S. Hrg. 99-995

HIGHWAY TRUST FUND TAXES—1986

HEARING

BEFORE THE

COMMITTEE ON FINANCE
UNITED STATES SENATE

NINETY-NINTH CONGRESS

SECOND SESSION

SEPTEMBER 18, 1986

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COMMITTEE ON FINANCE

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HIGHWAY TRUST FUND TAXES—1986

THURSDAY, SEPTEMBER 18, 1986

U.S. SENATE,
COMMITTEE ON FINANCE,
Washington, DC.

The hearing was convened, pursuant to notice, at 11:05 a.m., in room SD-215, Dirksen Senate Office Building, Hon. Bob Packwood (chairman) presiding.

Present: Senators Packwood, Dole, Roth, Danforth, Chafee, Heinz, Wallop, Durenberger, Armstrong, Symms, Grassley, Long, Bentsen, Moynihan, Baucus, Bradley, Mitchell, and Pryor.

[The press release announcing the hearing and background material by the Joint Committee on Taxation follows:]

[Press Release No. 86-077, September 15, 1986]

FINANCE COMMITTEE RESETS HEARING ON HIGHWAY TRUST FUND TAXES

Senate Finance Committee Chairman Bob Packwood (R-Oregon) announced today that the hearing on the two year extension of the highway trust fund taxes has been changed. The hearing originally scheduled for Wednesday, September 17, 1986 at 9:30 a.m. will now be held on Thursday, September 18, 1986 at 11:15 a.m. It will be held in Room SD-215 of the Dirksen Senate Office Building.

Representatives from the Department of Treasury and the Department of Transportation are scheduled to testify.

BACKGROUND RELATING TO EXTENSION OF HIGHWAY-RELATED EXCISE TAXES AND REAUTHORIZATION OF HIGHWAY TRUST FUND EXPENDITURES

Scheduled for a Hearing

Before the

COMMITTEE ON FINANCE

on September 18, 1986

Prepared by the Staff

of the

JOINT COMMITTEE ON TAXATION

September 17, 1986

JCX-25-86

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INTRODUCTION

This document,[1] prepared in connection with the hearing before the Senate Committee on Finance on September 18, 1986, provides a summary description of present law Highway Trust Fund excise taxes and expenditure purposes and the four-year Highway Trust Fund reauthorization bill (S. 2405) as reported by the Senate Committee on Environment and Public Works.[2] The Committee on Finance is to consider an extension of the Highway Trust Fund and the related highway user taxes which finance the Trust Fund expenditures.

The first part is a summary description of present law Highway Trust Fund excise taxes, as well as the Administration's highway excise tax proposals, the highway-related excise tax provisions contained in the tax reform bill (H.R. 3838), and the highway excise tax provisions in H.R. 3129 as passed by the House. The second part discusses the Highway Trust Fund expenditure purposes and reauthorization amounts in S. 2405 and in H.R. 3129.

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1 This document may be cited as follows: Joint Committee on Taxation, Background Relating to Extension of Highway-Related Excise Taxes and Reauthorization of Highway Trust Fund Expenditures (JCX-25-85), September 17, 1986.

2 "Federal-Aid Highway Act of 1986," S. Rept. 99-369, August 5, 1986.

I. HIGHWAY-RELATED EXCISE TAXES

Present Law

Excise taxes

Excise taxes are imposed on gasoline and diesel and other motor fuels, trucks and truck trailers, heavy tires, and heavy highway vehicles. Revenues from these highway-related excise taxes are deposited into the Highway Trust Fund. The taxes are currently scheduled to expire after September 30, 1988. Deposits of pre-October 1, 1988 excise tax liabilities will continue to go into the Trust Fund for an additional nine months (through June 30, 1989). The table below provides a present law tax rate schedule for Highway Trust Fund excise taxes.

Present Law Highway Trust Fund Excise Taxes (Through September 30, 1988)

Item	Tax Rate
Motor fuels	
Gasoline and special motor fuels	9 cents per gallon
Diesel fuel	15 cents per gallon
Trucks and trailers	
Trucks (over 33,000 lbs.) and trailers (over 26,000 lbs.)	12 percent of retail price
Tires for highway vehicles	40 lbs. or less--no tax 40-70 lbs.--15 cents/lb. over 40 lbs. 70-90 lbs.--$4.50, plus 30 cents/lb. over 70 lbs. Over 90 lbs.--$10.50, plus 50 cents/lb. over 90 lbs.
Use tax on heavy highway vehicles	Under 55,000 lbs.-- no tax 55,000-75,000 lbs. --$100, plus $22/1,000 lbs. over 55,000 Over 75,000 lbs.--$550

Exemptions

Alcohol fuels.--An excise tax exemption of 6 cents per gallon is provided for gasohol blends (i.e., 10 percent pure alcohol) of diesel, gasoline, and special motor fuels.[3] A 9-cents-per-gallon exemption is provided for neat methanol and ethanol fuels which contain at least 85 percent alcohol produced from a substance other than petroleum or natural gas. A 4-1/2 cents-per-gallon exemption is available for such alcohol blends produced from natural gas. These alcohol fuels tax exemptions are scheduled to expire after December 31, 1992.

Bus fuels and tires.--Private and public bus operators are exempt from the excise tax on tires. Intercity common carrier buses, school buses, and qualified local buses are exempt from the 9-cents-per-gallon taxes on gasoline and special motor fuels. School buses and qualified local transit buses are also exempt from the 15-cents-per-gallon diesel fuel tax. In addition, qualified intercity buses are eligible for a 12-cents-per-gallon refund (or credit) of the 15-cents-per-gallon diesel fuel tax. Nonqualified local and intercity buses (determined by passenger capacity and nature of routing), however, receive no exemption.[4]

Other.--General exemptions are provided from the highway excise taxes for State and local governments and tax-exempt educational organizations, and for exported articles. There is also an exemption from the fuels taxes for fuel used on a farm for farming purposes, and for off-highway business use (other than boating and noncommercial aviation use).

(A partial exemption of 4 cents per gallon of the tax on fuel used by qualified taxicabs expired September 30, 1985.)

Gasoline and diesel fuel excise tax collection

Gasoline tax.--The gasoline excise tax (9 cents per gallon) is levied on the sale or use of gasoline by a producer or importer. The term "producer" includes a registered wholesale distributor ("jobber") selling to retailers or other wholesalers. Also, the term "wholesaler" includes certain chain retailers having 10 or more gasoline stations under common

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3 There is also an income tax credit of 60 cents per gallon of alcohol that is used in the production of an alcohol fuels misture, is sold for use as a fuel in a trade or business, or, at retail, is placed in a person's fuel tank.

4 No exemption is available for local or intercity buses engaged in transportation that is not scheduled and not along regular routing, unless the seating capacity is at least 20 adults (not including the driver).

management. Such registered wholesalers may purchase the gasoline tax-free from the refiner or importer and collect the tax upon sale to a retailer or consumer.

Diesel fuel tax.--An excise tax (15 cents per gallon) is imposed on the sale of diesel fuel for use in a diesel-powered highway vehicle, which is collected at the retail level.

Administration Proposal

Extension of highway excise taxes

The Administration's Highway Trust Fund (HTF) proposal[5] would extend the existing HTF excise taxes at current rates for four years (through September 30, 1992). The proposal also would provide a four-year reauthorization of HTF expenditure programs (fiscal years 1987-1990).

Repeal of certain excise tax exemptions

The Administration proposal would repeal the current excise tax exemptions available for gasohol, methanol and ethanol fuels, effective on January 1, 1987.

The Administration proposal also would repeal the present law exemptions for fuel and tires for intercity and local transit buses. School buses would remain eligible for full refund or exemption from the 9-cents-per-gallon taxes on gasoline and special motor fuels, and would be eligible for a 12-cents-per-gallon refund or exemption of the 15-cents-per-gallon diesel fuel tax. School buses would continue to be exempt from the tax on tires.

Gasoline excise tax collection

The Administration has proposed changing the imposition of the gasoline excise tax from the point of sale to a non-registered distributor or retailer to the refiner or importer.

