



THE SECRETARY OF TRANSPORTATION

WASHINGTON, D.C. 20590

21)

Identical letter to:
Honorable John W. McCormack
Speaker of the House
of Representatives

MAY 20 1968

MAY 20 1968

Honorable Hubert H. Humphrey
President of the Senate
Washington, D.C. 20510

Dear Mr. President:

There is transmitted herewith a proposed bill

"To provide for the imposition of additional airway user charges and for other purposes",

together with a section-by-section analysis.

In a letter to me of September 20, 1967, the President stated:

"It is apparent that the rapid growth of commercial and private flying is creating demands for substantial expansion and improvement in the Nation's air traffic control system. The Federal government is the manager of this system. System improvement will, therefore, require large additional outlays of Federal funds for investment and operations. Those who will benefit most from such expenditures, the aviation industry and the flying public, should pay their fair share of the costs of the system needed to handle the increase in air traffic while maintaining a high level of safety. I do not believe the general taxpayer should be asked to shoulder this burden."

The new and expanded airways program being considered by the Department would place increased emphasis on the automation of the air traffic control system and on the installation of facilities and equipment at airports served by air carriers. The proposed bill would generate the revenues required to finance these increased expenditures. The tax levels have been set so as to achieve as much equity as possible at this time among airway users. In furtherance

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of equity, expenditures under the new program for classes of users will be related as closely as possible to revenues contributed by classes of users.

The bill would

- increase the passenger ticket tax from 5% to 8%; impose a new tax on air freight waybills of 8%;
- provide a full refund to air carriers of the four cents per gallon gasoline tax;
- increase the effective tax rate on gasoline used by general aviation from the present two cents per gallon to seven cents per gallon in fiscal year 1969, to eight cents in fiscal 1970, to nine cents in fiscal 1971, and to ten cents in fiscal 1972;
- impose a new tax on jet fuels used by general aviation of seven cents per gallon in fiscal year 1969, rising by annual one-cent increments to ten cents per gallon in fiscal year 1972.

Since enactment of these tax increases is a prerequisite to improvement of the airways system, I urge early consideration of this bill by the Congress.

The Bureau of the Budget has advised that enactment of this bill would be in accord with the President's program.

Sincerely,

"Original Signed by"

Alan S. Boyd

Enclosures

A BILL

To provide for the imposition of additional airway user charges
and for other purposes

Be it enacted by the Senate and House of Representatives of the
United States of America in Congress Assembled

SECTION 101. SHORT TITLE, ETC.

(a) Short Title. -- This Act may be cited as the "Airway User
Act of 1968".

(b) Amendment of 1954 Code. -- Except as otherwise expressly
provided, whenever in this Act an amendment or repeal is expressed in
terms of an amendment to, or repeal of, a section or other provision, the
reference shall be considered to be made to a section or other provision
of the Internal Revenue Code of 1954.

SECTION 102. TAX ON AVIATION FUEL.

(a) Imposition of Tax. -- Section 4041 (relating to tax on special
fuels) is amended by repealing subsections (c), (d), and (e) and inserting
after subsection (b) the following new subsections:

"(c) Noncommercial Aviation. --

"(1) In General. --There is hereby imposed a tax (at
the rate specified in paragraph (2)) upon any liquid (other
than any product taxable under section 4081) --

"(A) sold by any person to an owner, lessee, or
other operator of an aircraft, for use as a fuel in such
aircraft in noncommercial aviation; or

"(B) used by any person as a fuel in an aircraft in noncommercial aviation, unless there was a taxable sale of such liquid under this section.

"(2) Rate of Tax. --The rate of tax imposed by paragraph (1) is as follows:

7 cents a gallon for the period July 1, 1968 through June 30, 1969;

8 cents a gallon for the period July 1, 1969 through June 30, 1970;

9 cents a gallon for the period July 1, 1970 through June 30, 1971; and

10 cents a gallon for the period after June 30, 1971.

"(3) Gasoline. --There is hereby imposed a tax (at the rate specified in paragraph (4)) upon any product taxable under section 4081 --

"(A) sold by any person to an owner, lessee, or other operator of an aircraft, for use as a fuel in such aircraft in noncommercial aviation; or

"(B) used by any person as a fuel in an aircraft in noncommercial aviation, unless there was a taxable sale of such product under subparagraph (A).

