104TH CONGRESS
2d Session

HOUSE OF REPRESENTATIVES

REPT. 104–576
Part 1

REPEAL OF 4.3-CENT INCREASE IN TRANSPORTATION FUELS TAXES

MAY 15, 1996.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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

REPORT

together with

DISSENTING VIEWS

[To accompany H.R. 3415]

[Including cost estimate of the Congressional Budget Office]

The Committee on Ways and Means, to whom was referred the bill (H.R. 3415) to amend the Internal Revenue Code of 1986 to repeal the 4.3-cent increase in the transportation motor fuels excise tax rates enacted by the Omnibus Budget Reconciliation Act of 1993 and dedicated to the general fund of the Treasury, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

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I. INTRODUCTION

A. Purpose and Summary

H.R. 3415 (secs. 1–5), as reported by the Committee on Ways and Means, provides for a temporary repeal of the 4.3-cents-per-gallon General Fund excise tax on transportation motor fuels, effective during the period beginning seven days after enactment through December 31, 1996. The bill also includes a Sense of the Congress that the full benefit of the repeal be flowed through to consumers. In addition, the bill directs the General Accounting Office to study the impact of repeal of the 4.3-cents-per-gallon transportation motor fuels excise tax on consumers, and to report its findings to the Congress by January 31, 1997.

The bill, as introduced, includes two budgetary offset provisions not in the jurisdiction of the Committee on Ways and Means: (1) a reduction in authorized appropriations for Department of Energy administrative expenses (sec. 6 of the bill); and (2) a requirement that the Federal Communications Commission make additional spectrum available by auction (sec. 7 of the bill). Sections 6 and 7 of the bill, dealing with the authorization of appropriations for expenses of administration of the Department of Energy, and spectrum auctions, are not within the jurisdiction of the Committee and were not considered by the Committee.

B. Background and Need for Legislation

Gasoline and other motor fuels prices have increased significantly since the beginning of 1996. The Department of Energy reports that average national regular unleaded gasoline prices have increased from $1.09 per gallon on January 8, 1996, to $1.28 per gallon on May 7, 1996. Prices in some regions of the United States have increased even more dramatically. Crude oil prices have increased from $19.83 per barrel of West Texas Intermediate to $22.43 per barrel during the first four months of 1996.

The Omnibus Budget Reconciliation Act of 1993 ("1993 Act") imposed a permanent 4.3-cents-per-gallon excise tax on transportation motor fuels. Revenues from this tax are retained in the General Fund of the Treasury. Other excise taxes are imposed, at varying rates, on various transportation motor fuels to finance specific public works- or environmental-related trust funds.

An immediate repeal of the 4.3-cents-per-gallon transportation motor fuels excise tax will provide some needed relief to consumers. Most of that tax relief will go to middle- and lower-income taxpayers.

It is the intention of the Committee that the revenue reduction from the temporary repeal of this excise tax be fully offset through spending savings or other budgetary savings before the bill is con-

sidered by the House of Representatives. This is accomplished by sections 6 and 7 of the bill as introduced (see Summary, above).

C. Legislative History

Committee bill

H.R. 3415 was introduced by Mrs. Seastrand (and Messrs. Riggs, Royce, and Zimmer) on May 8, 1996. The bill was considered in a Committee markup on May 9, 1996, and was ordered favorably reported by a roll call vote of 23 yeas and 13 nays on May 9, 1996.

Legislative Hearing

The Committee held a public hearing on May 8, 1996, on the impact of the 1993 Act increase in the transportation motor fuels excise tax rates.

II. EXPLANATION OF THE BILL

Present Law

Separate Federal excise taxes are imposed on specified transportation motor fuels. Taxable fuels include gasoline, diesel fuel and special motor fuels used for highway transportation, gasoline and diesel fuel used in motorboats, diesel fuel used in trains, fuels used in inland waterway shipping, and aviation fuel (gasoline and jet fuel). Motor fuels used by all of these transportation sectors are subject to a permanent 4.3-cents-per gallon excise tax, enacted by the Omnibus Budget Reconciliation Act of 1993 (the "1993 Act"). Revenues from the 4.3-cents-per-gallon excise tax are retained in the General Fund of the Treasury.

Transportation sectors that benefit from Federal public works and environmental programs are subject to additional tax rates (beyond the 4.3-cents-per-gallon General Fund rate) to finance Federal trust funds established as a financing source for those programs. Motor fuels excise taxes other than the 4.3-cents-per-gallon transportation motor fuels excise tax generally are temporary (i.e., have scheduled expiration dates). As a result of the financing needs of these public works and environmental programs, the aggregate tax rate varies for each transportation sector and fuel. For example, diesel fuel used in automobiles and trucks is subject to a total tax rate of 24.3 cents per gallon, while gasoline used in these vehicles is subject to an 18.3-cents-per-gallon tax rate. Diesel fuel used in trains is subject to an aggregate General Fund tax rate of 5.55 cents per gallon but not to any trust fund rate (because there is no Federal rail construction trust fund).

In addition to the taxes imposed directly on transportation motor fuels, excise taxes formerly were imposed on crude oil (and imported refined petroleum products) to finance the Hazardous Substance Superfund program (before January 1, 1996) and the Oil Spill Liability Trust Fund program (before January 1, 1995). A further excise tax on motor fuels, the 0.1-cents-per-gallon Leaking Underground Storage Tank Trust Fund tax, expired after December 31, 1995.

