, no Highway Fund monies may be spent for a purpose not approved by the tax-writing committees of Congress. Further, no Highway Fund expenditures may occur after September 30, 1998, without such approval.

Highway Fund spending further is limited by two anti-deficit provisions, which are internal to the Highway Fund. The first of these provisions limits the unfunded Highway Account authorizations at the end of any fiscal year to amounts not exceeding the unobligated balance plus revenues projected to be collected for that Account by the dedicated excise taxes during the two following fiscal years. The second anti-deficit provision similarly limits unfunded Mass Transit Account authorizations to the dedicated excise

<sup>6</sup>The Highway Fund statutory provisions were placed in the Internal Revenue Code in 1982.

<sup>7</sup>The authorizing Acts which currently are referenced in the Highway Fund (for the Highway Account) are the Highway Revenue Act of 1956, Titles I and II of the Surface Transportation Assistance Act of 1982, the Surface Transportation and Uniform Relocation Act of 1987, the Intermodal Surface Transportation Efficiency Act of 1991, and Public Law 105-130.

taxes expected to be collected during the next fiscal year. Because of these two provisions, the highway transportation excise taxes typically are scheduled to expire at least two years after current authorizing Acts. If either of these provisions is violated, spending for specified programs funded by the relevant Trust Fund Account is reduced proportionately, in much the same manner as would occur under a general Budget Act sequester.

#### *Highway Account*

The Highway Fund's Highway Account receives revenues from all non-fuel highway transportation excise taxes and revenues from all but 2.85 cents per gallon<sup>8</sup> (2.0 cents prior to October 1, 1997) of the highway motor fuels excise taxes. Programs financed from the Highway Account include expenditures for the following general purposes:

- (1) Federal-aid highways, including the Interstate System, National Highway System, forest and public lands highways, scenic highways, and certain overseas highways (includes construction and planning and traffic control projects);
- (2) Interstate highway resurfacing and repair;
- (3) Bridge replacement and repair;
- (4) Surface transportation programs;
- (5) Congestion mitigation and air quality improvement;
- (6) Highway safety programs and research and development, including a share of the cost of National Highway Traffic Safety Administration ("NHTSA") programs and university research centers;
- (7) Transportation research, technology, and training;
- (8) Intermodal urban projects and mass transit (including carpool and vanpool) grants;
- (9) Intelligent transportation systems;
- (10) Transportation enhancements (including transportation-related historic restoration, scenic beautification, removal of billboards);
- (11) Construction of ferry boats and ferry terminal facilities;
- (12) Certain administrative costs of the Federal Highway Administration and NHTSA;
- (13) Grants to the Internal Revenue Service for motor fuels tax and highway use tax enforcement activities; and
- (14) Certain other highway and transit-related programs (including bicycle pathways and pedestrian walkways).

#### *Mass transit account*

The Highway Fund's Mass Transit Account receives revenues equivalent to 2.85 cents per gallon<sup>9</sup> (2.0 cents prior to October 1, 1997) of the highway motor fuels excise taxes. Mass Transit Account monies are available through September 30, 1998, for capital and capital-related expenditures under sections 5338(a)(1) and (b)(1) of Title 49, United States Code, or the Intermodal Surface Transportation Efficiency Act of 1991.

<sup>8</sup>A technical correction (to 2.86 cents per gallon) is included in Title VI ("Tax Technical Corrections Act of 1997") of H.R. 2676 as passed by the House on November 5, 1997.

<sup>9</sup>See footnote 8, *supra*.

The capital and capital-related mass transit programs include new rail or busway facilities, rail rolling stock, buses, improvement and maintenance of existing rail and other fixed guideway systems, and upgrading of bus systems.

*Transfers from Highway Fund to Aquatic Fund and to Land and Water Fund*

Transfers of recreational motorboat gasoline and special fuels tax revenues from the Highway Fund to the Boat Safety Account of the Aquatic Fund currently are limited to a maximum of \$70 million per fiscal year. Any excess motorboat fuels tax revenues are transferred to the Land and Water Fund (\$1 million per year) and to the Sport Fish Restoration Account of the Aquatic Fund.<sup>10</sup> The authority to transfer revenues to the Aquatic Fund is scheduled to expire after September 30, 1998.

Expenditures from the Boat Safety Account and Land and Water Fund are subject to appropriation Acts. The Sport Fish Restoration Account has a permanent appropriation, and all moneys transferred to that Account are automatically appropriated in the fiscal year following the fiscal year of receipt.

Expenditures are authorized from the Boat Safety Account, as follows:

- (1) One-half of the amount allocated to the Account are for State boating safety programs; and
- (2) One-half of the amount allocated to the Account are for operating expenses of the Coast Guard to defray the cost of services provided for recreational boating safety.

*Transfers from Highway Fund to the Trails Fund*

The Trails Fund was established in the Intermodal Surface Transportation Act of 1991 ("1991 Act"). Amounts are authorized to be transferred from the Highway Fund into the Trails Fund equivalent to revenues received from "nonhighway recreational fuel taxes" (not to exceed \$30 million per year under an obligational ceiling set in the 1991 Act), subject to amounts actually being appropriated to the Trails Fund. No monies have been transferred to date, since no amounts have been appropriated to the Trails Fund. The authority to transfer revenues to the Trails Fund is scheduled to expire after September 30, 1998.

Nonhighway recreational fuels taxes are the taxes imposed (to the extent attributable to the 11.5 cents per gallon rate) on (1) fuel used in vehicles and equipment on recreational trails or back country terrain, or (2) fuel used in camp stoves and other outdoor recreational equipment. Such revenues do not include small-engine gasoline tax revenues which are transferred to the Aquatic Fund.

Expenditures are authorized from the Trails Fund, subject to appropriations, for allocations to States for use on trails and trail-related projects as set forth in the 1991 Act. Authorized uses include (1) acquisition of new trails and access areas, (2) maintenance and restoration of existing trails, (3) State environmental protection education programs, and (4) program administrative costs.

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<sup>10</sup>The maximum balance that may accumulate in the Boat Safety Account is \$70 million.

## 2. SUMMARY OF H.R. 2400 TRUST FUND EXPENDITURE AUTHORIZATIONS

H.R. 2400, as reported by the Committee on Transportation and Infrastructure (“Transportation and Infrastructure”) extends authorizations for Highway Fund expenditures for fiscal years 1998–2003. H.R. 2400 also modifies the expenditure purposes of the Highway Fund and the Boat Safety Account as described below. As reported by Transportation and Infrastructure, H.R. 2400 contains no revenue provisions or other Code amendments.<sup>11</sup>

*Highway account authorizations under H.R. 2400*

H.R. 2400, as reported by Transportation and Infrastructure, provides authorizations totaling \$181 billion for the fiscal year period 1998–2003 from the Highway Account of the Highway Fund.

New Highway Account expenditure programs in the bill include the following:

Program	1998–2003 total (\$ millions)
Recreational trails program <sup>12</sup> .....	270
Automated motor fuel reporting system .....	( <sup>13</sup> )
Highway safety data incentive grants .....	76

The bill extends for fiscal years 1998–2003 the current authorization from the Highway Account for funds to the Internal Revenue Service and the States for highway use tax evasion projects. In addition, the bill authorizes funding an automated motor fuels reporting system from the Highway Account.

*Mass transit account authorizations under H.R. 2400*

H.R. 2400, as reported by Transportation and Infrastructure, provides a total of \$35.8 billion for fiscal years 1998–2003 in authorizations from the Mass Transit Account of the Highway Fund for mass transit-related programs.

New purposes authorized from the Mass Transit Account under the bill include: (1) operating expenses for rural and small urban mass transit systems and (2) modification of the definition of capital-related expenses to include preventive maintenance.<sup>14</sup> There is a limit of \$400 million authorized per year for these new expenditure purposes.

*Boat safety account provisions under H.R. 2400*

H.R. 2400, as reported by Transportation and Infrastructure, amends the authorizing statute for the Boat Safety Account ex-

<sup>11</sup> See below for mention of the bill’s authorization of amounts from the Highway Account for grants to the Internal Revenue Service for motor fuel tax evasion projects and an automated motor fuel reporting system.

<sup>12</sup> A “recreational trail” is a thoroughfare or track across land or snow used for recreational purposes, such as pedestrian activities (jogging, hiking, backpacking), skating or skateboarding, equestrian activities, cross-country skiing, bicycling, trail biking, snowmobiling, aquatic activities, and motorized vehicular activities (including all-terrain vehicles, motorcycles, snowmobiles, off-road vehicles). Eligible expenses include costs of State administration of the program and educational programs to promote trail safety and environmental protection. Some amounts were authorized for recreational trails under the National Highway Systems Designation Act of 1995, which was subsequent to the 1991 Act authorizations.

<sup>13</sup> Such amounts as may be determined, which are included in the total of \$55 million for this program and the existing motor fuels tax enforcement program.

<sup>14</sup> “Preventive maintenance” is currently eligible under the Highway Account for highways and bridges.

penditure purposes to provide that: (1) up to 2 percent of the amount is available to pay the Department of Transportation costs of administering the State boating safety programs; (2) up to 2 percent is available to ensure compliance with chapter 43, U.S.C. 46 (Coast Guard inspection and regulation of recreational vessels); and (3) up to 3 percent is available to establish, operate, and maintain aids to navigation that promote primarily recreational boating safety. The Secretary of Transportation is to conduct and report to the Congress the findings of a comprehensive survey of recreational boating in the United States, reporting by December 1, 1999 and every fifth year thereafter. In addition, the bill provides that of the amount allocated for State recreational boating safety programs, 5 percent of any amount over \$35 million per year is to be used only for public access facilities for transient nontrailerable recreational vessels. In effect, the bill provides that the balance of any amounts transferred to the Boat Safety Account is to go for State boating safety programs rather than to the Coast Guard. Further, the bill anticipates modification of the existing caps on transfers of motor-boat fuels tax revenues to the Boat Safety Account.<sup>15</sup>

*Change in Trust Fund budget treatment*

H.R. 2400, as reported by Transportation and Infrastructure, includes language to treat expenditures from and receipts to the Highway Fund as “off-budget.” The language is essentially the same as the legislation to take the Social Security Trust Fund off-budget in 1990.

C. REASONS FOR CHANGE

H.R. 2400, as reported by Transportation and Infrastructure, authorizes expenditures (through contract authority and discretionary spending subject to appropriations) for Highway Fund and Aquatic Fund programs during fiscal years 1998 through 2003. H.R. 2400 further provides that Highway Fund spending and revenues are not considered for certain budget calculations. The excise taxes which constitute a dedicated revenue source for these programs currently are scheduled to expire after September 30, 1999. Thus, absent an extension of these taxes, contemplated highway, mass transit, and boat safety programs will not be funded. The Committee revenue title does not extend the present-law scheduled expiration date of the tax subsidies for ethanol and renewable-source methanol (i.e., present law is retained without change).