Other Congressional Action

H.R. 3838

Alcohol fuels.--In the tax reform conference agreement (H.R. 3838), the excise tax exemption for gasohol would be retained at 6 cents per gallon, and the exemption for neat methanol and ethanol fuels not derived from petroleum or natural

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[5] See S. 2189 and H.R. 4144.

gas would be reduced from 9 cents per gallon to 6 cents per gallon (effective on January 1, 1987).

Taxicab fuels.--The conference agreement on H.R. 3838 would extend the prior 4-cents-per-gallon motor fuels tax exemption for qualified taxicabs for three years, through September 30, 1988.

Gasoline tax collection.--The conference agreement on H.R. 3830 would change the imposition of the gasoline excise tax from the point of sale to a non-registered distributor or retailer to the refiner or importer, effective on January 1, 1988. Also, the Treasury Department would be required to submit a report by December 31, 1986, with respect to the collection and enforcement of the current gasoline tax.

Diesel fuel tax collection.--The conference agreement on H.R. 3838 would permit an election to collect the diesel fuel excise tax on the sale by the wholesaler to the retailer of the fuel (or on the sale by the manufacturer where that sale is direct to the retailer) in the case of a qualified retailer. This would be effective for sales of diesel fuel (for use in highway vehicles) after the first calendar quarter beginning more than 60 days after the date of enactment.

Diesel fuel tax refund for school buses.--The conference agreement on H.R. 3838 also would provide a technical amendment to allow a full 15 cents per gallon refund of tax paid on diesel fuel used in school buses while engaged in transportation of students and school employees.

H.R. 3129

Extension of highway excise taxes.--H.R. 3129 (title V) as passed by the House on August 15, 1986, would extend the current highway excise taxes and Highway Trust Fund expenditure authority for five years, through September 30, 1993.

Exemptions.--H.R. 3129 includes the provisions of H.R. 3838 relating to reduction in the exemption from the special fuels excise tax for neat alcohol fuels (derived other than from petroleum or natural gas) from 9 cents to 6 cents per gallon. Also, the bill includes a technical amendment from H.R. 3838 to allow a full 15-cents-per-gallon refund of excise tax paid on diesel fuel used in school buses.

Excise tax collection study.--H.R. 3129 would require the Treasury Department to submit a report by December 31, 1986, with respect to the collection and enforcement procedures and problems for the excise taxes on gasoline and other motor fuels, as well as for other Federal excise taxes (including but not limited to taxes on tobacco products, alcoholic beverages, and aviation taxes). The report regarding the gasoline excise tax is to be submitted by October 1, 1986.

II. HIGHWAY TRUST FUND AUTHORIZATIONS

Background

The Highway Trust Fund and the related highway excise taxes have been extended four times since 1970: a five-year extension in the Federal Aid Highway Act of 1970 (from September 30, 1972 through September 30, 1977), a two-year extension in the Federal-Aid Highway Act of 1976 (through September 30, 1979), a five-year extension in the Surface Transportation Assistance Act of 1978 (through September 30, 1984), and a four-year extension in the Surface Transportation Assistance Act of 1982 (through September 30, 1988).

The Highway Trust Fund authorizations in the 1982 Act were for fiscal years 1983-1986. Thus, the revenues deposited in the Trust Fund lag behind the authorization period by two years. This is due to the lead time required between the time a project is authorized or obligated and the time when money is needed to pay for it. Also, the "Byrd Amendment" requires that highway apportionments be reduced when unfunded authorizations exceed estimated receipts in the following 24-month period.

In the 1982 Act, the Highway Trust Fund statute was codified in the Internal Revenue Code (sec. 9503), effective January 1, 1983.

Highway Trust Fund Expenditures Purposes

The 1982 Act established two Accounts within the Highway Trust Fund: the Highway Account and the Mass Transit Account. Amounts may be paid from the Highway Trust Fund through September 30, 1988, as provided in appropriation Acts, to meet obligations incurred in carrying out the purposes of the Trust Fund. Obligations may be incurred for the purposes specified in the Highway Revenue Act of 1956, the Surface Transportation Assistance Act of 1982, or any law thereafter, for a general purpose authorized under these Acts as in effect on December 31, 1982. Thus, any new general expenditure purpose from the Trust Fund requires a Code amendment.

<u>Highway Account expenditures</u>

The general highway-related programs authorized from the Trust Fund include the following:

- o Interstate highway construction and resurfacing and repair
- o Federal-aid highways, including primary and secondary systems, urban systems
- o Forest and public lands highways, scenic highways,

parkways, Indian roads

- Highway hazard elimination projects
- Bridge replacement and rehabilitation
- Emergency (disaster) relief
- Rail crossings and demonstration projects
- Traffic control and traffic signal demonstration projects
- Intermodal urban demonstration projects
- Carpool and vanpool grants
- Pedestrian walkways and bike ways on rights of ways
- Highway-related safety grants
- Motor carrier safety grants
- Highway safety research and development
- National Highway Traffic Safety Administration for a share of traffic safety programs
- Certain highway administrative costs

Mass Transit Account expenditures

The Mass Transit Account in the Trust Fund is financed from the revenue equivalent of one cent of the tax on highway motor fuels. Amounts in the Mass Transit Account are available for making capital expenditures authorized under section 21(a)(2) of the Urban Mass Transportation Act. An anti-deficit provision is provided so that unfunded transit authorizations may not exceed estimated account receipts for the following 12 months (compared to 24 months for the Highway Account).

Highway Trust Fund Authorizations

S. 2405 as reported by the Committee on Environment and Public Works

The Committee on Environment and Public Works has reported a four-year reauthorization bill (S. 2405) for Highway Trust Fund expenditure programs, for fiscal years 1987-1990.[6] The

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6 Extension of mass transit authorizations from the trust fund have not yet been reported by the Senate Committee on Banking, Housing, and Urban Affairs.

current trust fund authorization programs run through fiscal year 1986, as enacted in the 1982 Act. (Interstate authorizations are provided through 1989 under present law.)

Highway and highway safety program authorizations under S. 2405 for fiscal years 1987-1990 total $52.3 billion ($13.1 billion per year). This compares with $14.8 billion authorized for fiscal year 1986 (after the 4.3 percent budget cutback under "Gramm-Rudman-Hollings").

Administration Proposal

The Administration proposal would extend the Highway Trust Fund authorizations for four years, fiscal years 1987-1990. The proposal would consolidate Interstate construction and repair with the primary-aid program; allow Interstate transfer/substitution funds for both highway and transit projects to be funded out of the Highway Account (currently, highway substitutions are paid out of the Highway Account and transit substitutions are paid out of the Mass Transit Account); and consolidate the mass transit construction and other major highway-aid programs (urban, secondary, and non-primary bridges) into a highway and mass transit block grant. Costs of sign removal and junkyard screening and removal would be paid out of the State's Interstate/Primary program funds.

The Administration proposal would authorize a total of $14.0 billion per year for the four fiscal years, 1987-1990, of which $3.3 billion would be for the new highway and mass transit block grant. This would total $56.1 billion over the four years out of the Trust Fund.

H.R. 3129 as Passed by the House

H.R. 3129 as passed by the House (August 15, 1986) would provide a five-year reauthorization for Highway Trust Fund expenditure programs, for fiscal years 1987-1991.

Highway and highway safety program authorizations from the Trust Fund under H.R. 3129 for fiscal years 1987-1991 total $70.2 billion (an average of $14.0 billion per year). H.R. 3129 also includes mass transit authorizations from the Highway Trust Fund, amounting to $1.1 billion for fiscal year 1987 and $1.8 billion per year for fiscal years 1988-1991, for a total of $8.25 billion.

H.R. 3129 would authorize $5 million per year out of the Trust Fund for fiscal years 1987-1991 for billboard and sign removal costs and $5 million per year for university regional transportation research centers. Previously, any such amounts were authorized to be appropriated only from the general fund.

The CHAIRMAN. Now I would just as soon go ahead, if the committee doesn't mind—although we are a little early—with the highway witnesses—we have two—because I want to get to the markup on trade if we can. Do you have any objection, Lloyd, to going ahead?

Senator BENTSEN. No, Mr. Chairman.