Between 1956 and 1990, motor fuels excise taxes generally were imposed only for Federal trust fund financing. The first deviation

from this practice occurred when the Omnibus Budget Reconciliation Act of 1990 imposed a temporary (through September 30, 1995) 2.5-cent-per-gallon General Fund excise tax on highway and rail transportation motor fuels. In addition to imposing the 4.3-cents-per-gallon General Fund transportation motor fuels excise tax, described above, the 1993 Act also extended the 1990 General Fund excise tax rate and provided that revenues from the tax on highway motor fuels be deposited in the Highway Trust Fund during the period October 1, 1995 through September 30, 1999, and imposed a 24.4-cents-per-gallon General Fund excise tax on diesel fuel used in recreational boating (as a revenue offset for repeal of the excise tax on certain luxury boats), through December 31, 1999. The 1990 General Fund excise tax on diesel fuel used in trains was extended at a reduced rate of 1.25 cents per gallon during the same period.

Explanation of provision

Repeal of 4.3-cents-per-gallon transportation motor fuels excise tax (secs. 1–4 of the bill and sec. 4081 of the Code)

The bill repeals the 4.3-cents-per-gallon General Fund transportation motor fuels excise tax imposed in 1993 during the period beginning seven days after enactment and ending on December 31, 1996. Statutorily, this is accomplished by reducing the aggregate tax rate that otherwise would be imposed by 4.3 cents per gallon, or adjusting the amount of an exemption (e.g., in the case of commercial aviation jet fuel). The bill does not affect any of the motor fuels excise taxes that are dedicated funding sources for Federal public works or environmental trust fund programs.

Table 1, below, summarizes the excise tax rates imposed on transportation motor fuels under present law and the bill, by trust fund and General Fund components.

Because the 4.3-cents-per-gallon transportation motor fuels excise tax (along with other applicable excise taxes on the same fuels) is imposed on certain motor fuels before the fuels reach the consumer level, the bill includes rules comparable to present-law "floor stocks refund" provisions that allow refunds to producers (including importers) and other dealers for fuel held for sale on the effective date of the tax reduction when the excise tax already has been paid. These refunds must be claimed by persons liable for payment of the tax ("position holders"), based on amounts of tax-paid fuel they own on the tax-repeal date and on documented claims from dealers that purchased tax-paid fuel from them and hold the fuel for sale on the tax-repeal date. As under the present-law floor stocks refund provisions, no refunds are allowable for fuel held at retail sale locations. These refunds are intended to be allowable either as refund claims filed with the Internal Revenue Service or as credits against required deposits and payments of other excise taxes owed by the claimants.

The bill further imposes floor stocks taxes, identical to those imposed in 1993, on taxable fuels held on January 1, 1997, when the tax-repeal period expires. Under this provision, no tax is imposed on gasoline or diesel fuel held in the fuel supply tank of a motor vehicle (including airplanes, trains, boats, and highway vehicles).

Sense of the Congress on benefit to ultimate consumers (sec. 5(a)(1) of the bill)

The bill includes a statement that it is the Sense of Congress that the full benefit of repeal of the 4.3-cents-per-gallon transportation motor fuels excise tax be flowed through immediately to consumers, and that position holders claiming refunds immediately credit their customers' accounts to reflect floor stocks refunds allowable under the proposal.

General Accounting Office Study (sec. 5(a)(2) of the bill)

The bill directs the General Accounting Office to study the impact of repeal of the 4.3-cents-per-gallon transportation motor fuels excise tax on consumers and to report its findings to the House Committee on Ways and Means and the Senate Committee on Finance no later than January 31, 1997.

TABLE 1.—COMPARISON OF FEDERAL MOTOR FUELS EXCISE TAX RATES ON VARIOUS TRANSPORTATION SECTORS UNDER PRESENT AND PROPOSED LAW

[Rates shown in cents per gallon]

Transportation sector	Present law			Proposed law		
	Trust fund	General fund	Total tax	Trust fund	General fund	Total tax
Highway Transportation: [1]						
In general (trucks, automobiles):						
Gasoline	14.0	4.3	18.3	14.0	No tax	14.0
Diesel fuel	20.0	4.3	24.3	20.0	No tax	20.0
Special motor fuels [2]	14.0	4.3	18.3	14.0	No tax	14.0
Intercity bus:						
Gasoline	No tax	No tax	No tax	No tax	No tax	No tax
Diesel fuel	3.0	4.3	7.3	3.0	No tax	3.0
Rail Transportation	No tax	5.55	5.55	No tax	1.25	1.25
Water Transportation:						
Inland waterway	20.0	4.3	24.3	20.0	No tax	20.0
Recreation boats:						
Gasoline	14.0	4.3	18.3	14.0	No tax	14.0
Diesel fuel	No tax	24.4	24.4	No tax	20.1	20.1
Air Transportation:						
Commercial aviation	No tax [3]	4.3	4.3	No tax [3]	No tax	No tax
Noncommercial aviation						
Gasoline	14.0 [4]	4.3	18.3	14.0 [4]	No tax	14.0
Jet fuel	No tax [5]	4.3	4.3	No tax [5]	No tax	No tax

[1] Reduced highway motor fuels excise tax rates apply to mixtures of taxable fuels with ethanol and methanol produced from renewable sources (i.e., "gasohol") and to certain "neat" (at least 85 percent pure) methanol fuels produced from natural gas.

[2] Examples of special motor fuels are propane, liquefied natural gas ("LNG"), other liquids used as a fuel in highway transportation, and compressed natural gas ("CNG"). CNG, a gaseous fuel rather than a liquid fuel, is subject only to a General Fund tax of 48.54 cents per thousand cubic feet (the equivalent of the 4.3-cents-per-gallon rate on propane).

