

# MEMORANDUM

**From:** Senate Finance Committee  
**Date:** July 28, 2005  
**Subject:** Conference Title of Transportation Reauthorization Bill

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The following is an overview of the Conference Title to the H.R. 3, the Safe, Accountable, Flexible, Efficient Transportation Equity Act of 2005 (SAFETEA).

## **SUBTITLE I TRUST FUND REAUTHORIZATION**

**A.** These provisions extend expenditure authority for the Highway Trust Fund (HTF) and Aquatic Resources Trust Fund through September 30, 2009 (September 29 for the Highway Account of the Highway Trust Fund). Motor fuel excise taxes, and all three non-fuel excise taxes are extended at present law rates through September 30, 2011. The General Fund retention of 4.8 cents/gallon on motorboat and small engine gasoline is not extended.

*Cost: none*

## **SUBTITLE II EXCISE TAX REFORM**

### **Part 1. Highway Excise Taxes**

**Modification of gas guzzler tax.** This provision treats limousines under the same rules as other vehicles for purposes of the gas guzzler tax. Under present law, limousines are taxed regardless of the weight of the vehicle. Other vehicles are not taxed if their gross vehicle weight is over 6,000 pounds. This provision exempts limousines over 6,000 pounds from the gas guzzler tax. *Cost: \$46 million over 10 years.*  
*Effective Date: October 1, 2005*

**Exclusion of tractors weighing 19,500 pounds or less from federal excise tax on heavy trucks and trailers.** Present law imposes a 12% excise tax on the first retail sale of tractors of the kind chiefly used for highway transportation in combination with a trailer or semi-trailer, and which do not carry cargo on the same chassis as the engine. This provision would clarify the definition of a tractor by specifying that only tractors weighing in excess of 19,500 pounds are subject to the federal excise tax. In order to be exempt the gross combined weight of the tractor if combined with a towed vehicle must not exceed 33,000 pounds.

*Cost: \$31 million over 10 years*

*Effective Date: Sales after September 30, 2005*

**Volumetric excise tax credit for alternative fuels.** Expands the ethanol excise tax credit to include other alternative fuels that displace conventional petroleum products. Alternative fuels include natural gas, liquid petroleum gas, P Series fuels, diesel from coal, and liquid hydrocarbons derived from biomass. Under present law, most of the

alternative fuels pay a partial reduced rate of excise tax. The amendment will increase the tax to the same level of tax as gasoline and diesel. In addition, alternative fuels will be entitled to a tax credit equal to 50 cents per gallon. *Cost: \$44 million over 10 years*  
*Effective Date: Sale, use, or removal after September 30, 2006*

## **Part 2. Aquatic Excise Taxes**

**Reform of Aquatic Resources Trust Fund.** This provision reforms the Aquatic Resources Trust Fund. Presently, the fund includes two accounts—the Sport Fish Restoration Account and the Boat Safety Account. The fund supports several programs, including fish restoration, coastal wetlands protection, and state boating safety programs. This provision eliminates the Boat Safety Account and transforms the Sport Fish Restoration Account into the Sport Fish Restoration and Boating Trust Fund. This provision operates in conjunction with language in the Commerce title of the Transportation Reauthorization legislation to implement reforms supported by the beneficiaries of Aquatic Resources Trust Fund. *Cost: none*  
*Effective Date: October 1, 2005*

**Repeal of harbor maintenance tax on exports.** Current law provides a 0.125% tax on cargo loaded or unloaded at U.S. ports. The Supreme Court has held that the harbor maintenance tax is unconstitutional as applied to exported cargo. This provision amends the tax code to exempt exports from the tax. *Cost: none*  
*Effective Date: before, on, and after enactment*

**Cap on excise tax on certain fishing equipment.** Under current law, a 10% excise tax is imposed on fishing equipment. This provision caps the 10% on fishing rods at \$10. *Cost: \$41 million over 10 years*  
*Effective Date: September 30, 2005*

## **Part 3. Aerial Excise Taxes**

**Agricultural aerial applicators and fixed-wing aircraft engaged in forestry operations.** Under current law, crop-dusters are exempt from fuel taxes while operating over a farm if they have consent from the farm owner to request a refund. This provision repeals the requirement that crop-dusters receive consent to apply for a refund and clarifies that travel to and from a farm is exempt use. Current law also exempts helicopters used in timber operations from the ticket and flight segment taxes. This provision expands the exemption to fixed-wing aircraft. *Cost: \$40 million over 10 years*  
*Effective Date: September 30, 2005*

