

105TH CONGRESS
1ST SESSION

S. 667

To empower States with authority for most taxing and spending for highway programs and mass transit programs, and for other purposes.

IN THE SENATE OF THE UNITED STATES

APRIL 30, 1997

Mr. MACK (for himself, Mr. LEVIN, Mr. NICKLES, Mr. THURMOND, Mr. GRAHAM, Mr. INHOFE, Mr. COATS, Mr. KYL, Mr. MCCAIN, Mr. ABRAHAM, and Mr. DEWINE) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To empower States with authority for most taxing and spending for highway programs and mass transit programs, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Transportation
5 Empowerment Act”.

6 **SEC. 2. FINDINGS AND PURPOSES.**

7 (a) FINDINGS.—Congress finds that—

8 (1) the objective of the Federal highway pro-
9 gram has been to facilitate the construction of a

1 modern freeway system that promotes efficient inter-
2 state commerce by connecting all States;

3 (2) that objective has been attained, and the
4 Interstate System connecting all States is near com-
5 pletion;

6 (3) each State has the responsibility of provid-
7 ing an efficient transportation network for the resi-
8 dents of the State;

9 (4) each State has the means to build and oper-
10 ate a network of transportation systems, including
11 highways, that best serves the needs of the State;

12 (5) each State is best capable of determining
13 the needs of the State and acting on those needs;

14 (6) the Federal role in highway transportation
15 has, over time, usurped the role of the States by tax-
16 ing fuels used in the States and then distributing
17 the proceeds to the States based on the Federal
18 Government's perceptions of what is best for the
19 States;

20 (7) the Federal Government has used the Fed-
21 eral gasoline tax revenues to force all States to take
22 actions that are not necessarily appropriate for indi-
23 vidual States;

1 (8) the Federal distribution, review, and en-
2 forcement process wastes billions of dollars on un-
3 productive activities;

4 (9) Federal mandates that apply uniformly to
5 all 50 States, regardless of the different cir-
6 cumstances of the States, cause the States to waste
7 billions of hard-earned tax dollars on projects, pro-
8 grams, and activities that the States would not oth-
9 erwise undertake; and

10 (10) Congress has expressed a strong interest
11 in reducing the role of the Federal Government by
12 allowing each State to manage its own affairs.

13 (b) PURPOSES.— The purposes of this Act are—

14 (1) to return to the individual States maximum
15 discretionary authority and fiscal responsibility for
16 all elements of the national transportation systems
17 that are not within the direct purview of the Federal
18 Government;

19 (2) to preserve Federal responsibility for the
20 Dwight D. Eisenhower National System of Inter-
21 state and Defense Highways;

22 (3) to preserve the responsibility of the Depart-
23 ment of Transportation for—

1 (A) design, construction, and preservation
2 of transportation facilities on Federal public
3 lands;

4 (B) national programs of transportation
5 research and development and transportation
6 safety; and

7 (C) emergency assistance to the States in
8 response to natural disasters;

9 (4) to eliminate to the maximum extent prac-
10 ticable Federal obstacles to the ability of each State
11 to apply innovative solutions to the financing, de-
12 sign, construction, operation, and preservation of
13 State and Federal transportation facilities; and

14 (5) with respect to transportation activities car-
15 ried out by States, local governments, and the pri-
16 vate sector, to encourage—

17 (A) competition among States, local gov-
18 ernments, and the private sector; and

19 (B) innovation, energy efficiency, private
20 sector participation, and productivity;

21 **SEC. 3. CONTINUATION OF FUNDING FOR CORE HIGHWAY**
22 **PROGRAMS.**

23 (a) IN GENERAL.—

24 (1) FUNDING.—For the purpose of carrying out
25 title 23, United States Code, the following sums are

1 authorized to be appropriated out of the Highway
2 Trust Fund:

3 (A) INTERSTATE MAINTENANCE PRO-
4 GRAM.—For the Interstate maintenance pro-
5 gram under section 119 of title 23, United
6 States Code, \$5,000,000,000 for fiscal year
7 1998, \$5,100,000,000 for fiscal year 1999,
8 \$5,300,000,000 for fiscal year 2000,
9 \$5,400,000,000 for fiscal year 2001, and
10 \$5,600,000,000 for fiscal year 2002.

11 (B) INTERSTATE AND INDIAN RESERVA-
12 TION BRIDGE PROGRAM.—For the Interstate
13 and Indian reservation bridge program under
14 section 144 of that title \$1,183,000,000 for fis-
15 cal year 1998, \$1,217,000,000 for fiscal year
16 1999, \$1,251,000,000 for fiscal year 2000,
17 \$1,286,000,000 for fiscal year 2001, and
18 \$1,321,000,000 for fiscal year 2002.

19 (C) FEDERAL LANDS HIGHWAYS PRO-
20 GRAM.—

21 (i) INDIAN RESERVATION ROADS.—
22 For Indian reservation roads under section
23 204 of that title \$197,000,000 for fiscal
24 year 1998, \$202,000,000 for fiscal year
25 1999, \$208,000,000 for fiscal year 2000,

1 \$214,000,000 for fiscal year 2001, and
2 \$220,000,000 for fiscal year 2002.

3 (ii) PUBLIC LANDS HIGHWAYS.—For
4 public lands highways under section 204 of
5 that title \$177,000,000 for fiscal year
6 1998, \$182,000,000 for fiscal year 1999,
7 \$187,000,000 for fiscal year 2000,
8 \$192,000,000 for fiscal year 2001, and
9 \$197,000,000 for fiscal year 2002.

10 (iii) PARKWAYS AND PARK ROADS.—
11 For parkways and park roads under sec-
12 tion 204 of that title \$86,000,000 for fis-
13 cal year 1998, \$89,000,000 for fiscal year
14 1999, \$91,000,000 for fiscal year 2000,
15 \$94,000,000 for fiscal year 2001, and
16 \$97,000,000 for fiscal year 2002.