The CHAIRMAN. We have got Ray Barnhart, the Administrator of the Federal Highway Administration, and Dennis Ross, the tax legislative counsel for the Department of the Treasury. Why don't we go ahead and start.

STATEMENT OF HON. RAY BARNHART, ADMINISTRATOR, FEDERAL HIGHWAY ADMINISTRATION, DEPARTMENT OF TRANSPORTATION, WASHINGTON, DC

Mr. BARNHART. Mr. Chairman, and members of the committee, I thank you for being invited here. Recognizing the tremendous workload you have had, I will simply submit my written statement for the record, and then, not meaning to diminish the importance of the occasion, simply say that the brevity of my remarks will be inversely proportionate to my appreciation for what you are doing for the highway program.

I would like to simply state, in addition to the written testimony, a couple of things that are especially important to us in the Federal Aid Highway Program. Last year, if you are aware, we had more than 1.8 trillion miles driven on our highway system. We project a significant increase by the turn of the century of 50 to 60 percent, so systematic funding is just critically important to every State highway department.

I know there has been some talk about extending the Highway Trust Fund taxes for only 2 years. I would plead with you to make that 4 because of the nature of the program and the contract authority that we have, for if we do not extend that for 4 years, and only go 2, within 3 years we will have to be back before you pleading for an extension. Otherwise, we run afoul of the Byrd amendment. And I do think that is terribly important.

I do want to point out that we have, of course, requested the termination of the exemptions on gasoline, diesel, and tire taxes for both public and private bus operations which generate revenue. Right now those exemptions make a shortfall into the trust fund, and will cost the trust fund roughly about $112 million in 1987. That will increase to $133 million by 1991. So it means, again, a great loss to the Highway Trust Fund, the very thing that funds our total highway program.

Additionally, we have pleaded for the elimination of the gasohol exemption which has cost the trust fund $450 million this year; the States an additional $300 million. If we do not eliminate this gasohol exemption, it will be a loss to the trust fund and to State transportation of about $1 billion a year, within the next few years.

The Department of Agriculture recently came out with a study that pointed out that, on average, it costs about $67.20 to produce the equivalent of a 42-gallon barrel of ethanol. This is four to five times the price of a barrel of crude oil.

We certainly think that this is unfair. Where else would you take the real McCoy called gasoline, dilute it 10 percent with a substitute fuel, and reduce the taxes by two-thirds? We hope that you will consider elimination of the gasohol exemption.

Finally, we want to applaud the efforts of the conferees on tax reform and the Joint Committee on Taxation for addressing another serious problem which means a great loss to the Highway Trust Fund, a loss which we believe will go up to $1 billion a year—it is estimated by some to be $1 billion a year already—and that is through the evasion of payment of the Federal excise taxes by unscrupulous individuals and organized crime who have gotten into the gasoline distribution business.

We had testimony before the House Committee on Ways and Means this summer. One gentleman testified that his take through the evasion of those Federal taxes was $8 million a week for almost 3 years. It is unfair to legitimate business if we do not close the tax loophole. The committees, incidentally, have made great progress in saying we will move the point of taxation up as close to the refinery or terminal as is possible. If we can do that, then Treasury and IRS will have a fighting chance. For right now, those folks have to audit over 8,300 companies handling billions of gallons of gasoline, and it creates loopholes that are a serious loss to the whole country.

My only problem with the action thus far is that that loophole is scheduled to be changed effective January 1988. If the estimated loss is $1 billion a year, that is $1.4 billion late. We would hope that the Congress would say to the administration: Make this change in point of collection effective as soon as the mechanics are in order.

And with that, Mr. Chairman, recognizing the burden this committee has, I want to thank you. I urge you again to extend our trust fund and the taxes for the 4 years.

I would be happy to respond to questions or leave at your convenience.

[The prepared written statement of Mr. Barnhart follows:]

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STATEMENT OF RAY A. BARNHART
FEDERAL HIGHWAY ADMINISTRATOR
BEFORE THE SENATE COMMITTEE ON FINANCE
ON THE HIGHWAY TRUST FUND

SEPTEMBER 18, 1986

I am pleased to be here today to discuss needed changes in tax provisions affecting the Highway Trust Fund (Trust Fund). As you know, the Trust Fund finances virtually the entire federal investment in our Nation's highway systems. For fiscal year 1986, the $14 billion Federal-aid highway program is dependent upon the Highway Trust Fund. The Trust Fund is financed by the users of the highway system through payment of federal excise taxes on gasoline and diesel fuels, on large trucks, trailers and truck tires, and the special highway use tax on trucks.

The Highway Trust Fund is thirty years old. It was created by an Act of Congress on June 29, 1956, which also gave birth to the increased, long-term, highway user tax financing for the National System of Interstate and Defense Highways. The Trust Fund supports the federal highway program, a significant portion of the federal transit program and a number of other transportation and safety programs. The largest program is the Federal-aid highway program, which finances the unique federal-state partnership which builds and rehabilitates a significant portion of the Nation's principal roads and bridges. The greater share of the money obligated from the Highway Account of the Highway Trust Fund through July 31, 1986 -- $101 billion out of a total $183 billion -- has been on the Interstate System. This system of highways has had, and will continue to have, a tremendous impact on the lives of Americans. It is one of the Nation's preeminent means of transportation; it has significantly increased safety and efficiency in the cross-country movement of goods and people. The Trust Fund also pays up to 75 percent of the cost of construction and repair of primary, secondary, and urban roads which are part of the Federal-aid systems.

Today, highways carry the vast majority of the Nation's goods either all or part of the way to market. Over 90 percent of our textile mill products, 89 percent of our fresh fruits and vegetables, 84 percent of our furniture and fixtures, and 81 percent of our meat and dairy products are transported all or part of the way to market on highways.

The revenue title of the Administration's bill, S. 2189, contains provisions necessary to provide continued funding of the Federal-aid highway program. The title provides for the extension of both the taxes and the Highway Trust Fund for four years, through 1992. This extension is necessary to support the authorizations and apportionments contained in S. 2189 for fiscal years 1987 through 1990. This extension, the elimination of gasohol and bus exemptions from the highway taxes, and legislation to stop the evasion of the gasoline tax can ensure that the Trust Fund will support a highway program sufficient to continue the activities authorized in the Surface Transportation Assistance Act of 1982. We urge the support of the revenue title by this Committee.

Provisions to eliminate the current gasoline, diesel, and tire tax exemptions for public and private revenue bus operations are included in the Administration's bill. It is estimated that these exemptions will reduce Highway Trust Fund revenues by approximately $112 million in fiscal year 1987, with the reduction increasing to approximately $133 million by fiscal year 1991. The goal of these provisions eliminating exemptions is to charge the users of the highway systems for their actual use and to provide an equal competitive environment for both public and private bus operators.

The current exemptions for gasohol, methanol, and ethanol significantly reduce the revenues going into the Trust Fund. In fiscal year 1987, we estimate that the loss will amount to approximately $450 million, and by fiscal year 1991 the loss is expected to increase to approximately $510 million. Since vehicles using these exempt fuels do the same amount of damage to our highways as vehicles using non-exempt fuels, the Administration believes these exemptions are inappropriate and contrary to the user fee principle. Provisions to repeal these exemptions are contained in the Administration bill.

The gasohol exemption is of particular importance. Gasohol is being supported by generous exemptions from both federal and state highway user taxes and more recently, the Agriculture Department's corn subsidy program for ethanol producers. As a result, gasohol sales have mushroomed from a one-half of one percent share of the motor fuel market to a seven percent share in just five years.

Taken in combination, government subsidies can total about $1.18 per gallon of ethanol--60 cents federal gas tax subsidy, 30 cents average state gas tax subsidy, and 28 cents corn program giveaway subsidy. With ethanol currently selling for about 90¢ to $1.00 per gallon, government subsidies exceed the price by 15 to 20 percent.

State revenue losses due to gasohol exemptions are estimated at over $300 million in 1985. The combined federal and state revenue loss was nearly $750 million in 1985. Because of this severe drain on revenues, several states have begun to restrict the gasohol exemption. In the last year, 12 states eliminated, reduced, or restricted their exemptions.