The tax imposed by this paragraph shall be in addition to any tax imposed under section 4081.

"(4) Rate of Tax. --The rate of tax imposed by paragraph (3) is as follows:

3 cents a gallon for the period July 1, 1968 through June 30, 1969;

4 cents a gallon for the period July 1, 1969 through June 30, 1970;

5 cents a gallon for the period July 1, 1970 through June 30, 1971;

6 cents a gallon for the period July 1, 1971 through September 30, 1972; and

8 1/2 cents a gallon for the period after September 30, 1972.

"(5) Definition of Noncommercial Aviation. --For purposes of this chapter, the term 'noncommercial aviation' means any use of an aircraft other than by a person engaged in the business of transporting persons or property for compensation or hire by air while in the course of the operation of such business.

"(d) Additional Tax. --If a liquid on which tax was imposed on the sale thereof is taxable at a higher rate on the use thereof under this section, there is hereby imposed a tax equal to the difference between the tax so imposed and the tax payable at such higher rate.

"(e) Rate Reduction. --On and after October 1, 1972 --

"(1) the taxes imposed by subsections (a) and (b) shall be 1 1/2 cents a gallon, and

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

"(f) Exemption for Farm Use. --

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"(1) Exemption. --Under regulations prescribed by the Secretary or his delegate, no tax shall be imposed under section 4041 on any liquid sold for use or 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).

"(g) Exemption for Use as Supplies for Vessels. --Under regulations prescribed by the Secretary or his delegate, no tax shall be imposed under this section on any liquid sold for use or used as supplies for vessels or aircraft (within the meaning of section 4221)."

(b) Conforming and Technical Amendments. --Section 4041(b) (relating to imposition of tax on special motor fuels) is amended --

(1) by striking out "motor vehicle, motorboat, or airplane" each place it appears and inserting in lieu thereof "motor vehicle or motorboat", and

(2) by striking out "for the propulsion of" each place it appears and inserting in lieu thereof "in".

SECTION 103. AMENDMENT OF TAX ON TRANSPORTATION OF PERSONS BY AIR AND IMPOSITION OF TAX ON TRANSPORTATION OF PROPERTY BY AIR.

(a) Tax on Transportation of Persons by Air. --

(1) Section 4261 (relating to imposition of tax) is amended by striking out "November 15, 1962" in each place it appears and by

substituting in lieu thereof "November 15, 1962 and before July 1, 1968, and 8 percent of such amount for transportation which begins after June 30, 1968".

(2) Section 4262(c) (relating to definitions) is amended by adding at the end thereof a new paragraph to read as follows:

"(4) Transportation. --For purposes of this part, the term 'transportation' includes layover or waiting time and movement of the aircraft in deadhead service."

(3) Section 4263(d) (relating to small aircraft on nonestablished lines) is repealed.

(b) Imposition of Tax on Transportation of Property by Air. --Subchapter C of chapter 33 is amended by adding at the end thereof a new part to read as follows:

"PART II--PROPERTY

"Section 4271. Imposition of tax.

"Section 4272. Exemptions.

"SECTION 4271. IMPOSITION OF TAX.

"(a) In General. --There is hereby imposed upon the amount paid within or without the United States for the transportation of property by air from one point in the United States to another, a tax equal to 8 percent of the amount so paid for transportation which begins after June 30, 1968. Such tax shall apply only to amounts paid to a person engaged in the business of transporting property for hire by air.

"(b) Application of Tax to Transportation of Property into the United States. --In the case of property transported from a point without the United States to a point within the United States, the tax shall apply to the amount paid within the United States for that part of the transportation which takes place within the United States. Such tax shall apply only to amounts paid to a person engaged in the business of transporting property for hire by air.

"(c) Transportation. --For purposes of this part, the term 'transportation' includes layover or waiting time and movement of the aircraft in deadhead service.

"(d) By Whom Paid. --The tax imposed by this section shall be paid by the person making the payment subject to the tax.

"(e) Definition. --The term 'person engaged in the business of transporting property for hire by air' does not include a freight forwarder, express company, or similar person.

"SECTION 4272. EXEMPTIONS.