17 (iv) HIGHWAY SAFETY PROGRAMS.—
18 For highway safety programs under sec-
19 tion 402 of that title \$171,000,000 for
20 each of fiscal years 1998 through 2002.

21 (v) HIGHWAY SAFETY RESEARCH AND
22 DEVELOPMENT.—For highway safety re-
23 search and development under section 403
24 of that title \$44,000,000 for each of fiscal
25 years 1998 through 2002.

1 (2) TRANSFERABILITY OF FUNDS.—Section 104
2 of title 23, United States Code, is amended by strik-
3 ing subsection (g) and inserting the following:

4 “(g) TRANSFERABILITY OF FUNDS.—

5 “(1) IN GENERAL.—To the extent that a State
6 determines that funds made available under this title
7 to the State for a purpose are in excess of the needs
8 of the State for that purpose, the State may transfer
9 the excess funds to, and use the excess funds for,
10 any surface transportation (including mass transit
11 and rail) purpose in the State.

12 “(2) ENFORCEMENT.—If the Secretary deter-
13 mines that a State has transferred funds under
14 paragraph (1) to a purpose that is not a surface
15 transportation purpose as described in paragraph
16 (1), the amount of the improperly transferred funds
17 shall be deducted from any amount the State would
18 otherwise receive from the Highway Trust Fund for
19 the fiscal year that begins after the date of the de-
20 termination.”.

21 (3) FEDERAL-AID SYSTEM.—Section 103(a) of
22 title 23, United States Code, is amended by striking
23 “systems are the Interstate System and the National
24 Highway System” and inserting “system is the
25 Interstate System”.

1 (4) INTERSTATE MAINTENANCE PROGRAM.—

2 (A) FUNDING.—Section 104(b)(5) of title
3 23, United States Code, is amended by striking
4 subparagraph (B) and inserting the following:

5 “(B) INTERSTATE MAINTENANCE.—For
6 each of fiscal years 1998 through 2002, for the
7 Interstate maintenance program under section
8 119, 1 percent to the Virgin Islands, Guam,
9 American Samoa, and the Commonwealth of
10 the Northern Mariana Islands and the remain-
11 ing 99 percent apportioned as follows:

12 “(i)(I) For each State with an average
13 population density of 20 persons or fewer
14 per square mile, and each State with a
15 population of 1,500,000 persons or fewer
16 and with a land area of 10,000 square
17 miles or less, the greater of—

18 “(aa) a percentage share of ap-
19 portionments equal to the percentage
20 listed for the State in subclause (II);
21 or

22 “(bb) a share determined under
23 clause (ii).

24 “(II) The percentage referred to in
25 subclause (I)(aa) is as follows:

“States:	Percentage:
Alabama	2.02
Alaska	1.24
Arizona	1.68
Arkansas	1.32
California	9.81
Colorado	1.23
Connecticut	1.00
Delaware	0.40
District of Columbia	0.13
Florida	4.77
Georgia	3.60
Hawaii	0.55
Idaho	0.70
Illinois	3.71
Indiana	2.63
Iowa	1.13
Kansas	1.10
Kentucky	1.91
Louisiana	1.63
Maine	0.50
Maryland	1.64
Massachusetts	1.68
Michigan	3.34
Minnesota	1.56
Mississippi	1.23
Missouri	2.45
Montana	0.95
Nebraska	0.73
Nevada	0.67
New Hampshire	0.48
New Jersey	2.28
New Mexico	1.05
New York	4.27
North Carolina	2.83
North Dakota	0.63
Ohio	3.77
Oklahoma	1.55
Oregon	1.23
Pennsylvania	4.12
Puerto Rico	0.50
Rhode Island	0.55
South Carolina	1.63
South Dakota	0.70
Tennessee	2.30
Texas	7.21
Utah	0.71
Vermont	0.43
Virginia	2.61
Washington	1.75
West Virginia	0.76
Wisconsin	1.91
Wyoming	0.66.

1 “(ii) For each State not described in
2 clause (i), a share of the apportionments
3 remaining determined in accordance with
4 the following formula:

5 “(I) $\frac{1}{9}$ in the ratio that the total
6 rural lane miles in each State bears to
7 the total rural lane miles in all States
8 with an average population density
9 greater than 20 persons per square
10 mile and all States with a population
11 of more than 1,500,000 persons and
12 with a land area of more than 10,000
13 square miles.

14 “(II) $\frac{1}{9}$ in the ratio that the
15 total rural vehicle miles traveled in
16 each State bears to the total rural ve-
17 hicle miles traveled in all States de-
18 scribed in subclause (I).

19 “(III) $\frac{2}{9}$ in the ratio that the
20 total urban lane miles in each State
21 bears to the total urban lane miles in
22 all States described in subclause (I).

23 “(IV) $\frac{2}{9}$ in the ratio that the
24 total urban vehicle miles traveled in
25 each State bears to the total urban

1 vehicle miles traveled in all States de-
2 scribed in subclause (I).

3 “(V) $\frac{3}{9}$ in the ratio that the
4 total diesel fuel used in each State
5 bears to the total diesel fuel used in
6 all States described in subclause (I).”.

7 (B) CONFORMING AMENDMENTS.—Section
8 119(f) of title 23, United States Code, is
9 amended—

10 (i) in paragraph (1), by striking “If”
11 and inserting “For each of fiscal years
12 1991 through 1997, if”; and

13 (ii) in paragraph (2)(B), by inserting
14 “through fiscal year 1997” after “there-
15 after”.