Criticism of public subsidies for the gasohol industry is now also being heard at the Department of Agriculture. A new study of fuel ethanol subsidy programs by the Agriculture Department's Office of Energy concludes that the costs associated with ethanol subsidies are so large that ethanol production cannot be justified on economic grounds. The study estimates that, if the use of gasohol falls to zero in the next eight years, the government, taxpayers, and consumers together would gain some $6.8-$8.9 billion in savings as a result of reductions in exemptions, subsidies and consumer prices. After tallying all costs and benefits associated with ethanol subsidy programs, the study determines that any benefits of higher income to farmers would be more than offset by increased government costs and consumer food expenditures.

Also, Mr. Chairman, we applaud the efforts of the Conferees on the Tax Reform Act of 1986 and the Joint Committee on Taxation in providing a solution to the gasoline tax evasion problem.

The evasion of payment of the gasoline tax has become not only an issue of law and equity, but one which jeopardizes Federal assistance to the states needed to meet their transportation needs. Imposition of the tax as close to the refiner level and point of first import as is practicable as proposed in the Tax Reform Act of 1986 will significantly reduce the number of taxpayers and the opportunity for evasion. We encourage early implementation of this provision as soon as the administrative procedures are established.

Problems with the collection of fuel tax at the middlemen level have been experienced by the states in the collection of state fuel tax. In the States of New York and Florida, for example, intensive investigative efforts by local, state, and federal enforcement agencies have uncovered evasion schemes which resulted in significant lost revenue. When New York raised the point of state fuel taxation to the refinery, importer level, state revenue increased 23% in 1985 vs. 1984.

Combined state and federal gasoline taxes range from a low of 16¢ per gallon to 27.5¢ per gallon, varying from state to state. In some states, taxes represent more than 30 percent of the selling price of the product, and thus there is a strong incentive for evasion. Federal and state revenues from excise taxes on gasoline alone exceed $20 billion a year. The volume of gasoline sold, the hundreds of individuals and corporations engaged in its distribution, the difficulties involved in auditing the complex transactions, and the loopholes available in tax collection procedures, are factors which, when combined, offer high payoffs with minimal risk to tax evaders.

The evasion of gasoline taxes represents a most significant loss of funding to every state, not just to those states in which the evasion occurs, for each state receives a share of every highway dollar. State highway agencies recognize the problem. The American Association of State Highway and Transportation Officials (AASHTO) has recently adopted a policy resolution expressing its concern about gasoline tax evasion and calling upon Congress and the Administration to enact such changes as are needed to eliminate the practice.

We urge that this gasoline tax evasion provision be retained in the Tax Reform Act when it is considered for final passage in the House and Senate.

We also believe that we need to address the problem of evasion of the diesel fuel tax. This is a much more difficult problem and does not lend itself to easy administrative solutions. We hope to explore solutions to this evasion problem and any others that may exist in the other federal highway taxes such as the annual heavy vehicle use tax. When we have developed workable solutions, we will make recommendations to you on possible legislative remedies.

Thank you for this opportunity to appear and express our concerns. I will be pleased to answer any questions.

The CHAIRMAN. Questions of Mr. Barnhart?
Senator BENTSEN. I would like to make a statement, if I might.
The CHAIRMAN. Go right ahead.
Senator BENTSEN. Mr. Chairman, I think it is critical, as Mr. Barnhart says, that we move along with this. And I certainly agree with him that we ought to have a 4-year extension of the trust fund that takes effect in 1988.

Traditionally, we try to stay 2 years ahead of highway authorizations because of the Byrd amendment. The highway funds will not have been completely expended, by the end of the authorization and you have to have those tax revenues coming in.

The House, as I understand it, is ready to move on this, and the Environment and Public Works Committee has done their job. It is important that we go with all titles at the same time to try to go to conference with a complete transportation bill.

So I would urge that we expeditiously approve it.

The CHAIRMAN. Senator Long.

Senator LONG. Mr. Chairman, I think I am for the same thing you are for, and I would hope that Senator Bentsen is for the same thing that I believe the two of us are for. If it had to be done, I would be willing to vote for a tax to help reduce the deficit even if it had to be a tax on gasoline. But I do not like the idea of taking the money that was to be spent for highways and impounding that against the deficit.

Nobody else fought that battle harder than you did on the same principle, Mr. Chairman, in the conference some time ago where I backed you.

The CHAIRMAN. On the airline.

Senator LONG. Yes; on the airline thing.

My thought is that, if we need more highway tax money for budgetary purposes, I would be willing to vote for more taxes on gasoline in order to do it. But I really think that you were right when you made that fight. I think I have fought the same battle on occasion. We should say, look, here is the amount we gave to highways. If you do not spend it, the tax just goes down. I wish you would put that in there, if you are willing to do it. I would just like you to be the same man you were when I was backing you. [Laughter.]

The CHAIRMAN. That was when we were both younger. What do you think of that, Mr. Barnhart?

Mr. BARNHART. I think Gramm-Rudman is a question of choices, and I can accept the administration's proposal of a $12.8 billion level program. I think we can adequately provide for our highways and the needs for the next 4 years, rather than allow the deficit to continue.

In an ideal world, I would say certainly we ought to use all of the balance. I do not think any of the funding should be lost, including the interest. Certainly it should continue to accrue to the Trust Fund.

I would strongly oppose increasing any taxes to balance the deficit, as has been proposed. I think it would be terribly unfair.

Senator LONG. I want to discuss this with the committee a moment, Mr. Chairman. This is my last year here in the Senate.

There is a principle here that you and your colleague sitting just to the right of you are already focusing on.

We are told that the airplanes are not being kept up. You are not getting the air safety. I just saw a television program where they are not putting the equipment that they could put in those airplanes to prevent midair collisions. The air safety money is being impounded. God knows, you need more for highways.

My automobile was totaled on the way down to Virginia Beach on a primary highway. Not the interstate, but the primary. There we were standing still with no power to defend ourselves. A guy comes looming up to the rear and tears us all to pieces. If the road would had been wide enough so the man could have gone past us, he would not have torn us all to pieces. Thank God, we walked away and survived. But here the money is being impounded. The safety provisions Congress is voting for are not being implemented. The roads are not safe enough to impound their money. That idea wasn't new with this administration.

Some bright person over there in the Johnson administration had to say, even though you can impound the highway money, the question is, Is the Congress going to do something about them impounding this money or just go ahead and let them impound it.

The CHAIRMAN. Further comments?

Senator CHAFEE. Well, Mr. Chairman, what is the issue before us?

The CHAIRMAN. This issue before us is the extension of the Highway Trust Fund, basically with the current taxes that are now in effect and some exemption.

Senator CHAFEE. But we are just on the taxing side of it.

The CHAIRMAN. That is correct. Although we have the right in this committee to set a limit. And we can say if they don't do certain things the taxes fall. That is a tax side. We would have the power to do it.

Senator CHAFEE. But I missed Senator Long's point in that we have nothing to do with the impoundment of the expenditure side of it. Do we or do we not?

Senator LONG. Here is what happened, Senator. We were called upon by the President to pass a bill to provide more money for the interstate highways. The previous President did the same thing, to build an Interstate Highway System. So we provided the money and put it in the Highway Trust Fund, which is to be used for that purpose.

Then somebody down there in the White House said, wait a minute. I have got a great idea. All we have got to do is take this money that is being put intc those trust funds and just impound it, and don't spend it. Even though it is money that is paid for Interstate Highways, they don't spend it for that.

You put the money in to make the airway safe. They don't spend it. Now you have a midair collision, and they have got the money to put the equipment in there so you wouldn't have the midair collision, but they don't do it.

The CHAIRMAN. Let me ask you if this if the question that John Chafee is asking. Do we have the power to say the following? Let's say the gasoline tax is 9 cents, but they don't spend the money. Do we have the power in this committee to say, well if they don't spend the money, the tax falls to 5 cents? This is the question you are asking, isn't it?

Senator LONG. The tax falls to whatever they are spending.

The CHAIRMAN. Yes. And the answer is, we have done it in the airport trust funds. That is a tax decision. We cannot make them spend the money. That is another decision. But we can say we are only going to fund as much as you are going to spend in that case.

Senator CHAFEE. Well, is that the question before us now?

The CHAIRMAN. No.