Because excise taxes dedicated to trust funds (and exemptions therefrom) are assumed to be permanent under Congressional budget scorekeeping rules, the extension of the highway excise taxes without affirmative extension of the alcohol fuels tax subsidies results in increased revenues relative to the budget baseline. Accordingly, the bill includes appropriate tax relief provisions. The Committee believes that repeal of the current excise tax on heavy tires is appropriate tax policy because the burdens associated with complying with and enforcing this tax are large compared to the relatively small revenues it produces for the Federal Government.

<sup>15</sup> See the changes in the revenue title amendment (sec. 1104 of the bill) to the Boat Safety Account transfers and balance limit.

The rail fuel tax is repealed because the Committee believes it is inappropriate for railroads to pay a fuel tax for deficit reduction when most other transportation modes pay taxes only to support trust fund programs that benefit those industries. Further, the Committee believes that it is appropriate to transfer the full amount of fuels taxes imposed on motorboats and small engines to the relevant Trust Fund accounts; therefore, the Committee determined that the 6.8-cents-per-gallon general fund portion of fuels taxes imposed on motorboats and small engines should be deposited in the Aquatic Fund for boating safety and environmental programs. Finally, the Committee concluded that a separate Trails Fund is not necessary, because no revenues have been deposited in the present Trust Fund since its inception and because similar expenditure programs are financed from the Highway Fund under the bill.

#### D. EXPLANATION OF PROVISIONS

##### 1. EXTENSION OF EXISTING HIGHWAY FUND EXCISE TAXES AND CERTAIN EXEMPTIONS (SEC. 1102 OF THE BILL)

The scheduled expiration date of the current Highway Fund motor fuels taxes and the retail sale and annual use taxes on heavy highway vehicles, and most exemptions from those taxes, is extended for six years, October 1, 1999 through September 30, 2005. The excise tax on tires is extended through September 30, 2000, after which date the tax is repealed. (See below.) The present-law tax benefits for ethanol and renewable-source methanol are not extended. Thus, those benefits will expire as currently scheduled, after September 30, 2000, and December 31, 2000. Revenues from the excise taxes and exemptions extended under the bill will continue to be transferred to the Highway Fund.

##### 2. EXTENSION AND MODIFICATION OF HIGHWAY FUND EXPENDITURE AUTHORITY (SEC. 1103 OF THE BILL)

The current September 30, 1998, expiration date of authority to spend monies from the Highway Fund is extended through September 30, 2003, and the Code provisions governing purposes for which monies in the Highway Fund may be spent are updated to include the purposes provided in H.R. 2400, as enacted.

Provisions are incorporated into the Highway Fund clarifying that expenditures from the Highway Fund may occur only as provided in the Code. Clarification further is provided that the expiration date for expenditures allowed from the Highway Fund does not preclude disbursements to liquidate contracts which are validly entered into before that date. Expenditures for contracts entered into or for amounts otherwise obligated after that date (or for other non-contract authority purposes permitted by non-Code provisions) are not permitted, notwithstanding the provisions of any subsequently enacted authorization or appropriations legislation. If any such subsequent non-tax legislation provides for expenditures not provided for in the Code, or if any executive agency authorizes such expenditures in contravention of the Code restrictions, excise tax revenues otherwise to be deposited in the Highway Fund will be re-



tained in the General Fund beginning on the date of enactment of such legislation or the date of such executive agency action.

The Committee is aware that one of the Highway Fund expenditure purposes which it approves in the bill is a provision of contract authority for monies to be transferred to the Internal Revenue Service (the "IRS") for acquisition and operation of a computerized motor fuels tracking system. This system (commonly referred to as the Excise Fuel Information Reporting System, or "ExFIRS") would track all deliveries of motor fuel into, and all removals of such fuel from, every registered fuels terminal facility in the United States using information reported electronically by the terminals. The Senate highway bill provides for similar expenditures, except the funds would not be provided pursuant to contract authority. The Highway Fund has authorized tax compliance expenditures for several years; however, those authorizations also were not contract authority. As a result of overall discretionary spending limits, the Department of Transportation ("DOT") either has not requested appropriations of revenues that would go the IRS or has sought to impose restrictions on the transfer that in substance would give DOT control over the excise tax collection system. The Transportation and Infrastructure provisions of H.R. 2400 provide for transfer of these monies without DOT restrictions on IRS tax compliance efforts. The Committee expresses its strong intent that the conference agreement on H.R. 2400 include contract authority for the financing of the ExFIRS system without DOT restrictions on IRS compliance efforts.

The Federal highway motor fuels excise tax system has been plagued by evasion throughout the past decade. The Committee has approved provisions restructuring the motor fuels taxes on numerous occasions to limit evasion opportunities. These efforts have been successful as evidenced by the approximately \$1 billion in increased diesel fuel tax revenues from improved compliance in the first year after changes made in 1993. The computerized tracking system provided for under the Transportation and Infrastructure provisions of H.R. 2400 provides needed funds to expand efforts to eliminate motor fuels tax evasion. These efforts are supported both by taxpayers and tax collectors. The Committee believes that a system supported by all parties which will increase tax collections through improved compliance should be funded in the bill.

*Provisions governing administration of the Highway Fund.*—The Code rules providing for investment of Highway Fund balances in interest-bearing Treasury securities are modified to provide that no interest will be credited to the Highway Fund after September 30, 1998. Further, on October 1, 1998, the cash balance of the Highway Account in excess of \$8 billion and the cash balance of the Mass Transit Account in excess of \$5.5 billion will be transferred from the Highway Fund to the General Fund.

The anti-deficit provisions of the Mass Transit Account are conformed to those of the Highway Account so that permitted obligations will be determined by reference to two years of projected revenues.

*Highway Fund technical corrections and "deadwood" repeal.*—Two technical corrections to the Taxpayer Relief Act of 1997 (the "1997 Act") are included:

(1) Clarification is provided that excise tax revenues attributable to LNG, CNG, propane, and methanol from natural gas (all of which are subject to reduced energy equivalent rates, as indicated in Table 1 are divided between the Highway and Mass Transit Accounts of the Highway Fund in the same proportions as gasoline tax revenues are divided between those two accounts.

(2) Clarification is provided that the amount of gasoline and diesel fuel tax revenues deposited into the Mass Transit Account is 2.86 cents per gallon (rather than 2.85 cents per gallon as erroneously provided in the 1997 Act).

A provision of the 1997 Act providing that (1) the transfer of additional motor fuels tax revenues to the Highway Fund and (2) a one-time adjustment to fuels tax deposit requirements do not affect the operation of certain provisions of the 1991 highway legislation is repealed as deadwood.

### 3. PROVISIONS AFFECTING THE AQUATIC FUND (SEC. 1104 OF THE BILL)

*Extension of revenue transfers; increase in tax rate transferred.*—Transfer of motorboat gasoline and special motor fuels taxes to the Boat Safety Account of the Aquatic Fund and of small-engine gasoline taxes to the Wetlands sub-account of the Aquatic Fund is extended through September 30, 2003. In addition, the 6.8-cents-per-gallon portion of the tax on gasoline and special motor fuels used in motorboats and on small-engine gasoline that currently is retained in the General Fund is transferred to the Aquatic Fund, effective generally for revenues from taxes imposed after September 30, 2000. This provision is phased-in, with the transfer to the Aquatic Fund of 3.4 cents per gallon of the revenues from taxes imposed during the period October 1, 1999 through September 30, 2000.

*Extension and modification of expenditure authority.*—Expenditure authority for the Boat Safety Account of the Aquatic Fund is extended through September 30, 2003. The expenditure purposes of the Aquatic Fund are conformed to those in effect as of the date of enactment of H.R. 2400. Also, the provisions governing amounts transferred to the Boat Safety Account are modified to conform to expenditure levels anticipated in H.R. 2400. Transfers of motorboat fuels tax revenues to the Boat Safety Account are changed to equal one-half of such revenues each fiscal year, with a limit on the balance in that Account equal to no more than one-half of the prior fiscal year's motorboat fuels tax revenues.

Provisions identical to those described above for the Highway Fund are incorporated into the Aquatic Fund clarifying that expenditures from the Aquatic Fund may occur only as provided in the Code.

### 4. REPEAL OF EXCISE TAX ON HEAVY VEHICLE TIRES (SEC. 1105 OF THE BILL)

The excise tax on tires that exceed prescribed weight thresholds is repealed, effective on October 1, 2000.

5. REPEAL OF 4.3-CENTS-PER-GALLON EXCISE TAX ON RAIL FUEL (SEC. 1106 OF THE BILL)

The 4.3-cents-per-gallon General Fund excise tax imposed on fuel used in trains is repealed, effective on October 1, 2000.

6. DELAY IN EFFECTIVE DATE OF NEW REQUIREMENT FOR APPROVED DIESEL FUEL OR KEROSENE TERMINALS (SEC. 1107 OF THE BILL)

A present-law provision requiring motor fuels terminal facilities, as a condition of storing non-tax-paid fuel, to offer to their customers both undyed and dyed fuel if they distribute diesel fuel or kerosene is delayed for two years, to July 1, 2000. This provision does not affect the general rules relating to imposition of tax on diesel fuel and kerosene.

The Committee continues to support the diesel fuel and kerosene tax compliance provisions, as enacted in 1993 and 1997 respectively. Notwithstanding this general support, the Committee believes that the delay in the terminal registration requirement described above is appropriate to allow it to evaluate market responses to these tax compliance measures. Industry representatives have assured the Committee that, where demand for untaxed, dyed diesel fuel or kerosene exists, fuel will be made available without a Federal requirement. The Committee intends to monitor market responses in this area to ensure that untaxed, dyed fuel is made available (either by manual dyeing or through computerized dye injection processes) where consumers require the fuel.

7. SIMPLIFY FUELS TAX REFUND PROCEDURES (SEC. 1108 OF THE BILL)

Consumers that use previously taxed highway motor fuels in a nontaxable use may file claims for refunds with the Internal Revenue Service. In general, claims for the first three calendar quarters may be filed quarterly if the tax to be refunded exceeds prescribed thresholds.<sup>16</sup> Consumers not satisfying the prescribed dollar thresholds, and all fourth quarter refunds, are claimed through income tax credits.

The amendment consolidates the fuels tax refund thresholds to allow quarterly claims to be filed once an aggregate year-to-date refund of \$750 or more for all motor fuels is due. Additionally, fourth quarter refund claims are allowed under the same rules as those applicable to the first three calendar quarters. The provision is effective for claims filed after September 30, 1998.

8. REPEAL OF TRAILS FUND (SEC. 1109 OF THE BILL)

The Code provisions establishing the National Recreational Trails Trust Fund (the "Trails Fund") and providing for transfer of revenues to the Trails Fund is repealed, effective on the date of the bill's enactment. (As described above, no transfers have occurred to date because transfers are contingent on appropriations being enacted, and no funds have been appropriated from the Trails Fund.)

<sup>16</sup>Under present law, gasoline tax refund claims may be filed quarterly for any of the first three calendar quarters if the quarterly refund claim equals or exceeds \$1,000. Diesel fuel tax refund claims for the first three calendar quarters may be filed in any quarter in which the aggregate diesel fuel tax refund for the year equals \$750 or more.

