

FEDERAL-AID HIGHWAY ACT OF 1959

SEPTEMBER 4 (legislative day, AUGUST 31), 1959.—Ordered to be printed

Mr. BYRD of Virginia, from the Committee on Finance, submitted the following

REPORT

together with

INDIVIDUAL AND MINORITY VIEWS

[To accompany H.R. 8678]

The Committee on Finance, to whom was referred the bill (H.R. 8678) to amend the Federal-Aid Highway Acts of 1956 and 1958 to make certain adjustments in the Federal-aid highway program, and for other purposes, for consideration as to title II, having considered the same, report favorably thereon with amendments and recommend that the bill as amended do pass.

I. GENERAL STATEMENT

Title II is designed primarily to provide additional revenue for the Federal-aid highway program which is financed through the highway trust fund. Without legislation providing further funds for this program it is estimated that there would be a deficit in the trust fund by the end of the fiscal year 1960 of \$490 million, assuming provision is made for the payment of apportionments already made. At the end of the fiscal year 1961 an accumulated deficit of \$980 million is in prospect even if no further apportionments are made, and if the apportionments now authorized are made, it is estimated that there would be an accumulated deficit of \$1,305 million in the fund in that year.

To meet this immediate problem this title as amended provides for—

1. The imposition of an additional 1 cent tax on gasoline, diesel fuel, and special motor fuels for the 21-month period beginning October 1, 1959, and ending June 30, 1961. For this period this generally will raise gasoline and related fuel taxes to 4 cents a gallon.

2. The allocation to the highway trust fund of 5 percentage points of the manufacturers' excise tax on passenger cars, etc., and of 5 percentage points of the tax on auto parts and accessories. This allocation is to be made for the 3-year period beginning on July 1, 1961, and ending on June 30, 1964.

The gasoline and related fuel taxes are expected to increase revenues of the highway trust fund by \$333 million in the fiscal year 1960, by \$577 million in the fiscal year 1961, and by \$75 million in the fiscal year 1962, or result in an increase in highway trust fund revenues of \$985 million. The passenger car and auto parts taxes are expected to increase revenues of the highway trust fund by \$802 million in the fiscal year 1962, by \$831 million in the fiscal year 1963, and by \$854 million in the fiscal year 1964. This will result in an increase in the highway trust fund revenues during this 3-year period of \$2.487 billion. This, together with the additional gasoline and related fuel taxes added by this bill will result in additional revenues for the highway trust fund during the 5 fiscal years immediately ahead of \$3.472 billion.

This additional revenue, combined with the present revenues of this fund, your committee understands, will make it possible to provide for apportionments for the Interstate System of \$1.8 billion for the fiscal year 1961 and \$2 billion for the fiscal year 1962. This is in addition to the \$2.5 billion of apportionments already made for the fiscal year 1960. These apportionments can be made without any further suspension of the limitation on the trust fund, the so-called Byrd amendment, which limits apportionments, with respect to the Interstate System, to the anticipated amount in the fund at the time the apportionments are expected to be translated into trust fund expenditures. A small deficit of approximately \$157 million is anticipated at the close of the fiscal year 1960. In addition, a temporary deficit during the fiscal year 1960 of about \$300 million must be provided for by temporary borrowing from the general fund. However, this can be repaid to the general fund from trust fund receipts before the end of the fiscal year 1960 except for the \$157 million referred to above. A yearend deficit of \$50 million is also expected in 1961, but no such deficit is anticipated for 1962. Temporary borrowing will also be necessary during the fiscal years 1961 and 1962.

The additional revenues provided by title II will continue the highway trust fund on an independently financed basis and will mean that the highway program will have no effect on the general Government budget in the fiscal years 1960 or 1961. Even in the 3 following years it need have little effect upon the general budget since only 7 of the present 10 percentage points of the manufacturers tax on passenger automobiles now in effect are allocated to the general fund for the fiscal years 1962 through 1964 and in the case of the tax on auto parts and accessories only 5 of the 8 percentage points now in effect are allocated to the general fund for these years.

The bill also makes a change relating to the time of the imposition of the gasoline tax. Presently, this tax is payable by the producer or importer at the time he makes his sale. Thus, in the case of the integrated company no tax is collected until after the time of the sale to the service station or to the ultimate consumer. Where sales are made to independent wholesalers, however, the tax is presently collected at the time of that sale. This bill as amended permits the wholesale distributor, and a dealer selling gasoline exclusively to pro-

ducers, to purchase gasoline tax free and then pay the tax at the time of his sale. This is accomplished by treating the wholesale distributors of gasoline, and these dealers, as "producers" for purposes of this tax. This change is to be effective on January 1, 1960.

II. REASONS FOR THE HIGHWAY FINANCING PROVIDED BY THE BILL

In 1956 the Congress enacted a greatly expanded program of Federal aid for interstate highways. At that time Congress decided that this Interstate System, as well as the other Federal-aid highway programs (usually referred to as the ABC program) should be separately financed through a special highway trust fund in order to maintain these programs on an independent basis. Such a highway trust fund was established for the 16-year period from June 30, 1956, to July 1, 1972. Into this trust fund are deposited certain highway-user excise taxes, namely, all of the taxes on gasoline, diesel fuel, special motor fuel, tread rubber, tires of the type used on highway vehicles (taxed at 8 cents per pound), other tires (taxed at 5 cents per pound), and inner tubes and on the use of highway vehicles weighing over 26,000 pounds. In addition, half of the 10-percent manufacturers tax on trucks, buses, and trailers goes into the fund. From these receipts the expenditures required by both the Interstate System, estimated at \$25 billion for the Federal Government's share in 1956, and the ABC (primary, secondary, and urban) highway programs are financed.

A special subsection (section 209(g)) in the Highway Revenue Act of 1956, frequently referred to as the Byrd amendment, was designed to give assurance that on a year-by-year basis no deficit would develop in the highway trust fund. This result was to be obtained by requiring that before apportionments of Federal-aid highway funds can be made to the States for the Interstate System, estimates must be made of the revenues which are expected to be in the fund by the end of the year the expenditures arising from the apportionment occur. Then, to the extent that these estimates show that there would be any deficiency in the fund, the Secretary of Commerce is required to reduce the apportionments to the States.

At the time of the adoption of the new Federal-aid highway program in 1956 it was anticipated that the trust fund would be self-financing over the entire 16-year period although it was anticipated that there would be reductions in apportionments in the early year of the program to be made up in the latter years. A number of events have occurred, however, since that time which have altered these expectations. Some of these are of a short-run character and have an immediate effect on the highway trust fund, while others are expected to have more of a long-term impact. Title II of this bill is intended to meet only the former, as the Congress will have opportunity to deal with the latter following the receipt of a highway-user cost allocation study report from the Bureau of Public Roads in January 1961.

Short-term financing problems.—The immediate problem confronting the highway trust fund in large measure arises from the action taken by Congress last year in Public Law 85-381 (72 Stat. 89; approved Apr. 16, 1958). Under the action in 1958, Congress increased by \$1.6 billion the immediate drain on funds in the highway trust fund. This resulted both from the suspension for the fiscal years 1959 and 1960 of

the Byrd amendment limiting apportionments and from specific directions to increase apportionments for these 2 years. The effect was to increase apportionments for the Interstate System by \$200 million for the fiscal year 1959 and by \$900 million for the fiscal year 1960. As an antirecession measure, this act also directed that \$400 million additional be apportioned under the ABC program and for \$115 million in loans to be made available under this program, of which \$103 million has actually been obligated. The act provided that this \$400 million of apportionments and the loans under the ABC program, since they were antirecession measures, were to be placed under construction by December 1, 1958, for completion by December 1, 1959. All of these funds were contracted by the States.

As a result of these actions taken in 1958, the highway trust fund at the end of the fiscal year 1960, if no further revenues are provided, would have a deficit of \$490 million assuming the Federal Government provides funds for payment of existing apportionments. By the end of the fiscal year 1961 this deficit in the highway trust fund would have increased to \$1.305 billion, if the apportionments as authorized were made without giving account to the limitation provided by the Byrd amendment.