[3] Before January 1, 1996, commercial aviation trust fund taxes consisted of a 10-percent domestic passenger ticket tax, a $6 dollar international passenger departure ticket tax, and a 6.25-percent domestic air cargo waybill tax.

[4] Before January 1, 1996, an additional 1-cent-per-gallon tax was imposed on noncommercial aviation gasoline.

[5] Before January 1, 1996, a 17.5-cents-per-gallon tax was imposed.

Effective date

The bill is effective on the date of enactment for taxable fuels removed, entered, sold or used more than six days after that date and before January 1, 1997.

III. VOTES OF THE COMMITTEE

In compliance with clause 2(l)(2)(B) of rule XI of the Rules of the House of Representatives, the following statement is made concern-

ing the votes of the Committee in its consideration of the bill, H.R. 3415.

Motion to report the bill

The bill, H.R. 3415, was ordered favorably reported, without amendment, on May 9, 1996, by a rollcall vote of 23 yeas and 13 nays, with a quorum present. The vote was as follows:

Representatives	Yea	Nay	Present	Representatives	Yea	Nay	Present
Mr. Archer	X			Mr. Gibbons		X	
Mr. Crane	X			Mr. Rangel		X	
Mr. Thomas	X			Mr. Stark		X	
Mr. Shaw	X			Mr. Jacobs			
Mrs. Johnson	X			Mr. Ford		X	
Mr. Bunning	X			Mr. Matsui		X	
Mr. Houghton				Mrs. Kennelly		X	
Mr. Herger	X			Mr. Coyne		X	
Mr. McCrery	X			Mr. Levin		X	
Mr. Hancock	X			Mr. Cardin		X	
Mr. Camp	X			Mr. McDermott		X	
Mr. Ramstad	X			Mr. Kleczka	X		
Mr. Zimmer	X			Mr. Lewis		X	
Mr. Nussle	X			Mr. Payne		X	
Mr. Johnson	X			Mr. Neal		X	
Ms. Dunn	X			Mr. McNulty	X		
Mr. Collins	X						
Mr. Portman	X						
Mr. Hayes	X						
Mr. Laughlin							
Mr. English	X						
Mr. Ensign	X						
Mr. Christensen	X						

Votes on amendments

An amendment by Mr. Matsui to Section 2 to change the date under the applicable repeal period from "January 1, 1997" to "January 1, 2003," was defeated by a roll call vote of 8 yeas to 24 nays. The vote was as follows:

Representatives	Yea	Nay	Present	Representatives	Yea	Nay	Present
Mr. Archer		X		Mr. Gibbons			
Mr. Crane		X		Mr. Rangel			
Mr. Thomas		X		Mr. Stark			
Mr. Shaw		X		Mr. Jacobs	X		
Mrs. Johnson		X		Mr. Ford	X		
Mr. Bunning		X		Mr. Matsui	X		
Mr. Houghton				Mrs. Kennelly		X	
Mr. Herger		X		Mr. Coyne		X	
Mr. McCrery		X		Mr. Levin	X		
Mr. Hancock		X		Mr. Cardin		X	
Mr. Camp		X		Mr. McDermott	X		
Mr. Ramstad		X		Mr. Kleczka		X	
Mr. Zimmer		X		Mr. Lewis	X		
Mr. Nussle		X		Mr. Payne		X	
Mr. Johnson				Mr. Neal		X	
Ms. Dunn		X		Mr. McNulty		X	
Mr. Collins		X					
Mr. Portman		X					
Mr. Hayes							
Mr. Laughlin							
Mr. English		X					
Mr. Ensign	X						

Representatives	Yea	Nay	Present	Representatives	Yea	Nay	Present
Mr. Christensen	X						

An amendment by Mr. Rangel to Section 5 for the reimposition of the 4.3-cents-per-gallon motor fuels tax if the tax reduction were not fully passed through to consumers was defeated by a roll call vote of 15 yeas to 21 nays. The vote was as follows:

Representatives	Yea	Nay	Present	Representatives	Yea	Nay	Present
Mr. Archer		X		Mr. Gibbons	X		
Mr. Crane		X		Mr. Rangel	X		
Mr. Thomas		X		Mr. Stark	X		
Mr. Shaw		X		Mr. Jacobs			
Mrs. Johnson		X		Mr. Ford	X		
Mr. Bunning		X		Mr. Matsui	X		
Mr. Houghton				Mrs. Kennelly	X		
Mr. Herger		X		Mr. Coyne	X		
Mr. McCrery		X		Mr. Levin	X		
Mr. Hancock		X		Mr. Cardin	X		
Mr. Camp		X		Mr. McDermott	X		
Mr. Ramstad		X		Mr. Kleczka	X		
Mr. Zimmer		X		Mr. Lewis	X		
Mr. Nussle		X		Mr. Payne	X		
Mr. Johnson		X		Mr. Neal	X		
Ms. Dunn		X		Mr. McNulty	X		
Mr. Collins		X					
Mr. Portman		X					
Mr. Hayes		X					
Mr. Laughlin							
Mr. English		X					
Mr. Ensign		X					
Mr. Christensen		X					

An amendment by Mr. Kleczka to Section 5 to change the due date for the required GAO study to "November 1, 1996," was defeated by a rollcall vote of 14 yeas to 21 nays. The vote was as follows:

Representatives	Yea	Nay	Present	Representatives	Yea	Nay	Present
Mr. Archer		X		Mr. Gibbons	X		
Mr. Crane		X		Mr. Rangel	X		
Mr. Thomas		X		Mr. Stark	X		
Mr. Shaw		X		Mr. Jacobs			
Mrs. Johnson		X		Mr. Ford	X		
Mr. Bunning		X		Mr. Matsui	X		
Mr. Houghton				Mrs. Kennelly	X		
Mr. Herger		X		Mr. Coyne	X		
Mr. McCrery		X		Mr. Levin	X		
Mr. Hancock		X		Mr. Cardin	X		
Mr. Camp		X		Mr. McDermott			
Mr. Ramstad		X		Mr. Kleczka	X		
Mr. Zimmer		X		Mr. Lewis	X		
Mr. Nussle		X		Mr. Payne	X		
Mr. Johnson		X		Mr. Neal	X		
Mr. Collins		X		Mr. McNulty	X		
Mr. Portman		X					
Mr. Hayes		X					
Mr. Laughlin							
Mr. English		X					
Mr. Ensign		X					
Mr. Christensen		X					

IV. BUDGET EFFECTS OF THE BILL

A. Committee Estimates of Budgetary Estimates

In compliance with clause 7(a) of rule XIII of the Rules of the House of Representatives, the following statement is made concerning the budget effects of the revenue provisions (secs. 1–5) of the bill, H.R. 3415, as reported.

The revenue provisions of the bill are estimated to have the following effects on the budget for fiscal years 1996–2002:

ESTIMATED BUDGET EFFECTS OF THE REVENUE PROVISIONS IN H.R. 3415 AS APPROVED BY THE COMMITTEE ON WAYS AND MEANS—FISCAL YEARS 1996–2002

[Billions of dollars]

Provision	Effective	1996	1997	1998	1999	2000	2001	2002	1996–2000	1996–2002
Repeal 1993 tax increase of 4.3 cents per gallon on transportation motor fuels (sunset after 12/31/96).	DOE+7 days	−1.7	−1.3	(1)	(1)	(1)	(1)	.....	−2.9	−2.9

[1] Gain of less than $50 million.

Note: Details may not add to totals due to rounding. Legend for "Effective" column: DOE=date of enactment.

Source: Joint Committee on Taxation.

The Committee notes that the items offsetting the cost of repeal of the 4.3-cents-per-gallon transportation motor fuels excise tax are outside the jurisdiction of the Committee and therefore not part of its consideration.

However, the Committee notes that no deficit increase or entitlement sequester will result due to the legislation as reported. The Office of Management and Budget has recorded $3.4 billion in savings available for expenditure per the "pay-as-you-go" scorecard in fiscal years 1996 and 1997. Thus, the $3 billion revenue reduction due to the legislation for fiscal years 1996 and 1997 will neither increase the deficit nor require an entitlement sequester. In addition, the proposal Federal Communications Commission spectrum sale provides additional offsetting financing of $2.1 billion in fiscal year 1998.

B. Statement Regarding New Budget Authority and Tax Expenditures

Budget authority

In compliance with subdivision (B) of clause 2(l)(3) of rule XI of the Rules of the House of Representatives, the Committee states that the revenue provisions of the bill involve no new or increased budget authority.

Tax expenditures

In compliance with subdivision (B) of clause 2(l)(3) of rule XI of the Rules of the House of Representatives, the Committee states that the bill involves no new or increased tax expenditure.

C. Cost Estimate Prepared by the Congressional Budget Office

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

U.S. Congress,
Congressional Budget Office,
Washington, DC, May 14, 1996.

Hon. Bill Archer,
Chairman, Committee on Ways and Means, House of Representatives, Washington, DC.

Dear Mr. Chairman: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 3415, a bill to amend the Internal Revenue Code of 1986 to repeal the 4.3 cent increase in the transportation motor fuels excise tax rates enacted by the Omnibus Budget Reconciliation Act of 1993 and dedicated to the general fund of the Treasury.

Enactment of H.R. 3415 would affect direct spending and receipts. Therefore, pay-as-you-go procedures would apply to the bill.

If you wish further details on this estimate, we will be pleased to provide them.

Sincerely,

June E. O'Neill, *Director.*

Enclosure.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

1. Bill number: H.R. 3415.

2. Bill title: A bill to amend the Internal Revenue Code of 1986 to repeal the 4.3 cent increase in the transportation motor fuels excise tax rates enacted by the Omnibus Budget Reconciliation Act of 1993 and dedicated to the general fund of the Treasury.

3. Bill status: As ordered reported by the House Committee on Ways and Means on May 9, 1996.

4. Bill purpose: H.R. 3415 would temporarily suspend collections from the 1993 tax increase of 4.3 cents per gallon on transportation motor fuels. The bill also would require the Federal Communications Commission (FCC) to use competitive bidding to assign license for 25 megahertz (MHz) of spectrum located below 3 gigahertz (GHz) and currently not designated for auction by the FCC or identified by previous law as spectrum available for transfer from federal to nonfederal use. Finally, H.R. 3415 would authorize appropriations for fiscal years 1997 through 2002 for the Department of Energy (DOE).

5. Estimated cost to the Federal Government: CBO and the Joint Committee on Taxation (JCT) estimate that H.R. 3415 would reduce government receipts by about $1.7 billion in fiscal year 1996 and by $2.9 billion over the 1996–2002 period. CBO estimates that offsetting receipts from the spectrum auctions would decrease direct spending by $2.1 billion in fiscal year 1998. The bill also would authorize discretionary spending of $578 million for fiscal years 1997 through 2002 for certain DOE activities. That authorization reflects an average level of about $96 million a year. By compari-

son, appropriations for the same activities in the current year total $245 million. The following table summarizes the estimated effects of H.R. 3415 for the 1996–2002 period.