Under H.R. 2400, Highway Fund expenditures are authorized for similar purposes to those of the Trails Fund.

### III. VOTES OF THE COMMITTEE

In compliance with clause 2(l)(2)(B) of rule XI of the Rules of the House of Representatives, the following statements are made concerning the votes of the Committee on Ways and Means in its consideration of the bill H.R. 2400.

#### *Vote on motion to report*

The Committee amendment to H.R. 2400 (Title XI) was approved by voice vote, with a quorum present.

#### *Vote on amendments*

An amendment by Mr. Levin to add at the end of Title XI a new section 1110, to extend benefits for alcohol blended fuels, was defeated by a roll call vote of 11 yeas to 22 nays. The vote was as follows:

Representatives	Yea	Nay	Representatives	Yea	Nay
Mr. Archer .....		X	Mr. Rangel .....		
Mr. Crane .....		X	Mr. Stark .....		X
Mr. Thomas .....		X	Mr. Matsui .....	X	
Mr. Shaw .....		X	Mrs. Kennelly .....		X
Mrs. Johnson .....		X	Mr. Coyne .....		X
Mr. Bunning .....	X		Mr. Levin .....	X	
Mr. Houghton .....			Mr. Cardin .....		
Mr. Herger .....		X	Mr. McDermott .....		
Mr. McCrery .....		X	Mr. Kleczka .....		X
Mr. Camp .....	X		Mr. Lewis .....		X
Mr. Ramstad .....		X	Mr. Neal .....		X
Mr. Nussle .....	X		Mr. McNulty .....	X	
Mr. Johnson .....		X	Mr. Jefferson .....		
Ms. Dunn .....		X	Mr. Tanner .....	X	
Mr. Collins .....		X	Mr. Becerra .....		
Mr. Portman .....		X	Mrs. Thurman .....	X	
Mr. English .....		X			
Mr. Ensign .....		X			
Mr. Christensen .....	X				
Mr. Watkins .....		X			
Mr. Hayworth .....		X			
Mr. Weller .....	X				
Mr. Hulshof .....	X				

### IV. BUDGET EFFECTS OF THE BILL

#### A. COMMITTEE ESTIMATES OF BUDGETARY ESTIMATES

In compliance with clause 7(a) of rule XIII of the Rules of the House of Representatives, the following statement is made concerning the budget effects of Title XI of H.R. 2400, as reported.

Title XI of the bill is estimated to have the following effects on the budget for fiscal years 1998–2003:

ESTIMATED BUDGET EFFECTS OF A COMMITTEE AMENDMENT RELATING TO AN EXTENSION OF  
HIGHWAY TRUST FUND EXCISE TAXES AND RELATED TRUST FUND PROVISIONS (REVENUE TITLE  
TO H.R. 2400)

[Fiscal years 1998–2003, in million of dollars]

Provision	Effective	1998	1999	2000	2001	2002	2003	1998– 2003
1. Extend Highway Trust Fund excise taxes and certain exemptions through 9/30/05 <sup>1</sup> .	10/1/99	.....	.....	.....	385	515	526	1,426
2. Extend and modify Highway Trust Fund expenditure authority through 9/30/03.	10/1/98	.....	No Revenue Effect	.....	.....	.....	.....	.....
3. Provide that no interest will be earned on Highway Trust Fund balances <sup>2</sup> .	10/1/98	.....	No Revenue or Outlay Effect	.....	.....	.....	.....	.....
4. Extend and modify Aquatic Resources Trust Fund expenditure authority through 9/30/03. <sup>3</sup>	10/1/98	.....	2.....	.....	– 2	– 12	– 20	– 32
5. Transfer 3.4 cents/gallon of the General Fund portion of the tax on motorboat and small-engine gasoline to the Aquatic Resources Trust Fund (6.8 cents/gallon after 9/30/00). <sup>3</sup>	tia 9/30/99	.....	.....	.....	– 18	– 56	– 87	– 161
6. Repeal excise tax on heavy truck tires .....	10/1/00	.....	.....	.....	– 291	– 299	– 303	– 893
7. Repeal 4.3 cents/gallon tax on railroad diesel fuel.	10/1/00	.....	.....	.....	– 96	– 100	– 102	– 298
8. Delay for 2 years the requirement that terminals offer dyed diesel fuel and kerosene.	DOE	.....	Negligible Revenue Effect	.....	.....	.....	.....	.....
9. Simplify fuels tax refund procedures .....	10/1/98	.....	– 5	( <sup>4</sup> )	( <sup>4</sup> )	( <sup>4</sup> )	( <sup>4</sup> )	– 5
10. Repeal National Recreational Trails Trust Fund.	DOE	.....	No Revenue or Outlay Effect	.....	.....	.....	.....	.....
Net Total .....	.....	.....	– 3	( <sup>4</sup> )	– 22	48	14	37

<sup>1</sup> The Congressional Budget Office revenue baseline assumes that the Highway Trust Fund excise taxes and exemptions to the taxes will remain in effect throughout the budget window. Thus, the extension of the excise taxes and certain exemptions is scored as having no revenue effect. The table shows the net budget effect of retaining the present-law expiration dates for the alcohol fuels tax subsidies. For fiscal years 2001 through 2003, Federal revenues increased by a total of \$1,537 million, and Federal outlays increase by a total of \$111 million, for a net gain of \$1,426 million. (Outlay estimate provided by the Congressional Budget Office.)

<sup>2</sup> The Congressional Budget Office has determined that this provision will have no effect on Federal outlays.

<sup>3</sup> Positive numbers indicate that Federal outlays will decline, and negative numbers indicate that Federal outlays will increase. Estimate provided by the Congressional Budget Office.

<sup>4</sup> Loss of less than \$500,000.

Legend for "Effective" column: DOE=date of enactment; tia=taxes imposed after.

Note.—Details may not add to totals due to rounding.

Source: Joint Committee on Taxation.

## B. STATEMENT REGARDING NEW BUDGET AUTHORITY AND TAX EXPENDITURES

### BUDGET AUTHORITY

In compliance with subdivision (B) of clause 2(1)(3) of Rule XI of the Rules of the House of Representatives, the Committee states that the provisions of Title XI relating to transfer of General Fund fuels tax revenues to the Aquatic Fund will involve increased budget authority amounting to \$20 million in fiscal year 2001, \$68 million in fiscal year 2002, and \$107 million in fiscal year 2003. Title XI also involves reduced budget authority of \$2 million in fiscal year 1999.

### TAX EXPENDITURES

In compliance with subdivision (B) of clause 2(1)(3) of Rule XI of the Rules of the House of Representatives, the Committee states that the provisions of Title XI do not involve new or increased tax expenditures.

C. COST ESTIMATE PREPARED BY THE CONGRESSIONAL BUDGET  
OFFICE

In compliance with subdivisions (c) of clause 2(l)(3) of Rule XI of the Rules of the House of Representatives, requiring a cost estimate prepared by the Congressional Budget Office (CBO), the following statement by CBO is provided.

U.S. CONGRESS,  
CONGRESSIONAL BUDGET OFFICE,  
*Washington, DC, March 27, 1998.*

Hon. BILL ARCHER,  
*Chairman, Committee on Ways and Means,  
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office and the Joint Committee on Taxation (JCT) have reviewed the Committee on Ways and Means' amendment to H.R. 2400, the Building Efficient Surface Transportation and Equity Act of 1998. The JCT estimates that this amendment would decrease governmental receipts by \$5 million in fiscal year 1999 and increase receipts by a total of \$341 million over fiscal years 1998 through 2003. CBO concurs with this estimate. In addition, CBO estimates that the amendment would increase outlays by \$247 million over fiscal years 1998 through 2003.

The revenue and outlay effects of the committee's amendment to H.R. 2400 are summarized in the table below. Please refer to the enclosed table for a more detailed estimate of the budgetary impact of the amendment.

ESTIMATED BUDGET EFFECTS OF THE COMMITTEE ON WAYS AND MEANS' AMENDMENT TO H.R.  
2400

[By fiscal year, in millions of dollars]

	1998	1999	2000	2001	2002	2003	Total 1998– 2003
Revenues .....	0	– 5	(1)	20	162	164	341
Outlays:							
Non-extension of ethanol tax benefits ...	0	0	0	22	46	43	111
Increase in deposits to boat safety account .....	0	0	0	– 8	– 9	– 8	– 25
Transfer of more fuel taxes to ARTF .....	0	0	0	18	56	87	161
Total outlays .....	0	0	0	32	93	122	247

<sup>1</sup> Less than \$500,000.

Note: ARTF=Aquatic Resources Trust Fund; positive revenue changes refer to an increase in revenues; estimates are net of reduced income and payroll taxes; positive outlay changes refer to an increase in outlays.

BASIS OF ESTIMATE

*Revenues*

The committee's amendment to H.R. 2400 would extend federal highway taxes, but not extend the partial excise tax exemption for gasoline-ethanol blends or the income tax credit for alcohol fuels after the calendar year 2000. By law, the baseline assumes extension of these taxes and exemptions, so that the net budgetary impact of the amendment would be the result of changes in the tax structure. These changes would increase revenues by more than

\$1.5 billion over fiscal years 1998 through 2003. Other major provisions in the amendment would repeal the tax on heavy truck tires and the 4.3 cent per gallon tax on railroad diesel fuel. In total, the amendment is estimated to raise \$341 million in revenues over five years.

#### *Outlays*

Without any tax benefits for ethanol production after 2000, CBO expects that demand for, and production of, ethanol would decline. As a direct result, corn demand and price would fall, starting in fiscal year 2001. The decline in corn price would increase likely costs of the Commodity Credit Corporation under its marketing assistance loan operations for feed grain. CBO estimates an increase in direct spending for agricultural price supports of \$22 million in fiscal year 2001 and \$111 million over fiscal years 2001 through 2003. These outlay effects would occur in function 350.

Section 1102 of the amendment would extend through 2003 transfers of excise taxes on motorboat and small engine fuels from the Highway Trust Fund into the Aquatic Resources Trust Fund (ARTF). This section also would increase transfers to the ARTF to the full amounts earned from excise taxes on these two products. Under current law, 6.8 cents of the 18.3 cents per gallon earned is deposited into the general fund. Transfers to the ARTF would rise to 14.9 cents for fiscal year 2000 and to 18.3 cents for each year thereafter. Finally, section 1102 would direct the Secretary of the Treasury to deposit to the fund's boat safety account up to one-half of the motorboat fuels taxes transferred each year (unless such deposits would result in an account balance greater than one-half of the previous year's transfers), rather than the current maximum of \$70 million.

CBO estimates that the phased-in increase in the portion of motorboat and small engines fuels taxes transferred to the ARTF would increase mandatory spending from the fund's sport fish restoration account by \$18 million in 2001 and by a total of \$161 million through 2003. We estimate that the change in the amounts allocated to the boat safety account would reduce spending for the sport fish account by \$8 million to \$9 million annually over this same period. We estimate that net additional spending would be \$10 million in 2001 and a total of \$136 million through 2003.