Long-term financing problems.—The problem is not limited, however, to the short run. The estimated cost of completing a 40,000-mile Interstate System has risen from the \$25 billion estimated in 1955 to a current estimate of \$36 billion.

The Federal Highway Administrator has indicated that the 1955 estimate was of necessity a preliminary estimate because of the limited time available to prepare one prior to consideration of the 1955-56 legislation, and that as a result much of the estimate was based on preliminary data. He also stated that there were several other reasons accounting for the increased costs and has presented a table, shown below as table 1, which gives an analysis of this increase in cost. Ten billion dollars, of which \$8.9 billion is the Federal Government's share, represents the cost increases for the highways planned in the 1956 legislation. However, the actual measured miles between the cities and border points used as the basis for the 1955-56 estimate were found to be 38,548 miles as compared to the figure of 40,000 miles which was authorized in the 1956 legislation, leaving 1,452 miles of the 40,000 undesignated. The estimated cost of these additional 1,452 miles is \$1.6 billion, representing a charge against Federal funds of \$1.5 billion. In addition, an item of \$700 million has been included to cover contingencies. Thus the rise of the Federal Government's share of the cost of the program from \$25 billion to \$36 billion for a 40,000-mile Interstate System can be accounted for by the \$8.9 billion of costs attributable to the roads designated in 1956, to the \$1.5 billion for the additional mileage, and to the \$600 million for contingencies.

TABLE 1.—1955 estimate of cost; amounts the 1955 estimate was insufficient to cover the conditions estimated in 1957; the resultant 1958 estimate; and additional amounts to complete a 40,000-mile Interstate System

[In billions]

Item	Total	Estimated costs	
		Federal share	State share
1955 estimate.....	\$27.6	\$25.0	\$2.6
5 percent increase due traffic.....	1.3	1.2	0.1
15 percent increase due local needs.....	3.8	3.4	0.4
3 percent increase due utilities and miscellaneous.....	0.8	0.7	0.1
12 percent increase due price increase.....	4.1	3.6	0.5
Subtotal.....	10.0	8.9	1.1
1958 estimate (subtotal).....	37.6	33.9	3.7
Increase due 1,452 miles added routes.....	1.6	1.5	0.1
Carryover and contingency.....	0.7	0.6	0.1
Total to complete a 40,000-mile system.....	39.9	36.0	3.9

General conclusions of the committee.—As indicated by the information set forth above, there are two aspects to the financial problem of the highway trust fund. First there is the problem of the prospect of a deficit of \$490 million for the fiscal year 1960 based upon apportionments already made, together with the likelihood that the deficit will go to \$1.305 billion by the end of the fiscal year 1961 if planned apportionments for that year are to be met (or \$980 million if no additional apportionments are to be made in that year). Second, there is the long-run problem of how to finance a \$36 billion Federal interstate highway program instead of the \$25-billion program initially contemplated.

In this bill your committee concentrated its attention on a solution of the short-run problem, postponing further consideration of the long-run problem until after there is an opportunity for Congress to consider the report on the highway cost allocation study to be submitted to Congress on January 3, 1961. The purpose of this study is to determine what taxes should be imposed by the United States, and in what amounts, in order to insure, insofar as practical, an equitable distribution of the tax burden among the various classes of persons using the Federal-aid highways or otherwise deriving benefits from these highways. The additional revenues of nearly \$3.5 billion which this bill provides for the highway trust fund relates to the immediate financial problem.

Specific revenue measures provided.—To meet the short-term problem, title II of this bill provides for a temporary 1-cent increase in the gasoline, diesel fuel, and special motor fuels taxes for the remainder of this fiscal year (beginning October 1) and next year. Then for the 3-year period which follows it provides for an allocation to the trust

fund of 5 percentage points of the taxes on passenger cars and auto parts and accessories. Your committee decided that for this year and next it was necessary to provide new revenues to meet the highway trust fund deficit since a diversion of revenues from the general fund could well lead to unbalanced budgets in this period. The fiscal years 1962, 1963, and 1964 are sufficiently far in advance, however, so that there should be ample time to review the effect of the allocation to the trust fund of the passenger car and auto parts and accessories taxes in formulating the budgets for those years, as well as adequate opportunities to reconsider the methods of financing the highway trust fund for those years.

For those years the applicable manufacturers' excise tax rate under existing law for passenger cars is 7 percent for the fiscal year 1961 and subsequent years instead of the 10 percent applicable this year, and for auto parts and accessories is 5 percent instead of 8 percent. If it should be decided to continue present rates, revenues presently allocable to the general fund for those years could be maintained except for the diversion in revenues represented by the difference between the 5 percent and 7 percent in the case of the passenger car tax and the difference between the 3 percent and 5 percent on auto parts.

The increase of 1 cent in the gasoline tax will still leave an anticipated deficit for the fiscal year 1960 of \$157 million. With the 1-cent increase in the gasoline tax, the funds in the trust fund are expected to be large enough to provide for apportionments to the States for the fiscal year 1961 of about \$1.8 billion, rather than the \$2.5 billion presently authorized.

In view of the uncertainties as to the types of taxes which should be imposed in arriving at an appropriate distribution of the burden of paying for the highway program, it was believed inappropriate to attempt any solution at this time to the longrun financing problem. This also was a factor in the committee's decision to impose the additional gasoline tax only for the remainder of this year and next, rather than depending on this revenue source for the entire 5-year period for which additional funds are provided for the trust fund.

III. GENERAL EXPLANATION OF THE HIGHWAY FINANCING PROVIDED BY THE BILL

Title II of this bill increases the taxes on gasoline, diesel fuel, and special motor fuel from 3 cents a gallon in the case of highway use to 4 cents a gallon. This 1-cent increase is a temporary tax applying only for the period from October 1, 1959, to June 30, 1961. Provision is also made for a 1-cent floor stock tax for gasoline held on October 1, 1959, by dealers. Appropriate changes are also made in the credit and refund provisions in order to give assurance that the additional tax will not apply in the case of gasoline used for certain nonhighway purposes or by local transit systems, and also will not apply in the case of gasoline used on the farm for farming purposes. Table 2 shows that \$353 million is expected to be derived from these motor fuel taxes in the 9 months these motor fuel taxes will be effective in the fiscal year 1960, and that \$577 million is expected to be derived from these taxes in the full 12 months in which they are to be effective in the fiscal year 1961. These amounts expected to be received over the 2-year period from this revenue source plus \$75 million expected in the next year are expected to increase the total revenue raised in this manner to \$985 million.

TABLE 2.—Highway Trust Fund revenues, actual for fiscal years 1957-59 and estimated for 1960-73

[In millions of dollars]

	Revenues under present law							Revenues added by bill			Total present and new revenues available under bill		
	Gasoline and other motor fuels, 3 cents ¹ per gallon	Manufacturers' taxes on				Truck use tax, vehicles over 26,000 pounds	Interest	Total revenues available under present law	Gasoline and other motor fuels, 1 cent ¹ per gallon	Manufacturers' taxes on		Total revenues added by bill	
		Trucks, buses, and trailers, 5 percent	Tread rubber, 3 cents per pound	Tires, 8 cents or 5 cents per pound	Inner tubes, 9 cents per pound					Passenger automobiles, 5 percent			Automobile parts and accessories, 5 percent
1957	1,326	34	11	82	17	26	3	1,482				1,482	
1958	1,608	111	13	244	15	33	18	2,041				2,044	
1959	1,657	107	14	247	15	34	13	2,087				2,087	
1960	1,682	114	14	247	15	35	5	2,122	333		333	2,455	
1961	1,751	122	15	256	15	36		2,195	577		577	2,772	
1962	1,819	129	16	264	15	37		2,280	75	630	112	3,157	
1963	1,861	131	17	270	15	38		2,322		715	116	3,163	
1964	1,910	134	18	276	15	39		2,392		735	119	3,246	
1965	1,960	133	19	283	15	40		2,455				2,455	
1966	2,011	143	20	290	15	41		2,528				2,520	
1967	2,064	146	21	298	15	42		2,586				2,586	
1968	2,119	151	22	307	15	43		2,657				2,657	
1969	2,176	155	23	315	15	44		2,728				2,728	
1970	2,233	158	24	324	15	45		2,799				2,799	
1971	2,292	163	25	332	15	46		2,873				2,873	
1972	2,354	168	26	341	15	47		2,951				2,951	
1973 ²	291	12	4	21				328				328	

¹ Tax receipts less refunds.² From liabilities accrued prior to July 1, 1972, less floor stocks refunds where applicable.