**Modification of rural airport definition.** Flights from qualified rural airports are currently exempt from the flight segment tax. This provision expands the definition of a rural airport to include airports not connected by paved roads to another airport and having fewer than 100,000 passengers on flights of at least 100 miles per year. *Cost: \$40 million over 10 years*  
*Effective Date: October 1, 2005*

**Exemption from ticket taxes for seaplanes.** This provision exempts from ticket taxes transportation by a seaplane with respect to any segment consisting of a takeoff from, and a landing on, water, but only if the places at which such takeoff and landing occur do not receive financial assistance from the Airport and Airways Trust Fund. For purposes of the fuel taxes, transportation by seaplane is treated as noncommercial aviation.

*Cost: \$11 million over 10 years*

*Effective Date: September 30, 2005*

**Sightseeing flights exempt from taxes on air transportation.** This provision exempts sightseeing flights from the airline ticket tax. *Cost: \$79 million over 10 years*

*Effective Date: September 30, 2005*

#### **Part 4. Taxes Relating to Alcohol**

**Repeal of special occupational taxes relating to alcoholic beverages.** This tax was suspended in the Jobs Act of 2004 for the period July 1, 2005 through June 30, 2008.

This provision repeals the alcohol SOTs permanently. *Cost: \$459 million over 10 years*

*Effective Date: July 1, 2008*

**Income tax credit for distilled spirits wholesalers and for distilled spirits in control of State bailment warehouses for costs of carrying federal excise tax on bottled distilled spirits.**

The excise tax on distilled spirits is generally imposed when the spirits are removed from the producer's plant. This means that wholesalers buy the product with the tax included. The spirits generally remain in wholesale inventory for some period of time. Then the spirits are sold to the retailers where the tax is passed on to the retailers. The retailers pass the tax on to the consumers. This provision creates a new income tax credit for business costs associated with having tax-paid products in inventory. The credit is calculated by multiplying the number of cases of bottled spirits by the average tax-financing cost per case. *Cost: \$188 million over 10 years*

*Effective Date: September 30, 2005*

**Quarterly excise tax filing for small alcohol excise taxpayers.** This provision allows small distillers, brewers and winemakers to file excise taxes quarterly instead of every other week. Quarterly filing and payment applies only to withdrawals, removals, and entries under deferred payment bonds. Transactions that are not made under deferred payment bonds do not qualify for quarterly filing and payment, but do count toward determining whether the \$50,000 threshold has been reached.

*Costs \$6 million over 10 years.*

*Effective Date: January 1, 2006*

## **Part 5. Sport Excise Taxes**

**Custom gunsmiths.** Under the tax code, all manufacturers of firearms must pay an excise tax of 10% or 11% of the retail price, depending on the type of firearm. This provision establishes an exemption from the excise tax for manufacturers of fewer than 50 firearms per year. *Cost: \$8 million over 10 years*  
*Effective Date: September 30, 2005*

### **SUBTITLE III MISCELLANEOUS PROVISIONS**

**Establish a motor fuel excise tax enforcement advisory commission.** This provision creates a temporary commission to oversee motor fuel tax enforcement until September 2009. The commission would undertake a comprehensive review of motor fuel revenue collections, investigations, regulations and cooperative efforts among agencies and make recommendations regarding the effectiveness of federal enforcement programs and personnel and proposals for regulatory projects, legislation, and funding. *Cost: none*  
*Effective Date: Date of enactment*

**National Surface Transportation Infrastructure Financing Commission.** This provision creates a temporary commission to investigate and study current revenues, alternative funding sources and transit needs from the present through 2015. *Cost: none*  
*Effective Date: Date of enactment*

**Treasury study of highway fuels used by trucks for non-transportation purposes.** The Secretary of Treasury is directed to study the use of highway motor fuel in trucks that are not used for the propulsion of the vehicle, e.g., use of fuel in power takeoff vehicles and concrete pumpers. The Secretary is to propose options for implementing exemptions for classes of vehicles whose nonpropulsive fuel use exceeds 50% only if the Secretary determines such exemption is administratively feasible *Cost: none*  
*Effective Date: Date of enactment*