[By fiscal year, in millions of dollars]

	1996	1997	1998	1999	2000	2001	2002
Changes in revenues and direct spending							
Motor fuels tax: Estimated revenues [1]	−1,655	−1,285	26	9	3	1	.....
Spectrum auctions:							
Estimated budget authority	.....	.....	−2,100	.....	.....	.....	.....
Estimated outlays	.....	.....	−2,100	.....	.....	.....	.....
Spending subject to appropriations							
Spending under current law:							
Budget authority	245	.....	.....	.....	.....	.....	.....
Estimated outlays	247	73	25	.....	.....	.....	.....
Proposed changes:							
Authorization level	.....	104	104	100	90	90	90
Estimated outlays	.....	73	94	101	93	91	90
Estimated spending under H.R. 3415:							
Authorization level [2]	245	104	104	100	90	90	90
Estimated outlays	247	146	119	101	93	91	90

[1] Estimates provided by the Joint Committee on Taxation.
[2] The 1996 level is the amount appropriated for that year, net of estimated offsetting collections.

The costs of this bill fall within budget functions 270 and 950.

6. Basis of estimate:

Motor Fuels Tax.—JCT estimates that the temporary repeal of the tax on transportation motor fuels would reduce government receipts by about $1.7 billion in fiscal year 1996 and by $2.9 billion over fiscal years 1996–2002. CBO concurs with this estimate. The proposal would be effective on the date of enactment for taxable fuels removed, entered, sold, or used more than six days after that date and before January 1, 1997. For purposes of this estimate, JCT and CBO assume enactment of H.R. 3415 on or about May 25, 1996.

Spectrum Auctions.—CBO estimates that the spectrum auctions authorized under the bill would raise about $2.1 billion in fiscal year 1998. CBO has priced the frequencies available for auction by taking into account the prices paid for roughly comparable frequencies at FCC auctions held from 1994 to 1996, and the effect on prices in the future of the increased supply of licenses. The receipts from the auctions authorized by H.R. 3415 could vary depending on the types of licenses that the FCC decides to auction. CBO assumes, however, that the FCC will seek to promote the most efficient use of the spectrum, as specified by the bill, and allocate the 25 MHz to the highest value use.

Department of Energy.—Assuming appropriations of the authorized amounts, CBO estimates that this portion of the bill would result in outlays of $542 million over the 1997–2002 period. This estimate assumes that the full amounts authorized will be appropriated by the beginning of each fiscal year and that outlays will occur at rates consistent with historical trends for departmental administration activities at DOE.

7. Pay-as-you-go considerations: Section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 sets up pay-as-you-go procedures for legislation affecting direct spending or re-

ceipts through 1998. CBO estimates that the repeal of the gas tax and the authorization of spectrum auctions would affect pay-as-you-go receipts. The following table summarizes the estimated pay-as-you-go impact of the bill.

[By fiscal year, in millions of dollars]

	1996	1997	1998
Change in outlays	0	0	−2,100
Change in receipts	−1,655	−1,285	26

8. Estimated impact on State, local, and tribal governments: H.R. 3415 contains no intergovernmental mandates as defined by Public Law 104–4, and would not impose any direct costs on State, local, or tribal governments.

9. Estimated impact on the private sector: This bill contains no private sector mandates as defined in Public Law 104–4.

10. Previous CBO estimate: None.

11. Estimate prepared by:

Federal cost estimate: Motor fuels tax: Stephanic Weiner; Spectrum auctions: Rachel Forward and David Moore; and Department of Energy; Kim Cawley.

State and local government impact: Pepper Santalucia.

Private sector impact: Elliot Schwartz.

12. Estimate approved by: Paul N. Van de Water, Assistant Director for Budget Analysis.

V. OTHER MATTERS TO BE DISCUSSED UNDER THE HOUSE RULES

A. Committee Oversight Findings and Recommendations

With respect to subdivision (A) of clause 2(l)(3) of rule XI of the Rules of the House of Representatives (relating to oversight findings), the Committee advises that it was the result of the Committee's oversight activities concerning the impact of the 4.3-cents-per-gallon General Fund on transportation motor fuels excise tax that the Committee concluded that it is appropriate and timely to enact the revenue provisions contained in the bill as reported.

B. Summary of Findings and Recommendations of the Committee on Government Reform and Oversight

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

C. Inflationary Impact Statement

In compliance with clause 2(l)(4) of rule XI of the Rules of the House of Representatives, the Committee states that the temporary repeal of the 4.3-cents-per-gallon transportation motor fuels excise tax should result in reduced motor fuels prices throughout the economy. This should then result in reduced transportation costs,

which will reduce temporarily overall inflationary pressures in the economy.

D. INFORMATION RELATING TO UNFUNDED MANDATES

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

The Committee has determined that the revenue provisions of the bill involve no Federal private sector mandates or intergovernmental mandates.

E. APPLICABILITY OF HOUSE RULE XXI5(c)

Rule XXI5(c) of the Rules of the House of Representatives provides that "No bill or joint resolution, amendment, or conference report carrying a Federal income tax rate increase shall be considered as passed or agreed to unless so determined by a vote of not less than three-fifths of the Members voting." The Committee has carefully reviewed the provisions of the bill to determine whether any of these provisions constitute a Federal income tax rate increase within the meaning of the House rules. It is the opinion of the Committee that there is no provision in the bill that constitutes a Federal income tax rate increase within the meaning of House rule XXI5 (c) or (d).

VI. LETTER FROM COMMITTEE ON COMMERCE

HOUSE OF REPRESENTATIVES,
COMMITTEE ON COMMERCE,
Washington, DC, May 15, 1996.

