

107TH CONGRESS  
2D SESSION

# S. 2861

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

AUGUST 1, 2002

Mr. INHOFE 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 “Transportation Em-  
5       powerment 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 pro-  
7 viding an efficient transportation network for the  
8 residents 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 surface transportation  
17               systems that are not within the direct purview of the  
18               Federal 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 land;

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 Federal and State 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, \$5,600,000,000 for fiscal year  
7 2004, \$5,700,000,000 for fiscal year 2005,  
8 \$5,800,000,000 for fiscal year 2006,  
9 \$5,900,000,000 for fiscal year 2007,  
10 \$6,000,000,000 for fiscal year 2008, and  
11 \$6,100,000,000 for fiscal year 2009.

12 (B) INTERSTATE AND INDIAN RESERVA-  
13 TION BRIDGE PROGRAM.—For the Interstate  
14 and Indian reservation bridge program under  
15 section 144 of that title \$1,500,000,000 for fis-  
16 cal year 2004, \$1,600,000,000 for fiscal year  
17 2005, \$1,700,000,000 for fiscal year 2006,  
18 \$1,800,000,000 for fiscal year 2007,  
19 \$1,900,000,000 for fiscal year 2008, and  
20 \$2,000,000,000 for fiscal year 2009.

21 (C) FEDERAL LANDS HIGHWAYS PRO-  
22 GRAM.—

23 (i) INDIAN RESERVATION ROADS.—  
24 For Indian reservation roads under section

204 of that title \$300,000,000 for each of  
fiscal years 2004 through 2009.

(ii) PUBLIC LANDS HIGHWAYS.—For  
public lands highways under section 204 of  
that title \$275,000,000 for each of fiscal  
years 2004 through 2009.

(iii) PARKWAYS AND PARK ROADS.—  
For parkways and park roads under sec-  
tion 204 of that title \$200,000,000 for  
each of fiscal years 2004 through 2009.

(D) HIGHWAY SAFETY PROGRAMS.—

(i) IN GENERAL.—For highway safety  
programs under section 402 of that title  
\$170,000,000 for each of fiscal years 2004  
through 2009.

(ii) HIGHWAY SAFETY RESEARCH AND  
DEVELOPMENT.—For highway safety re-  
search and development under section 403  
of that title \$30,000,000 for each of fiscal  
years 2004 through 2009.

(E) TRANSPORTATION RESEARCH PRO-  
GRAMS.—

(i) SURFACE TRANSPORTATION RE-  
SEARCH.—For cooperative agreements  
with nonprofit research organizations to

1 carry out applied pavement research under  
 2 section 502 of that title \$150,000,000 for  
 3 each of fiscal years 2004 through 2009.

4 (ii) ITS RESEARCH AND DEVELOP-  
 5 MENT.—For carrying out section 5207 of  
 6 the Transportation Equity Act for the 21st  
 7 Century (23 U.S.C. 502 note; 112 Stat.  
 8 457) \$220,000,000 for each of fiscal years  
 9 2004 through 2009, of which—

10 (I) \$110,000,000 for each fiscal  
 11 year shall be made available for re-  
 12 search; and

13 (II) \$110,000,000 for each fiscal  
 14 year shall be made available for devel-  
 15 opment and operational tests.

16 (iii) UNIVERSITY TRANSPORTATION  
 17 RESEARCH.—For carrying out section  
 18 5505 of title 49, United States Code,  
 19 \$30,000,000 for each of fiscal years 2004  
 20 through 2009.

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

24 “(g) TRANSFERABILITY OF FUNDS.—

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

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

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

22          (4) INTERSTATE MAINTENANCE PROGRAM.—  
23          Section 104(b) of title 23, United States Code, is  
24          amended by striking paragraph (4) and inserting the  
25          following:



1           “(4) INTERSTATE MAINTENANCE COMPO-  
 2           NENT.—For each of fiscal years 2004 through 2009,  
 3           for the Interstate maintenance program under sec-  
 4           tion 119, 1 percent to the Virgin Islands, Guam,  
 5           American Samoa, and the Commonwealth of the  
 6           Northern Mariana Islands and the remaining 99  
 7           percent apportioned as follows:

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

14                   “(I) a percentage share of apporportion-  
 15                   ments equal to the percentage listed for  
 16                   the State in clause (ii); or

17                   “(II) a share determined under sub-  
 18                   paragraph (B).

