

105TH CONGRESS  
1ST SESSION

# S. 1494

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

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## IN THE SENATE OF THE UNITED STATES

NOVEMBER 9, 1997

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

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## 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 “Surface Transpor-  
5       tation and Transit Empowerment Act”.

6       **SEC. 2. DEFINITIONS.**

7       In this Act, the following definitions apply:

1           (1) CORE HIGHWAY PROGRAMS.—The term  
2           “core highway programs” means the following pro-  
3           grams:

4                   (A) The Interstate maintenance program  
5                   under section 119 of title 23, United States  
6                   Code.

7                   (B) Highway bridge replacement and reha-  
8                   bilitation (excluding off-System bridges) under  
9                   section 144 of that title.

10                  (C)(i) Indian reservation roads under sec-  
11                  tion 204 of that title.

12                  (ii) Public lands highways under section  
13                  204 of that title.

14                  (iii) Parkways and park roads under sec-  
15                  tion 204 of that title.

16                  (D) Highway safety programs under sec-  
17                  tion 402 of that title.

18                  (E) Highway safety research and develop-  
19                  ment under section 403 of that title.

20                  (F) Motor carrier safety grants under sec-  
21                  tion 31104 of title 49, United States Code.

22                  (G) Metropolitan planning under section  
23                  104(f) of title 23, United States Code.

24                  (H) National defense highways under sec-  
25                  tion 311 of that title.

1 (I) Emergency relief under section 125 of  
2 that title.

3 (2) CORE PROGRAM STATE.—The term “core  
4 program State” means a State which makes an elec-  
5 tion under section 3.

6 (3) ELECTION PERIOD.—The term “election pe-  
7 riod” means the period beginning with the fiscal  
8 year determined under section 3(b) and ending not  
9 later than with fiscal year 2003.

10 (4) FUTURE INVESTMENT ACCOUNT.—The term  
11 “Future Investment Account” means the Future In-  
12 vestment Account established under section 9503(f)  
13 of the Internal Revenue Code of 1986.

14 (5) HIGHWAY ACCOUNT.—The term “Highway  
15 Account” means the portion of the Highway Trust  
16 Fund established under section 9503 of the Internal  
17 Revenue Code of 1986 which is not the Mass Tran-  
18 sit Account or the Future Investment Account.

19 (6) MASS TRANSIT ACCOUNT.—The term “Mass  
20 Transit Account” means the Mass Transit Account  
21 established under section 9503(e) of the Internal  
22 Revenue Code of 1986.

23 (7) SURFACE TRANSPORTATION.—The term  
24 “surface transportation” includes mass transit and  
25 rail.

1           (8) TIER I CORE PROGRAM STATE.—The term  
 2           “tier I core program State” means a core program  
 3           State that is eligible for a core highway programs  
 4           payment and a non-core highway programs block  
 5           grant under section 3.

6           (9) TIER II CORE PROGRAM STATE.—The term  
 7           “tier II core program State” means a core program  
 8           State that is eligible for a core highway programs  
 9           payment under section 3 and that elects under sec-  
 10          tion 3(e) to reduce its Federal fuel tax rate with a  
 11          corresponding reduction in its non-core highway pro-  
 12          grams block grant.

13          (10) TIER I MASS TRANSIT STATE.—The term  
 14          “tier I mass transit State” means a State that is eli-  
 15          gible for a mass transit block grant under section 4.

16          (11) TIER II MASS TRANSIT STATE.—The term  
 17          “tier II mass transit State” means a State that  
 18          elects under section 4(c) to eliminate its mass tran-  
 19          sit fuel tax rate with a corresponding elimination of  
 20          its mass transit block grant.

21 **SEC. 3. FUNDING OF HIGHWAY PROGRAMS IN CORE PRO-**  
 22 **GRAM STATES.**

23          (a) ELECTION TO BECOME A CORE PROGRAM  
 24          STATE.—Each State which makes an election described

1 in subsection (b) shall be eligible with respect to each fis-  
2 cal year during the State's election period for—

3 (1) a core highway programs payment; and

4 (2) a non-core highway programs block grant,  
5 in lieu of any other payment from the Highway Account  
6 and the Future Highway Investment Sub Account of the  
7 Future Investment Account.