16 (5) INTERSTATE BRIDGE PROGRAM.—Section
17 144 of title 23, United States Code, is amended—

18 (A) in subsection (d)—

19 (i) by inserting “on the Federal-aid
20 system or described in subsection (c)(3)”
21 after “highway bridge” each place it ap-
22 pears; and

23 (ii) by inserting “on the Federal-aid
24 system or described in subsection (c)(3)”

1 after “highway bridges” each place it ap-
2 pears;

3 (B) in the second sentence of subsection
4 (e)—

5 (i) in paragraph (1), by adding “and”
6 at the end;

7 (ii) in paragraph (2), by striking the
8 comma at the end and inserting a period;
9 and

10 (iii) by striking paragraphs (3) and
11 (4);

12 (C) in the first sentence of subsection (l),
13 by inserting “on the Federal-aid system or de-
14 scribed in subsection (c)(3)” after “any
15 bridge”;

16 (D) in subsection (m), by inserting “on the
17 Federal-aid system or described in subsection
18 (c)(3)” after “any bridge”; and

19 (E) in the first sentence of subsection (n),
20 by inserting “for each of fiscal years 1991
21 through 1997,” after “of law,”.

22 (6) NATIONAL DEFENSE HIGHWAYS.—Section
23 311 of title 23, United States Code, is amended—

24 (A) in the first sentence, by striking
25 “under subsection (a) of section 104 of this

1 title” and inserting “to carry out this section”;
2 and

3 (B) by striking the second sentence.

4 (7) TERMINATION OF MINIMUM ALLOCATION.—
5 Section 157 of title 23, United States Code, is
6 amended—

7 (A) in subsection (a)(4), by striking “fiscal
8 year 1992 and each fiscal year thereafter” and
9 inserting “each of fiscal years 1992 through
10 1997”; and

11 (B) in subsection (e), by striking “the fis-
12 cal years ending on or after September 30,
13 1983” and inserting “fiscal years 1983 through
14 1997”.

15 (8) MOTOR CARRIER SAFETY GRANTS.—Section
16 31104 of title 49, United States Code, is amended—

17 (A) in subsection (a), by adding at the end
18 the following:

19 “(6) not more than \$90,000,000 for each of fis-
20 cal years 1998 through 2002.”; and

21 (B) in subsection (g)(1)—

22 (i) in subparagraph (B), by striking
23 “1993–1997” and inserting “1993 through
24 2002”;

1 (ii) in subparagraph (C), by striking
2 “1993–1997” and inserting “1993 through
3 2002”; and

4 (iii) in subparagraph (D), by striking
5 “1996, and 1997” and inserting “1996
6 through 2002”.

7 (b) EXPENDITURES FROM HIGHWAY TRUST
8 FUND.—

9 (1) EXPENDITURES FOR CORE PROGRAMS.—

10 Section 9503(c) of the Internal Revenue Code of
11 1986 (relating to expenditures from Highway Trust
12 Fund) is amended—

13 (A) in paragraphs (1), (4)(A)(i), and
14 (5)(A), by striking “October 1, 1997” each
15 place it appears and inserting “October 1,
16 2002”;

17 (B) in paragraph (1)—

18 (i) in subparagraph (C), by striking
19 “or” at the end;

20 (ii) in subparagraph (D), by striking
21 “1991.” and inserting “1991, or”;

22 (iii) by inserting after subparagraph
23 (D) the following:

1 “(E) authorized to be paid out of the
2 Highway Trust Fund under the Transportation
3 Empowerment Act.”; and

4 (iv) by striking the last sentence and
5 inserting the following:

6 “‘In determining the authorizations under the Acts
7 referred to in the preceding subparagraphs, such
8 Acts shall be applied as in effect on the date of en-
9 actment of the Transportation Empowerment Act.’”;

10 (C) in paragraphs (2)(A)(i) and (3), by
11 striking “July 1, 2000” each place it appears
12 and inserting “July 1, 2003”;

13 (D) in paragraph (2)(A)(ii), by striking
14 “October 1, 1999” and inserting “October 1,
15 2002”;

16 (E) in paragraph (2)(A)(ii), by striking
17 “January 1, 1999” and inserting “October 1,
18 2001”; and

19 (F) in paragraph (6)(E), by striking “Sep-
20 tember 30, 1997” and inserting “September 30,
21 2002”.

22 (2) AMOUNTS AVAILABLE FOR CORE PROGRAM
23 EXPENDITURES.—Section 9503 of such Code (relat-
24 ing to the Highway Trust Fund) is amended by add-
25 ing at the end the following:

1 “(g) CORE PROGRAMS FINANCING RATE.—For pur-
2 poses of this section—

3 “(1) IN GENERAL.—Except as provided in para-
4 graph (2), in the case of gasoline, special motor
5 fuels, and diesel fuel, the core programs financing
6 rate is—

7 “(A) after September 30, 1997, and before
8 October 1, 1998, so much of the Highway
9 Trust Fund financing rate as does not exceed
10 12 cents per gallon,

11 “(B) after September 30, 1998, and before
12 October 1, 1999, so much of the Highway
13 Trust Fund financing rate as does not exceed
14 7 cents per gallon,

15 “(C) after September 30, 1999, and before
16 October 1, 2000, so much of the Highway
17 Trust Fund financing rate as does not exceed
18 4 cents per gallon,

19 “(D) after September 30, 2000, and before
20 October 1, 2001, so much of the Highway
21 Trust Fund financing rate as does not exceed
22 3 cents per gallon, and

23 “(E) after September 30, 2001, the High-
24 way Trust Fund financing rate.

1 “(2) APPLICATION OF RATE.—In the case of
2 fuels used as described in paragraph (4)(D), (5)(B),
3 or (6)(D) of subsection (c), the core programs fi-
4 nancing rate is zero.”.

5 (c) TERMINATION OF TRANSFERS TO MASS TRANSIT
6 ACCOUNT.—

7 (1) IN GENERAL.—Section 9503(e)(2) of such
8 Code (relating to Mass Transit Account) is amended
9 by striking “2 cents” and inserting “2 cents (zero,
10 on and after October 1, 1997)”.

11 (2) AUTHORIZATION TO EXPEND REMAINING
12 BALANCES IN ACCOUNT.—Section 9503(e)(3) of such
13 Code is amended by striking “before October 1,
14 1997”.

15 (d) EFFECTIVE DATE.—The amendments made by
16 this section take effect on October 1, 1997.