For the fiscal years 1962, 1963, and 1964 the bill provides that 5 percentage points of the manufacturers tax on passenger cars, etc., and 5 percentage points of the manufacturers excise tax on automotive parts and accessories are to be allocated to the highway trust fund. The rates presently applicable in the case of these taxes are 10 percent in the case of passenger cars, etc., and 8 percent in the case of automotive parts and accessories but these rates are scheduled as of June 30, 1960, to be reduced to 7 percent and 5 percent, respectively. As is indicated by table 2, the tax on passenger cars is expected to increase the highway trust fund revenues from \$690 million to \$735 million in each of the 3 years in which it is applicable, or result in an overall increase for the 3-year period of \$2.14 billion. The portion of the tax on automotive parts and accessories allocated to the trust fund is expected to increase trust fund revenues by from \$112 million to \$119 million in each of the 3 years involved or in total result in an increase of \$347 million in highway trust fund revenues. The combined effect of these two additional revenue sources for the highway trust funds is an overall revenue increase for the fund of \$2.487 billion. Together with the \$985 million increase resulting from the higher motor fuel taxes, this is expected to result in an overall increase in highway trust fund revenues for the 5-year period involved of \$3.472 billion.

In addition to the new revenues provided by this bill for the 5-year period up to June 30, 1964, the highway trust fund revenues presently include a 3 cents-a-gallon tax applicable in the case of gasoline (although certain refunds for 1 cent of this tax are available in the case of specified nonhighway and local transit use and 3-cents-a-gallon credits in the case of farm uses are provided), a 3-cent-a-gallon tax with respect to diesel fuel (subject to similar credits) and a 3-cent-a-gallon tax with respect to special motor fuels. All of these taxes are scheduled as of June 30, 1972, to revert to 1½ cents a gallon at which time this revenue will go back to the general fund.

Present revenue sources of the highway trust fund also include the 8 cents a pound tax on highway tires, the 5 cents a pound tax on other tires and the 9 cents a pound tax on inner tubes, as well as the 3 cents a pound tax on tread rubber. In addition, half of the 10 percent manufacturers' tax on the sale of trucks, buses, trailers, etc., goes into the highway trust fund, as well as the entire \$1.50 per thousand pound tax (per year) on highway vehicles weighing more than 26,000 pounds. As indicated in table 2, these present law taxes are expected to raise slightly more than \$2.1 billion in revenue in 1960 and gradually increase to a level of nearly \$3 billion a year in 1972.

Tables 3 and 4 show the apportionments, expenditures, revenues, and highway trust fund balances from 1957 to 1972 with and without giving effect to the additional revenues provided by this bill. These tables, supplied by the Bureau of Public Roads, show that apportionments for the Interstate System under the bill can be \$1.8 billion for the fiscal year 1961, \$2 billion for 1962 and from \$1.6 billion to \$2 billion thereafter. This will enable the Interstate System to maintain an expenditure level at or near \$2 billion through the fiscal year 1964. Failure to enact this title, on the other hand, would mean

that no apportionments may be made under the Interstate System for 1961, and only \$500 million for 1962. With these apportionments the expenditures for the Interstate System could be expected to drop to about \$800 million in 1963.

TABLE 3.—Estimated status of highway trust fund under proposed legislation

(In millions of dollars)

Fiscal year	Apportionments		Expenditures		Revenues			Balance in the fund on June 30
	Interstate	Primary, secondary, and urban ¹	Interstate	Primary, secondary, and urban ¹	Present sources	Additional	Total	
From before 1957.....	140	965						
1957.....	1,175	832	208	758	1,482		1,482	+516
1958.....	1,700	859	675	836	2,044		2,044	+1,049
1959.....	2,200	1,388	1,501	1,112	2,087		2,087	+523
1960.....	2,500	910	2,025	1,110	2,122	333	2,455	-157
1961.....	1,800	883	1,755	910	2,195	577	2,772	-60
1962.....	2,000	884	2,000	897	2,280	877	3,157	+210
1963.....	600	935	2,000	911	2,332	931	3,263	+462
1964.....	1,600	935	2,200	936	2,392	854	3,246	+572
1965.....	1,600	935	1,575	936	2,455		2,455	+516
1966.....	1,600	935	1,600	936	2,520		2,520	+500
1967.....	1,800	935	1,650	935	2,580		2,580	+501
1968.....	1,800	935	1,725	935	2,657		2,657	+498
1969.....	1,900	935	1,775	935	2,728		2,728	+516
1970.....	2,000	935	1,875	935	2,799		2,799	+505
1971.....	1,986	935	1,925	935	2,873		2,873	+518
1972.....		935	2,684	935	2,951		2,951	0
After 1972.....			328		328		2,328	0
Total.....	27,401	16,071	27,401	14,952	38,831	3,472	42,303	0

¹ Includes emergency relief program, as well as special funds totaling \$503 million apportioned for 1959.

² Receipts on tax liabilities accrued prior to July 1, 1972

TABLE 4.—Estimated status of Highway Trust Fund under existing legislation

(In millions of dollars)

Fiscal year	Apportionments		Expenditures		Revenues	Balance in the fund on June 30
	Interstate	Primary, secondary, and urban ¹	Interstate	Primary, secondary, and urban ¹		
From before 1957.....	140	965				
1957.....	1,175	832	208	758	1,482	+516
1958.....	1,700	859	675	836	2,044	+1,049
1959.....	2,200	1,388	1,501	1,112	2,087	+523
1960.....	2,500	910	2,025	1,110	2,122	-490
1961.....	0	883	1,775	910	2,195	-980
1962.....	500	884	1,000	897	2,280	-597
1963.....	1,600	935	824	911	2,332	0
1964.....	1,600	935	1,456	936	2,392	0
1965.....	1,600	935	1,400	936	2,455	+110
1966.....	1,600	935	1,400	936	2,520	+303
1967.....	1,800	935	1,600	935	2,580	+454
1968.....	1,800	935	1,725	935	2,657	+481
1969.....	1,900	935	1,775	935	2,728	+469
1970.....	2,000	935	1,875	935	2,799	+458
1971.....	1,764	935	1,925	935	2,873	+471
1972.....		935	2,487	935	2,951	0
After 1972.....			328		328	0
Total.....	23,879	16,071	23,879	14,952	38,831	

¹ Includes emergency relief as well as special funds, totaling \$503,000,000 apportioned for 1959.

² Receipts on tax liabilities accrued prior to July 1, 1972.

IV. PROVISION TREATING WHOLESALE DISTRIBUTORS AS PRODUCERS FOR PURPOSES OF THE GASOLINE TAX

Under present law the Federal tax on gasoline is imposed on the producer or importer of the gasoline and is payable by him shortly after he makes the sale. This means that the refiner or major oil company on sales directly to a service station does not have to pay the tax until after its sale to the retailer, and in those cases where the oil company owns the service stations it does not have to pay the tax until after the gasoline is sold to the ultimate consumer. In the case of sales to a wholesale distributor or jobber, however, the tax must be paid at the time he makes his purchase.

The effect of this treatment under present law is to require the independent wholesale distributors to buy their gasoline on a taxpaid basis and, therefore, also to carry their inventory on a taxpaid basis. On the other hand, the major oil companies which sell directly to the service station, or own their own service stations and sell directly to the consumer, need not pay any tax on their inventories. It is understood that the average jobber had a permanent inventory of 50,000 gallons of gasoline which represents \$2,000 (with the 4 cents Federal gasoline tax) he has tied up in his inventory—a capital cost not borne by his larger integrated competitor.