The change in deposits of excise taxes to the Highway and Transit Accounts of the Highway Trust Fund could affect the minimum allocation program. Spending for the minimum allocation program is direct spending. At this time, we cannot determine whether this change would have an effect on funding for minimum allocation, or the extent of any such effect.

**Mandates:** In accordance with the requirements of Public Law 104-4, the Unfunded Mandates Reform Act of 1995, JCT has determined that the committee amendment contains no federal intergovernmental mandates.

In addition, JCT has determined that the amendment contains two federal private-sector mandates. The provision to extend the Highway Trust Fund and Aquatic Resources Fund excise taxes beyond the current September 30, 1999, expiration date would impose direct costs on the private sector of \$126.5 billion over fiscal years

2000 through 2004. Please refer to the enclosed letter for a more detailed account of the mandates in the amendment.

Pay-as-you-go considerations: Section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 establishes pay-as-you-go procedures for legislation affecting receipts or direct spending. Because the committee amendment would affect receipts and direct spending, pay-as-you-go procedures would apply. The estimated pay-as-you-go effects of the committee amendment are shown below.

#### PAY-AS-YOU-GO CONSIDERATIONS

[By fiscal year, in millions of dollars]

	1998	1999	2000	2001	2002	2003	1998- 2003
Change in receipts .....	0	-5	( <sup>1</sup> )	20	162	164	341
Change in outlays .....	0	0	0	32	93	122	247

<sup>1</sup> Less than \$500,000.

If you wish further details, please feel free to contact me or your staff may wish to contact Alyssa Trzcszkowski.

Sincerely,

JUNE E. O'NEILL,  
*Director.*

Enclosure.

JOINT COMMITTEE ON TAXATION,  
*Washington, DC, March 27, 1998.*

Mrs. JUNE E. O'NEILL,  
*Director, Congressional Budget Office, Washington, DC.*

DEAR MRS. O'NEILL: The staff of the Joint Committee on Taxation has reviewed the revenue title of H.R. 2400 ("Building Efficient Surface Transportation and Equity Act of 1998") as ordered reported by the House Committee on Ways and Means on March 26, 1998. In accordance with the requirements of Public Law 104-4, the Unfunded Mandates Reform Act of 1995, we have determined that the extension of the Highway Trust Fund ("Highway Fund") and Aquatic Resources Trust Fund ("Aquatic Fund") excise taxes beyond the current September 30, 1999 expiration will involve a net Federal private sector mandate totaling \$126.5 billion in fiscal year years 2000-2004. This is the net amount from the extension of the Highway and Aquatic Fund excise taxes after the income tax offset, which is no greater than the estimated amount that the private sector will be required to pay in order to comply with this Federal private sector mandate during this period.

The revenue provisions will not impose a Federal intergovernmental mandate on State, local, or tribal governments, as they are not subject to the Highway or Aquatic Fund excise taxes.

If you would like to discuss this information further, you may call me.

Sincerely,

LINDY L. PAULL,  
*Chief of Staff.*

Enclosure: Revenue table.



**ESTIMATED BUDGET EFFECTS OF A COMMITTEE AMENDMENT RELATING TO AN EXTENSION OF  
HIGHWAY TRUST FUND EXCISE TAXES AND RELATED TRUST FUND PROVISIONS (REVENUE TITLE  
TO H.R. 2400)**

[Fiscal years 1998–2003 in millions of dollars]

Provision	Effective	1998	1999	2000	2001	2002	2003	1998– 2003
1. Extend Highway Trust Fund excise taxes and certain exemptions through 9/30/05. <sup>1</sup>	10/1/99	.....			385	515	526	1,426
2. Extend and modify Highway Trust Fund expenditure authority through 9/30/03.	10/1/98	.....	No Revenue Effect				.....	
3. Provide that no interest will be earned on Highway Trust Fund balances. <sup>2</sup>	10/1/98	.....	No Revenue or Outlay Effect				.....	
4. Extend and modify Aquatic Resources Trust Fund expenditure authority through 9/30/03. <sup>3</sup>	10/1/98	.....	2	.....	–2	–12	–20	–32
5. Transfer 3.4 cents/gallon of the General Fund portion of the tax on motorboat and small-engine gasoline to the Aquatic Resources Trust Fund (6.8 cents/gallon after 9/30/00). <sup>3</sup>	tia 9/30/99	.....			–18	–56	–87	–161
6. Repeal excise tax on heavy truck tires	10/1/00	.....			–291	–299	–303	–893
7. Repeal 4.3 cents/gallon tax on railroad diesel fuel.	10/1/00	.....			–96	–100	–102	–298
8. Delay for 2 years the requirement that terminals offer dyed diesel fuel and kerosene.	DOE	.....	Negligible Revenue Effect				.....	
9. Simplify fuels tax refund procedures	10/1/98	.....	–5	( <sup>4</sup> )	( <sup>4</sup> )	( <sup>4</sup> )	( <sup>4</sup> )	–5
10. Repeal National Recreational Trails Trust Fund.	DOE	.....	No Revenue or Outlay Effect				.....	
<b>Net Total</b>		.....	–3	( <sup>4</sup> )	–22	48	14	37

<sup>1</sup> The Congressional Budget Office revenue baseline assumes that the Highway Trust Fund excise taxes and exemptions to the taxes will remain in effect throughout the budget window. Thus, the extension of the excise taxes and certain exemptions is scored as having no revenue effect. The table shows the net budget effect of retaining the present-law expiration dates for the alcohol fuels tax subsidies. For fiscal years 2001 through 2003, Federal revenues increase by a total of \$1,537 million, and Federal outlays increase by a total of \$111 million, for a net gain of \$1,426 million. (Outlay estimate provided by the Congressional Budget Office.)

<sup>2</sup> The Congressional Budget Office has determined that this provision will have no effect on Federal outlays.

<sup>3</sup> Positive numbers indicate that Federal outlays will decline, and negative numbers indicate that Federal outlays will increase. Estimate provided by the Congressional Budget Office.

<sup>4</sup> Loss of less than \$500,000.

Legend for "Effective" column: DOE=date of enactment; tia=taxes imposed after.

Note.—Details may not add to total due to rounding.

Source: Joint Committee on Taxation.

## **V. OTHER MATTERS TO BE DISCUSSED UNDER THE HOUSE RULES**

### **A. COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS**

With respect to subdivision (A) of clause 2(l)(3) of rule XI of the Rules of the House of Representatives (relating to oversight findings), the Committee advises that it was the result of the Committee's oversight activities concerning the need to extend the Highway Trust Fund excise taxes to finance the authorization levels and purposes contained in Titles I–X of H.R. 2400, and to modify certain of the highway excise taxes, that the Committee concluded that it is appropriate and timely to enact the provisions contained in Title XI of the bill as reported.

### **B. SUMMARY OF FINDINGS AND RECOMMENDATIONS OF THE COMMITTEE ON GOVERNMENT REFORM AND OVERSIGHT**

With respect to subdivision (D) of clause 2(l)(3) of rule XI of the Rules of the House of Representatives, the Committee advises that no oversight findings or recommendations have been submitted to the Committee by the Committee on Government Reform and

Oversight with respect to the provisions contained Title XI of in the bill.

#### C. CONSTITUTIONAL AUTHORITY STATEMENT

With respect to clause 2(l)(4) of rule XI of the Rules of the House of Representatives (relating to Constitutional Authority), the Committee states that the Committee's action in reporting this bill is derived from Article I of the Constitution, Section 7 ("All bills for raising revenue shall originate in the House of Representatives") and Section 8 ("The Congress shall have power to lay and collect taxes, duties, imposts and excises, to pay the debts \* \* \* of the United States").

#### D. INFORMATION RELATING TO UNFUNDED MANDATES

This information is provided in accordance with section 423 of the Unfunded Mandates Act of 1995 (P.L. 104-4).

The Committee has determined that the provisions of Title XI of the bill relating to the extension and modification of Highway and Aquatic Fund excise taxes will involve a Federal mandate on the private sector totaling \$126.5 billion in fiscal years 2000-2004. This is no greater than the net amounts that the private sector will be required to pay, after income tax offsets for the excise taxes extended under the bill, in order to comply with this Federal private sector mandate. Title XI of the bill will not impose a Federal inter-governmental mandate on State, local, or tribal governments, as they are not subject to these excise taxes.

#### E. APPLICABILITY OF HOUSE RULE XXI5(C)

Rule XXI5(c) of the Rules of the House of Representatives provides, in part, that "No bill or joint resolution, amendment, or conference report carrying a Federal income tax rate increase shall be considered as passed or agreed to unless so determined by a vote of not less than three-fifths of the Members." The Committee has carefully reviewed the provisions of the bill, and states that the provisions of Title XI of the bill do not involve any Federal income tax rate increase within the meaning of the rule.

### **VI. CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED**

The bill was referred to this committee for consideration of such provisions of the bill and amendment as fall within the jurisdiction of this committee pursuant to clause 1(s) of Rule X of the Rules of the House of Representatives. The changes made to existing law by the amendment reported by the Committee on Transportation and Infrastructure are shown in the report filed by that committee (Rept. 105-467, Part 1).

For the information of the Members of the House of Representatives, changes made by this committee to existing law are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in *italic*, existing law in which no change is proposed is shown in roman):

## INTERNAL REVENUE CODE OF 1986

\* \* \* \* \*

## Subtitle D—Miscellaneous Excise Taxes

\* \* \* \* \*

## CHAPTER 31—RETAIL EXCISE TAXES

\* \* \* \* \*

## Subchapter B—Special Fuels

\* \* \* \* \*

## SEC. 4041. IMPOSITION OF TAX.

## (a) DIESEL FUEL AND SPECIAL MOTOR FUELS.—

## (1) TAX ON DIESEL FUEL IN CERTAIN CASES.—

## (A) \* \* \*

\* \* \* \* \*

## (C) RATE OF TAX.—

## (i) \* \* \*

[(ii) RATE OF TAX ON TRAINS.—In the case of any sale for use, or use, of diesel fuel in a train, the rate of tax imposed by this paragraph shall be—

[(I) 6.8 cents per gallon after September 30, 1993, and before October 1, 1995,

[(II) 5.55 cents per gallon after September 30, 1995, and before October 1, 1999, and

[(III) 4.3 cents per gallon after September 30, 1999.]

(ii) *RATE OF TAX ON TRAINS.—In the case of any sale for use, or use, of diesel fuel in a train, the rate of tax imposed by this paragraph shall be—*

*(I) 5.55 cents per gallon after September 30, 1995, and before October 1, 1999,*

*(II) 4.3 cents per gallon after September 30, 1999, and before October 1, 2000, and*

*(III) zero after September 30, 2000.*

## (iii) RATE OF TAX ON CERTAIN BUSES.—

(I) IN GENERAL.—Except as provided in subclause (II), in the case of fuel sold for use or used in a use described in section 6427(b)(1) (after the application of section 6427(b)(3)), the rate of tax imposed by this paragraph shall be 7.3 cents per gallon (4.3 cents per gallon after September 30, [1999] 2005).