17 **SEC. 4. INFRASTRUCTURE SPECIAL ASSISTANCE FUND.**

18 (a) BALANCE OF CORE PROGRAMS FINANCING RATE
19 DEPOSITED IN FUND.—Section 9503 of the Internal Rev-
20 enue Code of 1986 (as amended by section 3(b)(2)) is
21 amended by adding at the end the following:

22 “(h) ESTABLISHMENT OF INFRASTRUCTURE SPE-
23 CIAL ASSISTANCE FUND.—

24 “(1) CREATION OF FUND.—There is established
25 in the Highway Trust Fund a separate fund to be

1 known as the ‘Infrastructure Special Assistance
2 Fund’ consisting of such amounts as may be trans-
3 ferred or credited to the Infrastructure Special As-
4 sistance Fund as provided in this subsection or sec-
5 tion 9602(b).

6 “(2) TRANSFERS TO INFRASTRUCTURE SPECIAL
7 ASSISTANCE FUND.—On the first day of each fiscal
8 year, the Secretary, in consultation with the Sec-
9 retary of Transportation, shall determine the excess
10 (if any) of—

11 “(A) the sum of—

12 “(i) the amounts appropriated in such
13 fiscal year to the Highway Trust Fund
14 under subsection (b) which are attributable
15 to the core programs financing rate for
16 such year, plus

17 “(ii) the amounts appropriated in
18 such fiscal year to the Highway Trust
19 Fund under subsection (b) which are at-
20 tributable to taxes under sections 4051,
21 4061, 4071, and 4481 for such year, over

22 “(B) the amount appropriated under sub-
23 section (c) for such fiscal year,

24 and shall transfer such excess to the Infrastructure
25 Special Assistance Fund.

1 “(3) EXPENDITURES FROM INFRASTRUCTURE
2 SPECIAL ASSISTANCE FUND.—

3 “(A) TRANSITIONAL ASSISTANCE.—

4 “(i) IN GENERAL.—Except as pro-
5 vided in clause (iv), during fiscal years
6 1998 through 2001, \$1,000,000,000 in the
7 Infrastructure Special Assistance Fund
8 shall be available to States for transpor-
9 tation-related program expenditures.

10 “(ii) STATE SHARE.—

11 “(I) IN GENERAL.—Except as
12 provided in clause (v), each State is
13 entitled to a share of the amount
14 specified in clause (i) upon enactment
15 of legislation providing 1 of the 2
16 funding mechanisms described in
17 clause (iii).

18 “(II) DETERMINATION OF STATE
19 SHARE.—For purposes of subclause
20 (I), each State’s share shall be deter-
21 mined in the following manner:

22 “(aa) Multiply the percent-
23 age of the amounts appropriated
24 in the latest fiscal year for which
25 such data are available to the

1 Highway Trust Fund under sub-
2 section (b) which is attributable
3 to taxes paid by highway users in
4 the State, by the amount speci-
5 fied in clause (i). If the result
6 does not exceed \$15,000,000, the
7 State's share equals
8 \$15,000,000. If the result ex-
9 ceeds \$15,000,000, the State's
10 share is determined under item
11 (bb).

12 “(bb) Multiply the percent-
13 age determined under item (aa),
14 by the amount specified in clause
15 (i) reduced by an amount equal
16 to \$15,000,000 times the number
17 of States the share of which is
18 determined under item (aa).

19 “(iii) LEGISLATIVE FUNDING MECHA-
20 NISMS.—A funding mechanism is described
21 in this clause as follows:

22 “(I) A funding mechanism which
23 results in revenues for transportation-
24 related projects in the State for fiscal
25 year 2002 and each succeeding fiscal

1 year which are equal to the excess
2 of—

3 “(aa) the mean annual aver-
4 age of distributions from the
5 Highway Trust Fund to the
6 State for fiscal years 1992
7 through 1997; over

8 “(bb) the distributions from
9 the Highway Trust Fund to the
10 State for such fiscal year attrib-
11 utable to the core programs fi-
12 nancing rate for such year.

13 “(II) A funding mechanism
14 which results in an increase in the
15 State rate of tax on motor fuels equal
16 to the decrease in the rate of tax on
17 such fuels under section 4081 for fis-
18 cal year 2002 and any succeeding fis-
19 cal year.

20 “(iv) DISTRIBUTION OF REMAINING
21 AMOUNT.—If after September 30, 2001, a
22 portion of the amount specified in clause
23 (i) remains, the Secretary, in consultation
24 with the Secretary of Transportation,
25 shall, on October 1, 2001, apportion the

1 portion among the States which received a
2 share of such amount under clause (ii) and
3 which are not described in clause (v) using
4 the percentages determined under clause
5 (ii)(II)(aa) for such States.

6 “(v) ENFORCEMENT OF FUNDING
7 MECHANISM REQUIREMENT.—If a State,
8 which enacted legislation providing for a
9 funding mechanism described in clause
10 (iii), terminates such mechanism before fis-
11 cal year 2002, the State’s share deter-
12 mined under clauses (ii) and (iv) shall be
13 deducted from any amount the State would
14 otherwise receive from the Highway Trust
15 Fund for fiscal year 2002.

16 “(B) ADDITIONAL EXPENDITURES FROM
17 FUND.—

18 “(i) IN GENERAL.—Amounts in the
19 Infrastructure Special Assistance Fund, in
20 excess of the amount specified in subpara-
21 graph (A)(i), shall be available, as provided
22 by appropriation Acts, to the States for
23 any surface transportation (including mass
24 transit and rail) purpose in such States,
25 and the Secretary shall apportion such ex-

1 cess amounts among all States using the
2 percentages determined under clause
3 (ii)(II)(aa) for such States.

4 “(ii) ENFORCEMENT.—If the Sec-
5 retary determines that a State has used
6 amounts under clause (i) for a purpose
7 which is not a surface transportation pur-
8 pose as described in clause (i), the improper-
9 ly used amounts shall be deducted from
10 any amount the State would otherwise re-
11 ceive from the Highway Trust Fund for
12 the fiscal year which begins after the date
13 of the determination.”.