In addition, since the gasoline tax is based upon the volume of gasoline the wholesale distributor purchases, he not only pays tax on the volume of gasoline he resells but also on the gasoline he loses through evaporation and spillage. Testimony on this point has indicated that jobber losses due to evaporation and spillage amount to upward of 2 percent of the total volume handled. On the basis of 1.2 million gallons of gasoline purchased annually by the average wholesale distributor, assuming 2 percent evaporation and spillage this means that with the 4-cent tax he will lose annually gasoline on which he has paid \$960 in Federal taxes. This is an annual payment which his integrated competitor does not have to make, since he pays tax only on the gasoline he sells and not on his losses through evaporation and spillage. This is a discrimination which many States have recognized and removed by granting the wholesale distributors special evaporation and spillage allowances.

To remove these discriminations this provision as amended by your committee provides that a wholesale distributor (as well as dealers who sell exclusively to producers) is to be treated as a producer; that is, the wholesaler distributor will be able to buy gasoline on a tax-free basis and pay the tax at the time he makes his sale.

While it is recognized that this will increase somewhat the number of taxpayers for the gasoline tax, it is believed this is an administrative cost well worth paying in order to remove the discriminations against the independent gasoline wholesale distributors. Moreover, it is believed that this new group of taxpayers will present relatively few problems in obtaining taxpayment since for the most part they already are taxpayers for the State gasoline taxes. Moreover, many of them may also be Federal taxpayers for purposes of the taxes on diesel fuel and special motor fuels. In addition, the administrative problems in this respect should be eased by the fact that the wholesale distributor must comply with the registration and bonding requirements provided by the Internal Revenue Service with respect to the gasoline tax

before he may be treated as a producer and buy gasoline on a tax-free basis.

Under the provision, as amended by your committee, wholesale distributors who may qualify as producers are defined as persons, not otherwise qualifying as producers, who sell gasoline to producers, to retailers, or to users who purchase in bulk quantities for delivery into bulk storage tanks, if they also elect to be registered and bonded for the gasoline tax.

This provision is effective beginning on January 1, 1960. Therefore, wholesale distributors, who become registered and bonded, are to be treated as producers of (and thus taxpayers with respect to) gasoline sold by them beginning on that date or any later date on which they become registered and bonded. However, they will be able to claim credit for gasoline previously purchased on which they have already paid tax.

It is estimated that this provision, based on a 4 cents per gallon gasoline tax, will result in an annual revenue loss of from about \$3 million to \$11 million based on estimated 1960 levels of income. In addition, there also will be a revenue loss, estimated at \$33 million, in the initial year of operation due to the shifting forward of the tax payment to the time the wholesale distributor makes his sale.

V. TECHNICAL EXPLANATION OF TITLE II, INTERNAL REVENUE CODE, AND HIGHWAY TRUST FUND AMENDMENTS

SECTION 201. TEMPORARY INCREASE IN MOTOR FUEL TAXES, ETC.

Increase in tax on gasoline

Subsection (a) of section 201 amends section 4081 of the 1954 code with respect to the present 3 cents a gallon excise tax sold by producers or importers. For the period from October 1, 1959, to June 30, 1961, inclusive, the rate of tax is increased to 4 cents per gallon, in lieu of the present 3 cents a gallon rate.

Increase in diesel fuel and special motor fuel taxes

Subsection (b) of section 201 amends section 4041 of the 1954 code to increase the present retail and use taxes on diesel fuel and on special motor fuel from 3 cents a gallon to 4 cents a gallon for the period from October 1, 1959, to June 30, 1961, inclusive. Corresponding changes are also made in the application of subsections (a) and (b) of section 4041 of the code, so that in those cases where the tax under paragraph (2) of those subsections is 1 cent a gallon, the tax would be increased to 2 cents a gallons for the same period.

1959 floor stocks tax on gasoline

Section 201(c)(1) adds a new paragraph (5) to section 4226(a) of the code to impose a floor stocks tax of 1 cent per gallon on gasoline held on October 1, 1959, by a dealer for sale. The new tax is the difference between the present tax (3 cents a gallon) and the tax imposed under this bill (4 cents a gallon). The floor stocks tax on gasoline will not apply to retail stocks of gasoline held at the place where intended to be sold at retail nor to gasoline held for sale by a producer or importer of gasoline. Under section 201(c)(2), a new clause is added to section 4226(d) of the code which provides, in effect, that the floor stocks tax imposed by section 4226(a)(5) of the code shall be paid at such time

after December 31, 1959, as may be prescribed by the Secretary of the Treasury or his delegate.

Section 201(c)(3) is a technical conforming amendment to conform a cross reference to a change made by section 201(c)(4).

1961 floor stocks refund on gasoline

Section 201(c)(4) amends section 6412(a) of the 1954 code by renumbering paragraph (3) thereof as paragraph (4) and inserting a new paragraph (3) which relates to a floor stocks refund with respect to gasoline held on July 1, 1961. New paragraph (3) of section 6412(a) provides for a floor stock refund, without interest, with respect to gasoline held by a dealer on July 1, 1961, and intended for sale at the time the gasoline tax is reduced from 4 cents a gallon to 3 cents a gallon (i.e., July 1, 1961) and will be in an amount equal to the difference between the tax paid by the producer or importer and the amount of tax made applicable to gasoline on July 1, 1961 (the tax reduction date).

The uniform procedure provided in section 6412(a) for filing claims for floor-stocks refund or credit is continued with respect to the floor stocks refunds mentioned above. Thus, the producer or importer who paid the tax must file a claim for floor-stocks refunds or credit on or before November 10, 1961, based on a request submitted to him before October 1, 1961, by the dealer who held the floor stocks of gasoline in respect of which refund or credit is claimed. Refund or credit will not be allowed unless within the time fixed for filing the claim (i.e., on or before November 10, 1961), reimbursement has been made to the dealer by the producer or importer or the written consent of the dealer to the allowance of the credit or refund has been obtained by the producer or importer. The new paragraph (3) also provides that no credit or refund shall be allowable with respect to gasoline in retail stocks held at the place where intended to be sold at retail nor with respect to gasoline held for sale by a producer (within the meaning of sec. 4081 of the 1954 code, as amended by the bill) or importer of gasoline.

Conforming changes in credit and refund provisions of 1954 code

Subsection (d) of section 201 makes certain changes in the credit and refund provisions of sections 6416(b)(2) and 6421 (a) and (b)(1)(A) of the 1954 code to reflect the increased rates in amount permitted as refunds or credits. Thus under section 6416(b)(2) (H), (I) and (J) (relating to diesel fuel and special motor fuels used for certain non-highway purposes or by local transit systems) if a tax of 4 cents a gallon had been paid with respect to the diesel fuel or special motor fuel which had been used in the manners described therein, the refund would be computed at a rate of 2 cents a gallon rather than 1 cent a gallon. Similarly, the refund under section 6421(a) is increased to 2 cents a gallon where tax with respect to the gasoline used as provided therein was paid at the rate of 4 cents a gallon. A similar adjustment is made to the maximum refund available under section 6421(b)(1) (relating to gasoline used for certain nonhighway purposes or by local transit systems.)

Collection of gasoline tax at wholesale distributor level

Subsection (e) of section 201 amends section 4082 of the 1954 code to make certain "wholesale distributors" statutory producers.

Specifically the definition of producer in the first sentence of section 4082(a) is amended by adding thereto wholesale distributors. A new subsection (d) is added to section 4082 to define wholesale distributor as any person who sells gasoline to producers, to retailers, or to users who purchase in bulk quantities for delivery into bulk storage tanks, and who is registered and bonded with regard to the tax imposed on gasoline. Your committee made a clarifying amendment in this provision to make it clear that the wholesale distributor may elect whether or not to register and be bonded. Your committee has also amended the House bill to specifically include a "dealer who sells exclusively to producers" in the definition of producer as is provided under existing law. The House bill excluded the definition of producer because of the scope of the definition of "wholesale distributor." Your committee believed, however, that it was clearer to include such dealers specifically.