8 (b) REQUIREMENTS FOR ELECTION.—An election is  
9 described in this subsection if—

10 (1) such election is made by a State at least  
11 180 days before the first fiscal year with respect to  
12 which the election applies;

13 (2) such election is made by a State that cer-  
14 tifies that such State has a metropolitan planning  
15 organization established under section 134 of title  
16 23, United States Code, and that such organization  
17 will maintain a system for processing funds received  
18 by the State under this Act throughout the election  
19 period; and

20 (3) such election is submitted to the Secretary  
21 in such form and manner as the Secretary pre-  
22 scribes.

23 (c) DETERMINATION AND USE OF CORE HIGHWAY  
24 PROGRAMS PAYMENT.—

1           (1) DETERMINATION OF AMOUNT OF PAY-  
2           MENT.—

3           (A) IN GENERAL.—Subject to subpara-  
4           graph (B), the Secretary shall determine for  
5           each fiscal year the payment necessary to meet  
6           the commitments of core highway programs for  
7           each core program State.

8           (B) LIMITATIONS.—

9           (i) GENERAL RULE.—Any payment  
10          under subparagraph (A) for any fiscal year  
11          for any particular core highway program  
12          for a core program State shall be subject  
13          to—

14               (I) except with respect to core  
15               highway programs described in sub-  
16               paragraphs (G), (H), and (I) of sec-  
17               tion 2(1), the funding level for such  
18               program for such year under clause  
19               (ii) in lieu of the funding level for  
20               such program for such year under any  
21               other provision of law, and

22               (II) the annual obligation limita-  
23               tion for such program for such year  
24               imposed under any provision of law.

(ii) SPECIAL FUNDING LEVELS.—For purposes of clause (i), the funding levels for core highway programs are as follows:

(I) For the Interstate maintenance program, \$5,000,000,000 for fiscal year 1998, \$5,100,000,000 for fiscal year 1999, \$5,300,000,000 for fiscal year 2000, \$5,400,000,000 for fiscal year 2001, \$5,600,000,000 for fiscal year 2002, and \$5,800,000,000 for fiscal year 2003.

(II) For highway bridge replacement and rehabilitation, \$1,183,000,000 for fiscal year 1998, \$1,217,000,000 for fiscal year 1999, \$1,251,000,000 for fiscal year 2000, \$1,286,000,000 for fiscal year 2001, \$1,321,000,000 for fiscal year 2002, and \$1,358,000,000 for fiscal year 2003.

(III)(aa) For Indian reservation roads, \$197,000,000 for fiscal year 1998, \$202,000,000 for fiscal year 1999, \$208,000,000 for fiscal year 2000, \$214,000,000 for fiscal year

1           2001, \$220,000,000 for fiscal year  
2           2002, and \$225,000,000 for fiscal  
3           year 2003.

4           (bb) For public lands highways,  
5           \$177,000,000 for fiscal year 1998,  
6           \$182,000,000 for fiscal year 1999,  
7           \$187,000,000 for fiscal year 2000,  
8           \$192,000,000 for fiscal year 2001,  
9           \$197,000,000 for fiscal year 2002,  
10          and \$202,000,000 for fiscal year  
11          2002.

12          (cc) For parkways and park  
13          roads, \$86,000,000 for fiscal year  
14          1998, \$89,000,000 for fiscal year  
15          1999, \$91,000,000 for fiscal year  
16          2000, \$94,000,000 for fiscal year  
17          2001, \$97,000,000 for fiscal year  
18          2002, and \$101,000,000 for fiscal  
19          year 2003.

20          (IV) For highway safety pro-  
21          grams, \$171,000,000 for each of fis-  
22          cal years 1998 through 2003.

23          (V) For highway safety research  
24          and development, \$44,000,000 for



1 each of fiscal years 1998 through  
2 2003.

3 (VI) For motor carrier safety  
4 grants, not more than \$90,000,000  
5 for each of fiscal years 1998 through  
6 2003.

7 (2) USE OF PAYMENT.—

8 (A) IN GENERAL.—The core highway pro-  
9 grams payment for any core program State  
10 shall be available, as provided by appropriation  
11 Acts, to the State for any core highway pro-  
12 gram purpose in such State.