(II) SCHOOL BUS AND INTRACITY TRANSPORTATION.—No tax shall be imposed by this paragraph on any sale for use, or use, described in subparagraph (B) or (C) of section 6427(b)(2).

## (2) SPECIAL MOTOR FUELS.—

## (A) \* \* \*

(B) RATE OF TAX.—The rate of the tax imposed by this paragraph shall be—

(i) except as otherwise provided in this subparagraph, the rate of tax specified in section 4081(a)(2)(A)(i) which is in effect at the time of such sale or use,

(ii) 13.6 cents per gallon in the case of liquefied petroleum gas, and

(iii) 11.9 cents per gallon in the case of liquefied natural gas.

In the case of any sale or use after September 30, [1999] 2005, clause (ii) shall be applied by substituting “3.2 cents” for “13.6 cents”, and clause (iii) shall be applied by substituting “2.8 cents” for “11.9 cents”.

\* \* \* \* \*

(m) CERTAIN ALCOHOL FUELS.—

(1) IN GENERAL.—In the case of the sale or use of any partially exempt methanol or ethanol fuel—

(A) the rate of the tax imposed by subsection (a)(2) shall be—

(i) after September 30, 1997, and before October 1, [1999] 2005—

(I) in the case of fuel none of the alcohol in which consists of ethanol, 9.15 cents per gallon, and

(II) in any other case, 11.3 cents per gallon, and

(ii) after September 30, [1999] 2005—

(I) \* \* \*

\* \* \* \* \*

## Subchapter C—Heavy Trucks and Trailers

\* \* \* \* \*

### SEC. 4051. IMPOSITION OF TAX ON HEAVY TRUCKS AND TRAILERS SOLD AT RETAIL.

(a) \* \* \*

\* \* \* \* \*

(c) TERMINATION.—On and after October 1, [1999] 2005, the taxes imposed by this section shall not apply.

[(d) TRANSITIONAL RULE.—In the case of any article taxable under subsection (a) on which tax was imposed under section 4061(a), subsection (a) shall be applied by substituting “2 percent” for “12 percent”.]

\* \* \* \* \*

## CHAPTER 32—MANUFACTURERS EXCISE TAXES

\* \* \* \* \*

## Subchapter A—Automotive and Related Items

\* \* \* \* \*

[PART II. Tires]

\* \* \* \* \*

### [PART II—TIRES

[Sec.  
 [4071. Imposition of tax.  
 [4072. Definitions.  
 [4073. Exemption for tires with internal wire fastening.

#### [SEC. 4071. IMPOSITION OF TAX.

[(a) IMPOSITION AND RATE OF TAX.—There is hereby imposed on tires of the type used on highway vehicles, if wholly or in part made of rubber, sold by the manufacturer, producer, or importer a tax at the following rates:

[If the tire weighs:	The rate of tax is:
[Not more than 40 lbs .....	No tax.
[More than 40 lbs. but not more than 70 lbs.	15 cents per lb. in excess of 40 lbs.
[More than 70 lbs. but not more than 90 lbs.	\$4.50 plus 30 cents per lb. in excess of 70 lbs.
[More than 90 lbs. ....	\$10.50 plus 50 cents per lb. in excess of 90 lbs.

[(b) SPECIAL RULE FOR MANUFACTURERS WHO SELL AT RETAIL.—Under regulations prescribed by the Secretary, if the manufacturer, producer, or importer of any tire delivers such tire to a retail store or retail outlet of such manufacturer, producer, or importer, he shall be liable for tax under subsection (a) in respect of such tire in the same manner as if it had been sold at the time it was delivered to such retail store or outlet. This subsection shall not apply to an article in respect to which tax has been imposed by subsection (a). Subsection (a) shall not apply to an article in respect of which tax has been imposed by this subsection.

[(c) DETERMINATION OF WEIGHT.—For purposes of this section, weight shall be based on total weight exclusive of metal rims or rim bases. Total weight of the articles shall be determined under regulations prescribed by the Secretary.

[(d) TERMINATION.—On and after October 1, 1999, the taxes imposed by subsection (a) shall not apply.

[(e) TIRES ON IMPORTED ARTICLES.—For the purposes of subsection (a), if an article imported into the United States is equipped with tires—

[(1) the importer of the article shall be treated as the importer of the tires with which such article is equipped, and

[(2) the sale of the article by the importer thereof shall be treated as the sale of the tires with which such article is equipped.

This subsection shall not apply with respect to the sale of an automobile bus chassis or an automobile bus body.

#### [SEC. 4072. DEFINITIONS.

[(a) RUBBER.—For purposes of this chapter, the term “rubber” includes synthetic and substitute rubber.

[(b) TIRES OF THE TYPE USED ON HIGHWAY VEHICLES.—For purposes of this part, the term “tires of the type used on highway vehicles” means tires of the type used on—

[(1) motor vehicles which are highway vehicles, or

[(2) vehicles of the type used in connection with motor vehicles which are highway vehicles.

**[SEC. 4073. EXEMPTION FOR TIRES WITH INTERNAL WIRE FASTENING.**

The tax imposed by section 4071 shall not apply to tires of extruded tiring with an internal wire fastening agent.]

\* \* \* \* \*

**PART III—PETROLEUM PRODUCTS**

**Subpart A—Gasoline and diesel fuel**

\* \* \* \* \*

**SEC. 4081. IMPOSITION OF TAX.**

(a) \* \* \*

\* \* \* \* \*

(d) TERMINATION.—

(1) IN GENERAL.—The rates of tax specified in clauses (i) and (iii) of subsection (a)(2)(A) shall be 4.3 cents per gallon after September 30, [1999] 2005.

\* \* \* \* \*

**Subchapter F—Special Provisions Applicable to Manufacturers Tax**

\* \* \* \* \*

**SEC. 4216. DEFINITION OF PRICE.**

(a) \* \* \*

\* \* \* \* \*

(d) SALES OF INSTALLMENT ACCOUNTS.—If installment accounts, with respect to payments on which tax is being computed as provided in subsection (c), are sold or otherwise disposed of, then subsection (c) shall not apply with respect to any subsequent payments on such accounts (other than subsequent payments on returned accounts with respect to which credit or refund is allowable by reason of section [6416(b)(5)] 6416(b)(4)), but instead—

(1) \* \* \*

\* \* \* \* \*

**SEC. 4218. USE BY MANUFACTURER OR IMPORTER CONSIDERED SALE.**

(a) GENERAL RULE.—If any person manufactures, produces, or imports an article [(other than a tire taxable under section 4071)] and uses it (otherwise than as material in the manufacture or production of, or as a component part of, another article taxable under this chapter to be manufactured or produced by him), then he shall be liable for tax under this chapter in the same manner as if such article were sold by him. This subsection shall not apply in the case of gasoline used by any person, for nonfuel purposes, as a material

in the manufacture or production of another article to be manufactured or produced by him. For the purpose of applying the first sentence of this subsection to coal taxable under section 4121, the words “(otherwise than as material in the manufacture or production of, or as a component part of, another article taxable under this chapter to be manufactured or produced by him)” shall be disregarded.

[(b) TIRES.—If any person manufactures, produces, or imports a tire taxable under section 4071, and sells it on or in connection with the sale of any article, or uses it, then he shall be liable for tax under this chapter in the same manner as if such article were sold by him.]

[(c)] (b) COMPUTATION OF TAX.—Except as provided in section 4223(b), in any case in which a person is made liable for tax by the preceding provisions of this section, the tax (if based on the price for which the article is sold) shall be computed on the price at which such or similar articles are sold, in the ordinary course of trade, by manufacturers, producers, or importers, thereof, as determined by the Secretary.

\* \* \* \* \*

## Subchapter G—Exemptions, Registration, Etc.

\* \* \* \* \*

### SEC. 4221. CERTAIN TAX-FREE SALES.

(a) GENERAL RULE.—Under regulations prescribed by the Secretary, no tax shall be imposed under this chapter (other than under section 4121, 4081, or 4091) on the sale by the manufacturer (or under subchapter A or C of chapter 31 on the first retail sale) of an article—

(1) \* \* \*

\* \* \* \* \*

(5) to a nonprofit educational organization for its exclusive use, but only if such exportation or use is to occur before any other use. Paragraphs (4) and (5) shall not apply to the tax imposed by section 4064. [In the case of taxes imposed by section 4051, or 4071, paragraphs (4) and (5) shall not apply on and after October 1, 1999.] *Paragraphs (4) and (5) shall not apply to the tax imposed by section 4051 on and after October 1, 2005.* In the case of the tax imposed by section 4131, paragraphs (3), (4), and (5) shall not apply and paragraph (2) shall apply only if the use of the exported vaccine meets such requirements as the Secretary may by regulations prescribe. In the case of taxes imposed by subchapter A of chapter 31, paragraphs (1), (3), (4), and (5) shall not apply.

\* \* \* \* \*

### [(e) SPECIAL RULES.—

[(1) RECIPROCITY REQUIRED IN CASE OF CIVIL AIRCRAFT.—]

(e) *RECIPROCITY REQUIRED IN CASE OF CIVIL AIRCRAFT.*—In the case of articles sold for use as supplies for aircraft, the privileges granted under subsection (a)(3) in respect of civil aircraft employed

in foreign trade or trade between the United States and any of its possessions, in respect of aircraft registered in a foreign country, shall be allowed only if the Secretary of the Treasury has been advised by the Secretary of Commerce that he has found that such foreign country allows, or will allow, substantially reciprocal privileges in respect of aircraft registered in the United States. If the Secretary of the Treasury is advised by the Secretary of Commerce that he has found that a foreign country has discontinued or will discontinue the allowance of such privileges, the privileges granted under subsection (a)(3) shall not apply thereafter in respect of civil aircraft registered in that foreign country and employed in foreign trade or trade between the United States and any of its possessions.

**[(2) TIRES.—**

**[(A) TAX-FREE SALES.—**Under regulations prescribed by the Secretary, no tax shall be imposed under section 4071 on the sale by the manufacturer of a tire if—

**[(i)]** such tire is sold for use by the purchaser for sale on or in connection with the sale of another article manufactured or produced by such purchaser; and

**[(ii)]** such other article is to be sold by such purchaser in a sale which either will satisfy the requirements of paragraph (2), (3), (4), or (5) of subsection (a) for a tax-free sale, or would satisfy such requirements but for the fact that such other article is not subject to tax under this chapter.

**[(B) PROOF.—**Where a tire has been sold free of tax under this paragraph, this paragraph shall cease to apply unless, within the 6-month period which begins on the date of the sale by him (or, if earlier on the date of the shipment by him), the manufacturer of such tire receives proof that the other article referred to in clause (ii) of subparagraph (A) has been sold in a manner which satisfies the requirements of such clause (ii) (including in the case of a sale for export, proof of export of such other article).

**[(C) SUBSECTION (a)(1) DOES NOT APPLY.—**Paragraph (1) of subsection (a) shall not apply with respect to the tax imposed under section 4071 on the sale of a tire.