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

DEAR MR. CHAIRMAN: On May 8, 1996, Representative Seastrand introduced H.R. 3415, "a bill to amend the Internal Revenue Code of 1986 to repeal the 4.3-cent increase in the transportation motor fuels excise tax rates enacted by the Omnibus Budget Reconciliation Act of 1993 and dedicated to the general fund of the Treasury." The measure was referred to the Committee on Ways and Means and to the Committee on Commerce. The Committee on Ways and Means ordered H.R. 3415 reported on May 9, 1996.

The bill contains two provisions within the jurisdiction of the Commerce Committee. Those provisions are Section 6, "Authorization of Appropriations for Expenses of Administration of the Department of Energy," and Section 7, "Spectrum Auctions." Section 6 of the measure delineates certain funding authorizations for the Department of Energy through Fiscal Year 2002, and Section 7 provides for the auction of additional spectrum.

Recognizing the need to bring this legislation expeditiously before the House, the Commerce Committee will not act on its sequential referral of H.R. 3415 based on the following agreement: (1) regarding Section 6, it is my understanding that the words "departmental administration and other activities" encompass travel, training, human resources, support services, and other administrative activities; and (2) regarding Section 7, it is my understanding

that you would not object to the deletion of Section 7(b) of H.R. 3415 entitled, "Federal Communications Commission may not treat this Section as Congressional action for certain purposes."

By agreeing not to act on our referral, the Commerce Committee does not waive its jurisdiction over these provisions. Furthermore, the Commerce Committee reserves its authority to seek equal conferees on these and any other provisions of the bill that are within the Commerce Committee's jurisdiction during any House-Senate conference that may be convened on this legislation.

I want to thank you and your staff for your assistance in providing the Commerce Committee with an opportunity to evaluate the provisions in H.R. 3415 within our jurisdiction. I would appreciate your including this letter as a part of the Ways and Means Committee's report on H.R. 3415, and as part of the record during consideration of this bill by the House.

Sincerely,

THOMAS J. BLILEY, Jr. *Chairman.*

VII. CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (new matter is printed in italic, existing law in which no change is proposed is shown in roman):

SECTION 4081 OF THE INTERNAL REVENUE CODE OF 1986

SEC. 4081. IMPOSITION OF TAX

(a) * * *

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(f) REPEAL OF 4.3-CENT INCREASE IN FUEL TAX RATES ENACTED BY THE OMNIBUS BUDGET RECONCILIATION ACT OF 1993 AND DEDICATED TO GENERAL FUND OF THE TREASURY.—

(1) IN GENERAL.—During the applicable period, each rate of tax referred to in paragraph (2) shall be reduced by 4.3 cents per gallon.

(2) RATES OF TAX.—The rates of tax referred to in this paragraph are the rates of tax otherwise applicable under—

(A) subsection (a)(2)(A) (relating to gasoline and diesel fuel),

(B) sections 4091(b)(3)(A) and 4092(b)(2) (relating to aviation fuel),

(C) section 4042(b)(2)(C) (relating to fuel used on inland waterways),

(D) paragraph (1) or (2) of section 4041(a) (relating to diesel fuel and special fuels),

(E) section 4041(c)(2) (relating to gasoline used in noncommercial aviation), and

(F) section 4041(m)(1)(A)i) (relating to certain methanol or ethanol fuels).

(3) COMPARABLE TREATMENT FOR COMPRESSED NATURAL GAS.—No tax shall be imposed by section 4041(a)(3) on any sale or use during the applicable period.

(4) COMPARABLE TREATMENT UNDER CERTAIN REFUND RULES.—In the case of fuel on which tax is imposed during the applicable period, each of the rates specified in sections 6421(f)(2)(B), 6421(f)(3)(B)(ii), 6427(b)(2)(A), 6427(l)(3)(B)(ii), and 6427(l)(4)(B) shall be reduced by 4.3 cents per gallon.

(5) COORDINATION WITH HIGHWAY TRUST FUND DEPOSITS.—In the case of fuel on which tax is imposed during the applicable period, each of the rates specified in subparagraph (A)(i) and (C)(i) of section 9503(f)(3) shall be reduced by 4.3 cents per gallon.

(6) APPLICABLE PERIOD.—For purposes of this subsection, the term "applicable period" means the period after the 6th day after the date of the enactment of this subsection and before January 1, 1997.

SECTION 660 OF THE DEPARTMENT OF ENERGY ORGANIZATION ACT

AUTHORIZATION OF APPROPRIATIONS

SEC. 660. *(a) IN GENERAL.*—Appropriations to carry out the provisions of this Act shall be subject to annual authorization.

(b) FISCAL YEARS 1997 THROUGH 2002.—There are authorized to be appropriated for salaries and expenses of the Department of Energy for departmental administration and other activities in carrying out the purposes of this Act—

(1) $104,000,000 for fiscal year 1997;
(2) $104,000,000 for fiscal year 1998;
(3) $100,000,000 for fiscal year 1999;
(4) $90,000,000 for fiscal year 2000;
(5) $90,000,000 for fiscal year 2001; and
(6) $90,000,000 for fiscal year 2002.

VIII. DISSENTING VIEWS OF DEMOCRATIC MEMBERS OF THE COMMITTEE ON WAYS AND MEANS ON H.R. 3415

In good conscience, we cannot support this legislation. Sponsors and supporters of this legislation may wish to reduce transportation costs for American consumers by cutting the Federal gasoline tax. However, this bill will not accomplish that. Our "no" vote is the best way we have to call attention to the bill's shortcomings.

This bill has two fatal flaws: (1) it does nothing to guarantee that this decrease in the gas tax will result in a decrease in gasoline prices that consumers face; and (2) it is a cynical election-year political stunt, rather than a genuine effort to help American consumers. We attempted to correct these fatal flaws by offering constructive amendments and suggestions, but the Republican majority rejected our potential solutions.