13 (B) TRANSFERABILITY OF FUNDS.—To  
14 the extent that a core program State deter-  
15 mines that funds made available under this sub-  
16 section to the State for a purpose are in excess  
17 of the needs of the State for that purpose, the  
18 State may transfer the excess funds to, and use  
19 the excess funds for, any surface transportation  
20 purpose in the State.

21 (d) DETERMINATION AND USE OF NON-CORE HIGH-  
22 WAY PROGRAMS BLOCK GRANT.—

23 (1) DETERMINATION OF AMOUNT OF BLOCK  
24 GRANT.—Subject to subsection (e), the amount of  
25 the non-core highway programs block grant for any

1 tier I core program State for any fiscal year is equal  
 2 to the excess of—

3 (A) the amount of taxes transferred to the  
 4 Highway Account and the Future Highway In-  
 5 vestment Sub Account of the Future Invest-  
 6 ment Account for such fiscal year which is at-  
 7 tributable to highway users in that State as de-  
 8 termined by the Secretary of the Treasury (tak-  
 9 ing into account proper reductions for uses of  
 10 such taxes for purposes other than the Federal-  
 11 aid highway program); over

12 (B) the core highway programs payment to  
 13 such State for such fiscal year, as determined  
 14 under subsection (c).

15 (2) USE OF BLOCK GRANT.—The non-core  
 16 highway programs block grant for any tier I core  
 17 program State shall be available, as provided by ap-  
 18 propriation Acts, to the State for any surface trans-  
 19 portation purpose in such State. Any project carry-  
 20 ing out such a purpose shall be exempt from any  
 21 Federal regulation other than with respect to health  
 22 and safety standards and practices.

23 (e) ELECTION TO REDUCE FEDERAL FUEL TAX  
 24 RATE WITH CORRESPONDING REDUCTION IN BLOCK  
 25 GRANT.—

1           (1) IN GENERAL.—With respect to fiscal years  
2           beginning after the satisfaction year and ending with  
3           the termination of the election period, a core pro-  
4           gram State may notify the Secretary (in the same  
5           manner as the election described in subsection (b))  
6           of an election to become a tier II core program State  
7           and to have imposed on highway users in the State  
8           the State’s core highway programs financing rate  
9           with respect to the taxes transferred to the Highway  
10          Account and the Future Highway Investment Sub  
11          Account of the Future Investment Account which  
12          are attributable to such highway users in lieu of the  
13          tax rates otherwise established in the Internal Reve-  
14          nue Code of 1986 for such fiscal years.

15          (2) DETERMINATION OF CORE HIGHWAY PRO-  
16          GRAMS FINANCING RATE.—

17                (A) IN GENERAL.—Upon notification by  
18                the Secretary of an election by a State under  
19                paragraph (1), the Secretary of the Treasury  
20                shall determine for each subsequent fiscal year  
21                such State’s core highway programs financing  
22                rate, taking into account—

23                    (i) the amount of taxes necessary to  
24                    fund that State’s core highway programs  
25                    payment for such fiscal year;

1 (ii) the uses of the taxes described in  
2 paragraph (1) for purposes other than the  
3 Federal-aid highway program for such fis-  
4 cal year;

5 (iii) any adjustments necessary as a  
6 result of a determination under this para-  
7 graph for a preceding fiscal year; and

8 (iv) the rates with respect to such  
9 taxes otherwise imposed under the Internal  
10 Revenue Code of 1986 for such fiscal year.

11 (B) REPORT.—Not later than August 1,  
12 the Secretary of the Treasury shall submit to  
13 the Committee on Ways and Means of the  
14 House of Representatives and the Committee  
15 on Finance of the Senate, a report that de-  
16 scribes the determination required under sub-  
17 paragraph (A).

18 (C) CONGRESSIONAL APPROVAL RE-  
19 QUIRED.—The Secretary of the Treasury shall  
20 not implement the determination required to be  
21 included in the report submitted under subpara-  
22 graph (B) unless a joint resolution is enacted,  
23 in accordance with subparagraph (D), approv-  
24 ing such determination before the following Oc-  
25 tober 1.