**[(3) TIRES USED ON INTERCITY, LOCAL, AND SCHOOL BUSES.—**Under regulations prescribed by the Secretary, the tax imposed by section 4071 shall not apply in the case of tires sold for use by the purchaser on or in connection with a qualified bus.】

\* \* \* \* \*

**SEC. 4223. SPECIAL RULES RELATING TO FURTHER MANUFACTURE.**

(a) \* \* \*

(b) **COMPUTATION OF TAX.—**If the manufacturer or producer referred to in subsection (a) incurs liability for tax under this chapter on his sale or use of an article referred to in subsection (a) and the tax is based on the price for which the article is sold, the article shall be treated as having been sold by him—



(1) at the price for which the article was sold by him (or, where the tax is on his use of the article, at the price referred to in section **4218(c)** *4218(b)*); or

\* \* \* \* \*

## CHAPTER 36—CERTAIN OTHER EXCISE TAXES

\* \* \* \* \*

### Subchapter D—Tax on Use of Certain Vehicles

\* \* \* \* \*

#### SEC. 4481. IMPOSITION OF TAX.

(a) \* \* \*

\* \* \* \* \*

(e) PERIOD TAX IN EFFECT.—The tax imposed by this section shall apply only to use before October 1, **1999** *2005*.

#### SEC. 4482. DEFINITIONS.

(a) \* \* \*

\* \* \* \* \*

(c) OTHER DEFINITIONS AND SPECIAL RULE.—For purposes of this subchapter—

(1) \* \* \*

\* \* \* \* \*

(4) TAXABLE PERIOD.—The term “taxable period” means any year beginning before July 1, **1999** *2005*, and the period which begins on July 1, **1999** *2005*, and ends at the close of September 30, **1999** *2005*.

\* \* \* \* \*

(d) SPECIAL RULE FOR TAXABLE PERIOD IN WHICH TERMINATION DATE OCCURS.—In the case of the taxable period which ends on September 30, **1999** *2005*, the amount of the tax imposed by section 4481 with respect to any highway motor vehicle shall be determined by reducing each dollar amount in the table contained in section 4481(a) by 75 percent.

#### SEC. 4483. EXEMPTIONS.

(a) \* \* \*

\* \* \* \* \*

(g) TERMINATION OF EXEMPTIONS.—Subsections (a) and (c) shall not apply on and after October 1, **1999** *2005*.

\* \* \* \* \*

## Subtitle F—Procedure and Administration

\* \* \* \* \*

## CHAPTER 62—TIME AND PLACE FOR PAYING TAX

\* \* \* \* \*

### Subchapter A—Place and Due Date for Paying Tax

\* \* \* \* \*

#### SEC. 6156. INSTALLMENT PAYMENTS OF TAX ON USE OF HIGHWAY MOTOR VEHICLES.

(a) \* \* \*

\* \* \* \* \*

(e) SECTION INAPPLICABLE TO CERTAIN LIABILITIES.—This section shall not apply to any liability for tax incurred in—

- (1) April, May, or June of any year, or
- (2) July, August, or September of **[1999]** 2005.

\* \* \* \* \*

## CHAPTER 65—ABATEMENTS, CREDITS, AND REFUNDS

\* \* \* \* \*

### Subchapter B—Rules of Special Application

\* \* \* \* \*

#### SEC. 6412. FLOOR STOCKS REFUNDS.

(a) IN GENERAL.—

(1) **[TIRES AND TAXABLE]** *TAXABLE FUEL*.—Where before October 1, **[1999]** 2005, any article subject to the tax imposed by section **[4071 or]** 4081 has been sold by the manufacturer, producer, or importer and on such date is held by a dealer and has not been used and is intended for sale, there shall be credited or refunded (without interest) to the manufacturer, producer, or importer an amount equal to the difference between the tax paid by such manufacturer, producer, or importer on his sale of the article and the amount of tax made applicable to such article on and after October 1, **[1999]** 2005, if claim for such credit or refund is filed with the Secretary on or before March 31, **[2000]** 2006, based upon a request submitted to the manufacturer, producer, or importer before January 1, **[2000]** 2006 by the dealer who held the article in respect of which the credit or refund is claimed, and, on or before March 31, **[2000]** 2006, reimbursement has been made to such dealer by such manufacturer, producer, or importer for the tax reduction on such article or written consent has been obtained from such dealer to allowance of such credit or refund. No credit or refund shall be allowable under this paragraph with respect to taxable fuel in retail stocks held at the place where intended

to be sold at retail, nor with respect to taxable fuel held for sale by a producer or importer of taxable fuel.

\* \* \* \* \*

(c) **OTHER LAWS APPLICABLE.**—All provisions of law, including penalties, applicable in respect of the taxes imposed by [sections 4071 and] *section* 4081 shall, insofar as applicable and not inconsistent with subsections (a) and (b) of this section, apply in respect of the credits and refunds provided for in subsection (a) to the same extent as if such credits or refunds constituted overpayments of such taxes.

\* \* \* \* \*

#### **SEC. 6416. CERTAIN TAXES ON SALES AND SERVICES.**

(a) \* \* \*

(b) **SPECIAL CASES IN WHICH TAX PAYMENTS CONSIDERED OVERPAYMENTS.**—Under regulations prescribed by the Secretary, credit or refund (without interest) shall be allowed or made in respect of the overpayments determined under the following paragraphs:

(1) **PRICE READJUSTMENTS.**—

(A) **IN GENERAL.**—Except as provided in subparagraph (B) [or (C)], if the price of any article in respect of which a tax, based on such price, is imposed by chapter 31 or 32, is readjusted by reason of the return or repossession of the article or a covering or container, or by a bona fide discount, rebate, or allowance, including a readjustment for local advertising (but only to the extent provided in section 4216(e)(2) and (3)), the part of the tax proportionate to the part of the price repaid or credited to the purchaser shall be deemed to be an overpayment.

\* \* \* \* \*

[(C) **ADJUSTMENT OF TIRE PRICE.**—No credit or refund of any tax imposed by subsection (a) or (b) of section 4071 shall be allowed or made by reason of an adjustment of a tire pursuant to a warranty or guarantee.]

(2) **SPECIFIED USES AND REALES.**—The tax paid under chapter 32 (or under subsection (a) or (d) of section 4041 in respect of sales or under section 4051) in respect of any article shall be deemed to be an overpayment if such article was, by any person—

(A) \* \* \*

\* \* \* \* \*

(D) sold to a nonprofit educational organization for its exclusive use; *or*

[(E) in the case of any tire taxable under section 4071(a), sold to any person for use as described in section 4221(e)(3); *or*]

[(F)] (E) in the case of gasoline, used or sold for use in the production of special fuels referred to in section 4041. Subparagraphs (C) and (D) shall not apply in the case of any tax paid under section 4064. In the case of the tax imposed by section 4131, subparagraphs (B), (C), and (D) shall not apply and subparagraph (A) shall apply only if the use of the ex-

ported vaccine meets such requirements as the Secretary may by regulations prescribe. This paragraph shall not apply in the case of any tax imposed under section 4041(a)(1) or 4081 on diesel fuel and any tax paid under section 4091 or 4121.

\* \* \* \* \*

**[(4) TIRES.—**

**[(A) the tax imposed by section 4071 has been paid with respect to the sale of any tire by the manufacturer, producer, or importer thereof, and**

**[(B) such tire is sold by any person on or in connection with, or with the sale of, any other article, such tax shall be deemed to be an overpayment by such person if such other article is—**

**[(i) an automobile bus chassis or an automobile bus body, or**

**[(ii) by such person exported, sold to a State or local government for the exclusive use of a State or local government, sold to a nonprofit educational organization for its exclusive use, or used or sold for use as supplies for vessels or aircraft.]**

**[(5)] (4) RETURN OF CERTAIN INSTALLMENT ACCOUNTS.—**

**(A) tax was paid under section 4216(e)(1) in respect of any installment account,**

**(B) such account is, under the agreement under which the account was sold, returned to the person who sold such account, and**

**(C) the consideration is readjusted as provided in such agreement,**

the part of the tax paid under section 4216(e)(1) allocable to the part of the consideration repaid or credited to the purchaser of such account shall be deemed to be an overpayment.

**[(6)] (5) TRUCK CHASSIS, BODIES, AND SEMITRAILERS USED FOR FURTHER MANUFACTURE.—If—**

**(A) the tax imposed by section 4051 has been paid with respect to the sale of any article, and**

**(B) before any other use, such article is by any person used as a component part of another article taxable under section 4051 manufactured or produced by him,**

such tax shall be deemed to be an overpayment by such person. For purposes of the preceding sentence, an article shall be treated as having been used as a component part of another article if, had it not been broken or rendered useless in the manufacture or production of such other article, it would have been so used.

This subsection shall apply in respect of an article only if the exportation or use referred to in the applicable provision of this subsection occurs before any other use, or, in the case of a sale or resale, the use referred to in the applicable provision of this subsection is to occur before any other use.

\* \* \* \* \*

**SEC. 6421. GASOLINE USED FOR CERTAIN NONHIGHWAY PURPOSES,  
USED BY LOCAL TRANSIT SYSTEMS, OR SOLD FOR CER-  
TAIN EXEMPT PURPOSES.**

(a) \* \* \*

\* \* \* \*

(d) TIME FOR FILING CLAIMS; PERIOD COVERED.—

(1) \* \* \*

[(2) EXCEPTION.—If \$1,000 or more is payable under this section to any person with respect to gasoline used during any of the first three quarters of his taxable year, a claim may be filed under this section by such person with respect to gasoline used during such quarter. No claim filed under this paragraph shall be allowed unless filed on or before the last day of the first quarter following the quarter for which the claim is filed.]

(2) *EXCEPTION.*—

*For payments per quarter based on aggregate amounts payable under this section and section 6427, see section 6427(i)(2).*

\* \* \* \*

(f) EXEMPT SALES; OTHER PAYMENTS OR REFUNDS AVAILABLE.—

(1) \* \* \*

\* \* \* \*

(3) GASOLINE USED IN TRAINS.—In the case of gasoline used as a fuel in a train, this section shall not apply with respect to—

(A) the Leaking Underground Storage Tank Trust Fund financing rate under section 4081, and

[(B) so much of the rate specified in section 4081(a)(2)(A) as does not exceed—

[(i) 6.8 cents per gallon after September 30, 1993, and before October 1, 1995,

[(ii) 5.55 cents per gallon after September 30, 1995, and before October 1, 1999, and

[(iii) 4.3 cents per gallon after September 30, 1999.]

(B) *so much of the rate specified in section 4081(a)(2)(A) as does not exceed—*

*(i) 5.55 cents per gallon after September 30, 1995, and before October 1, 1999,*

*(ii) 4.3 cents per gallon after September 30, 1999, and before October 1, 2000, and*

*(iii) zero after September 30, 2000.*

\* \* \* \*

**SEC. 6427. FUELS NOT USED FOR TAXABLE PURPOSES.**

(a) \* \* \*

\* \* \* \*

(i) TIME FOR FILING CLAIMS; PERIOD COVERED.—

(1) \* \* \*

(2) EXCEPTIONS

[(A) IN GENERAL.—If \$1,000 or more is payable under subsections (a), (b), (d), (h), and (g) to any person with respect to fuel used during any of the first 3 quarters of his taxable year, a claim may be filed under this section with respect to fuel used, during such quarter.]