NO GUARANTEE OF PASS-THROUGH TO CONSUMERS

The American driving public currently faces very high prices for gasoline right at the time of year when families are poised to take their summer vacations, move their college-aged children home for the summer, transport their children to sports events, camp, summer school, and other activities.

These same American consumers are the ones who have been paying for the bad business judgments that oil companies have made in the last few months as they have maintained razor-thin margins of inventories to hedge their bets against a risk that has not materialized (i.e., Iraq flooding the market and driving down the price of oil). This market speculation has driven prices even higher than they would otherwise be because of market conditions.

A reduction in the gas tax is not the same as a reduction in gas prices. There are many players in the game between the oil well and the gas pump. If refiners do not pass through the tax cut in the form of a lower price of gasoline and distributors and retailers do not pass that lower price through to the pump price, then consumers will get no benefit from the tax cut.

If the Federal gasoline tax is reduced, we believe that American consumers should, without question, be the beneficiaries of this tax cut. The Republican majority says that they wish that, too. But, they have written a bill that holds little promise of accomplishing that result.

In the first place, the 4.3-cent increase in the federal gasoline tax that Republicans now wish to repeal was enacted 3 years ago. It has nothing whatever to do with the steep increase in gasoline prices at the pump that has occurred in the last four months. Numerous other factors, all oil-market-related, are the causes of the price spike. Therefore, reducing the gas tax is not the solution to the current market conditions.

Current conditions in the oil industry do not bode well for speedy pass-through of a cut in the federal gasoline tax to consumers. Inventories are low and uncertainty is high. The extraordinarily cold weather this past winter in both Europe and North America generated significantly higher demand for heating oil and depleted supplies for longer than the usual winter. The agricultural sector is generating surprisingly high demand for fuel this planting season. Several refineries have closed recently as a result of mergers or accidents. Negotiations between the United Nations and Iraq about Iraq's status in world markets have created uncertainty about future supply and, thus, future prices. This uncertainty has led refiners to buy oil on the daily spot markets, a more volatile and expensive arena. Oil prices and, therefore, gasoline prices will remain unsteady until these and other factors settle down. Producers will want as much protection as possible against the risk of buying high and selling low. They are apt to keep their prices up for several months, especially in light of the high demand for gasoline that usually occurs in the summer months.

The claim that this tax cut will be passed through to consumers can certainly not be supported by a look at the historical record on gasoline prices. In the months after the August 1993 enactment of the 4.3-cent portion of the gas tax, gasoline prices went precipitously down, not up. Market conditions controlled the resulting price, as they will in the coming months, too. Republicans were wrong then to frighten the American public with predictions of higher prices, and they are wrong now to dupe the public with promises of lower prices. At the Committee hearing on the day before the bill was presented to the Committee, witnesses raised doubts about the likelihood that this brief, temporary cut would ever reach consumers' wallets. One witness, an expert analyst of the energy sector, stated that market conditions are such that consumers are unlikely to see this tax cut in the next few months.

Even if circumstances were conducive to the tax cut being passed through to consumers, the Republican majority has written a bill that makes that possibility almost meaningless. Their tax cut is only 7 months long. And, it is timed in such a way that consumers will not see lower prices at the pump as a result. The traditional seasonal pattern of gasoline prices is such that prices rise during the spring and summer as Americans increase their demand for gasoline during the busy driving months, and prices fall in the autumn and winter when people drive less. During much of the brief period of this tax cut, prices will remain high because of the usual seasonal demand, and by next winter when prices will be lower naturally the gas tax will go up because the tax cut in this bill will expire. So, Senator Dole has crafted a proposal that will allow for good campaign rhetoric but will deliver no benefit to consumers in the form of lower prices.

We attempted to make certain that, if the cut in the gas tax is enacted, consumers would receive the full benefit. Mr. Rangel offered an amendment that would have required oil companies to pass the tax savings on to the consumer and would reimpose the tax if the tax cut were not fully passed through. Because the bill as presented to the Committee has no safeguards at all to ensure that consumers benefit, we believe that the Rangel amendment is

necessary. It would provide producers and refiners with sufficient incentives to make sure that they do not retain the tax cut in corporate coffers. The penalty of reinstating the tax should present adequate deterrence and encourage companies to pass the savings on. We hope such a penalty never would be imposed because we hope companies do the right thing and pass the tax cut on to consumers. All Democrats present voted for this consumer protection amendment, including those who support the tax cut.

Committee Republicans all voted against this consumer protection amendment. The arguments they raised provide little enlightenment as to why. They claimed that it would be too difficult for the Departments of Energy and the Treasury to consult among themselves and determine whether a company had violated the requirement or not. This is a silly accusation that sounds like a smoke screen to us. The Treasury Department has vast, daily experience in enforcement of the nation's tax and tariff laws. The Energy Department scrutinizes daily activity in domestic and global energy markets. Both departments are staffed by career professionals who are trained to interpret current economic and industry data and use it accurately. They have excellent track records. Considering the complexity of the many tax bills that have passed through this Committee over the years with the customary assessment of taxpayer behavior built into the revenue estimates, the Committee Republicans well know that compliance with the requirement in the Rangel amendment would be among the easier things that professionals in those Departments would be asked to assess. Committee Republicans must have felt that they had to provide some explanation for their votes in opposition to the consumer protection amendment, but the explanation they offered makes little sense.

CYNICAL ELECTION-YEAR STUNT

This bill is not a sincere legislative effort. It is instead a cynical attempt to influence American voters in an election year. It is a political ploy. The Republicans are playing a "shell game" with the American public.