Senator LONG. Well, I am raising the question right now.

Senator CHAFEE. Yes.

Well, I just want to say that I am not for that. I am not for that at all. I think whether we like it or not, we have a unified budget, and every dollar that comes in, whether it is for ADAP or whether it is a Highway Trust Fund, is considered income, and the dollars that go out are considered outgo. And in this budgetary situation, I want to keep the dollar income high and keep the dollar outgo as low as we can.

Now as far as the actual dollar outgo, that is determined through another committee, the Authorization Committee, being the Environment and Public Works Committee, and followed by the Appropriations Committee.

But I would not want to—include me out on any proposal that is going to restrict the income even though the outgo might be reduced. I wouldn't be for that if that's——

Senator LONG. Well, that is how the committee has voted in years gone by and that is how the Senate has voted. We have had the issue before.

How does the chairman feel about it? Do you want to do something about it?

The CHAIRMAN. I am not going to battle it on this bill. I agree with you in theory, but I feel badly enough about our not getting the highway funding out, and we need to get it out by October 1, that I am not at this stage going to hang it up over a demand that they spend the money.

Senator LONG. I am not going to insist on it, Mr. Chairman, if you are going to be against it, but I am here to say that it offends my soul to go out here and tell people that I voted for these taxes to give them some highway, and voted the taxes to make the airlines safe, and they don't do it. Just put the money in the Gramm-Rudman or just say we are not going to raise taxes. You are not going to raise taxes, are you? Take the money that is supposed to be spent for this purpose and just not spend it. It would have exactly the same purpose as if we had appropriated it to reduce the deficit rather than putting the tax on for other purposes.

I will just give up, Mr. Chairman, and hope that at some future point you will find some way to get the money spent. But I don't know how you are going to do it. It is time you got some support. I just want you to know that I would be happy to offer to do something about it.

Senator BENTSEN. Mr. Chairman, if I might comment.

The CHAIRMAN. Senator Bentsen.

Senator BENTSEN. I understand the frustration of the Senator from Louisiana and I share that frustration. It is a use tax and it ought to be utilized for the benefit of the people that have paid that tax. I think though that if we hold it in that trust fund, and we hold it apart, I don't think the day is long in coming when we are going to have to accelerate some of the expenditures here because of the economy of this country, and those funds will be available in that trust fund and set apart for that purpose.

And at that point we will want to spend it. And we will not want to raise the tax on gasoline, I believe. And the funds will be available for that. So there is some cold comfort in that thought.

I would not want to see us really delay this bill at this time, in spite of my sympathy for the comments to the Senator from Louisiana. And there is no question that we would have some immediate problems with the House in trying to resolve it.

The CHAIRMAN. Further discussion?

Senator LONG. I am not going to press it, Mr. Chairman, if I am not being supported by my friends here who understand the problem. But I wish you luck.

Senator PRYOR. Mr. Chairman?

The CHAIRMAN. Senator Pryor.

Senator PRYOR. One question. Once again I am like Senator Chafee, I am trying to figure out what we are doing here and what our options are.

What happens, Mr. Chairman, if we do nothing? What happens if we did not even meet today and make a decision on this?

The CHAIRMAN. As a matter of fact, that is what we are faced with right now. Somebody has objected to our meeting and marking up 2 hours after we started.

Senator PRYOR. Well, that was not me.

The CHAIRMAN. No, no, no. I understand it wasn't you. But at the moment, unless I can get it changed, we cannot even vote after 1 o'clock.

My hunch is that the objection was levied to the trade part of what we are doing today, and I don't think it was levied to this and certainly not to Lewie Laun. But if we did nothing, and we got past October 1, Lloyd, you are out of money. Right?

Senator BENTSEN. That's correct.

The CHAIRMAN. There is no money for the highways.

Senator BENTSEN. You have got every State that I know of that is deeply concerned about it and really wants to see this thing carried through. And I think we should.

Senator PRYOR. I just want the chair to know, and my colleagues, I am not objecting to us doing something. I just wanted to know what happened if we did nothing. I have the answer and I thank you.

Mr. BARNHART. Mr. Chairman, with you indulgence, it is imperative that we have an extension of both the trust fund and the taxes at the current level. If we do not have highway legislation by October 1, we will have a Federal aid highway program of about \$6½ billion of unobligated balances that is spread erratically in categories among all the States. It will play havoc with this program.

The CHAIRMAN. Further discussion?

Mr. Ross, do you have any further comments that need to be added? Mr. Ross is the tax legislative counsel from the Department of the Treasury.

STATEMENT OF DENNIS E. ROSS, TAX LEGISLATIVE COUNSEL, DEPARTMENT OF THE TREASURY

Mr. Ross. Mr. Chairman, thank you for this opportunity to present the view of the Treasury Department on the proposed extension of the Highway Trust Fund.

I have submitted a written statement for the record and I will keep my oral remarks very brief, indeed.

Mr. Chairman, as you know, the Trust Fund provides funds for a variety of transportation and related purposes. Amounts in the fund are used, among other things, to meet Federal obligations to reimburse States for the Federal share of authorized expenditures incurred under the Federal Aid Highway Program and to finance virtually all other Federal highway transportation safety programs.

The administration has submitted a comprehensive bill, S. 2189, to restructure and reauthorize the Federal Aid Highway Program, and other Federal mass transit and highway transportation safety programs.

Under the bill, these programs would be extended for 4 years beyond the current expiration at the end of fiscal year 1986.

In recommending this 4-year extension, Mr. Chairman, the administration believes that the general rate of the taxes should not be increased. We do believe, however, that certain exemptions from the highway taxes that are allowed under current law should be repealed.

Since my written statement contains a detailed description of the various taxes, let me turn directly to the question of these exemptions which we believe should be modified.

Mr. Chairman, as you know, alcohol-based fuels receive substantial exemption from Federal fuel excise taxes. These exemptions are in addition to production tax subsidies, including production tax credits and direct Federal production subsidies for alcohol-based fuels. These various subsidies implement questionable energy policies and represent a significant cost to the Federal Government. Indeed, the excise tax exemptions alone are estimated to lose nearly $2.5 billion in revenues from the trust fund for fiscal years 1987 and 1991.

We believe the exemptions from the fuel excise taxes are unwarranted and should be repealed.

In addition, we support repeal of the exemption from fuel and tire excise taxes that exist under current law for private and public transit buses. These taxes are designed to charge users of the public highways for the wear and tear that they cause. Under current law, public and private transit operators engaged in inter-city and local bus services do not pay their full share of fuel and tire taxes.

Whatever the merit of this preference in the past, we do not believe it can be justified today. To level the playing field and to insure that transit services bear their full share of taxes, we urge repeal of the fuel and tire tax exemptions for both public and private buses operated in inter-city and local service.

That concludes my prepared remarks, and I would be happy to respond to any questions.

Senator ROTH. Are there any questions?

Senator LONG. I don't agree with it, but I don't think there is any more to add. There is no point in asking any questions.

Senator CHAFEE. Well, Mr. Chairman, I want to say that I don't agree with it either.

Senator ROTH. Senator Chafee.

Senator CHAFEE. I don't remember going though this process before. I suppose we do it every 4 years. I don't even see in your testimony where you talk about the failure to tax certain other fuels. Where is that?

Mr. ROSS. Well, it is in the description of each of the specific taxes, Senator. There are noted various exemptions under each heading. Thus, under "diesel fuel tax," there is an exemption for fuels that have a 10 percent alcohol content. There is a different exemption for fuels with 85 percent alcohol content.

Senator CHAFEE. Well, I don't know enough about that. But I must say I think suggestion to tax the public transit authorities, those are people that we are subsidizing through another route here. And to tax them here and increase their expenses when we are subsidizing them somewhere else doesn't seem to me to make an awful lot of sense.

Mr. ROSS. The logic of it, I believe, is just a matter of proper cost accounting. If you want in these taxes to provide for the cost of maintaining a public highway system and maintaining that system in good order, it would seem appropriate to charge all users of that system with the tax. The exemption provided here certainly departs from that principle.

Senator CHAFEE. All right. Thank you.

Senator ROTH. Are there any further questions of Mr. Ross? Mr. Ross.