14 (b) EFFECTIVE DATE.—The amendment made by
15 this section takes effect on October 1, 1997.

16 **SEC. 5. RETURN OF EXCESS TAX RECEIPTS TO STATES.**

17 (a) IN GENERAL.—Section 9503(c) of the Internal
18 Revenue Code of 1986 is amended by adding at the end
19 the following:

20 “(7) RETURN OF EXCESS TAX RECEIPTS TO
21 STATES FOR SURFACE TRANSPORTATION PUR-
22 POSES.—

23 “(A) IN GENERAL.—On the first day of
24 each of fiscal years 1998, 1999, 2000, and

1 2001, the Secretary, in consultation with the
2 Secretary of the Transportation, shall—

3 “(i) determine the excess (if any) of—

4 “(I) the amounts appropriated in
5 such fiscal year to the Highway Trust
6 Fund under subsection (b) which are
7 equivalent to the taxes attributable to
8 the excess of—

9 “(aa) the Highway Trust
10 Fund financing rate for such
11 year, over

12 “(bb) the core programs fi-
13 nancing rate for such year, over

14 “(II) the amounts so appro-
15 priated which are equivalent to the
16 taxes described in paragraphs (4)(D),
17 (5)(B), and (6)(D), and

18 “(ii) allocate the amount determined
19 under clause (i) among the States (as de-
20 fined in section 101 of title 23, United
21 States Code) for surface transportation
22 (including mass transit and rail) purposes
23 so that—

1 “(I) the percentage of that
2 amount allocated to each State, is
3 equal to

4 “(II) the percentage of the
5 amount determined under clause (i)(I)
6 paid into the Highway Trust Fund in
7 the latest fiscal year for which such
8 data are available which is attrib-
9 utable to highway users in the State.

10 “(B) ENFORCEMENT.—If the Secretary
11 determines that a State has used amounts
12 under subparagraph (A) for a purpose which is
13 not a surface transportation purpose as de-
14 scribed in subparagraph (A), the improperly
15 used amounts shall be deducted from any
16 amount the State would otherwise receive from
17 the Highway Trust Fund for the fiscal year
18 which begins after the date of the determina-
19 tion.”.

20 (b) EFFECTIVE DATE.—The amendment made by
21 this section takes effect on October 1, 1997.

22 **SEC. 6. INTERSTATE SURFACE TRANSPORTATION COM-**
23 **PACTS.**

24 (a) DEFINITIONS.—In this section:

1 (1) INFRASTRUCTURE BANK.—The term “infra-
2 structure bank” means a surface transportation in-
3 frastructure bank established under an interstate
4 compact under subsection (b)(5) and described in
5 subsection (d).

6 (2) PARTICIPATING STATES.—The term “par-
7 ticipating States” means the States that are parties
8 to an interstate compact entered into under sub-
9 section (b).

10 (3) SURFACE TRANSPORTATION.—The term
11 “surface transportation” includes mass transit and
12 rail.

13 (4) SURFACE TRANSPORTATION PROJECT.—The
14 term “surface transportation project” means a sur-
15 face transportation project, program, or activity de-
16 scribed in subsection (b).

17 (b) CONSENT OF CONGRESS.—In order to increase
18 public investment, attract needed private investment, and
19 promote an intermodal transportation network, Congress
20 grants consent to States to enter into interstate compacts
21 to—

22 (1) promote the continuity, quality, and safety
23 of the Interstate System;

24 (2) develop programs to promote and fund sur-
25 face transportation safety initiatives and establish

1 surface transportation safety standards for the par-
2 ticipating States;

3 (3) conduct long-term planning for surface
4 transportation infrastructure in the participating
5 States;

6 (4) develop design and construction standards
7 for infrastructure described in paragraph (3) to be
8 used by the participating States; and

9 (5) establish surface transportation infrastruc-
10 ture banks to promote regional or other multistate
11 investment in infrastructure described in paragraph
12 (3).

13 (c) FINANCING.—An interstate compact established
14 by participating States under subsection (b) to carry out
15 a surface transportation project may provide that, in order
16 to carry out the compact, the participating States may—

17 (1) accept contributions from a unit of State or
18 local government or a person;

19 (2) use any Federal or State funds made avail-
20 able for that type of surface transportation project;

21 (3) on such terms and conditions as the partici-
22 pating States consider advisable—

23 (A) borrow money on a short-term basis
24 and issue notes for the borrowing; and

25 (B) issue bonds; and

1 (4) obtain financing by other means permitted
2 under Federal or State law, including surface trans-
3 portation infrastructure banks under subsection (d).

4 (d) INFRASTRUCTURE BANKS.—

5 (1) IN GENERAL.—An infrastructure bank
6 may—

7 (A) make loans;

8 (B) under the joint or separate authority
9 of the participating States with respect to the
10 infrastructure bank, issue such debt as the in-
11 frastructure bank and the participating States
12 determine appropriate; and

13 (C) provide other assistance to public or
14 private entities constructing, or proposing to
15 construct or initiate, surface transportation
16 projects.

17 (2) FORMS OF ASSISTANCE.—

18 (A) IN GENERAL.—An infrastructure bank
19 may make a loan or provide other assistance
20 described in subparagraph (C) to a public or
21 private entity in an amount equal to all or part
22 of the construction cost, capital cost, or initi-
23 ation cost of a surface transportation project.

24 (B) SUBORDINATION OF ASSISTANCE.—

25 The amount of any loan or other assistance de-

1 scribed in subparagraph (C) that is received for
2 a surface transportation project under this sec-
3 tion may be subordinated to any other debt fi-
4 nancing for the surface transportation project.

5 (C) OTHER ASSISTANCE.—Other assist-
6 ance referred to in subparagraphs (A) and (B)
7 includes any use of funds for the purpose of—

8 (i) credit enhancement;

9 (ii) a capital reserve for bond or debt
10 instrument financing;

11 (iii) bond or debt instrument financ-
12 ing issuance costs;

13 (iv) bond or debt issuance financing
14 insurance;

15 (v) subsidization of interest rates;

16 (vi) letters of credit;

17 (vii) any credit instrument;

18 (viii) bond or debt financing instru-
19 ment security; and

20 (ix) any other form of debt financing
21 that relates to the qualifying surface trans-
22 portation project.