(D) CONGRESSIONAL CONSIDERATION.—

(i) TERMS OF THE RESOLUTION.—

For purposes of subparagraph (C), the term “joint resolution” means only a joint resolution that is introduced before October 1 and—

(I) that does not have a preamble;

(II) the matter after the resolving clause of which is as follows: “That Congress approves the determination of the Secretary of the Treasury regarding the imposition of the core highway programs rate for the State of            submitted on           ”, the blank spaces being filled in with the appropriate State and date, respectively; and

(III) the title of which is as follows: “Joint resolution approving the determination of the Secretary of the Treasury regarding the imposition of a core highway programs rate.”.

(ii) REFERRAL.—A resolution described in clause (i) that is introduced—

1 (I) in the House of Representa-  
2 tives, shall be referred to the Commit-  
3 tee on Ways and Means; and

4 (II) in the Senate, shall be re-  
5 ferred to the Committee on Finance.

6 (iii) DISCHARGE.—If a committee to  
7 which a resolution described in clause (i) is  
8 referred has not reported such resolution  
9 by the end of the 30-day period beginning  
10 on the date on which the Secretary of the  
11 Treasury submits the report required  
12 under subparagraph (B), such committee  
13 shall be, at the end of such period, dis-  
14 charged from further consideration of such  
15 resolution, and such resolution shall be  
16 placed on the appropriate calendar of the  
17 House involved.

18 (iv) CONSIDERATION.—Within 30  
19 days after the date on which the committee  
20 to which a resolution described in clause  
21 (i) has reported, or has been discharged  
22 from further consideration of such resolu-  
23 tion, such resolution shall be considered in  
24 the same manner as a resolution is consid-  
25 ered under subsections (d), (e), and (f) of

1 section 2908 of the Defense Base Closure  
 2 and Realignment Act of 1990 (10 U.S.C.  
 3 2687 note).

4 (3) SATISFACTION YEAR.—For purposes of  
 5 paragraph (1), the term “satisfaction year” means  
 6 the fiscal year during which all Federal non-core  
 7 highway program obligations of a core program  
 8 State payable from the Highway Account and the  
 9 Future Highway Investment Sub Account of the Fu-  
 10 ture Investment Account existing on the date of the  
 11 election by such State described in subsection (a)  
 12 are paid.

13 **SEC. 4. FUNDING OF TRANSIT PROGRAMS IN MASS TRANSIT**  
 14 **BLOCK GRANT STATES.**

15 (a) ELECTION TO BECOME A MASS TRANSIT BLOCK  
 16 GRANT STATE.—A core program State or any other State  
 17 may notify the Secretary (in the same manner as the elec-  
 18 tion described in section 3(b)) of an election to receive  
 19 with respect to each fiscal year during the State’s election  
 20 period a mass transit block grant, in lieu of any other pay-  
 21 ment from the Mass Transit Account and the Future  
 22 Transit Investment Sub Account of the Future Investment  
 23 Account. An election under this subsection shall not affect  
 24 a State’s continued eligibility for revenues provided

1 through the general fund of the Treasury for transit pro-  
2 grams.

3 (b) DETERMINATION AND USE OF MASS TRANSIT  
4 BLOCK GRANT.—

5 (1) DETERMINATION OF AMOUNT OF BLOCK  
6 GRANT.—Subject to subsection (c), the amount of  
7 the mass transit block grant for any tier I mass  
8 transit State for any fiscal year is equal to the  
9 amount of taxes transferred to the Mass Transit Ac-  
10 count and the Future Transit Investment Sub Ac-  
11 count of the Future Investment Account for such  
12 fiscal year which is attributable to highway users in  
13 that State as determined by the Secretary of the  
14 Treasury.

15 (2) USE OF BLOCK GRANT.—The mass transit  
16 block grant for any tier I mass transit State shall  
17 be available, as provided by appropriation Acts, to  
18 the State for any surface transportation purpose in  
19 such State. Any project carrying out such a purpose  
20 shall be exempt from any Federal regulation other  
21 than with respect to health and safety standards and  
22 practices.