"(a) Shipment for Export. --Under regulations prescribed by the Secretary or his delegate, no tax shall be imposed under section 4271 upon amounts paid within the United States for the transportation of property in the course of exportation (including shipment to a possession of the United States) by continuous movement, and in due course so exported or shipped.

"(b) Certain Organizations. --The tax imposed by section 4271 shall not apply to amounts paid for the transportation of property to or from an

international organization (as defined in section 7701(a)(18)), or any corporation created by Act of Congress to act in matters of relief under the treaty of Geneva of August 22, 1864."

(c) Conforming Amendment. --Subchapter C of chapter 33 is amended by striking out the heading of such subchapter and inserting in lieu thereof the following:

"Subchapter C--Transportation by Air

"Part I. Persons

"Part II. Property.

"PART I--PERSONS"

SECTION 104. TECHNICAL AND CLERICAL AMENDMENTS.

(a) Section 6421(a) (relating to nonhighway use of gasoline) is amended by adding the following sentence at the end thereof: "In the case of gasoline used as a fuel in an aircraft in commercial aviation (any aviation other than noncommercial aviation as defined in section 4041(c)(5)) the Secretary or his delegate shall pay (without interest) to the ultimate purchaser of such gasoline an amount equal to the amount determined by multiplying the number of gallons of gasoline so used by the rate at which tax was imposed on such gasoline under section 4081."

(b) Section 6421(e) (relating to exempt sales; other payments or refunds available) is amended by adding the following paragraph at the end thereof:

"(3) Gasoline Used in Noncommercial Aviation. --This section shall not apply in respect of gasoline which is used as a fuel in an aircraft in noncommercial aviation (as defined in section 4041(c)(5))."

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(c) Section 4292 (relating to State and local governmental exemption) is amended by striking out "section 4251 or 4261" and inserting in lieu thereof "sections 4251, 4261, or 4271".

(d) Section 4294(a) (relating to exemption for nonprofit educational organizations) is amended by striking out "section 4251 or 4261" and inserting in lieu thereof "sections 4251, 4261, or 4271".

(e) Section 6415 (relating to credits or refunds to persons who collected certain taxes) is amended by striking out "section 4251 or 4261" each place it appears and inserting in lieu thereof "sections 4251, 4261, or 4271".

(f) Subparagraph (A) of section 6416(a)(2) (relating to exceptions) is amended by striking out "section 4041(a)(2) or (b)(2) (use of diesel and special motor fuels)" and inserting in lieu thereof "section 4041 (relating to tax on special fuels) on the use of any liquid".

(g) Paragraph (2) of section 6416(b) (relating to special cases in which tax payments considered overpayments) is amended--

(1) by striking out "(or under section 4041(a)(1) or (b)(1))" and inserting in lieu thereof "(or under section 4041 on the sale of any liquid)";

(2) by amending subparagraph (G) to read as follows:

"(G) in the case of a liquid in respect of which tax was paid under section 4041 on the sale thereof (whether such sale occurred on, before, or after June 30, 1968), if (i) the vendee used such liquid other than for the use for which sold, 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; except that the amount of any overpayment by reason of this subparagraph shall be reduced by an amount equal to the amount of tax applicable on the use thereof under section 4041 on the date used;"; (3) by striking out subparagraphs (I) and (J); and (4) by amending subparagraph (M) to read as follows:

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

(h) Section 4082(c) (relating to certain uses defined as sales) is amended by striking out "or of special motor fuels referred to in section 4041(b)" and inserting in lieu thereof "or of special fuels referred to in section 4041".

(i) Section 6420(i)(1) (relating to cross references) is amended--

(1) by striking out "diesel fuel and special motor fuels" and inserting in lieu thereof "special fuels", and

(2) By striking out "section 4041(d)" and inserting in lieu thereof "section 4041(f)".

(j) Section 6421(j) (relating to cross references) is amended to read as follows:

"(j) Cross References. --

"(1) For rate of tax in case of special fuels used in noncommercial aviation or for nonhighway purposes, see section 4041.

"(2) For refund or partial refund of tax in case of special fuels used for certain purposes or resold, see section 6416(b)(2).

"(3) For civil penalty for excessive claims under this section, see section 6675.

"(4) For fraud penalties, etc., see chapter 75 (section 7201 and following, relating to crimes, other offenses, and forfeitures)."

SECTION 105. HIGHWAY TRUST FUND.