Senator Dole.

Senator DOLE. No; I have no questions. I have a statement for the record, however.

Senator LONG. Let me ask the acting chairman, is anybody offering an amendment here to repeal the advantage we gave to gasohol? That is what the witness is advocating, isn't it?

Mr. ROSS. That is what we are advocating; yes, sir.

Senator LONG. Was any Senator proposing that? Was that in the bill? I don't think that is in the bill, is it?

Mr. ROSS. I don't believe it is in the bill. It was in the administration-supported bill.

Senator LONG. Is anybody here proposing that? Is anybody here offering any such amendment?

Senator ROTH. Senator Dole.

Senator DOLE. Not I. [Laughter.]

Senator LONG. I would suggest that you just submit that thing for the record and let's get on with the bill.

Senator ROTH. Are there any further questions of either Mr. Barnhart or Mr. Ross?

[No response.]

Senator ROTH. I think we will temporarily recess until the chairman returns.

[The prepared written statement of Mr. Ross follows:]

For Release Upon Delivery
Expected at 11:15 a.m. EDT
September 18, 1986

STATEMENT OF
DENNIS E. ROSS
TAX LEGISLATIVE COUNSEL
DEPARTMENT OF THE TREASURY
BEFORE THE
COMMITTEE ON FINANCE
UNITED STATES SENATE

Mr. Chairman and Members of the Committee:

I am pleased to have this opportunity to present the views of the Treasury Department on the proposed extension of the Highway Trust Fund and the related highway user taxes.

Introduction

The Highway Trust Fund provides funds for a variety of transportation and related purposes. Amounts in the fund are used to meet Federal obligations to reimburse States for the Federal share of authorized expenditures incurred under the Federal-Aid Highway Program and to finance virtually all other Federal highway transportation and safety programs. In addition, certain amounts in the Highway Trust Fund are credited to the Mass Transit Account for funding mass transit expenditures and to the Aquatic Resource Trust Fund for funding sport fishing and boat safety programs.

The Administration has submitted a comprehensive bill, S. 2189, to restructure and reauthorize the Federal-Aid Highway Program and other Federal mass transit and highway transportation and safety programs. Under the bill, these programs would be extended for four years beyond their current expiration at the end of fiscal year 1986. Because Federal highway program authorizations for a particular fiscal year are funded by Highway Trust Fund balances collected over the two succeeding fiscal years, it is necessary to extend the Highway Trust Fund and related taxes beyond the current expiration date of September 30, 1986.

In recommending a four-year extension of the Highway Trust Fund and related taxes, as provided in S. 2189, the Administration believes that the general rate of the taxes should not be increased. We believe, however, that certain exemptions from highway taxes that are allowed under current law should be repealed. A four-year extension of the Highway Trust Fund taxes at current law rates, subject to the modifications described below, should provide sufficient revenues to the Highway Trust Fund to support authorizations contained in S. 2189, for fiscal years 1987-1990.

Current Law

Diesel Fuel Tax. Under section 4041(a)(1) of the Code, an excise tax of 15 cents per gallon is imposed on the sale of diesel fuel for use in a highway vehicle. Numerous complete or partial exemptions from tax are provided. Uses of diesel fuel by State and local governments and non profit educational institutions, and uses of diesel fuel by other persons in connection with farming activities, off-highway business use, or operation of a tax-exempt aircraft museum are completely exempt from tax. Diesel fuel at least 85 percent of which consists of alcohol also is completely exempt from tax. Diesel fuel at least 10 percent of which consists of alcohol is exempt from 6 of the 15 cents per gallon tax, resulting in a tax rate of 9 cents per gallon. Generally, diesel fuel used in privately operated intercity, local, or school buses is exempt from 12 of the 15 cents per gallon tax, resulting in a tax rate of 3 cents per gallon. Diesel fuel used in certain local buses operated under contract with public authorities to provide scheduled intracity bus service for the general public is completely exempt from the diesel fuel tax.

Special motor fuels. Under section 4041(a)(2) of the Code, an excise tax of 9 cents per gallon is imposed on the sale of special motor fuels for use in highway vehicles. In general, the exemptions from the diesel fuel tax also apply to the tax on special motor fuels. The 6 cents per gallon exemption for fuels at least 10 percent of which consists of alcohol results in a special motor fuels tax rate of 3 cents per gallon.

Retail Sale of Heavy Trucks. Under section 4051 of the Code, an excise tax of 12 percent is imposed on the first retail sale of truck and truck trailer chassis and bodies. The tax applies only to the sale of trucks with a gross vehicle weight in excess of 33,000 pounds and to truck trailers with a gross vehicle weight in excess of 26,000 pounds. Several types of vehicles, including mobile homes, agricultural equipment, concrete mixers, and rail vans are exempt from the tax.

Manufacturer's Sale of Heavy Vehicle Tires. Under section 4071 of the Code, an excise tax is imposed on the sale by a manufacturer, producer, or importer of highway vehicle tires that weigh more than 40 pounds. The amount of the tax varies depending on the weight of the tires. For example, tires weighing between 40 and 70 pounds are taxed at a rate of 15 cents per pound; tires weighing more than 90 pounds are taxed at a rate of $10.50 plus 50 cents for each pound in excess of 90 pounds. Tires used on certain privately operated intercity, local, and school buses are exempt from the excise tax.

Gasoline Tax. Under section 4081(a) of the Code, an excise tax of 9 cents per gallon is imposed on gasoline sold or used by the producer or importer of the gasoline. Gasohol, which is defined as any mixture of gasoline containing at least 10 percent alcohol, is subject to a 3 cents per gallon excise tax.

Use tax on heavy highway vehicles. Under section 4481 of the Code, an annual use tax is imposed on highway motor vehicles having a taxable gross weight of at least 55,000 pounds. The amount of the annual use tax is $100 plus $22 for each 1,000 pounds in excess of 55,000 pounds but not in excess of 75,000 pounds. Thus, vehicles having a taxable gross weight of 75,000 pounds or more are taxed at a rate of $550 per year. Vehicles used exclusively in transporting harvested forest products receive a 25 percent reduction in the use tax. Vehicles driven fewer than 5,000 miles (7,500 miles for farm vehicles) in a year are exempt from the use tax.

Recommended Modifications in Highway Trust Fund Taxes

Repeal Exemptions for Alcohol Fuel Mixtures. Alcohol fuel mixtures are heavily subsidized by Federal excise tax exemptions, production tax credits, and direct Federal production subsidies. These subsidies implement questionable energy policies at a significant cost to the Federal government. The excise tax exemptions alone are estimated to lose nearly $2.5 billion in Highway Trust Fund revenues for the fiscal years 1987-1991.* Exemptions from the fuel excise taxes for gasohol and other alcohol fuel mixtures should be repealed.

Repeal Exemptions for Private and Public Transit Buses. Highway Trust Fund taxes are designed to charge users of the public highways for the wear and tear that they cause and for the Federally funded highway improvements made for their benefit. Under current law, private and public transit operators engaged in intercity or local bus services do not pay their full share of fuel and tire taxes. Whatever the merit of this preference in the past, we do not believe it can be justified today. Moreover, the numerous exemptions fail to treat private and public bus operators on an equal basis. To level the playing field and to ensure that transit services bear their full share of taxes dedicated to the Highway Trust Fund, the Administration proposes to repeal the fuel and tire tax exemptions for both private and public buses operated in intercity or local service. Private contractors and government operators would retain exemptions for school buses. Elimination of exemptions for private and public transit buses would increase revenues in the Highway Trust Fund by over $500 million during fiscal years 1987-1991.*

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* The actual Federal budgetary revenue gain from repealing the exemptions would be less due to income tax offsets.

Conclusion

Extension of the Highway Trust Fund and related highway excise taxes, with the modifications recommended above, should be sufficient to support the Administration's proposed authorizations for Federal highway programs over the next four fiscal years. At the same time, Congressionally mandated studies continue on the proper allocation of highway costs to vehicles weighing in excess of 80,000 pounds and the feasibility of weight-distance taxes. Consideration of revenue-neutral alternatives to existing Highway Trust Fund taxes should await completion of these studies, which is scheduled to occur no later than October 1, 1987.