Thus under this amendment, a wholesaler who either sells to producers (including persons who are producers by reason of the amendment), to retailers, or to users who purchase in bulk quantity may, if he desires to do so, become a "producer" for purposes of the tax by registering and giving bond. As a producer, he incurs liability upon his sale of gasoline and in turn he may purchase gasoline tax free. The test in 4082(d)(1) is not an exclusive test so that a "wholesale distributor" may sell to either or all of the types of customers enumerated therein, in addition to being able to sell to anyone else.

The last sentence in the new section 4082(d) is added to make clear that anyone who qualifies as a producer, otherwise than a wholesale distributor (i.e., a refiner, compounder, blender, or actual producer), may not claim that he is a "wholesale distributor" with an option as to whether or not he wishes to qualify as a producer by registering and giving bond.

Wholesalers who qualify as producers in accordance with the provisions of the new subsection (d) of section 4082 often will have tax-paid stocks of gasoline on hand at the time they so qualify. A wholesaler who has so qualified, and who incurs tax liability on his sale of tax-paid stock, will be entitled to a credit against such tax liability for the tax previously paid on such gasoline. For the purposes of this provision, a wholesaler will be assumed to sell gasoline which is on hand at the time of his qualifying under section 4101 before selling gasoline subsequently acquired. The treatment outlined here follows the practice under present law where a producer acquires tax-paid gasoline and resells it.

The amendments made by section 201(e) become effective January 1, 1960.

SECTION 202. TRANSFERS TO HIGHWAY TRUST FUND

Transfers to trust fund

Section 202(a) amends section 209(c) of the Highway Revenue Act of 1956 by renumbering paragraphs (2) and (3) as paragraphs (3) and (4), respectively, and by adding a new paragraph (2). This new paragraph appropriates to the trust fund amounts equivalent to the taxes which would have been received in the Treasury under section 4061(a)(2) and (b) (tax on passenger automobiles and parts and accessories) after June 30, 1961, and before July 1, 1964, had the

applicable rate of tax been 5 percent in lieu of the rate then applicable. Under this provision, if any such tax received in the Treasury during any applicable period was imposed at a rate, for example, of 7 percent of the sales price, then the amount appropriated to the trust fund with respect to such period is five-sevenths of the amount of such tax received in the Treasury.

Conforming amendments

Section 202(b) makes conforming amendments to section 209 of the Highway Revenue Act of 1956. Under the amendment made by paragraph (2), the Secretary of the Treasury will from time to time transfer from the trust fund to the general fund of the Treasury amounts equivalent to the floor stocks refunds made before July 1, 1962, with respect to gasoline held by dealers on July 1, 1961 (see explanation of section 201(c)(4)). This provision conforms to the treatment provided by existing law in the case of floor stocks refunds on gasoline held on July 1, 1972.

VI. CHANGES IN EXISTING LAW

In compliance with subsection 4 of rule XXIX of the Standing Rules of the Senate, changes in existing law made by title II of the bill, as reported, 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):

SUBSECTIONS (c) AND (f) OF SECTION 209 OF THE HIGHWAY REVENUE ACT OF 1956

SEC. 209. HIGHWAY TRUST FUND.

* * * * *

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

(1) In GENERAL.—There is hereby appropriated to the Trust Fund, out of any money in the Treasury not otherwise appropriated, amounts equivalent to the following percentages of the taxes received in the Treasury before July 1, 1972, under the following provisions of the Internal Revenue Code of 1954 (or under the corresponding provisions of prior revenue laws)—

(A) 100 percent of the taxes received after June 30, 1956, under sections 4041 (taxes on diesel fuel and special motor fuels), 4071(a)(4) (tax on tread rubber), and 4081 (tax on gasoline);

(B) 20 percent of the tax received after June 30, 1956, and before July 1, 1957, under section 4061(a)(1) (tax on trucks, buses, etc.);

(C) 50 percent of the tax received after June 30, 1957, under section 4061(a)(1) (tax on trucks, buses, etc.);

(D) 37½ percent of the tax received after June 30, 1956, and before July 1, 1957, under section 4071(a)(1) (tax on tires of the type used on highway vehicles);

(E) 100 percent of the taxes received after June 30, 1957, under section 4071(a) (1), (2), and (3) (taxes on tires of the type used on highway vehicles, other tires, and inner tubes);

(F) 100 percent of the tax received under section 4481 (tax on use of certain vehicles); and

(G) 100 percent of the floor stocks taxes imposed by section 4226(a).

In the case of any tax described in subparagraph (A), (B), or (D), amounts received during the fiscal year ending June 30, 1957, shall be taken into account only to the extent attributable to liability for tax incurred after June 30, 1956.

(2) *EXCISE TAX ON AUTOMOBILES, PARTS AND ACCESSORIES, ETC.*—There is hereby appropriated to the Trust Fund, out of any money in the Treasury not otherwise appropriated, amounts equivalent to that portion of the taxes received in the Treasury after June 30, 1961, and before July 1, 1964, under subsections (a)(2) (tax on passenger automobiles, etc.) and (b) (tax on parts and accessories) of section 4061 of the Internal Revenue Code of 1954 which is equal to the amount which would have been so received if the tax rate under each such subsection had been 5 percent in lieu of the applicable rate.

[(2)] (3) *LIABILITIES INCURRED BEFORE JULY 1, 1972, FOR NEW OR INCREASED TAXES.*—There is hereby appropriated to the Trust Fund, out of any money in the Treasury not otherwise appropriated, amounts equivalent to the following percentages of the taxes which are received in the Treasury after June 30, 1972, and before July 1, 1973, and which are attributable to liability for tax incurred before July 1, 1972, under the following provisions of the Internal Revenue Code of 1954—

(A) 100 percent of the taxes under sections 4041 (taxes on diesel fuel and special motor fuels), 4071(a)(4) (tax on tread rubber), and 4081 (tax on gasoline);

(B) 20 percent of the tax under section 4061(a)(1) (tax on trucks, buses, etc.);

(C) 37½ percent of the tax under section 4071(a)(1) (tax on tires of the type used on highway vehicles); and

(D) 100 percent of the tax under section 4481 (tax on use of certain vehicles).

[(3)] (4) *METHOD OF TRANSFER.*—The amounts appropriated by paragraphs [(1) and (2)] (1), (2), and (3) shall be transferred at least monthly from the general fund of the Treasury to the Trust Fund on the basis of estimates by the Secretary of the Treasury of the amounts, referred to in paragraphs (1) and (2), received in the Treasury. Proper adjustments shall be made in the amounts subsequently transferred to the extent prior estimates were in excess of or less than the amounts required to be transferred.

* * * * *

(f) *EXPENDITURES FROM TRUST FUND.*—

(1) *FEDERAL-AID HIGHWAY PROGRAM.* Amounts in the Trust Fund shall be available, as provided by appropriations Acts, for making expenditures after June 30, 1956, and before July 1, 1972, to meet those obligations of the United States heretofore or hereafter incurred under the Federal-Aid Road Act approved July 11, 1916, as amended and supplemented, which are attributable to Federal-aid highways (including those portions of general administrative expenses of the Bureau of Public Roads payable from such appropriations).

(2) **REPAYMENT OF ADVANCES FROM GENERAL FUND.**—Advances made pursuant to subsection (d) shall be repaid, and interest on such advances shall be paid, to the general fund of the Treasury when the Secretary of the Treasury determines that moneys are available in the Trust Fund for such purposes. Such interest shall be at rates computed in the same manner as provided in subsection (e) (2) for special obligations and shall be compounded annually.

(3) **TRANSFERS FROM TRUST FUND FOR GASOLINE USED ON FARMS AND FOR CERTAIN OTHER PURPOSES.**—The Secretary of the Treasury shall pay from time to time from the Trust Fund into the general fund of the Treasury amounts equivalent to the amounts paid before July 1, 1973, under sections 6420 (relating to amounts paid in respect of gasoline used on farms) and 6421 (relating to amounts paid in respect of gasoline used for certain nonhighway purposes or by local transit systems) of the Internal Revenue Code of 1954 on the basis of claims filed for periods beginning after June 30, 1956, and ending before July 1, 1972.