Section 209 of the Highway Revenue Act of 1956, as amended (relating to the Highway Trust Fund) is amended as follows:

(a) Subparagraph (A) of subsection (c)(1) (relating generally to transfer to trust fund of amounts equivalent to certain taxes) and subparagraph (A) of subsection (c)(3) (relating to liabilities incurred before October 1, 1972, for new or increased taxes) are amended by striking out "under sections 4041 (taxes on diesel fuel and special motor fuels)", and inserting in lieu thereof "under subsection (a) or (b) of section 4041 (tax on special fuels) and sections".

(b) Subsection (f) (relating to expenditures from trust fund) is amended by adding at the end thereof the following new paragraph:

"(7) Transfers from the Trust Fund for Gasoline Used in Aircraft. -- The Secretary of the Treasury shall pay from time to time from the Trust Fund into the general fund of the Treasury amounts as determined by him

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equivalent to the taxes (not otherwise refundable) received under section 4081 of such Code with respect to gasoline used on and after July 1, 1968, in aircraft."

SECTION 106. EFFECTIVE DATES.

(a) Transportation Taxes. --The amendments made by section 103 of this Act shall apply to amounts paid for or in connection with transportation which begins after June 30, 1968.

(b) Special Fuels and Gasoline. --The amendments and repeals made by this Act with respect to gasoline and special fuels shall apply to sales or uses after June 30, 1968.

(c) All other amendments made by this Act shall take effect on July 1, 1968.

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SECTION-BY-SECTION ANALYSIS OF PROPOSED AIRWAY USER ACT OF 1968

Section 101. Short Title; Amendment of 1954 Code.

Section 101(a) of the bill provides that the act may be cited as the "Airway User Act of 1968".

Section 101(b) of the bill provides that unless otherwise specified references are to sections or other provisions of the Internal Revenue Code of 1954.

Section 102. Tax on Aviation Fuel.

Subsection 102(a) amends section 4041 of the Internal Revenue Code (relating to tax on special fuels).

Present law.--Under present law a tax of 4 cents a gallon is imposed on special motor fuels (such as benzol, benzene, etc.) sold for use or used as a fuel for the propulsion of a registered highway motor vehicle. Special motor fuels sold for use or used for the propulsion of a motorboat, airplane or motor vehicle (other than a registered highway vehicle) are taxed at the rate of 2 cents a gallon. No tax is imposed on certain designated fuels such as kerosene (jet airplane fuel).

The amendments made by section 102 of the bill are designed to change the rate of tax applicable to the use of fuel in airplanes. Section 4041 is reorganized by adding a new subsection (c) which deals with the taxation of fuels used in certain aircraft.

Noncommercial Aviation.--The new subsection (c) of section 4041 imposes a tax on fuel sold for use or used in an aircraft in noncommercial aviation.

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Paragraph (1) of section 4041(c) imposes a tax on any liquid (other than gasoline) at the rate specified in paragraph (2) sold for use or used as a fuel in an aircraft, if the aircraft is used in noncommercial aviation. Under present law, special motor fuels are taxed at the rate of 2 cents a gallon if sold for use in any aircraft, whether the aircraft is used in commercial or noncommercial aviation. Moreover, under present law, no tax is imposed on kerosene (jet fuel), gas oil, and fuel oil sold for use or used in airplanes. Under the bill, all liquids, including kerosene, etc., would be taxable if sold for use or used in noncommercial aviation. No tax would apply to special fuels sold for use or used in commercial aviation and the tax on gasoline used in commercial aviation would be refunded, since separate user charges are imposed on commercial aviation under section 103 of this bill which increases the present tax on air fares and imposes a new tax on air freight charges.

Paragraph (2) of section 4041(c) specifies the rate of tax imposed on all liquids (other than gasoline) sold for use or used as a fuel in an aircraft used in noncommercial aviation. The rate of tax is 7 cents a gallon for the fiscal year ending June 30, 1969, increasing at the rate of 1 cent a gallon in each succeeding fiscal year until the rate of 10 cents a gallon is reached. The 10-cent-a-gallon rate is effective on and after July 1, 1971.