23 (3) NO OBLIGATION OF UNITED STATES.—

24 (A) IN GENERAL.—The establishment
25 under this section of an infrastructure bank

1 does not constitute a commitment, guarantee,
2 or obligation on the part of the United States
3 to any third party with respect to any security
4 or debt financing instrument issued by the
5 bank. No third party shall have any right
6 against the United States for payment solely by
7 reason of the establishment.

8 (B) STATEMENT ON INSTRUMENT.—Any
9 security or debt financing instrument issued by
10 an infrastructure bank shall expressly state that
11 the security or instrument does not constitute a
12 commitment, guarantee, or obligation of the
13 United States.

14 (e) EFFECTIVE DATE.—This section takes effect on
15 October 1, 1997.

16 **SEC. 7. FEDERAL-AID FACILITY PRIVATIZATION.**

17 (a) DEFINITIONS.—In this section:

18 (1) EXECUTIVE AGENCY.—The term “Executive
19 agency” has the meaning provided in section 105 of
20 title 5, United States Code.

21 (2) PRIVATIZATION.—The term “privatization”
22 means the disposition or transfer of a transportation
23 infrastructure asset, whether by sale, lease, or simi-
24 lar arrangement, from a State or local government
25 to a private party.

1 (3) STATE OR LOCAL GOVERNMENT.—The term
2 “State or local government” means the government
3 of—

4 (A) any State;

5 (B) the District of Columbia;

6 (C) any commonwealth, territory, or pos-
7 session of the United States;

8 (D) any county, municipality, city, town,
9 township, local public authority, school district,
10 special district, intrastate district, regional or
11 interstate government entity, council of govern-
12 ments, or agency or instrumentality of a local
13 government; or

14 (E) any federally recognized Indian tribe.

15 (4) TRANSPORTATION INFRASTRUCTURE
16 ASSET.—

17 (A) IN GENERAL.—The term “transportation
18 infrastructure asset” means any surface-
19 transportation-related asset financed in whole
20 or in part by the Federal Government, includ-
21 ing a road, tunnel, bridge, or mass-transit-relat-
22 ed or rail-related asset.

23 (B) EXCLUSION.—The term does not in-
24 clude any transportation-related asset on the

1 Interstate System (as defined in section 101 of
2 title 23, United States Code).

3 (b) PRIVATIZATION INITIATIVES BY STATE AND
4 LOCAL GOVERNMENTS.—The head of each Executive
5 agency shall—

6 (1) assist State and local governments in efforts
7 to privatize the transportation infrastructure assets
8 of the State and local governments; and

9 (2) subject to subsection (c), approve requests
10 from State and local governments to privatize trans-
11 portation infrastructure assets and waive or modify
12 any condition relating to the original Federal pro-
13 gram that funded the asset.

14 (c) CRITERIA.—The head of an Executive agency
15 shall approve a request described in subsection (b)(2) if—

16 (1) the State or local government demonstrates
17 that a market mechanism, legally enforceable agree-
18 ment, or regulatory mechanism will ensure that the
19 transportation infrastructure asset will continue to
20 be used for the general objectives of the original
21 Federal program that funded the asset (which shall
22 not be considered to include every condition required
23 for the recipient of Federal funds to have obtained
24 the original Federal funds), so long as needed for
25 those objectives; and

1 (2) the private party purchasing or leasing the
2 transportation infrastructure asset agrees to comply
3 with all applicable conditions of the original Federal
4 program.

5 (d) LACK OF OBLIGATION TO REPAY FEDERAL
6 FUNDS.—A State or local government shall have no obli-
7 gation to repay to any agency of the Federal Government
8 any Federal funds received by the State or local govern-
9 ment in connection with a transportation infrastructure
10 asset that is privatized under this section.

11 (e) USE OF PROCEEDS.—

12 (1) IN GENERAL.—Subject to paragraph (2), a
13 State or local government may use proceeds from
14 the privatization of a transportation infrastructure
15 asset to the extent permitted under applicable condi-
16 tions of the original Federal program.

17 (2) RECOVERY OF CERTAIN COSTS.—Notwith-
18 standing any other provision of law, the State or
19 local government shall be permitted to recover from
20 the privatization of a transportation infrastructure
21 asset—

22 (A) the capital investment in the transpor-
23 tation infrastructure asset made by the State or
24 local government;

1 (B) an amount equal to the unreimbursed
 2 operating expenses in the transportation infra-
 3 structure asset paid by the State or local gov-
 4 ernment; and

5 (C) a reasonable rate of return on the in-
 6 vestment made under subparagraph (A) and ex-
 7 penses paid under subparagraph (B).

8 **SEC. 8. REDUCTION IN TAXES ON GASOLINE, DIESEL FUEL,**
 9 **AND SPECIAL FUELS FUNDING HIGHWAY**
 10 **TRUST FUND.**

11 (a) REDUCTION IN TAX RATE.—

12 (1) IN GENERAL.—Section 4081(a)(2)(A) of the
 13 Internal Revenue Code of 1986 (relating to rates of
 14 tax) is amended—

15 (A) in clause (i), by striking “18.3 cents”
 16 and inserting “6.3 cents”; and

17 (B) in clause (ii), by striking “24.3 cents”
 18 and inserting “6.3 cents”.

19 (2) CONFORMING AMENDMENT.—Section
 20 6427(b)(2)(A) of such Code is amended by striking
 21 “7.4 cents” and inserting “1.9 cents”.