23 (c) ELECTION TO ELIMINATE MASS TRANSIT FUEL  
24 TAX RATE WITH CORRESPONDING ELIMINATION OF  
25 BLOCK GRANT.—



1           (1) IN GENERAL.—With respect to fiscal years  
2           beginning after the satisfaction year and ending with  
3           the termination of the election period, a State which  
4           has made an election under subsection (a) may no-  
5           tify the Secretary (in the same manner as such an  
6           election) of an election to become a tier II mass  
7           transit State and to eliminate the financing rate  
8           with respect to the taxes transferred to the Mass  
9           Transit Account and the Future Transit Investment  
10          Sub Account of the Future Investment Account  
11          which are attributable to the highway users of the  
12          State in lieu of the mass transit block grant for such  
13          fiscal years.

14          (2) ELIMINATION OF MASS TRANSIT FUEL TAX  
15          RATE.—

16                (A) IN GENERAL.—Upon notification by  
17                the Secretary of an election by a State under  
18                paragraph (1), the Secretary of the Treasury  
19                shall, not later than August 1, submit to the  
20                Committee on Ways and Means of the House of  
21                Representatives and the Committee on Finance  
22                of the Senate, a report that notifies the com-  
23                mittees of such an election.

24                (B) CONGRESSIONAL APPROVAL RE-  
25                QUIRED.—The Secretary of the Treasury shall

not implement the election included in the report submitted under paragraph (1) unless a joint resolution is enacted, in accordance with paragraph (3), approving such election before the following October 1.

(3) CONGRESSIONAL CONSIDERATION.—

(A) TERMS OF THE RESOLUTION.—For purposes of paragraph (2), the term “joint resolution” means only a joint resolution that is introduced before October 1 and—

(i) that does not have a preamble;

(ii) the matter after the resolving clause of which is as follows: “That Congress approves the elimination of the mass transit fuel tax rate for the State of \_\_\_\_\_”, the blank spaces being filled in with the appropriate State and date, respectively; and

(iii) the title of which is as follows: “Joint resolution approving the elimination of the mass transit fuel tax rate.”.

(B) CONSIDERATION.—A resolution described in subparagraph (A) shall be considered in the same manner as a resolution is consid-

1           ered under clauses (ii), (iii), and (iv) of section  
2           3(e)(2)(D).

3           (4) SATISFACTION YEAR.—For purposes of this  
4           section, the term “satisfaction year” means the fis-  
5           cal year during which all Federal transit program  
6           obligations of a State payable from the Mass Transit  
7           Account and the Future Transit Investment Sub Ac-  
8           count of the Future Investment Account existing on  
9           the date of the election by such State described in  
10          subsection (a) are paid.

11 **SEC. 5. ENFORCEMENT.**

12          If the Secretary determines that a core program  
13          State (or any other State under section 4(b)(2)) has used  
14          funds under this Act for a purpose that is not a surface  
15          transportation purpose, the amount of the improperly used  
16          funds shall be deducted from any amount the State would  
17          otherwise receive from the Highway Account for the fiscal  
18          year that begins after the date of the determination.

19 **SEC. 6. REPORTS.**

20          (a) ANNUAL STATE ASSESSMENT.—A core program  
21          State shall—

22               (1) assess the operation of the State surface  
23               transportation program funded under this Act in  
24               each fiscal year, including the status of the core  
25               highway programs in the State; and

1           (2) report to the Secretary, by January 1 fol-  
2       lowing the end of the fiscal year, on the result of the  
3       assessment.

4       (b) REPORT OF THE SECRETARY.—The Secretary  
5       shall submit to the appropriate committees of Congress  
6       an annual report and evaluation of the State surface  
7       transportation programs funded under this Act based on  
8       the State assessments and reports submitted under sub-  
9       section (a). Such report shall include any conclusions and  
10      recommendations that the Secretary considers appro-  
11      priate.

12   **SEC. 7. INTERSTATE SURFACE TRANSPORTATION COM-**  
13                   **PACTS.**

14       (a) DEFINITIONS.—In this section, the following defi-  
15      nitions apply:

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

21           (2) PARTICIPATING STATES.—The term “par-  
22       ticipating States” means the States that are parties  
23       to an interstate compact entered into under sub-  
24       section (b).