* * * *

This concludes my prepared remarks. I would be pleased to respond to any questions.

[Whereupon, at 11:18 a.m., the hearing was recessed.]
[By direction of the chairman the following communications were made a part of the hearing record:]

STATEMENT OF

NORMAN R. SHERLOCK,
PRESIDENT AND CHIEF EXECUTIVE OFFICER
THE AMERICAN BUS ASSOCIATION

BEFORE
THE COMMITTEE ON FINANCE

ON

AN EXTENSION OF THE HIGHWAY TRUST FUND

I appreciate this opportunity to submit testimony concerning the Highway Trust Fund and related highway user taxes. The American Bus Association represents more than 3,500 companies involved with bus regular route, tour and charter, airport and commuter services and in businesses which are related to travel and tourism.

Historically, Congress has encouraged the use of private intercity bus transportation. The Energy Tax Act of 1978, the Highway Revenue Act of 1982, and the Tax Reform Act of 1984 all contain provisions exempting intercity buses from all or a part of the diesel fuel excise tax and from other highway user taxes. This national policy stems from Congressional recognition that the intercity bus industry plays a unique and vital role in our nation's transportation system. Congress has also recognized that private intercity bus operators must compete with subsidized mass transit districts and other subsidized forms of transportation for tour and commuter passengers.

I. THE INTERCITY BUS INDUSTRY PLAYS A VITAL ROLE IN THE OUR NATION'S TRANSPORTATION SYSTEM.

The intercity bus industry plays a critical role in the intercity passenger transportation process. Of all means of public transportation, the bus provides by far the most comprehensive and affordable service. In many rural areas, intercity bus service is the only form of public transportation accessible. In addition, intercity bus transportation is utilized by low income groups, senior citizens, students and military personnel to a much larger extent than other forms of intercity transportation. These groups in particular are adversely affected by an increase in the cost or a reduction in the availability of intercity passenger transportation service.

Intercity buses are the most fuel efficient form of intercity travel, based on passenger miles per gallon of fuel consumed. Diversion of intercity travel from automobiles to buses can result in energy savings. To the extent that persons can be encouraged to utilize excess capacity on intercity buses rather than driving automobiles, all the fuel that would be expended by intercity automobile trips can be saved. The intercity bus is by far the most fuel efficient mode of transportation, being roughly three times as fuel efficient as Amtrak and six times more fuel efficient than air transport.

Travel and tourism businesses rely heavily on the intercity bus industry to bring them business, and for many it is a critical lifeline. A mere 10 percent decrease in bus ridership would cost these businesses close to $1 billion in revenues. As a further result, unemployment would increase dramatically, particularly among minorities, women and youth who are heavily employed by travel and tourism entities.

Any increase in highway user taxes imposed on intercity passenger buses would jeopardize the continued viability of the industry and its ability to serve rural communities, offer fuel efficient transportation, and sustain travel and tourism businesses.

II. PRIVATE BUS COMPANIES RECEIVE NO DIRECT FEDERAL SUBSIDY BUT MUST COMPETE ROUTINELY WITH FEDERALLY-SUBSIDIZED ENTITIES.

Publicly owned and operated transit companies compete with private bus companies on commuter routes and in charters and tours. Since enactment of the 1982 Surface Transportation Assistance Act, mass transit has been the beneficiary of the

Highway Trust Fund with revenues of 1 cent of the per gallon tax being dedicated to a mass transit account. Publicly-owned systems receive more than $1 billion per year in funds collected from highway users, including private bus companies.

The private intercity bus industry has never opposed adequate funding for public mass transit, nor have we advocated that mass transit authorities be singled out for use charges such as fuel taxes. We have supported the exemption of school bus companies as well. Nevertheless, it would be inequitable to impose further taxes and operating costs on private operators, placing them at a greater disadvantage against public transit authorities who compete for the same charter or commuter market. Accordingly, it is essential to understand the cost impact and use of the highway system by subsidized mass transit vehicles in relation to private intercity buses. Fundamentally, subsidized mass transit vehicles:

- use the highway and bridge system about 5 times more than private intercity buses
- impact the highway pavement 4 times more than private intercity buses
- have fleets of 478,070 buses (in 1985) using the highways compared to 20,200 private intercity buses
- have exemptions 8 times greater than private bus operators

Publicly-subsidized districts currently pay no use charges and operate on an allotment from the Highway Trust Fund that amounts to more than $1 billion a year. At the same time, these vehicles compete directly with private bus companies.

In addition, intercity bus operations must compete for passengers with Amtrak and the airline companies. Amtrak is directly subsidized about $35 per passenger. The airlines are now subsidized by about $9 per passenger, but have enjoyed larger subsidies and favorable tax treatment in the past.

In contrast, the Administration estimates that the current 12 cents per gallon diesel fuel tax exemption amounts to an indirect subsidy of only 8 cents per private bus company passenger. Federal assistance to other modes of transportation disproportionately benefits competitors of the bus industry. It would be inequitable to place private bus companies at a further disadvantage by imposing increased user fees on them without taking equivalent action to balance the subsidies afforded their competitors.

III. THE INTERCITY BUS INDUSTRY IS FACING AN UNPRECEDENTED FINANCIAL CRISIS CAUSED BY THE COST AND UNAVAILABILITY OF INSURANCE.

Currently, the bus industry is facing an unprecedented crisis caused by the unavailability of reasonably priced liability insurance or unavailability of insurance at any price. This has been the major industry problem this year and will continue so for the foreseeable future. The effects of the crisis include a reduction in fleet size by many operators. The sale of vehicles, despite business levels justifying larger fleets, is often conducted either to reduce the number of vehicles requiring insurance or to raise cash needed to pay insurance premiums. Cessation of operations, sale of the company or bankruptcy are the documented results of the astronomical cost of insurance.

Retention of the current exemption from a portion of the diesel fuel excise tax is more essential than ever in view of the effects of the catastrophically high insurance rates that have hit the intercity bus industry. The imposition of any additional user fees or an increase in the diesel fuel excise tax would be the final blow for many small operators who are now faced with exorbitant insurance premiums. For many companies these new taxes would mean the final loss of any profitability.

IV. USER CHARGES TO SUPPORT THE TRUST FUND FOR THE HIGHWAY AND MASS TRANSIT PROGRAMS ARE ADEQUATE.

The Public Works and Transportation Committee recently completed reauthorization action. The Committee did nothing that would require further user charges or a change in the structure of the current user charge system.

V. NEGLIGIBLE REVENUE IMPACT.

The amount of revenue that would be raised by elimination of the current fuel tax exemption of 12 cents per gallon and by increasing other user fee charges on private bus companies is miniscule in national terms--approximately $30 million. However, the impact of the increase in operating costs caused by an increase in user fees or the imposition of any additional taxes would be devastating to a small bus company, struggling to stay in business in the face of subsidized competition and astronomical liability insurance rates.

Statement Submitted For The
Written Record of
Senate Finance Committee Hearings
on
Extension of Highway Trust Fund Taxes

by

Mr. Bernard Uhl, Chairman
American Truck Dealers Division
National Automobile Dealers Association

September 18, 1986

8400 Westpark Drive
McLean, VA 22102

This statement is submitted by Mr. Bernard Uhl, Chairman of the American Truck Dealers Division (ATD) of the National Automobile Dealers Association (NADA).

Background:

ATD is headquartered at 8400 Westpark Drive in McLean, Virginia. ATD represents more than 1800 truck dealers, who sell, lease and service medium and heavy trucks and over-the-road tractors.

ATD and its members have a direct interest in the taxes imposed and collected by the Federal government to fund the Highway Trust Fund. (Referred to as "highway taxes".)

One of the major highway taxes is the 12% excise tax on heavy trucks (over 33,000 lbs. GVW) and highway tractors. (This 12% truck excise tax is referred to as the Federal Excise Tax on new trucks, or just "FET" by truck dealers.) The FET will raise approximately $1.2 to $1.5 billion for the highway Trust Fund this fiscal year, depending on heavy truck and tractor sales.

ATD Position:

ATD opposes, and seeks the repeal of the FET. This has been ATD's position for many years. (The FET has undergone several changes since its enactment in 1956. The most recent change was the elimination of the FET on truck parts, and on trucks between 10,000 lbs. GVW and 33,000 lbs. GVW in the Highway Revenue Act of 1982.)