19           “(ii) The percentage referred to in clause  
 20          (i)(I) is as follows:

“States:	Percentage:
Alabama .....	2.0269
Alaska .....	1.1915
Arizona .....	1.5581
Arkansas .....	1.3214
California .....	9.1962
Colorado .....	1.1673
Connecticut .....	1.5186
Delaware .....	0.4424
District of Columbia .....	0.3956
Florida .....	4.6176
Georgia .....	3.5104

Hawaii .....	0.5177
Idaho .....	0.7718
Illinois .....	3.3819
Indiana .....	2.3588
Iowa .....	1.2020
Kansas .....	1.1717
Kentucky .....	1.7365
Louisiana .....	1.5900
Maine .....	0.5263
Maryland .....	1.5087
Massachusetts .....	1.8638
Michigan .....	3.1535
Minnesota .....	1.4993
Mississippi .....	1.2186
Missouri .....	2.3615
Montana .....	0.9929
Nebraska .....	0.7768
Nevada .....	0.7248
New Hampshire .....	0.5163
New Jersey .....	2.5816
New Mexico .....	0.9884
New York .....	5.1628
North Carolina .....	2.8298
North Dakota .....	0.6553
Ohio .....	3.4257
Oklahoma .....	1.5419
Oregon .....	1.2183
Pennsylvania .....	4.9887
Puerto Rico .....	0.5000
Rhode Island .....	0.5958
South Carolina .....	1.5910
South Dakota .....	0.7149
Tennessee .....	2.2646
Texas .....	7.2131
Utah .....	0.7831
Vermont .....	0.4573
Virginia .....	2.5627
Washington .....	1.7875
West Virginia .....	1.1319
Wisconsin .....	1.9916
Wyoming .....	0.6951.

1                   “(B) For each State not described in sub-  
2                   paragraph (A), a share of the apportionments  
3                   remaining determined in accordance with the  
4                   following formula:

5                   “(i)  $\frac{1}{9}$  in the ratio that the total rural  
6                   lane miles in each State bears to the total

1 rural lane miles in all States with an aver-  
 2 age population density greater than 20  
 3 persons per square mile and all States with  
 4 a population of more than 1,500,000 per-  
 5 sons and with a land area of more than  
 6 10,000 square miles.

7 “(ii)  $\frac{1}{9}$  in the ratio that the total  
 8 rural vehicle miles traveled in each State  
 9 bears to the total rural vehicle miles trav-  
 10 eled in all States described in clause (i).

11 “(iii)  $\frac{2}{9}$  in the ratio that the total  
 12 urban lane miles in each State bears to the  
 13 total urban lane miles in all States de-  
 14 scribed in clause (i).

15 “(iv)  $\frac{2}{9}$  in the ratio that the total  
 16 urban vehicle miles traveled in each State  
 17 bears to the total urban vehicle miles trav-  
 18 eled in all States described in clause (i).

19 “(v)  $\frac{3}{9}$  in the ratio that the total die-  
 20 sel fuel used in each State bears to the  
 21 total diesel fuel used in all States described  
 22 in clause (i).”.

23 (5) INTERSTATE BRIDGE PROGRAM.—Section

24 144 of title 23, United States Code, is amended—

25 (A) in subsection (d)—

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

5 (ii) by inserting “on the Federal-aid  
 6 system or described in subsection (c)(3)”  
 7 after “highway bridges” each place it ap-  
 8 pears;

9 (B) in the second sentence of subsection  
 10 (e)—

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

13 (ii) in paragraph (2), by striking the  
 14 comma at the end and inserting a period;  
 15 and

16 (iii) by striking paragraphs (3) and  
 17 (4);

18 (C) in the first sentence of subsection (l),  
 19 by inserting “on the Federal-aid system or de-  
 20 scribed in subsection (c)(3)” after “any  
 21 bridge”;

22 (D) in subsection (m)(1), by inserting “on  
 23 the Federal-aid system or described in sub-  
 24 section (c)(3)” after “construct any bridge”;  
 25 and

1 (E) in the first sentence of subsection (n),  
2 by inserting “for each of fiscal years 1991  
3 through 2003,” after “of law,”.

4 (6) NATIONAL DEFENSE HIGHWAYS.—Section  
5 311 of title 23, United States Code, is amended—

6 (A) in the first sentence, by striking  
7 “under subsection (a) of section 104 of this  
8 title” and inserting “to carry out this section”;  
9 and

10 (B) by striking the second sentence.