22 (b) REDUCTION IN HIGHWAY TRUST FUND FINANC-
 23 ING RATE.—Section 9503(f) of the Internal Revenue Code
 24 of 1986 (defining Highway Trust Fund financing rate) is
 25 amended—

1 (1) in paragraph (1)(A), by striking “11.5 cents
2 per gallon (14 cents per gallon after September 30,
3 1995)” and inserting “2 cents per gallon”;

4 (2) in paragraph (1)(B), by striking “17.5
5 cents per gallon (20 cents per gallon after Septem-
6 ber 30, 1995)” and inserting “2 cents per gallon”;

7 (3) by striking subparagraph (B) and by redesi-
8 gnating subparagraphs (C) through (E) as subpara-
9 graphs (B) through (D), respectively; and

10 (4) in subparagraph (D) (as redesignated by
11 paragraph (3))—

12 (A) by striking “11.5 cents” and inserting
13 “2 cents”; and

14 (B) by striking “17.5 cents” and inserting
15 “2 cents”.

16 (c) ADDITIONAL CONFORMING AMENDMENTS.—

17 (1) Section 4041(a)(1)(C)(iii)(I) of such Code is
18 amended by striking “(4.3 cents per gallon after
19 September 30, 1999)” and inserting “(6.3 cents per
20 gallon for the period beginning after September 30,
21 2001, and ending before October 1, 2004, and 4.3
22 cents per gallon after September 30, 2004)”.

23 (2) Section 4041(m)(1)(A) of such Code is
24 amended—

1 (A) in clause (i), by striking “1999, and”
2 at the end and inserting “2001,”; and

3 (B) by striking clause (ii) and inserting the
4 following:

5 “(ii) 6.3 cents per gallon for the pe-
6 riod beginning after September 30, 2001,
7 and ending before October 1, 2004, and

8 “(iii) 4.3 cents per gallon after Sep-
9 tember 30, 2004.”.

10 (3) Section 4081(d)(1) of such Code is amend-
11 ed by striking “October 1, 1999” and inserting “Oc-
12 tober 1, 2004”.

13 (4) Section 6421(e)(2)(B)(iv) of such Code is
14 amended—

15 (A) in subclause (I), by striking “January
16 1, 2000” and inserting “October 1, 2004”; and

17 (B) in subclause (II), by striking “Decem-
18 ber 31, 1999” and inserting “September 30,
19 2004”.

20 (5) Section 9503(b) of such Code is amended—

21 (A) in paragraphs (1) and (2), by striking
22 “October 1, 1999” both places it appears and
23 inserting “October 1, 2004”;

1 (B) in the heading of paragraph (2), by
2 striking “OCTOBER 1, 1999” and inserting “OC-
3 TOBER 1, 2004”;

4 (C) in paragraph (2), by striking “after
5 September 30, 1999, and before July 1, 2000”
6 and inserting “after September 30, 2004, and
7 before July 1, 2005”; and

8 (D) in paragraph (5), by inserting “before
9 October 1, 2000,” after “paragraph (1)”.

10 (6) Section 9503(f)(4) of such Code is amended
11 by striking “June 30, 2000” and inserting “Septem-
12 ber 30, 2002”.

13 (d) FLOOR STOCK REFUNDS.—

14 (1) IN GENERAL.—If—

15 (A) before October 1, 2001, tax has been
16 imposed under section 4081 of the Internal
17 Revenue Code of 1986 on any liquid; and

18 (B) on such date such liquid is held by a
19 dealer and has not been used and is intended
20 for sale;

21 there shall be credited or refunded (without interest)
22 to the person who paid such tax (in this subsection
23 referred to as the “taxpayer”) an amount equal to
24 the excess of the tax paid by the taxpayer over the

1 amount of such tax which would be imposed on such
2 liquid had the taxable event occurred on such date.

3 (2) TIME FOR FILING CLAIMS.—No credit or re-
4 fund shall be allowed or made under this subsection
5 unless—

6 (A) claim therefor is filed with the Sec-
7 retary of the Treasury before April 1, 2002;
8 and

9 (B) in any case where liquid is held by a
10 dealer (other than the taxpayer) on October 1,
11 2001—

12 (i) the dealer submits a request for re-
13 fund or credit to the taxpayer before Janu-
14 ary 1, 2002; and

15 (ii) the taxpayer has repaid or agreed
16 to repay the amount so claimed to such
17 dealer or has obtained the written consent
18 of such dealer to the allowance of the cred-
19 it or the making of the refund.

20 (3) EXCEPTION FOR FUEL HELD IN RETAIL
21 STOCKS.—No credit or refund shall be allowed under
22 this subsection with respect to any liquid in retail
23 stocks held at the place where intended to be sold
24 at retail.

1 (4) DEFINITIONS.—For purposes of this sub-
 2 section, the terms “dealer” and “held by a dealer”
 3 have the respective meanings given to such terms by
 4 section 6412 of such Code; except that the term
 5 “dealer” includes a producer.

6 (5) CERTAIN RULES TO APPLY.—Rules similar
 7 to the rules of subsections (b) and (c) of section
 8 6412 and sections 6206 and 6675 of such Code shall
 9 apply for purposes of this subsection.

10 (e) EFFECTIVE DATE.—

11 (1) IN GENERAL.—Except as provided in para-
 12 graph (2), the amendments made by this section
 13 shall apply to fuel removed after September 30,
 14 2001.

15 (2) ADDITIONAL CONFORMING AMENDMENTS.—
 16 The amendments made by subsection (c) take effect
 17 on October 1, 1997.