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

5       (b) CONSENT OF CONGRESS.—In order to increase  
6       public investment, attract needed private investment, and  
7       promote an intermodal transportation network, Congress  
8       grants consent to States to enter into interstate compacts  
9       to—

10           (1) promote the continuity, quality, and safety  
11       of the Interstate System (as defined in section 101  
12       of title 23, United States Code);

13           (2) develop programs to promote and fund sur-  
14       face transportation safety initiatives and establish  
15       surface transportation safety standards for the par-  
16       ticipating States;

17           (3) conduct long-term planning for surface  
18       transportation infrastructure in the participating  
19       States;

20           (4) develop design and construction standards  
21       for infrastructure described in paragraph (3) to be  
22       used by the participating States; and

23           (5) establish surface transportation infrastruc-  
24       ture banks to promote regional or other multistate

1 investment in infrastructure described in paragraph  
 2 (3).

3 (c) FINANCING.—An interstate compact established  
 4 by participating States under subsection (b) to carry out  
 5 a surface transportation project may provide that, in order  
 6 to carry out the compact, the participating States may—

7 (1) accept contributions from a unit of State or  
 8 local government or a person;

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

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

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

15 (B) issue bonds; and

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

19 (d) INFRASTRUCTURE BANKS.—

20 (1) IN GENERAL.—An infrastructure bank  
 21 may—

22 (A) make loans;

23 (B) under the joint or separate authority  
 24 of the participating States with respect to the  
 25 infrastructure bank, issue such debt as the in-

1           frastructure bank and the participating States  
2           determine appropriate; and

3           (C) provide other assistance to public or  
4           private entities constructing, or proposing to  
5           construct or initiate, surface transportation  
6           projects.

7           (2) FORMS OF ASSISTANCE.—

8           (A) IN GENERAL.—An infrastructure bank  
9           may make a loan or provide other assistance  
10          described in subparagraph (C) to a public or  
11          private entity in an amount equal to all or part  
12          of the construction cost, capital cost, or initi-  
13          ation cost of a surface transportation project.

14          (B) SUBORDINATION OF ASSISTANCE.—  
15          The amount of any loan or other assistance de-  
16          scribed in subparagraph (C) that is received for  
17          a surface transportation project under this sec-  
18          tion may be subordinated to any other debt fi-  
19          nancing for the surface transportation project.

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

- 23                 (i) credit enhancement;
- 24                 (ii) a capital reserve for bond or debt
- 25                 instrument financing;

- 1 (iii) bond or debt instrument financ-
- 2 ing issuance costs;
- 3 (iv) bond or debt issuance financing
- 4 insurance;
- 5 (v) subsidization of interest rates;
- 6 (vi) letters of credit;
- 7 (vii) any credit instrument;
- 8 (viii) bond or debt financing instru-
- 9 ment security; and
- 10 (ix) any other form of debt financing
- 11 that relates to the qualifying surface trans-
- 12 portation project.

13 (3) NO OBLIGATION OF UNITED STATES.—

14 (A) IN GENERAL.—The establishment  
 15 under this section of an infrastructure bank  
 16 does not constitute a commitment, guarantee,  
 17 or obligation on the part of the United States  
 18 to any third party with respect to any security  
 19 or debt financing instrument issued by the  
 20 bank. No third party shall have any right  
 21 against the United States for payment solely by  
 22 reason of the establishment.

23 (B) STATEMENT ON INSTRUMENT.—Any  
 24 security or debt financing instrument issued by  
 25 an infrastructure bank shall expressly state that



1           the security or instrument does not constitute a  
 2           commitment, guarantee, or obligation of the  
 3           United States.

4 **SEC. 8. FEDERAL-AID FACILITY PRIVATIZATION.**

5           (a) DEFINITIONS.—In this section, the following defi-  
 6 nitions apply:

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

10          (2) PRIVATIZATION.—The term “privatization”  
 11 means the disposition or transfer of a transportation  
 12 infrastructure asset, whether by sale, lease, or simi-  
 13 lar arrangement, from a State or local government  
 14 to a private party.

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

18                   (A) any State;

19                   (B) the District of Columbia;

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

22                   (D) any county, municipality, city, town,  
 23 township, local public authority, school district,  
 24 special district, intrastate district, regional or  
 25 interstate government entity, council of govern-

1           ments, or agency or instrumentality of a local  
2           government; or

3           (E) any federally recognized Indian tribe.