When Senator and Republican Presidential candidate Bob Dole began about 2 weeks ago to tout the virtues of a cut in the gasoline tax, his remarks led people to believe that he was suggesting a long-term reduction in the gas tax. Indeed, Senator Dole has straightforwardly and publicly stated his intention to repeal the 4.3-cent portion of the gasoline tax permanently. He has promised the American people that.

Instead, the bill that was presented to the Committee is a 7-month wonder—a repeal of 4.3 cents of the gas tax for the duration of the Presidential campaign season. The bill presented to the Committee would reduce the gas tax only until the end of this year. On January 1, 1997, the gas tax will go back up to its current level.

Moreover, the structure of the bill undermines any expectation of a permanent reduction in the tax. The bill includes a floorstocks tax for gasoline purchased before the 4.3-cent cut expires and sold after that time. While it is not unusual to include a floorstocks tax in excise tax legislation, it is typically included only when (1) the tax is imposed "upstream" and therefore built into the price paid

by the retailer and (2) there is some anticipation that the tax will increase. Thus, the purpose of a floorstocks tax is to capture tax on all of the product—in this case, gasoline—sold at retail after the date of the tax increase, even if some of it was purchased as inventory by the seller at an earlier date with a lower tax built into his purchase price. Hasn't Senator Dole promised the American people that permanent repeal of 4.3 cents of the gas tax will be included in a budget reconciliation bill later this year? If Senator Dole's promise of permanent repeal is genuine, why do we need a floorstocks tax? What tax increase does that section of the bill anticipation?

As further evidence of the lack of sincerity of Republican promises, 21 of the 23 Republicans on the Committee voted against an amendment offered by Mr. Matsui to extend this 7-month tax cut for 7 years. In voting against it, Committee Republicans complained that the amendment was not funded, even though the bill was intentionally designed to preclude the type of provision that would have been necessary to fund the amendment. The Republicans on the Committee on Ways and Means explicitly rejected an opportunity to deliver what their Presidential candidate has led Americans to expect. How can the American public believe the rhetorical promises when the actions so plainly belie the rhetoric?

Besides, the idea that permanent repeal of the gas tax, which would cost another $31 billion in lost revenue, will be included in the larger budget legislation later is insupportable. On the very same afternoon that the 7-month gas tax cut was presented to this Committee, Chairman Kasich convened the House Committee on the Budget to consider the fiscal year 1997 budget resolution, the blueprint for the larger budget reconciliation legislation. That budget resolution does include the $3 billion revenue loss for the 7-month tax cut but does not include the additional $31 billion revenue loss for permanent reduction. The Republicans are playing a shell game with the American public by promising, in the context of the temporary tax cut, to make it permanent in later budget legislation and then, in the context of the budget legislation, failing to include the permanent cut. Do they think the public won't notice?

Voters will see through this disingenuous effort to manipulate them. They will realize they are being promised one thing and given another. They will discover that, despite a cut in the federal gasoline tax, the price they pay at the pump will not have gone down. If, under the normal seasonal price cycle described above, gasoline prices begin to decline this autumn—conveniently before the election—Republican sponsors of this tax cut will claim credit. The sound bite may seem appealing at first, but reality will set in. Transparent political ploys like this only tend to increase voter cynicism—unless of course the Republicans will also claim honest credit for a rise in prices that will occur in January when the tax cut expires.

The bill pays lip service to the notion of the tax cut flowing through to the consumer, but even that section is polluted by political manipulation. It mandates that the General Accounting Office (GAO) study whether the tax cut has been passed through and report its findings back to Congress on January 31, 1997. We at-

tempted to make this a more honest effort. Mr. Kleczka offered an amendment to require the report by November 1, 1996. Thus, all the cards would be on the table before the national election. Committee Republicans defeated this amendment on a party-line vote. Delaying the results of the GAO report until next year is a crafty way of avoiding the issue until the political consequences would be minimized. In the meantime, the campaign-season effort to manipulate voters with clever and careful rhetoric about this tax cut, from which they may never benefit, can continue unencumbered by the facts.

Another indication of the Republicans' cynical election-year attitude about this tax cut is the apparently intentional narrow scope of the bill. It was designed and written in such a way that virtually no improvements were allowed to be raised as amendments in Committee because they were judged to be not germane to the very narrow scope of the bill. There was no willingness on the part of Committee Republicans to actually make this bill work, to make changes that would ensure that the tax cut actually would go to consumers. This was intended to be a "quickie"—an attempt to get the bill passed as quickly as possible, regardless of its flaws, so that Senator Dole and other candidates can claim political credit for something that "sounds good" in this election season. There was no willingness to put the consumer first and write the bill accordingly. Presidential political aspiration and campaign sound-bites came first.

CONCLUSION

The Republicans have undertaken an ill-designed effort at the wrong time in their election-year attempt to fool the public. It fails the test on both political and substantive grounds.

We stand squarely on the side of voters and consumers. We believe that voters and consumers deserve more honest treatment and more certain protection against big-oil decision-makers. We believe that, if a tax break is to be enacted as a result of this legislation, it should be a break for American consumers. We withhold our support from this bill because it treats voters as pawns in a political chess match and it provides no sure benefit to consumers.

SAM GIBBONS.
BENJAMIN L. CARDIN.
ROBERT T. MATSUI.
WILLIAM J. COYNE.
PETE STARK.
RICHARD E. NEAL.
HAROLD FORD.
CHARLES B. RANGEL.
JIM MCDERMOTT.
L.F. PAYNE.
BARBARA KENNELLY.
JOHN LEWIS.
SANDER LEVIN.

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