**Tax-exempt financing of highway projects and rail-truck transfer facilities.** The proposal authorizes \$15 billion of tax-exempt bond authority to finance highway projects and rail-truck transfer facilities. *Cost: \$738 million over 10 years.*  
*Effective Date: Date of Enactment*

**Tax Treatment of State Ownership of Railroad Real Estate Investment Trust.** Provides that a railroad real estate investment trust that becomes 100% owned by a State will not be treated as a taxable C corporation, but will be taxed as if its income from the performance of essential governmental functions accrued directly to the State.  
*Cost: \$2 million over 10 years.*  
*Effective Date: Purchase of voting stock before or on December 31, 2003; Purchase of outstanding stock before or on December 31, 2006*

**Diesel fuel tax evasion report.** Requires a report from the IRS about the availability of new technologies that can be employed to enhance collections of the excise tax on diesel fuel and the plans of the IRS to employ such technologies. *Cost: none*  
*Effective Date: Date of enactment*

#### **SUBTITLE IV FUELS RELATED TECHNICAL CORRECTIONS**

**Technical corrections.** This provision makes certain technical corrections to provisions in the American Jobs Creation Act of 2004 relating to fuel. *Cost: none*

#### **SUBTITLE V ADDITIONAL REVENUE RAISING PROVISIONS**

**Treatment of kerosene for use in aviation.** Kerosene can be used as diesel or aviation fuel. This provision will tax all removals of kerosene other than into the wing of an airplane as diesel (24.4 cents per gallon). All receipts would go to the Highway Trust Fund. If the fuel is eventually used for aviation purposes a refund will be available to bring the tax down to the appropriate aviation fuel rate. The HTF will pay to the Airport and Airway Trust Fund the appropriate amount of tax paid on fuel used for aviation purposes. *Raises \$495 million over ten years.*  
*Effective Date: September 30, 2005*

**Repeal of ultimate vendor claims with respect to farming.** One area where IRS continues to see fuel tax evasion is the misuse of clear diesel intended for farming purposes. This provision requires farmers who buy clear diesel to buy it tax paid. They can claim a refund for amounts used for farming purposes. Farmers may continue to buy tax free diesel if it is dyed. *Raises less than \$500,000 over ten years.*  
*Effective Date: September 30, 2005*

**Refunds of excise tax on exempt sales of fuel by credit card.** This provision requires credit card companies who allow tax-exempt fuel purchases on their credit cards to register with the IRS and to be the party responsible for claiming refunds of the tax. This provision becomes effective for sales after 12/31/05. *Negligible revenue effect.*  
*Effective Date: December 31, 2005*

**Reregistration in event of change in ownership.** Blenders, importers, pipeline operators, position holders, refiners, terminal operators, and vessel operators are required to register with the IRS with respect to federal fuels excise taxes. Penalties are provided in the tax code for failure to register. Regulations require that registered parties notify the IRS in the event of a change in ownership. The provision requires that a registered taxpayer reregister in the event of a change in ownership. This is intended to increase compliance by terminating the original registration when a change in ownership occurs. *Raises \$45 million over ten years.*  
*Effective Date: Date of enactment*

**Reconciliation of on-loaded cargo to entered cargo.** Requires Department of Homeland Security and Treasury to provide for the transmission to the IRS of information pertaining to taxable fuels destined for importation into the U.S.

*Raises \$41 million over ten years.*

*Effective Date: Date of enactment*

**Registration of deep-draft vessels.** Present law requires registration of vessels (ships and barges) for tax-exempt bulk transfers of fuel. Treasury regulations have created an exemption for large draft vessels. This provision overturns the regulation.

*Raises \$26 million over ten years.*

*Effective Date: Date of enactment*

**Penalty with respect to certain adulterated fuels.** Compliance officers routinely find that diesel is being sold for highway use with sulfur content well above 500 ppm. This suggests that untaxed, non-compliant diesel is being blended with taxed fuel. This provision imposes a \$10,000 penalty for anyone who knowingly sells diesel that does not comply with EPA sulfur diesel regulations. *Negligible revenue effect.*

*Effective Date: Date of enactment*