4           (4)       TRANSPORTATION       INFRASTRUCTURE  
5       ASSET.—

6           (A) IN GENERAL.—The term “transportation infrastructure asset” means any surface-  
7           tation infrastructure asset” means any surface-  
8           transportation-related asset financed in whole  
9           or in part by the Federal Government, including a road, tunnel, bridge, or mass-transit-related or rail-related asset.

12          (B) EXCLUSION.—The term does not include any transportation-related asset on the  
13          Interstate System (as defined in section 101 of  
14          title 23, United States Code).

16          (b) PRIVATIZATION INITIATIVES BY STATE AND  
17       LOCAL GOVERNMENTS.—The head of each Executive  
18       agency shall—

19           (1) assist State and local governments in efforts  
20           to privatize the transportation infrastructure assets  
21           of the State and local governments; and

22           (2) subject to subsection (c), approve requests  
23           from State and local governments to privatize transportation infrastructure assets and waive or modify  
24

1 any condition relating to the original Federal pro-  
2 gram that funded the asset.

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

5 (1) the State or local government demonstrates  
6 that a market mechanism, legally enforceable agree-  
7 ment, or regulatory mechanism will ensure that the  
8 transportation infrastructure asset will continue to  
9 be used for the general objectives of the original  
10 Federal program that funded the asset (which shall  
11 not be considered to include every condition required  
12 for the recipient of Federal funds to have obtained  
13 the original Federal funds), so long as needed for  
14 those objectives; and

15 (2) the private party purchasing or leasing the  
16 transportation infrastructure asset agrees to comply  
17 with all applicable conditions of the original Federal  
18 program.

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

25 (e) USE OF PROCEEDS.—

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

6           (2) RECOVERY OF CERTAIN COSTS.—Notwith-  
 7       standing any other provision of law, the State or  
 8       local government shall be permitted to recover from  
 9       the privatization of a transportation infrastructure  
 10      asset—

11                (A) the capital investment in the transpor-  
 12               tation infrastructure asset made by the State or  
 13               local government;

14                (B) an amount equal to the unreimbursed  
 15               operating expenses in the transportation infra-  
 16               structure asset paid by the State or local gov-  
 17               ernment; and

18                (C) a reasonable rate of return on the in-  
 19               vestment made under subparagraph (A) and ex-  
 20               penses paid under subparagraph (B).

21 **SEC. 9. ESTABLISHMENT OF FUTURE INVESTMENT AC-**  
 22 **COUNT.**

23       Section 9503 of the Internal Revenue Code of 1986  
 24       (relating to Highway Trust Fund), as amended by section

1 901(d) of the Taxpayer Relief Act of 1997, is amended  
 2 by adding at the end the following:

3 “(f) ESTABLISHMENT OF FUTURE INVESTMENT AC-  
 4 COUNT.—

5 “(1) CREATION OF ACCOUNT.—There is estab-  
 6 lished in the Highway Trust Fund a separate ac-  
 7 count to be known as the ‘Future Investment Ac-  
 8 count’, consisting of such amounts as may be trans-  
 9 ferred or credited to the Future Highway Invest-  
 10 ment Sub Account and the Future Transit Invest-  
 11 ment Sub Account of the Future Investment Ac-  
 12 count as provided in this subsection or section  
 13 9602(b).

14 “(2) TRANSFERS TO FUTURE INVESTMENT AC-  
 15 COUNT.—

16 “(A) IN GENERAL.—The Secretary of the  
 17 Treasury shall transfer to the Future Highway  
 18 Investment Sub Account the future highway in-  
 19 vestment portion and to the Future Transit In-  
 20 vestment Sub Account the future transit invest-  
 21 ment portion of the amounts appropriated to  
 22 the Highway Trust Fund under subsection (b)  
 23 which are attributable to taxes under sections  
 24 4041 and 4081 imposed after September 30,  
 25 1997.