The reasons for ATD's position are as follows:

1. <u>The FET is Not Related to Highway Use</u>: Highway taxes are supposed to be user taxes.

Congress, and both Republican and Democratic Administrations, have repeatedly reaffirmed and strengthened its commitment to this principle of linking highway use to payment of highway taxes.

Closely linked to this "use principle" was the 1982 Congressional intent to make certain commercial highway users pay more than other commercial highway users. This intent was translated into higher taxes on the owners of the heavy trucks and highway tractors through the highway use tax.

(2)

In view of this Federal policy to link highway taxes with highway use, ATD finds it contradictory to continue the FET, which is not related to use.

For example, after a purchaser of a taxable truck or tractor pays the 12% excise tax to a truck dealer, who remits the money to the I.R.S., it is possible that the purchaser will have a calamity such as an accident, and never use the truck or tractor on the highway.

Or, even more frequently, two different purchasers who may pay the same amount of FET may have widely varying use of the taxable truck or tractor on the Federal highway system. One may drive, for example, 150,000 miles per year, whereas the other may drive 75,000 miles per year. But both would pay the same FET.

Clearly, neither the payment, nor the amount of the FET, is linked to highway use.

2. <u>The FET is a Major Economic Burden on the Trucking Industry</u>: Heavy trucks and tractors are very expensive per unit - anywhere from approximately $40,000 for the smallest to $100,000-plus for the largest. Taking $80,000 as an average price of a fully equipped highway tractor, the FET is $9,600. Thus, the FET is an incredibly high tax in terms of dollars per unit purchased.

The FET is therefore not only not related to use, it is also a non-user tax that is very high per unit. There is no other Federal tax of this magnitude.

With Congress repealing tax incentives to purchase new equipment, such as a truck or tractor, it is appropriate, in ATD's view, to remove a major cost of purchasing heavy trucks and tractors - the FET.

3. <u>The FET is Hard to Collect, Handle and Administer</u>: The FET is a major headache for all truck dealers, truck manufacturers, and the I.R.S.

Although the uninitiated may think a 12% tax on the price of a taxable truck or tractor is a simple tax, the FET is anything but simple in the real world.

(3)

First, there is the question of weight. Anyone familiar with trucks can tell you that calculating the 33,000 lbs. GVW breakpoint can be complicated.

Then there is the matter of "further" manufacturing. In order to prevent tax evasion, the FET is imposed on parts added to a taxable truck or vehicle within six months after its retail sale. In other words, a dealer may not sell a stripped-down vehicle for $20,000, collect a $2400 FET, and then add $60,000 worth of equipment. But what if the purchaser has a minor accident four months after purchase, or finds that the truck he purchased needs different equipment? Some repairs and additional parts may be subject to the FET, some may not.

And, of course, there are problems with knowing when a "taxable" transaction occurs. In the 1982 Highway Revenue Act, Congress changed the FET from a manufacturer's tax to a retail tax. This was a wise change which ATD endorsed. It eliminated some major problems, such as some of the "further" manufacturing problems, and was a key revenue element enabling repeal of the dreaded FET on truck parts. But, for every action there is reaction. Under the FET as a retail tax, there are new issues such as when does a retail sale occur? Various types of truck and tractor distributors may have different views on this, as may the I.R.S.

4. <u>The FET Imposes a Significant Economic Burden on Truck Dealers</u>: The American truck dealer is not a well-heeled, super-rich corporate giant. The truck dealership is typically a small corporation, generally owned by one person and his family.

When the truck dealer collects, remits, and in essence administers the FET, he does so at a real cost to his business. His costs associated with the FET are not insignificant, particularly when the sales cycle is in one of its frequent downturns. And until the 1982 Highway Act, the truck dealer paid the tax <u>before</u> selling the taxable truck or tractor. At least this burden has been removed.

Finally, the audit of a dealer for FET purposes is time-consuming, and diverts the dealer's resources, which are not great, to a non-productive endeavor.

(4)

Thus, the FET is a real burden on truck dealers.

Conclusion:

ATD recognizes that the Finance Committee will not take a long, hard look at highway taxes this year. ATD regrets this fact because we know that our request for repeal of the FET will not be seriously considered this year. ATD is dismayed that it may be 1989, or even 1991 (if the House version of the pending legislation is adopted) before Congress takes the time to study the FET in detail.

With this understanding we ask that:

1. The Committee reconsider extending the FET from 1988 to 1990;

2. The Committee, when it does take the time to review highway taxes, give serious consideration to the repeal of the FET on trucks for the reasons stated above; and

3. The Committee limit any extension to two years, and not adopt the five-year extension approved by the House.

STATEMENT OF RALPH L. STANLEY
ADMINISTRATOR, URBAN MASS TRANSPORTATION ADMINISTRATION
BEFORE THE COMMITTEE ON FINANCE
UNITED STATES SENATE, ON THURSDAY, SEPTEMBER 18, 1986

Mr. Chairman, and distinguished members of the Committee, I am pleased to have this opportunity to present our views on the extension of the Highway Trust Fund. There is no question that extending the Trust Fund is a critical step in the reauthorization of the Federal mass transit and highway programs. I would like to outline some of our concerns for you as they relate to the Federal transit program.

The funds made available from the Mass Transit Account are currently used to fund discretionary programs under the Urban Mass Transportation Act. Legislation introduced in the Senate, as well as that passed by the House of Representatives, would continue this approach. However, the House and Senate bills would specifically authorize funds to be used for the various discretionary categories, that is, bus and bus related activities, rail modernization, and new fixed guideway projects. We oppose these categorical authorizations, which unduly limit the Federal, State and local discretion in use of these funds.

Under the present program structure, these funds are intended as a supplement to the formula funds made available to each area for basic needs. These limitations would prevent us from allocating funds consistent with this supplementary purpose. We also oppose the requirement in the House bill that the Congress annually approve specific categorical funding levels and allocation of funds. Such a requirement would perpetuate congressional micro-management of the program through earmarking of funds for specific projects, some of which are poor investments having limited positive impacts.

We have proposed that instead of following the current formulation, the Mass Transit Account funds be used, along with certain highway funds, to fund a combined transit and highway formula program through a block grant. We believe this distribution of this user fee resource would be fairer and more efficient than that currently employed. In terms of equity, under the present program structure, over 80% of the section 3 funds go to just 20 cities. By distributing these funds by formula, all States which contribute to the Mass Transit Account would get an equitable share. In addition, combining the transit and highway resources into a block grant with an urban mobility component would better meet the needs of the urban areas served by the Federal transit and highway programs. The mobility focus should be on those transportation services which best meet a community's needs. However, if Congress does not agree to a mobility program, then the Administration would support using Mass Transit Account funds to fund UMTA's formula grant program or at least that the funds be distributed on some formula basis. Finally, we support funding of transit interstate substitute projects from the Highway Trust Fund instead of from the general fund, as they are under current law.

Another important issue we believe that you should consider is the exemption of buses from the fuel tax. Currently, buses owned by public transit authorities pay no taxes into the Highway Trust Fund. Gasoline buses owned by private transit companies pay no taxes if they are providing service open to the general public, but otherwise pay 9 cents per gallon Federal tax. Diesel buses owned by private companies pay either none of the 15 cents Federal diesel tax or just 3 cents, depending on the kind of service they provide.

The amendment would "level the playing field" between public transit authorities and private transit companies, so that public authorities could no longer use their exemption from fuel taxes to undercut private bus companies. None of the changes would affect the exemptions and refunds for school buses.

I would also note that the House highway authorization bill, H.R. 3129, takes funds from the Mass Transit Account to fund ten university transportation research centers. We do not believe that the centers are needed or that funding them with Mass Transit Account funds is appropriate.

In closing, I would like to urge that the gasoline tax evasion provision be retained in the Tax Reform Act when it is considered for fiscal passage in the House and Senate. This revenue loss affects both the highway and transit programs.

Mr. Chairman, that concludes my prepared statement. I am prepared to answer for the record any questions that you or other Committee members might have. Thank you.

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