Paragraph (3) of section 4041(c) imposes an additional tax at the rate specified in paragraph (4) on gasoline sold for use or used as a fuel in an aircraft, if the aircraft is used in noncommercial aviation. Section 4081

now provides for a 4-cent-a-gallon tax on the sale of gasoline by the producer or importer. This additional tax on gasoline used in noncommercial aviation will result in the same rate of tax per gallon imposed on gasoline as the rate of tax on other fuels in noncommercial aviation.

Paragraph (4) specifies the rate of tax imposed by paragraph (3) on gasoline sold for use or used in noncommercial aviation. The rate of tax is graduated from 3 cents a gallon for the fiscal year ending June 30, 1969, to 6 cents a gallon for the period July 1, 1971 through September 30, 1972, and thereafter to 8 1/2 cents a gallon. Thus, when added to the 4-cent-a-gallon tax on gasoline imposed by section 4081, which rate is scheduled to be lowered to 1 1/2 cents after September 30, 1972, the rate of tax on gasoline used in noncommercial aviation will be the same per gallon as that imposed on all other fuels used in noncommercial aviation under paragraph (1).

Paragraph (5) of section 4041(c) defines the term "noncommercial aviation" for purposes of chapter 31 to mean any use of an aircraft other than by a person engaged in the business of transporting persons or property for compensation by air while in the course of such business.

Additional Tax.---Subsection (d) of section 4041 provides for the imposition of an additional tax if a liquid is subject to tax at a higher rate on the actual use made of such liquid than the rate levied on its sale. This additional tax is equal to the difference between (a) the tax imposed on the sale of such liquid and (b) the tax payable at such higher rate on the use thereof.

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Rate Reduction.--Subsection (e) of section 4041 provides that on or after October 1, 1972, the taxes imposed on special fuels (including diesel fuel) sold for use or used in registered highway motor vehicles will be reduced from 4 cents a gallon to 1 1/2 cents a gallon, and that the tax imposed on special fuels sold for use or used in nonregistered motor vehicles or motorboats will be reduced from 2 cents a gallon to 1 1/2 cents a gallon. Under existing law, a similar rate reduction is scheduled to take effect on the same date. Under present law the rate reduction would also apply to special fuels for aircraft. However, the conforming amendment removes airplanes from the sections affected by the rate reduction.

Exemptions.--Subsections (f) and (g) provide for the same exemptions from the taxes on special fuels as are provided under present law.

Farm Use.--Paragraph (1) of section 4041(f) provides that no tax shall be imposed under section 4041 on any liquid sold for use or used on a farm for farming purposes. This exemption applies with respect to all farm uses of special fuels whether used in a motor vehicle, aircraft, or motorboat.

Paragraph (2) of section 4041(f) continues the present definition of the term "use on a farm for farming purposes".

Supplies for Vessels or Aircraft.--Subsection (g) provides that no tax is to be imposed under section 4041 on any liquid sold for use or used as supplies for vessels or aircraft, within the meaning of section 4221 (including the reciprocity provision of section 4221(e)(1)). In general, this exemption applies to military ships and planes, fishing vessels, and vessels engaged in foreign trade.

Conforming and Technical Amendments.--Subsection (c) of section 102 of the bill makes a conforming amendment and a technical amendment to present subsection (b) of section 4041.

Paragraph (1) of subsection (b) amends code section 4041(b) by striking all references to "airplanes" to make it clear that a liquid sold for use, or used, in an airplane is not to be taxable under that subsection.

Under present law, the tax on special motor fuels applies to a liquid sold for use, or used, as a fuel "for the propulsion of" a motor vehicle, motorboat, or airplane. Section 102(b)(2) of the bill amends section 4041(b) of the code by deleting the phrase "for the propulsion of" and replacing it with the word "in". This change conforms section 4041(b) to the language of present section 4041(a), relating to tax on diesel fuel (sold for use or used in a diesel-powered highway vehicle) and to the proposed section 4041(c). This is not intended to be a substantive change from present law, since it conforms the statute to the interpretation given present sections 4041(a) and (b) by existing Treasury regulations.

Section 103. Amendment of Tax on Transportation of Persons by Air and Imposition of Tax on Transportation of Property by Air.

Section 103 of the bill amends subchapter C of chapter 33 to increase the tax on air passenger fares and to impose a new tax on air freight charges. Section 103 divides subchapter C into two parts. Part I contains the tax on transportation of persons by air and part II contains the new tax on the transportation of property by air.