(A) *IN GENERAL.*—If, at the close of any quarter of the taxable year of any person, at least \$750 is payable in the aggregate under subsections (a), (b), (d), (h), (l), and (q) of this section and section 6421 to such person with respect to fuel used—

(i) during such quarter, or  
(ii) any prior quarter during such taxable year for which no other claim has been filed,  
a claim may be filed under this section with respect to such fuel.

\* \* \* \* \*

[(4) SPECIAL RULE FOR NONTAXABLE USES OF DIESEL FUEL AND AVIATION FUEL TAXED UNDER SECTION 4081 OR 4091.—

[(A) *IN GENERAL.*—If at the close of any of the 1st 3 quarters of the taxable year of any person, at least \$750 is payable under subsection (l) to such person with respect to fuel used during such quarter or any prior quarter during the taxable year (and for which no other claim has been filed), a claim may be filed under subsection (l) with respect to such fuel.

[(B) *TIME FOR FILING CLAIM.*—No claim filed under this paragraph shall be allowed unless filed during the 1st quarter following the last quarter included in the claim.]

[(5)] (4) SPECIAL RULE FOR VENDOR REFUNDS.—

(A) \* \* \*

\* \* \* \* \*

(k) INCOME TAX CREDIT IN LIEU OF PAYMENT.—

(1) \* \* \*

[(2) *EXCEPTION.*—Paragraph (1) shall not apply to a payment of a claim filed under paragraph (2), (3), (4), or (5) of subsection (i).]

(2) *EXCEPTION.*—Paragraph (1) shall not apply to a payment of a claim filed under paragraph (2), (3), or (4) of subsection (i).

\* \* \* \* \*

(l) NONTAXABLE USES OF DIESEL FUEL AND AVIATION FUEL.—

(1) \* \* \*

\* \* \* \* \*

(3) REFUND OF CERTAIN TAXES ON FUEL USED IN DIESEL-POWERED TRAINS.—For purposes of this subsection, the term “nontaxable use” includes fuel used in a diesel-powered train. The preceding sentence shall not apply with respect to—

(A) the Leaking Underground Storage Tank Trust Fund financing rate under sections 4041 and 4081, and

[(B) so much of the rate specified in section 4081(a)(2)(A) as does not exceed—

[(i) 6.8 cents per gallon after September 30, 1993, and before October 1, 1995,

[(ii) 5.55 cents per gallon after September 30, 1995, and before October 1, 1999, and

[(iii) 4.3 cents per gallon after September 30, 1999.]

(B) so much of the rate specified in section 4081(a)(2)(A) as does not exceed—

(i) 5.55 cents per gallon after September 30, 1995, and before October 1, 1999,

(ii) 4.3 cents per gallon after September 30, 1999, and before October 1, 2000, and

(iii) zero after September 30, 2000.

The preceding sentence shall not apply in the case of fuel sold for exclusive use by a State or any political subdivision thereof.

\* \* \* \* \*

## Subtitle I—Trust Fund Code

\* \* \* \* \*

### CHAPTER 98—TRUST FUND CODE

\* \* \* \* \*

#### Subchapter A—Establishment of Trust Funds

\* \* \* \* \*

Sec. 9501. Black lung disability fund.

\* \* \* \* \*

**[Sec. 9511. National recreational trails trust fund.]**

\* \* \* \* \*

#### SEC. 9503. HIGHWAY TRUST FUND.

(a) \* \* \*

(b) TRANSFER TO HIGHWAY TRUST FUND OF AMOUNTS EQUIVALENT TO CERTAIN TAXES.—

(1) IN GENERAL.—There are hereby appropriated to the Highway Trust Fund amounts equivalent to the taxes received in the Treasury before October 1, **[1999]** 2005, under the following provisions—

(A) section 4041 (relating to taxes on diesel fuels and special motor fuels),

(B) section 4051 (relating to retail tax on heavy trucks and trailers),

**[(C) section 4061 (relating to tax on trucks and truck parts),**

**[(D) section 4071 (relating to tax on tires and tread rubber),]**

**[(E)]** (C) section 4081 (relating to tax on gasoline and diesel fuel), and,

**[(F)]** (D) section 4481 (relating to tax on use of certain vehicles).

(2) LIABILITIES INCURRED BEFORE OCTOBER 1, **[1999]** 2005.—There are hereby appropriated to the Highway Trust Fund amounts equivalent to the taxes which are received in the Treasury after September 30, **[1999]** 2005, and before July 1, **[2000]** 2006, and which are attributable to liability for tax in-

curring before October 1, ~~1999~~ 2005, under the provisions described in paragraph (1).

\* \* \* \* \*

(4) CERTAIN TAXES NOT TRANSFERRED TO HIGHWAY TRUST FUND.—For purposes of paragraphs (1) and (2), there shall not be taken into account the taxes imposed by—

(A) section 4041(d),

(B) section 4081 to the extent attributable to the rate specified in section 4081(a)(2)(B),

(C) section 4041 or 4081 to the extent attributable to fuel used in a train,

(D) in the case of fuels used as described in paragraph (4)(D), (5)(B), or (6)(D) of subsection (c), section 4041 or 4081—

(i) with respect to so much of the rate of tax on gasoline or special motor fuels as exceeds ~~11.5~~ 14.9 cents per gallon, and

(ii) with respect to so much of the rate of tax on diesel fuel or kerosene as exceeds 17.5 cents per gallon,

(E) in the case of fuels described in section 4041(b)(2)(A), 4041(k), or 4081(c), section 4041 or 4081 before October 1, 1999, with respect to a rate equal to 2.5 cents per gallon, or

(F) in the case of fuels described in section 4081(c)(2), such section before October 1, 1999, with respect to a rate equal to 2.8 cents per gallon.

(5) GENERAL REVENUE DEPOSITS OF CERTAIN TAXES ON ALCOHOL MIXTURES.—For purposes of this section, the amounts which would (but for this paragraph) be required to be appropriated under subparagraphs (A), and ~~[(E)]~~ (C) of paragraph (1) shall be reduced by—

(A) 0.6 cent per gallon in the case of taxes imposed on any mixture at least 10 percent of which is alcohol (as defined in section 4081(c)(3)) if any portion of such alcohol is ethanol, and

(B) 0.67 cent per gallon in the case of gasoline or diesel fuel used in producing a mixture described in subparagraph (A).

(6) LIMITATION ON TRANSFERS TO HIGHWAY TRUST FUND.—

(A) IN GENERAL.—*Except as provided in subparagraph (B), no amount may be appropriated to the Highway Trust Fund on and after the date of any expenditure from the Highway Trust Fund which is not permitted by this section. The determination of whether an expenditure is so permitted shall be made without regard to—*

*(i) any provision of law which is not contained or referenced in this title or in a revenue Act, and*

*(ii) whether such provision of law is a subsequently enacted provision or directly or indirectly seeks to waive the application of this paragraph.*

(B) EXCEPTION FOR PRIOR OBLIGATIONS.—*Subparagraph (A) shall not apply to any expenditure to liquidate any contract entered into (or for any amount otherwise obligated)*



*before October 1, 2003, in accordance with the provisions of this section.*

(c) EXPENDITURES FROM HIGHWAY TRUST FUND.—

(1) FEDERAL-AID HIGHWAY PROGRAM.—Except as provided in subsection (e), amounts in the Highway Trust Fund shall be available, as provided by appropriation Acts, for making expenditures before October 1, ~~1998~~ 2003, to meet those obligations of the United States heretofore or hereafter incurred which are—

(A) authorized by law to be paid out of the Highway Trust Fund established by section 209 of the Highway Revenue Act of 1956,

(B) authorized to be paid out of the Highway Trust Fund under title I or II of the Surface Transportation Assistance Act of 1982,

(C) authorized to be paid out of the Highway Trust Fund under the Surface Transportation and Uniform Relocation Assistance Act of 1987, ~~or~~

(D) authorized to be paid out of the Highway Trust Fund under the Intermodal Surface Transportation Efficiency Act of ~~1991~~.

~~[In determining the authorizations under the Acts referred to in the preceding subparagraphs, such Acts shall be applied as in effect on the date of the enactment of the Intermodal Surface Transportation Efficiency Act of 1991.] 1991, or~~

~~(E) authorized to be paid out of the Highway Trust Fund under the Building Efficient Surface Transportation and Equity Act of 1998.~~

~~In determining the authorizations under the Acts referred to in the preceding subparagraphs, such Acts shall be applied as in effect on the date of the enactment of the Building Efficient Surface Transportation and Equity Act of 1998.~~

(2) TRANSFERS FROM HIGHWAY TRUST FUND FOR CERTAIN REPAYMENTS AND CREDITS.—

(A) IN GENERAL.—The Secretary shall pay from time to time from the Highway Trust Fund into the general fund of the Treasury amounts equivalent to—

(i) the amounts paid before July 1, ~~2000~~ 2006, under—

(I) section 6420 (relating to amounts paid in respect of gasoline used on farms),

(II) section 6421 (relating to amounts paid in respect of gasoline used for certain nonhighway purposes or by local transit systems),

(III) section 6424 (relating to amounts paid in respect of lubricating oil used for certain non-taxable purposes), and

(IV) section 6427 (relating to fuels not used for taxable purposes),

on the basis of claims filed for periods ending before October 1, ~~1999~~ 2005, and

(ii) the credits allowed under section 34 (relating to credit for certain uses of gasoline, special fuels, and lubricating oil) with respect to gasoline, special fuels,

and lubricating oil used before October 1, [1999] 2005.

The amounts payable from the Highway Trust Fund under this subparagraph or paragraph (3) shall be determined by taking into account only the portion of the taxes which are deposited into the Highway Trust Fund.

\* \* \* \* \*

**[(3) 1999 FLOOR STOCKS REFUNDS.—]**

(3) *FLOOR STOCKS REFUNDS.*—The Secretary shall pay from time to time from the Highway Trust Fund into the general fund of the Treasury amounts equivalent to the floor stocks refunds made before July 1, [2000] 2006, under section 6412(a).

(4) TRANSFERS FROM THE TRUST FUND FOR MOTORBOAT FUEL TAXES.—

**[(A) TRANSFER TO BOAT SAFETY ACCOUNT.—]**

**[(i) IN GENERAL.—]**The Secretary shall pay from time to time from the Highway Trust Fund into the Boat Safety Account in the Aquatic Resources Trust Fund amounts (as determined by him) equivalent to the motorboat fuel taxes received on or after October 1, 1980, and before October 1, 1997.

**[(ii) LIMITATIONS.—]**

**[(I) LIMIT ON TRANSFERS DURING ANY FISCAL YEAR.—]**The aggregate amount transferred under this subparagraph during any fiscal year shall not exceed \$60,000,000 for each of fiscal years 1989 and 1990 and \$70,000,000 for each fiscal year thereafter.