11 (7) MOTOR CARRIER SAFETY GRANTS.—Section  
12 31104(a) of title 49, United States Code, is amend-  
13 ed by striking paragraph (6) and inserting the fol-  
14 lowing:

15 “(6) Not more than \$110,000,000 for each of  
16 fiscal years 2003 through 2009.”.

17 (8) UNIVERSITY TRANSPORTATION RE-  
18 SEARCH.—Section 5505(i) of title 49, United States  
19 Code, is amended by adding at the end the fol-  
20 lowing:

21 “(4) FISCAL YEARS 2004 THROUGH 2009.—For  
22 each of fiscal years 2004 through 2009, the Sec-  
23 retary shall make a grant under this section in the  
24 amount of \$1,000,000 to Oklahoma State Univer-  
25 sity.”.

1 (b) EXPENDITURES FROM HIGHWAY TRUST  
2 FUND.—

3 (1) EXPENDITURES FOR CORE PROGRAMS.—

4 Section 9503(c) of the Internal Revenue Code of  
5 1986 (relating to expenditures from Highway Trust  
6 Fund) is amended—

7 (A) in paragraph (1), by striking “October  
8 1, 2003” each place it appears and inserting  
9 “October 1, 2009”;

10 (B) in paragraphs (2)(A)(i)(III), (2)(A)(ii),  
11 (4)(A)(i), and (5)(A), by striking “October 1,  
12 2005” each place it appears and inserting “Oc-  
13 tober 1, 2009”;

14 (C) in paragraph (1)—

15 (i) in subparagraph (D), by striking  
16 “or” at the end;

17 (ii) in subparagraph (E), by striking  
18 the period and inserting “, or”;

19 (iii) by inserting after subparagraph  
20 (E) the following:

21 “(F) authorized to be paid out of the  
22 Highway Trust Fund under the Transportation  
23 Empowerment Act.”; and

24 (iv) by striking the last sentence and  
25 inserting the following new flush sentence:

1 “In determining the authorizations under the Acts  
 2 referred to in the preceding subparagraphs, such  
 3 Acts shall be applied as in effect on the date of en-  
 4 actment of the Transportation Empowerment Act.”;  
 5 and

6 (D) in paragraphs (2)(A)(i) and (3), by  
 7 striking “July 1, 2006” each place it appears  
 8 and inserting “July 1, 2009”.

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

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

15 “(1) IN GENERAL.—Except as provided in para-  
 16 graph (2), in the case of gasoline, special motor  
 17 fuels, kerosene, and diesel fuel, the core programs fi-  
 18 nancing rate is—

19 “(A) after September 30, 2003, and before  
 20 October 1, 2004, so much of the rate of the  
 21 taxes described in subparagraphs (A) and (D)  
 22 of subsection (b)(1) transferred to the Highway  
 23 Trust Fund as does not exceed 16.3 cents per  
 24 gallon,

1 “(B) after September 30, 2004, and before  
 2 October 1, 2005, so much of the rate of such  
 3 taxes as does not exceed 11.3 cents per gallon,

4 “(C) after September 30, 2005, and before  
 5 October 1, 2006, so much of the rate of such  
 6 taxes as does not exceed 8.3 cents per gallon,

7 “(D) after September 30, 2006, and before  
 8 October 1, 2007, so much of the rate of such  
 9 taxes as does not exceed 7.3 cents per gallon,  
 10 and

11 “(E) after September 30, 2007, the rate of  
 12 such taxes.

13 “(2) APPLICATION OF RATE.—In the case of  
 14 fuels used as described in paragraph (4)(D) and  
 15 (5)(B) of subsection (c), the core programs financ-  
 16 ing rate is zero.”.

17 (c) TERMINATION OF TRANSFERS TO MASS TRANSIT  
 18 ACCOUNT.—

19 (1) IN GENERAL.—Section 9503(e)(2) of the  
 20 Internal Revenue Code of 1986 (relating to Mass  
 21 Transit Account) is amended by striking “2 cents”  
 22 and inserting “2 cents (zero, after September 30,  
 23 2003)”.

24 (2) AUTHORIZATION TO EXPEND REMAINING  
 25 BALANCES IN ACCOUNT.—Section 9503(e)(3) of such



1 Code is amended by striking “before October 1,  
2 1997”.

3 (d) EFFECTIVE DATE.—The amendments made by  
4 this section take effect on October 1, 2003.