18 **SEC. 9. MASS TRANSPORTATION.**

19 (a) IN GENERAL.—Section 5338 of title 49, United
 20 States Code, is amended to read as follows:

21 **“§ 5338. Authorizations**

22 “There are authorized to be appropriated to the Sec-
 23 retary of Transportation to carry out this chapter—

24 “(1) \$844,000,000 for fiscal year 1998, of
 25 which—

1 “(A) \$397,000,000 shall be used to carry
2 out sections 5307 and 5309;

3 “(B) \$92,000,000 shall be used to carry
4 out section 5311; and

5 “(C) the amount remaining after allocation
6 under subparagraphs (A) and (B) shall be used
7 at the discretion of the Secretary, including for
8 capital expenditure under this chapter;

9 “(2) \$868,000,000 for fiscal year 1999, of
10 which—

11 “(A) \$304,000,000 shall be used to carry
12 out sections 5307 and 5309;

13 “(B) \$95,000,000 shall be used to carry
14 out section 5311; and

15 “(C) the amount remaining after allocation
16 under subparagraphs (A) and (B) shall be used
17 at the discretion of the Secretary, including for
18 capital expenditure under this chapter;

19 “(3) \$889,000,000 for fiscal year 2000, of
20 which—

21 “(A) \$212,000,000 shall be used to carry
22 out sections 5307 and 5309;

23 “(B) \$97,000,000 shall be used to carry
24 out section 5311; and

1 “(C) the amount remaining after allocation
2 under subparagraphs (A) and (B) shall be used
3 at the discretion of the Secretary, including for
4 capital expenditure under this chapter;

5 “(4) \$916,000,000 for fiscal year 2001, of
6 which—

7 “(A) \$119,000,000 shall be used to carry
8 out sections 5307 and 5309;

9 “(B) \$100,000,000 shall be used to carry
10 out section 5311; and

11 “(C) the amount remaining after allocation
12 under subparagraphs (A) and (B) shall be used
13 at the discretion of the Secretary, including for
14 capital expenditure under this chapter; and

15 “(5) \$941,000,000 for fiscal year 2002, of
16 which—

17 “(A) \$27,000,000 shall be used to carry
18 out sections 5307 and 5309;

19 “(B) \$103,000,000 shall be used to carry
20 out section 5311; and

21 “(C) the amount remaining after allocation
22 under subparagraphs (A) and (B) shall be used
23 at the discretion of the Secretary, including for
24 capital expenditure under this chapter.”.

1 (b) EFFECTIVE DATE.—The amendment made by
2 this section takes effect on October 1, 1997.

3 **SEC. 10. REPORT TO CONGRESS.**

4 Not later than 180 days after the date of enactment
5 of this Act, after consultation with the appropriate com-
6 mittees of Congress, the Secretary of Transportation shall
7 submit a report to Congress describing such technical and
8 conforming amendments to titles 23 and 49, United States
9 Code, and such technical and conforming amendments to
10 other laws, as are necessary to bring those titles and other
11 laws into conformity with the policy embodied in this Act
12 and the amendments made by this Act.

13 **SEC. 11. EFFECTIVE DATE CONTINGENT UPON CERTIFI-**
14 **CATION OF DEFICIT NEUTRALITY.**

15 (a) PURPOSE.—The purpose of this section is to en-
16 sure that—

17 (1) this Act will become effective only if the Di-
18 rector of the Office of Management and Budget cer-
19 tifies that this Act is deficit neutral;

20 (2) discretionary spending limits are reduced to
21 capture the savings realized in devolving transpor-
22 tation functions to the State level pursuant to this
23 Act; and

1 (3) the tax reduction made by this Act is not
2 scored under pay-as-you-go and does not inadvert-
3 ently trigger a sequestration.

4 (b) EFFECTIVE DATE CONTINGENCY.—Notwith-
5 standing any other provision of this Act, this Act and the
6 amendments made by this Act shall take effect only if—

7 (1) the Director of the Office of Management
8 and Budget (referred to in this section as the “Di-
9 rector”) submits the report as required in subsection
10 (c); and

11 (2) the report contains a certification by the Di-
12 rector that, based on the required estimates, the re-
13 duction in discretionary outlays resulting from the
14 reduction in contract authority is at least as great
15 as the reduction in revenues for each fiscal year
16 through fiscal year 2002.

17 (c) OMB ESTIMATES AND REPORT.—

18 (1) REQUIREMENTS.—Not later than 5 cal-
19 endar days after the date of enactment of this Act,
20 the Director shall—

21 (A) estimate the net change in revenues re-
22 sulting from this Act for each fiscal year
23 through fiscal year 2002;

24 (B) estimate the net change in discre-
25 tionary outlays resulting from the reduction in

1 contract authority under this Act for each fiscal
2 year through fiscal year 2002;

3 (C) determine, based on those estimates,
4 whether the reduction in discretionary outlays
5 is at least as great as the reduction in revenues
6 for each fiscal year through fiscal year 2002;
7 and

8 (D) submit to the Congress a report set-
9 ting forth the estimates and determination.

10 (2) APPLICABLE ASSUMPTIONS AND GUIDE-
11 LINES.—

12 (A) REVENUE ESTIMATES.—The revenue
13 estimates required under paragraph (1)(A)
14 shall be predicated on the same economic and
15 technical assumptions and scorekeeping guide-
16 lines that would be used for estimates made
17 pursuant to section 252(d) of the Balanced
18 Budget and Emergency Deficit Control Act of
19 1985 (2 U.S.C. 902(d)).

20 (B) OUTLAY ESTIMATES.—The outlay esti-
21 mates required under paragraph (1)(B) shall be
22 determined by comparing the level of discre-
23 tionary outlays resulting from this Act with the
24 corresponding level of discretionary outlays pro-
25 jected in the baseline under section 257 of the

1 Balanced Budget and Emergency Deficit Con-
2 trol Act of 1985 (2 U.S.C. 907).

3 (d) CONFORMING ADJUSTMENT TO DISCRETIONARY
4 SPENDING LIMITS.—Upon compliance with the require-
5 ments specified in subsection (b), the Director shall adjust
6 the adjusted discretionary spending limits for each fiscal
7 year through fiscal year 2002 under section 601(a)(2) of
8 the Congressional Budget Act of 1974 (2 U.S.C.
9 665(a)(2)) by the estimated reductions in discretionary
10 outlays under subsection (c)(1)(B).

11 (e) PAYGO INTERACTION.—Upon compliance with the
12 requirements specified in subsection (b), no changes in
13 revenues estimated to result from the enactment of this
14 Act shall be counted for the purposes of section 252(d)
15 of the Balanced Budget and Emergency Deficit Control
16 Act of 1985 (2 U.S.C. 902(d)).

○