(4) **1972 FLOOR STOCKS REFUNDS.**—The Secretary of the Treasury shall pay from time to time from the Trust Fund into the general fund of the Treasury amounts equivalent to the following percentages of the floor stocks refunds made before July 1, 1973, under section 6412(a)(2) of the Internal Revenue Code of 1954—

(A) 40 percent of the refunds in respect of articles subject to the tax imposed by section 4061(a)(1) of such Code (trucks, buses, etc.);

(B) 100 percent of the refunds in respect of articles subject to tax under section 4071(a)(1) or (4) of such Code (tires of the type used on highway vehicles and tread rubber); and

(C) 66½ percent of the refunds in respect of gasoline subject to tax under section 4081 of such Code.

(5) **1961 FLOOR STOCKS REFUNDS ON GASOLINE.**—*The Secretary of the Treasury shall pay from time to time from the Trust Fund into the general fund of the Treasury amounts equivalent to the floor stocks refunds made before July 1, 1962, under section 6412(a)(3).*

INTERNAL REVENUE CODE OF 1954

Subchapter E—Special Fuels

Sec. 4041. Imposition of tax.

Sec. 4042. Cross reference.

SEC. 4041. IMPOSITION OF TAX.

(a) **DIESEL FUEL.**—There is hereby imposed a tax of 3 cents a gallon upon any liquid (other than any product taxable under section 4081)—

(1) sold by any person to an owner, lessee, or other operator of a diesel-powered highway vehicle, for use as a fuel in such vehicle; or

(2) used by any person as a fuel in a diesel-powered highway vehicle unless there was a taxable sale of such liquid under paragraph (1).

In the case of a liquid taxable under this subsection sold for use or used as a fuel in a diesel-powered highway vehicle (A) which (at the time of such sale or use) is not registered, and is not required to be registered, for highway use under the laws of any State or foreign country, or (B) which, in the case of a diesel-powered highway vehicle owned by the United States, is not used on the highway, the tax imposed by paragraph (1) or by paragraph (2) shall be 2 cents a gallon [in lieu of 3 cents a gallon]. If a liquid on which tax was imposed by paragraph (1) at the rate of 2 cents a gallon by reason of the preceding sentence is used as a fuel in a diesel-powered highway vehicle (A) which (at the time of such use) is registered, or is required to be registered, for highway use under the laws of any State or foreign country, or (b) which, in the case of a diesel-powered highway vehicle owned by the United States, is used on the highway, a tax of 1 cent a gallon shall be imposed under paragraph (2).

(b) SPECIAL MOTOR FUELS.—There is hereby imposed a tax of 3 cents a gallon upon benzol, benzene, naphtha, liquefied petroleum gas, or any other liquid (other than kerosene, gas, oil, or fuel oil, or any product taxable under section 4081 or subsection (a) of this section)—

(1) sold by any person to an owner, lessee, or other operator of a motor vehicle, motorboat, or airplane for use as a fuel for the propulsion of such motor vehicle, motorboat, or airplane, or

(2) used by any person as a fuel for the propulsion of a motor vehicle, motorboat, or airplane unless there was a taxable sale of such liquid under paragraph (1).

In the case of a liquid taxable under this subsection sold for use or used otherwise than as a fuel for the propulsion of a highway vehicle (A) which (at the time of such sale or use) is registered, or is required to be registered, for highway use under the laws of any State or foreign country, or (B) which, in the case of a highway vehicle owned by the United States, is used on the highway, the tax imposed by paragraph (1) or by paragraph (2) shall be 2 cents a gallon [in lieu of 3 cents a gallon]. If a liquid on which tax was imposed by paragraph (1) at the rate of 2 cents a gallon by reason of the preceding sentence is used as a fuel for the propulsion of a highway vehicle (A) which (at the time of such use) is registered, or is required to be registered, for highway use under the laws of any State or foreign country, or (B) which, in the case of a highway vehicle owned by the United States, is used on the highway, a tax of 1 cent a gallon shall be imposed under paragraph (2).

(c) RATE REDUCTION.—On and after July 1, 1972—

(1) the taxes imposed by this section shall be 1½ cents a gallon; and

(2) the second and third sentences of subsections (a) and (b) shall not apply.

(d) EXEMPTION FOR FARM USE.—

(1) EXEMPTION.—Under regulations prescribed by the Secretary or his delegate—

(A) no tax shall be imposed under subsection (a)(1) or (b)(1) on the sale of any liquid sold for use on a farm for farming purposes, and

(B) no tax shall be imposed under subsection (a)(2) or (b)(2) on the use of any liquid used on a farm for farming purposes.

(2) **USE ON A FARM FOR FARMING PURPOSES.**—For purposes of paragraph (1) of this subsection, use on a farm for farming purposes shall be determined in accordance with paragraphs (1), (2), and (3) of section 6420(c).

(c) **EXEMPTION FOR USE AS SUPPLIES FOR VESSELS.**—Under regulations prescribed by the Secretary or his delegate, no tax shall be imposed under subsection (b) in the case of any fuel sold for use or used as supplies for vessels or aircraft (within the meaning of section 4221(d)(3)).

(f) **TEMPORARY INCREASES IN TAX.**—On and after October 1, 1959, and before July 1, 1961—

(1) if (without regard to this subsection) the tax imposed by subsection (a) or (b) is 3 cents a gallon, the tax imposed by such subsection shall be 4 cents a gallon, and

(2) if (without regard to this subsection) the tax imposed under paragraph (2) of subsection (a) or (b) is 1 cent a gallon, the tax imposed under such paragraph shall be 2 cents a gallon.

* * * * *

PART III—PETROLEUM PRODUCTS

Subpart A. Gasoline.

Subpart B. Lubricating oil.

Subpart C. Special provisions applicable to petroleum products.

Subpart A—Gasoline

Sec. 4081. Imposition of tax.

Sec. 4082. Definitions.

Sec. 4083. Exemption of sales to producer.

Sec. 4084. Cross references.

SEC. 4081. IMPOSITION OF TAX.

(a) **IN GENERAL.**—There is hereby imposed on gasoline sold by the producer or importer thereof, or by any producer of gasoline, a tax of 3 cents a gallon.

(b) **RATE REDUCTION.**—On and after July 1, 1972, the tax imposed by this section shall be 1½ cents a gallon.

(c) **TEMPORARY INCREASE IN TAX.**—On and after October 1, 1959, and before July 1, 1961, the tax imposed by this section shall be 4 cents a gallon.

SEC. 4082. DEFINITIONS.

(a) **PRODUCER.**—As used in this subpart, the term “producer” includes a refiner, compounder, [or blender, and a dealer selling gasoline exclusively to producers of gasoline] blender, or wholesaler distributor, and a dealer selling gasoline exclusively to producers of gasoline, as well as a producer. Any person to whom gasoline is sold tax-free under this subpart shall be considered the producer of such gasoline.

(b) **GASOLINE.**—As used in this subpart, the term “gasoline” means all products commonly or commercially known or sold as gasoline (including casinghead and natural gasoline).

(c) **CERTAIN USES DEFINED AS SALES.**—If a producer or importer uses (otherwise than in the production of gasoline or of special motor fuels referred to in section 4041 (b)) gasoline sold to him free of tax, or produced or imported by him, such use shall for the purposes of this chapter be considered a sale. (Source: Sec. 3412(b), 1939 Code, substantially unchanged.)

(d) **WHOLESALE DISTRIBUTOR.**—As used in subsection (a), the term “wholesale distributor” includes any person who—

(1) sells gasoline to producers, to retailers, or to users who purchase in bulk quantities for delivery into bulk storage tanks, and

(2) elects to register and give a bond with respect to the tax imposed by section 4081.

Such term does not include any person who (excluding the term “wholesale distributor” from subsection (a)) is a producer or importer.

* * * * *

SEC. 4226. FLOOR STOCKS TAXES.