1 “(B) FUTURE INVESTMENT PORTIONS.—

2 For purposes of subparagraph (A)—

3 “(i) the term ‘future highway invest-  
4 ment portion’ means an amount deter-  
5 mined at the rate of 3.44 cents for each  
6 gallon with respect to which tax was im-  
7 posed under section 4041 or 4081, and

8 “(ii) the term ‘future transit invest-  
9 ment portion’ means an amount deter-  
10 mined at the rate of .86 cent for each gal-  
11 lon with respect to which tax was so im-  
12 posed.

13 “(3) EXPENDITURES FROM ACCOUNT.—

14 Amounts in the Future Investment Account shall be  
15 available, as provided by appropriation Acts, in a  
16 Federal budget neutral manner, for making expendi-  
17 tures after October 1, 1997—

18 “(A) in the case of the Future Highway  
19 Investment Sub Account, in accordance with  
20 elections made under section 3(a) of the Sur-  
21 face Transportation and Transit Empowerment  
22 Act, and

23 “(B) in the case of the Future Transit In-  
24 vestment Sub Account, in accordance with elec-  
25 tions made under section 4(a) of the Surface

1           Transportation and Transit Empowerment  
2           Act.”.

3 **SEC. 10. EFFECTIVE DATE CONTINGENT UPON CERTIFI-**  
4 **CATION OF DEFICIT NEUTRALITY.**

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

7           (1) this Act will become effective only if the Di-  
8 rector of the Office of Management and Budget (re-  
9 ferred to in this section as the “Director”) certifies  
10 that this Act is deficit neutral;

11          (2) discretionary spending limits are reduced to  
12 capture the savings realized in devolving transpor-  
13 tation functions to the State level pursuant to this  
14 Act; and

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

18       (b) EFFECTIVE DATE CONTINGENCY.—Notwith-  
19 standing any other provision of this Act, this Act shall  
20 take effect only if—

21           (1) the Director submits the report as required  
22 in subsection (c); and

23           (2) the report contains a certification by the Di-  
24 rector that, based on the required estimates, the re-  
25 duction in discretionary outlays resulting from the

1 reduction in contract authority is at least as great  
2 as the reduction in revenues for each fiscal year  
3 through fiscal year 2003.

4 (c) OMB ESTIMATES AND REPORT.—

5 (1) REQUIREMENTS.—Not later than 5 cal-  
6 endar days after the date of notification by the Sec-  
7 retary of any election described in section 3(b), the  
8 Director shall—

9 (A) estimate the net change in revenues re-  
10 sulting from this Act for each fiscal year  
11 through fiscal year 2003;

12 (B) estimate the net change in discre-  
13 tionary outlays resulting from the reduction in  
14 contract authority under this Act for each fiscal  
15 year through fiscal year 2003;

16 (C) determine, based on those estimates,  
17 whether the reduction in discretionary outlays  
18 is at least as great as the reduction in revenues  
19 for each fiscal year through fiscal year 2003;  
20 and

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

23 (2) APPLICABLE ASSUMPTIONS AND GUIDE-  
24 LINES.—



1           (A) REVENUE ESTIMATES.—The revenue  
2           estimates required under paragraph (1)(B)  
3           shall be predicated on the same economic and  
4           technical assumptions and scorekeeping guide-  
5           lines that would be used for estimates made  
6           pursuant to section 252(d) of the Balanced  
7           Budget and Emergency Deficit Control Act of  
8           1985 (2 U.S.C. 902(d)).

9           (B) OUTLAY ESTIMATES.—The outlay esti-  
10          mates required under paragraph (1)(B) shall be  
11          determined by comparing the level of discre-  
12          tionary outlays resulting from this Act with the  
13          corresponding level of discretionary outlays pro-  
14          jected in the baseline under section 257 of the  
15          Balanced Budget and Emergency Deficit Con-  
16          trol Act of 1985 (2 U.S.C. 907).

17         (d) CONFORMING ADJUSTMENT TO DISCRETIONARY  
18         SPENDING LIMITS.—Upon compliance with the require-  
19         ments specified in subsection (b), the Director shall adjust  
20         the adjusted discretionary spending limits for each fiscal  
21         year through fiscal year 2003 under section 601(a)(2) of  
22         the Congressional Budget Act of 1974 (2 U.S.C.  
23         665(a)(2)) by the estimated reductions in discretionary  
24         outlays under subsection (a)(2).

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

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