**[(II) LIMIT ON AMOUNT IN FUND.—]**No amount shall be transferred under this subparagraph if the Secretary determines that such transfer would result in increasing the amount in the Boat Safety Account to a sum in excess of \$60,000,000 for each of fiscal years 1989 and 1990 and \$70,000,000 for each fiscal year thereafter.

**(A) TRANSFERS TO BOAT SAFETY ACCOUNT.—**

(i) *IN GENERAL.*—The Secretary shall pay from time to time from the Highway Trust Fund into the Boat Safety Account in the Aquatic Resources Trust Fund amounts (as determined by the Secretary) equivalent to one-half of the motorboat fuel taxes received after September 30, 1998, and before October 1, 2003.

(ii) *LIMIT ON AMOUNT IN FUND.*—No amount shall be transferred under this subparagraph during any fiscal year if the Secretary determines that such transfer would result in increasing the unobligated balance in the Boat Safety Account to a sum in excess of one-half of the total amount received as motorboat fuel taxes during the preceding fiscal year.

\* \* \* \* \*

(5) TRANSFERS FROM THE TRUST FUND FOR SMALL-ENGINE FUEL TAXES.—

(A) IN GENERAL.—The Secretary shall pay from time to time from the Highway Trust Fund into the Sport Fish Restoration Account in the Aquatic Resources Trust Fund amounts (as determined by him) equivalent to the small-engine fuel taxes received on or after December 1, 1990 and before October 1, ~~1998~~ 2003.

\* \* \* \* \*

**[(6) TRANSFERS FROM TRUST FUND OF CERTAIN RECREATIONAL FUEL TAXES, ETC.—**

**[(A) IN GENERAL.—**The Secretary shall pay from time to time from the Highway Trust Fund into the National Recreational Trails Trust Fund amounts (as determined by him) equivalent to 0.3 percent (as adjusted under subparagraph (C)) of the total Highway Trust Fund receipts for the period for which the payment is made.

**[(B) LIMITATION.—**The amount paid into the National Recreational Trails Trust Fund under this paragraph during any fiscal year shall not exceed the amount obligated under section 1302 of the Intermodal Surface Transportation Efficiency Act of 1991 (as in effect on the date of the enactment of this paragraph) for such fiscal year to be expended from such Trust Fund.

**[(C) ADJUSTMENT OF PERCENTAGE.—**

**[(i) FIRST YEAR.—**Within 1 year after the date of the enactment of this paragraph, the Secretary shall adjust the percentage contained in subparagraph (A) so that it corresponds to the revenues received by the Highway Trust Fund from nonhighway recreational fuel taxes.

**[(ii) SUBSEQUENT YEARS.—**Not more frequently than once every 3 years, the Secretary may increase or decrease the percentage established under clause (i) to reflect, in the Secretary's estimation, changes in the amount of revenues received in the Highway Trust Fund from nonhighway recreational fuel taxes.

**[(iii) AMOUNT OF ADJUSTMENT.—**Any adjustment under clause (ii) shall be not more than 10 percent of the percentage in effect at the time the adjustment is made.

**[(iv) USE OF DATA.—**In making the adjustments under clauses (i) and (ii), the Secretary shall take into account data on off-highway recreational vehicle registrations and use.

**[(D) NONHIGHWAY RECREATIONAL FUEL TAXES.—**For purposes of this paragraph, the term “nonhighway recreational fuel taxes” means taxes under section 4041 and 4081 (to the extent deposited into the Highway Trust Fund) with respect to—

**[(i)** fuel used in vehicles on recreational trails or back country terrain (including vehicles registered for highway use when used on recreational trails, trail access roads not eligible for funding under title 23, United States Code, or back country terrain), and

[(ii) fuel used in campstoves and other nonengine uses in outdoor recreational equipment. Such term shall not include small-engine fuel taxes (as defined by paragraph (5)) and taxes which are credited or refunded.]

[(E) TERMINATION.—No amount shall be paid under this paragraph after September 30, 1997.]

[(7) LIMITATION ON EXPENDITURES.—Notwithstanding any other provision of law, in calculating amounts under section 157(a) of title 23, United States Code, and sections 1013(c), 1015(a), and 1015(b) of the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102–240; 105 Stat. 1914), deposits in the Highway Trust Fund resulting from the amendments made by the Taxpayer Relief Act of 1997 shall not be taken into account.]

\* \* \* \* \*

(e) ESTABLISHMENT OF MASS TRANSIT ACCOUNT.—

(1) \* \* \*

(2) TRANSFERS TO MASS TRANSIT ACCOUNT.—The Secretary of the Treasury shall transfer to the Mass Transit Account the mass transit portion of the amounts appropriated to the Highway Trust Fund under subsection (b) which are attributable to taxes under sections 4041 and 4081 imposed after March 31, 1983. [For purposes of the preceding sentence, the term “mass transit portion” means an amount determined at the rate of 2.85 cents for each gallon with respect to which tax was imposed under section 4041 or 4081.] *For purposes of the preceding sentence, the term “mass transit portion” means, for any fuel with respect to which tax was imposed under section 4041 or 4081 and otherwise deposited into the Highway Trust Fund, the amount determined at the rate of—*

(A) *except as otherwise provided in this sentence, 2.86 cents per gallon,*

(B) *1.43 cents per gallon in the case of any partially exempt methanol or ethanol fuel (as defined in section 4041(m)) none of the alcohol in which consists of ethanol,*

(C) *1.86 cents per gallon in the case of liquefied natural gas,*

(D) *2.13 cents per gallon in the case of liquefied petroleum gas, and*

(E) *9.71 cents per MCF (determined at standard temperature and pressure) in the case of compressed natural gas.*

(3) EXPENDITURES FROM ACCOUNT.—Amounts in the Mass Transit Account shall be available, as provided by appropriation Acts, for making capital or capital related expenditures before October 1, [1998] 2003 (including capital expenditures for new projects) in accordance with—

(A) section 5338(a)(1) or (b)(1) of title 49, [or]

(B) the Intermodal Surface Transportation Efficiency Act of 1991, or

[as such Acts are in effect on the date of the enactment of the Intermodal Surface Transportation Efficiency Act of 1991.]

(C) *the Building Efficient Surface Transportation and Equity Act of 1998,*

*as such sections and Acts are in effect on the date of the enactment of the Building Efficient Surface Transportation and Equity Act of 1998.*

[(4) LIMITATION.—Rules similar to the rules of subsection (d) shall apply to the Mass Transit Account except that subsection (d)(1) shall be applied by substituting “12-month” for “24-month”.]

(4) LIMITATION.—Rules similar to the rules of subsection (d) shall apply to the Mass Transit Account.

\* \* \* \* \*

(f) DETERMINATION OF TRUST FUND BALANCES AFTER SEPTEMBER 30, 1998.—For purposes of determining the balances of the Highway Trust Fund and the Mass Transit Account after September 30, 1998—

(1) the opening balance of the Highway Trust Fund (other than the Mass Transit Account) on October 1, 1998, shall be \$8,000,000,000,

(2) the opening balance of the Mass Transit Account on such date shall be \$5,500,000,000, and

(3) no interest on any obligation held by such Fund shall be credited to such Fund if such interest accrues after September 30, 1998.

*The Secretary shall cancel obligations held by the Highway Trust Fund to reflect the reduction in the balances under this subsection.*

#### **SEC. 9504. AQUATIC RESOURCES TRUST FUND.**

(a) \* \* \*

\* \* \* \* \*

(c) EXPENDITURES FROM BOAT SAFETY ACCOUNT.—Amounts in the Boat Safety Account shall be available, as provided by appropriation Acts, for making expenditures before April 1, [1998] 2003, to carry out the purposes of section 13106 of title 46, United States Code (as in effect on [October 1, 1988] *the date of the enactment of the Building Efficient Surface Transportation and Equity Act of 1998*).

(d) LIMITATION ON TRANSFERS TO AQUATIC RESOURCES TRUST FUND.—

(1) IN GENERAL.—Except as provided in paragraph (2), no amount may be appropriated or paid to any Account in the Aquatic Resources Trust Fund on and after the date of any expenditure from any such Account which is not permitted by this section. The determination of whether an expenditure is so permitted shall be made without regard to—

(A) any provision of law which is not contained or referenced in this title or in a revenue Act, and

(B) whether such provision of law is a subsequently enacted provision or directly or indirectly seeks to waive the application of this subsection.

(2) EXCEPTION FOR PRIOR OBLIGATIONS.—Paragraph (1) shall not apply to any expenditure to liquidate any contract entered into (or for any amount otherwise obligated) before October 1, 2003, in accordance with the provisions of this section.

[(d)] (e) CROSS REFERENCE.—

For provision transferring motorboat fuels taxes to Boat Safety Account and Sport Fish Restoration Account, see section 9503(c)(4).

\* \* \* \* \*

**[SEC. 9511. NATIONAL RECREATIONAL TRAILS TRUST FUND.]**

[(a) CREATION OF TRUST FUND.—There is established in the Treasury of the United States a trust fund to be known as the “National Recreational Trails Trust Fund”, consisting of such amounts as may be credited or paid to such Trust Fund as provided in this section, section 9503(c)(6), or section 9602(b).

[(b) CREDITING OF CERTAIN UNEXPENDED FUNDS.—There shall be credited to the National recreational trails Trust Fund amounts returned to such Trust Fund under section 1302(e)(8) of the Intermodal Surface Transportation Efficiency Act of 1991.

[(c) EXPENDITURES FROM TRUST FUND.—Amounts in the National Recreational Trails Trust Fund shall be available, as provided in appropriation Acts, for making expenditures before October 1, 1997, to carry out the purposes of sections 1302 and 1303 of the Intermodal Surface Transportation Efficiency Act of 1991, as in effect on the date of the enactment of such Act.]

\* \* \* \* \*

**SECTION 201 OF THE LAND AND WATER CONSERVATION FUND ACT OF 1965**

TRANSFERS TO AND FROM LAND AND WATER CONSERVATION FUND

SEC. 201. (a) \* \* \*

(b) There shall be paid from time to time from the land and water conservation fund into the general fund of the Treasury amounts estimated by the Secretary of the Treasury as equivalent to—

(1) the amounts paid before October 1, [1998] 2004, under section 6421 of the Internal Revenue Code of 1954 (relating to amounts paid in respect of gasoline used for certain non-highway purposes or by local transit systems) with respect to gasoline used after December 31, 1964, in motorboats, on the basis of claims filed for periods ending before October 1, [1997] 2003; and

(2) 80 percent of the floor stocks refunds made before October 1, [1998] 2004, under section 6412(a)(2) of such Code with respect to gasoline to be used in motorboats.

**SECTION 1032 OF THE TAXPAYER RELIEF ACT OF 1997**

**SEC. 1032. KEROSENE TAXED AS DIESEL FUEL.**

(a) \* \* \*

\* \* \* \* \*

[(f) EFFECTIVE DATE.—The amendments made by this section shall take effect on July 1, 1998.]

(f) EFFECTIVE DATES.—

*(1) Except as provided in paragraph (2), the amendments made by this section shall take effect on July 1, 1998.*

*(2) The amendment made by subsection (d) shall take effect on July 1, 2000.*