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Air Passenger Fares.--Subsection (a)(1) of section 103 of the bill amends section 4261 (relating to imposition of tax) to provide for an increase in the rate of tax from 5 percent to 8 percent on amounts paid for transportation of persons by air. The higher rate applies to such transportation which begins after June 30, 1968. Thus, the increased rate applies if the transportation begins after June 30, 1968, regardless of when the amounts for the transportation are paid.

Subsection (a)(2) of section 103 of the bill adds a new paragraph (4) to existing section 4262(c) (relating to definitions) to provide that the term "transportation" includes layover or waiting time and movement of the aircraft in deadhead service. The purpose of this provision is to make clear that amounts paid for layover and waiting time and for the movement of the aircraft in deadhead service, whether or not stated or billed separately, are subject to tax.

Subsection (a)(3) of section 103 of the bill repeals the exemption from the tax on transportation of persons by air provided by present section 4263(d). That exemption currently applies to transportation by aircraft having a gross takeoff weight of less than 12,500 pounds and a passenger seating capacity of less than 10 adult passengers, including the pilot, except when the aircraft is operated as a part of an established line. These carriers, as well as other air carriers, benefit from the Federal programs relating to airways and should bear their share of the costs.

Subsection (b) of section 103 of the bill adds new part II to chapter 33 to impose the new tax on the transportation of property by air. The tax

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under subsections (a) and (b) of section 4271 is imposed at the rate of 8 percent on amounts paid for transportation which begins after June 30, 1968.

Subsection (a) of section 4271 provides that the tax is applicable to amounts paid within or without the United States for transportation of property by air from one point in the United States to another.

Subsection (b) of section 4271 provides that, when property is transported from a point without the United States to a point within the United States, the tax shall apply to the amount paid within the United States for that part of the transportation which takes place within the United States. Thus, amounts paid outside the United States for the transportation of property by air from a point without the United States to a point within the United States are not subject to tax. The determination of whether the amounts paid for transportation are paid within or without the United States will in general conform to the rules applicable to the tax on amounts paid for transportation of property by land, water, and air which was in effect prior to August 1, 1958, and the corresponding rules applicable to the present tax on transportation of persons by air.

The tax imposed by subsections (a) and (b) of section 4271 applies only to amounts paid to a person engaged in the business of transporting property for hire by air.

Subsection (c) of section 4271 provides that payments for layover or waiting time or deadhead movement of an aircraft are taxable, whether or not separately stated or billed.

Subsection (d) of section 4271 provides that the tax imposed is to be paid by the person making the payment subject to tax.

Subsection (e) of section 4271 defines the term "person engaged in the business of transporting property for hire by air" to exclude freight forwarders, express companies, or similar persons, if such persons engage others to transport the property. Thus, if a shipper engages a freight forwarder to transport property, the tax is not levied on the payment by the shipper to the freight forwarder. It is imposed on the freight forwarder when he pays the carrier, and the tax is computed on the basis of the amount so paid.

Section 4272 provides for exemptions from the tax on amounts paid for transportation of property by air. Subsection (a) of section 4272 provides for an exemption with respect to amounts paid for the transportation of property in the course of exportation (including shipment to a possession of the United States) by continuous movement, and in due course so exported or shipped. Movement is not continuous if in the course of such movement the property transported is processed, fabricated or similarly treated.

Subsection (b) of section 4272 provides that the tax on transportation of property by air shall not apply to amounts paid for transportation of property to or from an international organization, as defined in section 7701(a)(18), or the Red Cross.

Subsection (c) of section 103 makes a conforming change in the heading of subchapter C of chapter 33 of the Internal Revenue Code of 1954 to incorporate the new tax on transportation of property by air.

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Section 104. Technical and Clerical Amendments.

Subsection (a) of section 104 of the bill amends section 6421(a) (relating to nonhighway use of gasoline) by adding a new sentence at the end thereof. This sentence provides that, in the case of gasoline used as fuel in commercial aviation after June 30, 1968, a full refund, instead of a 50 percent refund, of the manufacturers tax imposed on such gasoline will be paid to the ultimate purchaser thereof.

