

**MARKUP OF WAYS AND MEANS COMMITTEE
AMENDMENT TO BE OFFERED TO H.R. 3592
(WATER RESOURCES DEVELOPMENT ACT OF 1996)**

(Scheduled for July 17, 1996)

I. Legislative Background

H.R. 3592 ("Water Resources Development Act of 1996") was approved by the House Committee on Transportation and Infrastructure ("Transportation Committee") on June 27, 1996, and the report on the bill is expected to be filed on July 16, 1996. The bill expands the definition of eligible expenditure purposes under the Harbor Maintenance Trust Fund ("Harbor Trust Fund").

The Transportation Committee has requested that the Committee on Ways and Means ("Ways and Means") provide a conforming change to the Harbor Trust Fund to update the reference to the trust fund expenditure purposes to reflect the 1996 bill. The request is that Ways and Means approve a conforming amendment to be incorporated as part of H.R. 3592, when that bill is considered by the House.

**II. Provisions of Present Law Relating to Harbor Trust
Fund Expenditure Purposes and H.R. 3592**

Present Law

The Harbor Trust Fund was established in the Water Resources Development Act of 1986 (sec. 9505 of the Code). Revenues from the harbor maintenance excise tax ("harbor tax") are transferred to the Harbor Trust Fund. The harbor tax rate currently is 0.125 percent of the value of commercial cargo loaded or unloaded at U.S. harbors (sec. 4461); this tax is collected by the U.S. Customs Service.¹ The harbor tax also applies to ship passengers, other than certain

¹ On October 25, 1995, the United States Court of International Trade in United States Shoe Corp. v. United States, granted a summary judgment motion finding the harbor tax as applied to exports unconstitutional under the Export Clause of the Constitution, and enjoined the U.S. Customs Service from collecting the tax. However, a motion to stay the decision pending appeal was granted. Until a decision is rendered in the appellate process, the harbor tax on exports continues to be collected.

ferryboat passengers. The Harbor Trust Fund also receives revenues from the U.S. portion of Saint Lawrence Seaway tolls.

Amounts in the Harbor Trust Fund are available, as provided by appropriations Acts, for making expenditures for:

- (1) Eligible operations and maintenance costs relating to commercial navigation of all U.S. harbors and inland harbors under section 210(a) of the Water Resources Development Act of 1986 (as in effect on that Act's date of enactment);
- (2) Eligible operations and maintenance costs of those portions of the Saint Lawrence Seaway operated and maintained by the Saint Lawrence Seaway Development Corporation;
- (3) Payments of rebates of tolls or charges of the U.S. portion of the Saint Lawrence Seaway to payors; and
- (4) Payment of costs of administering the harbor tax, not to exceed \$5 million per fiscal year.

"Eligible operations and maintenance" means all operations, maintenance, repair, and rehabilitation expenses, including maintenance dredging necessary to maintain the width and nominal depth of any harbor or inland harbor.

Provisions of H.R. 3592 Relating to the Harbor Trust Fund

H.R. 3592 would amend the definition of expenditure purposes eligible for Harbor Trust Fund financing to include: (1) constructing dredged material disposal facilities that are necessary for the operation and maintenance of any harbor or inland harbor; (2) dredging and disposing of contaminated sediments which are in or which affect the maintenance of Federal navigation channels; (3) mitigating the impacts resulting from Federal navigation operation and maintenance activities; and (4) operating and maintaining dredged material disposal facilities.

III. Possible Ways and Means Committee Amendment

Ways and Means could approve a conforming amendment, to be incorporated as part of H.R. 3592, to update the Harbor Trust Fund expenditure purpose reference (sec. 9505(c)) to include the expenditure purposes under the Water Resources Development Act of 1996, as in effect on the date of enactment of that Act.