(a) **IN GENERAL.**—

(1) **1956 TAX ON TRUCKS, TRUCK TRAILERS, BUSES, ETC.**—On any article subject to tax under section 4061(a)(1) (relating to tax on trucks, truck trailers, buses, etc.) which, on July 1, 1956, is held by a dealer for sale, there is hereby imposed a floor stocks tax at the rate of 2 percent of the price for which the article was purchased by such dealer. If the price for which the article was sold by the manufacturer, producer, or importer is established to the satisfaction of the Secretary or his delegate, then in lieu of the amount specified in the preceding sentence, the tax imposed by this paragraph shall be at the rate of 2 percent of the price for which the article was sold by the manufacturer, producer, or importer.

(2) **1956 TAX ON TIRES OF THE TYPE USED ON HIGHWAY VEHICLES.**—On tires subject to tax under section 4071(a)(1) (as amended by the Highway Revenue Act of 1956) which, on July 1, 1956, are held—

(A) by a dealer for sale,

(B) for sale on, or in connection with, other articles held by the manufacturer, producer, or importer of such other articles, or

(C) for use in the manufacture or production of other articles,

there is hereby imposed a floor stocks tax at the rate of 3 cents a pound. The tax imposed by this paragraph shall not apply to any tire which is held for sale by the manufacturer, producer, or importer of such tire or which will be subject under section 4218(a)(2) or 4219 to the manufacturers excise tax on tires.

(3) **1956 TAX ON TREAD RUBBER.**—On tread rubber subject to tax under section 4071(a)(4) (as amended by the Highway Revenue Act of 1956) which, on July 1, 1956, is held by a dealer, there is hereby imposed a floor stocks tax at the rate of 3 cents a pound. The tax imposed by this paragraph shall not apply in the case of

any person if such person establishes, to the satisfaction of the Secretary or his delegate, that all tread rubber held by him on July 1, 1956, will be used otherwise than in the recapping or re-treading of tires of the type used on highway vehicles (as defined in section 4072(c)).

(4) 1956 TAX ON GASOLINE.—On gasoline subject to tax under section 4081 which, on July 1, 1956, is held by a dealer for sale, there is hereby imposed a floor stocks tax at the rate of 1 cent a gallon. The tax imposed by this paragraph shall not apply to gasoline in retail stocks held at the place where intended to be sold at retail, nor to gasoline held for sale by a producer or importer of gasoline.

(5) 1959 TAX ON GASOLINE.—On gasoline subject to tax under section 4081 which, on October 1, 1959, is held by a dealer for sale, there is hereby imposed a floor stocks tax at the rate of 1 cent a gallon. The tax imposed by this paragraph shall not apply to gasoline in retail stocks held at the place where intended to be sold at retail, nor to gasoline held for sale by a producer or importer of gasoline.

* * * * *

(c) MEANING OF TERMS.—For purposes of subsection (a), the terms “dealer” and “held by a dealer” have the meaning assigned to them by section 6412(a) [(3)] (4).

(d) DUE DATE OF TAXES.—The taxes imposed by subsection (a) shall be paid at such time after September 30, 1956, as may be prescribed by the Secretary or his delegate; except that the tax imposed by paragraph (5) shall be paid at such time after December 31, 1959, as may be prescribed by the Secretary or his delegate.

* * * * *

SEC. 6412. FLOOR STOCKS REFUNDS.

(a) IN GENERAL.—

(1) PASSENGER AUTOMOBILES, ETC.—Where before July 1, 1960, any article subject to the tax imposed by section 4061(a)(2) 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 July 1, 1960, if claim for such credit or refund is filed with the Secretary or his delegate on or before November 10, 1960, based upon a request submitted to the manufacturer, producer or importer before October 1, 1960, by the dealer who held the article in respect of which the credit or refund is claimed, and, on or before November 10, 1960, 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.

(2) TRUCKS AND BUSES, TIRES, TREAD RUBBER, AND GASOLINE.—Where before July 1, 1972, any article subject to the tax imposed by section 4061(a)(1), 4071(a)(1) or (4), 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 (or, in the case of tread rubber, is intended for sale or is held for use), 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 July 1, 1972, if claim for such credit or refund is filed with the Secretary or his delegate on or before November 10, 1972, based upon a request submitted to the manufacturer, producer, or importer before October 1, 1972, by the dealer who held the article in respect of which the credit or refund is claimed, and, on or before November 10, 1972, 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 gasoline in retail stocks held at the place where intended to be sold at retail, nor with respect to gasoline held for sale by a producer or importer of gasoline.

(3) *GASOLINE HELD ON JULY 1, 1961.*—Where before July 1, 1961; any gasoline subject to the tax imposed by section 4081 has been sold by the producer or importer and on such date is held by a dealer and is intended for sale, there shall be credited or refunded (without interest) to the producer or importer an amount equal to the difference between the tax paid by such producer or importer on his sale of the gasoline and the amount of tax made applicable to such gasoline on and after July 1, 1961, if claim for such credit or refund is filed with the Secretary or his delegate on or before November 10, 1961, based upon a request submitted to the producer or importer before October 1, 1961, by the dealer who held the gasoline in respect of which the credit or refund is claimed, and, on or before November 10, 1961, reimbursement has been made to such dealer by such producer or importer for the tax reduction on such gasoline 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 gasoline in retail stocks held at the place where intended to be sold at retail, nor with respect to gasoline held for sale by a producer or importer of gasoline.

[(3)] (4) DEFINITIONS.—For purposes of this section—

(A) The term “dealer” includes a wholesaler, jobber, distributor, or retailer, or, in the case of tread rubber subject to tax under section 4071(a)(4), includes any person (other than the manufacturer, producer, or importer thereof) who holds such tread rubber for sale or use.

(B) An article shall be considered as “held by a dealer” if title thereto has passed to such dealer (whether or not delivery to him has been made), and if for purposes of consumption title to such article or possession thereof has not at any time been transferred to any person other than a dealer.

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SEC. 6416. CERTAIN TAXES ON SALES AND SERVICES.

* * * * *

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

* * * * *

(2) SPECIFIED USES AND REALES.—The tax paid under chapter 32 (or under section 4041(a)(1) or (b)(1)) in respect of any article shall be deemed to be an overpayment if such article was, by any person—

(A) exported (except in any case to which subsection (g) applies),

(B) used or sold for use as supplies for vessels or aircraft;

(C) sold to a State or local government for the exclusive use of a State or local government;

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

(E) resold to a manufacturer or producer for use by him as provided in subparagraph (A) or (B) of paragraph (3);

(F) in the case of a tire, inner tube, or receiving set, resold for use as provided in subparagraph (C) or (D) of paragraph (3) and the other article referred to in such subparagraph is by any person exported or sold as provided in such subparagraph;

(G) in the case of a liquid taxable under section 4041, sold for use as fuel in a diesel-powered highway vehicle or as fuel for the propulsion of a motor vehicle, motorboat, or airplane, if (i) the vendee used such liquid otherwise than as fuel in such a vehicle, motorboat, or airplane or resold such liquid, or (ii) such liquid was (within the meaning of paragraphs (1), (2), and (3) of section 6420(c)) used on a farm for farming purposes;

(H) in the case of a liquid in respect of which tax was paid under section 4041 at the rate of 3 cents or 4 cents a gallon, used during any calendar quarter in vehicles while engaged in furnishing scheduled common carrier public passenger land transportation service along regular routes; except that (i) this subparagraph shall apply only if the 60 percent passenger fare revenue test set forth in section 6421(b)(2) is met with respect to such quarter, and (ii) the amount of such overpayment for such quarter shall be an amount determined by multiplying 1 cent (where tax was paid at the 3-cent rate) or 2 cents (where tax was paid at the 4-cent rate) for each gallon of liquid so used by the percentage which such person's tax-exempt passenger fare revenue (as defined in section 6421(d)(2)) derived from such scheduled service during such quarter was of his total passenger fare revenue (not including the tax imposed by section 4261, relating to the tax on transportation of persons) derived from such scheduled service during such quarter:

(I) in the case of a liquid in respect of which tax was paid under section 4041(a)(1) at the rate of 3 cents *or 4 cents* a gallon, used or resold for use as a fuel in a diesel-powered highway vehicle (i) which (at the time of such use or resale) is not registered, and is not required to be registered, for highway use under the laws of any State or foreign country, or (ii) which, in the case of a diesel-powered highway vehicle owned by the United States, is not used on the highway; except that the amount of any overpayment by reason of this subparagraph shall not exceed an amount computed at the rate of 1 cent a gallon *where tax was paid at the 3-cent rate or at the rate of 2 cents a gallon where tax was paid at the 4-cent rate*;

(J) in the case of a liquid in respect of which tax was paid under section 4041(b)(1) at the rate of 3 cents *or 4 cents* a gallon, used or resold for use otherwise than as a fuel for the propulsion of a highway vehicle (i) which (at the time of such use or resale) is registered, or is required to be registered, for highway use under the laws of any State or foreign country, or (ii) which, in the case of a highway vehicle owned by the United States, is used on the highway; except that the amount of any overpayment by reason of this subparagraph shall not exceed an amount computed at the rate of 1 cent a gallon *where tax was paid at the 3-cent rate or at the rate of 2 cents a gallon where tax was paid at the 4-cent rate*;

(K) in the case of any article taxable under section 4061(b) (other than spark plugs and storage batteries), used or sold for use as repair or replacement parts or accessories, for farm equipment (other than equipment taxable under section 4061(a));

(L) in the case of tread rubber in respect of which tax was paid under section 4071(a)(4), used or sold for use otherwise than in the recapping or retreading of tires of the type used on highway vehicles (as defined in section 4072(c)), unless credit or refund of such tax is allowable under subsection (b)(3);

(M) in the case of gasoline, used or sold for use in production of special motor fuels referred to in section 4041(b);

(N) in the case of lubricating oil, used or sold for non-lubricating purposes;

(O) in the case of lubricating oil in respect of which tax was paid at the rate of 6 cents a gallon, used or sold for use as cutting oils (within the meaning of section 4092(b)); except that the amount of such overpayment shall not exceed an amount computed at the rate of 3 cents a gallon;

(P) in the case of any musical instrument taxable under section 4151, sold to a religious institution for exclusively religious purposes;

(Q) in the case of unexposed motion picture film, used or sold for use in the making of newsreel motion picture film.

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SEC. 6421. GASOLINE USED FOR CERTAIN NONHIGHWAY PURPOSES OR BY LOCAL TRANSIT SYSTEMS.

(a) **NONHIGHWAY USES.**—If gasoline is used otherwise than as a fuel in a highway vehicle (1) which (at the time of such use) is registered, or is required to be registered, for highway use under the laws of any State or foreign country, or (2) which, in the case of a highway vehicle owned by the United States, is used on the highway, the Secretary or his delegate shall pay (without interest) to the ultimate purchaser of such gasoline an amount equal to 1 cent for each gallon of gasoline so used *on which tax was paid at the rate of 3 cents a gallon and 2 cents for each gallon of gasoline so used on which tax was paid at the rate of 4 cents a gallon.*

(b) **LOCAL TRANSIT SYSTEMS.**—

(1) **ALLOWANCE.**—If gasoline is used during any calendar quarter in vehicles while engaged in furnishing scheduled common carrier public passenger land transportation service along regular routes, the Secretary or his delegate shall, subject to the provisions of paragraph (2), pay (without interest) to the ultimate purchaser of such gasoline the amount determined by multiplying—

(A) 1 cent for each gallon of gasoline so used *on which tax was paid at the rate of 3 cents a gallon and 2 cents for each gallon of gasoline so used on which tax was paid at the rate of 4 cents a gallon,* by

(B) the percentage which the ultimate purchaser's tax-exempt passenger fare revenue derived from such scheduled service during such quarter was of his total passenger fare revenue (not including the tax imposed by section 4261, relating to the tax on transportation of persons) derived from such scheduled service during such quarter.

(2) **LIMITATION.**—Paragraph (1) shall apply in respect of gasoline used during any calendar quarter only if at least 60 percent of the total passenger fare revenue (not including the tax imposed by section 4261, relating to the tax on transportation of persons) derived during such quarter from scheduled service described in paragraph (1) by the person filing the claim was attributable to tax-exempt passenger fare revenue derived during such quarter by such person from such scheduled service.

MINORITY VIEWS

The bill, H.R. 8678, is deficient in the following respects:

(1) It fails to provide for the prompt payment to the several States of the full amounts which the Federal Government is already obligated to pay.

(2) It fails to provide for the continuation of construction of the National System of Interstate and Defense Highways at an annual rate which will permit completion of this program in accordance with the schedule set forth in the Highway Act of 1956.

(3) It imposes an inequitable and unjustified tax burden on highway users who are already paying direct excise taxes substantially in excess of the cost of the Federal-aid highway program.

The 1-cent additional sales tax on each gallon of gasoline, as imposed by the bill, will produce revenues in fiscal 1960 in the amount of \$333 million. This will fall short by approximately \$160 million of providing sufficient funds for payment to the States of vouchers expected to become due and payable prior to July 1, 1960. The administration proposes, according to testimony before the committee, to meet this problem by deferring payment beyond the due date—in other words, by default on the part of the Federal Government to the extent of \$160 million, at the expense of the States.

The act of 1956 provides that a National System of Interstate and Defense Highways be constructed by 1972 to design standards adequate to meet the traffic needs in 1975. This cannot be accomplished if annual apportionments fall below the level of \$2.5 billion now authorized for fiscal 1961. H.R. 8678 would permit the apportionment for fiscal 1961 of only \$1.8 billion and only \$2 billion for fiscal 1962. Moreover, administration witnesses testified that these amounts will be subjected to further stretchout by the exercise of administrative discretion under a procedure described as "contract control," a procedure the legal authority for which was not satisfactorily explained.

The bill does not provide assurance that apportionments for the Interstate System in any amount whatever can be made for fiscal 1963. It proposes a stretchout in this program, which is essential both from the standpoint of defense and from the standpoint of our economy, which would delay completion of the program until after 1975, thus making the system obsolete before it is completed.

The "solution" to the highway problem proposed by H.R. 8678 is not only inadequate, it is also grossly inequitable. Highway users will pay to the Federal Government in this fiscal year in excise taxes already levied an amount which will exceed by \$1.6 billion the amount which will be devoted to the highway program. In addition they pay all other taxes paid by taxpayers generally. Yet it is now proposed that an additional sales tax of 1 cent per gallon be levied on each gallon of gasoline sold. State and Federal taxes on gasoline, an essential commodity, already, in many States, equal the cost of

the fuel at the refinery, thus making a tax of 100 percent on manufactured cost. No other commodity essential to our economy is taxed so heavily. Justification for the proposed increased levy, on either economic or equitable grounds, is wholly lacking. If additional sources of revenue for the Federal Government must be found, no valid reason has been advanced for selecting the already disproportionately burdened highway user as the sole source from which it can be obtained.

Our highway program must be continued in accordance with the time schedule set forth in the Highway Act of 1956 and in accordance with the specific declaration of policy in that act. These highways, when constructed, will benefit the entire economy and will contribute to national defense. Highway users are by no means the sole beneficiary of the program. They are already paying more than the cost of the program. They should not be further penalized under threat of collapse of the program, to the detriment of the entire economy.

ALBERT GORE.

RUSSELL B. LONG.

EUGENE J. McCARTHY.

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INDIVIDUAL VIEWS OF SENATOR DOUGLAS ON THE BILL
H.R. 8678

I concur in most of the statements of fact contained in the minority views.

I favor the substitution of a repeal of the 4-percent dividend tax credit for the proposed 1-cent increase in the gasoline tax. If this fails, I favor the rescission of general appropriation bills by 1 percent, excluding those programs for which the full amount appropriated is required by law to be paid. I would prefer a gasoline tax increase of one-half cent per gallon over an increase of 1 cent.

The bill as reported, is, in my view, of questionable justification.

PAUL H. DOUGLAS.

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