Subsection (b) of section 104 of the bill amends section 6421(e) (relating to exempt sales) by adding a new paragraph (3) at the end thereof. This new paragraph provides that no refunds of gasoline tax will be made with respect to gasoline used in noncommercial aviation. This is necessary so that gasoline and special fuels used in noncommercial aviation will be taxed at the same rate.

Subsection (c), (d), and (e) of section 104 of the bill amend section 4292 (relating to State and local government exemption), section 4294(a) (relating to exemption for nonprofit educational organizations), and section 6415 (relating to credits or refunds to persons who collected certain taxes) to extend the provisions of such sections to the tax on the transportation of property by air imposed by section 103 of the bill.

Subsection (f) of section 104 of the bill makes a conforming amendment to subparagraph (A) of section 6416(a)(2) (relating to exceptions).

Subsection (g) of section 104 of the bill amends section 6416(b)(2) (relating to special cases in which tax payments considered overpayments), as follows:

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Paragraph (1) of subsection (g) amends section 6416(b)(2) to make a conforming change to continue the allowance of certain refunds with respect to taxes imposed on the sale of any special fuel under section 4041.

Paragraph (2) of subsection (g) amends subparagraph (G) of section 6416(b)(2). Subparagraph (G) of section 6416(b)(2) presently provides for credit or refund of tax paid on the sale of diesel fuel or special motor fuels if the vendee either resold the fuel, used it on a farm for farming purposes, or used it in other than a motor vehicle, motorboat, or airplane. Subparagraph (G), as amended, provides for a credit or refund of tax paid on the sale of a special fuel under section 4041, whether such sale occurred on, before, or after June 30, 1968, if the vendee either used such fuel for other than the use for which it was sold, resold such liquid, or used it on a farm for farming purposes. However, the credit or refund will not exceed the amount of the tax so paid less the tax applicable under section 4041 on the use actually made of such liquid on the date used.

Paragraph (3) of subsection (g) strikes out subparagraphs (I) and (J) of section 6416(b)(2), which provide special rules for determining the amount of overpayment, since they are no longer necessary in view of the amendment of subparagraph (G) of section 6416(b)(2), discussed above.

Paragraph (4) of subsection (g) makes a conforming change to subparagraph (M) of section 6416(b)(2), which provides for credit or refund of tax paid on the sale of gasoline which is used or sold for use in the production of special fuels.

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Subsection (h) of section 104 of the bill makes a conforming change to section 4082(c) of the code, which permits a producer or importer of gasoline to use gasoline free of tax in the production of other gasoline or of special motor fuels.

Section 105. Highway Trust Fund.

Section 105 of the bill amends the highway trust fund provisions in section 209 of the Highway Revenue Act of 1956, as amended.

Subsection (a) of section 105 of the bill amends subparagraph (A) of sections 209(c)(1) and (3) of the Highway Revenue Act to provide for the transfer to the highway trust fund of taxes collected on the sale or use of special fuels in motor vehicles or motorboats imposed by subsection (a) or (b) of section 4041 of the code as amended by section 102 of the bill. Revenues from the tax on special fuels used in aircraft would be retained in the general fund of the Treasury in recognition of the cost of Federal expenditures for airways. Under present law, all revenues from the present tax on special fuels imposed by section 4041 are transferred to the highway trust fund.

Subsection (b) of section 105 of the bill amends subsection (f) of section 209 of the Highway Revenue Act to add a new paragraph (7), which provides that the Secretary of the Treasury is, from time to time, to pay from the highway trust fund into the general fund of the Treasury that part of the taxes imposed on the sale or use of gasoline under section 4081 which is used in aircraft on and after July 1, 1968. This will exclude from the highway trust fund taxes imposed by section 4081 on gasoline used in aviation.

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Section 106. Effective Dates.

Section 106 of the bill sets forth the effective dates of the amendments and repeals contained in the bill.

Subsection (a) of section 106 of the bill provides that the amendments and repeals made by section 103 of the bill, relating to tax on transportation by air, are to apply to amounts paid for in connection with such transportation which begins after June 30, 1968.

Subsection (b) of section 106 of the bill provides that the amendments and repeals made by the bill with respect to taxes on gasoline and special fuels are to apply to sales or uses thereof after June 30, 1968.

Subsection (c) of section 106 of the bill provides that all other amendments made by the bill are to take effect on July 1, 1968.

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all