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

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

10 “(h) ESTABLISHMENT OF INFRASTRUCTURE SPE-  
11 CIAL ASSISTANCE FUND.—

12 “(1) CREATION OF FUND.—There is established  
13 in the Highway Trust Fund a separate fund to be  
14 known as the ‘Infrastructure Special Assistance  
15 Fund’ consisting of such amounts as may be trans-  
16 ferred or credited to the Infrastructure Special As-  
17 sistance Fund as provided in this subsection or sec-  
18 tion 9602(b).

19 “(2) TRANSFERS TO INFRASTRUCTURE SPECIAL  
20 ASSISTANCE FUND.—On the first day of each fiscal  
21 year, the Secretary, in consultation with the Sec-  
22 retary of Transportation, shall determine the excess  
23 (if any) of—

24 “(A) the sum of—

1 “(i) the amounts appropriated in such  
 2 fiscal year to the Highway Trust Fund  
 3 under subsection (b) which are attributable  
 4 to the core programs financing rate for  
 5 such year, plus

6 “(ii) the amounts appropriated in  
 7 such fiscal year to the Highway Trust  
 8 Fund under subsection (b) which are at-  
 9 tributable to taxes under sections 4051,  
 10 4061, 4071, and 4481 for such year, over

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

13 and shall transfer such excess to the Infrastructure  
 14 Special Assistance Fund.

15 “(3) EXPENDITURES FROM INFRASTRUCTURE  
 16 SPECIAL ASSISTANCE FUND.—

17 “(A) TRANSITIONAL ASSISTANCE.—

18 “(i) IN GENERAL.—Except as pro-  
 19 vided in clause (iv), during fiscal years  
 20 2004 through 2007, \$1,000,000,000 in the  
 21 Infrastructure Special Assistance Fund  
 22 shall be available to States for transpor-  
 23 tation-related program expenditures.

24 “(ii) STATE SHARE.—

1           “(I) IN GENERAL.—Except as  
2           provided in clause (v), each State is  
3           entitled to a share of the amount  
4           specified in clause (i) upon enactment  
5           of legislation providing 1 of the 2  
6           funding mechanisms described in  
7           clause (iii).

8           “(II) DETERMINATION OF STATE  
9           SHARE.—For purposes of subclause  
10          (I), each State’s share shall be deter-  
11          mined in the following manner:

12               “(aa) Multiply the percent-  
13               age of the amounts appropriated  
14               in the latest fiscal year for which  
15               such data are available to the  
16               Highway Trust Fund under sub-  
17               section (b) which is attributable  
18               to taxes paid by highway users in  
19               the State, by the amount speci-  
20               fied in clause (i). If the result  
21               does not exceed \$15,000,000, the  
22               State’s share equals  
23               \$15,000,000. If the result ex-  
24               ceeds \$15,000,000, the State’s

1 share is determined under item  
2 (bb).

3 “(bb) Multiply the percent-  
4 age determined under item (aa),  
5 by the amount specified in clause  
6 (i) reduced by an amount equal  
7 to \$15,000,000 times the number  
8 of States the share of which is  
9 determined under item (aa).

10 “(iii) LEGISLATIVE FUNDING MECHA-  
11 NISMS.—A funding mechanism is described  
12 in this clause as follows:

13 “(I) A funding mechanism which  
14 results in revenues for transportation-  
15 related projects in the State for fiscal  
16 year 2008 and each succeeding fiscal  
17 year which are equal to the excess  
18 of—

19 “(aa) the mean annual aver-  
20 age of distributions from the  
21 Highway Trust Fund to the  
22 State for fiscal years 1998  
23 through 2003; over

24 “(bb) the distributions from  
25 the Highway Trust Fund to the

1 State for such fiscal year attrib-  
2 utable to the core programs fi-  
3 nancing rate for such year.

4 “(II) A funding mechanism  
5 which results in an increase in the  
6 State rate of tax on motor fuels equal  
7 to the decrease in the rate of tax on  
8 such fuels under section 4081 for fis-  
9 cal year 2008 and any succeeding fis-  
10 cal year.

11 “(iv) DISTRIBUTION OF REMAINING  
12 AMOUNT.—If after September 30, 2007, a  
13 portion of the amount specified in clause  
14 (i) remains, the Secretary, in consultation  
15 with the Secretary of Transportation,  
16 shall, on October 1, 2007, apportion the  
17 portion among the States which received a  
18 share of such amount under clause (ii) and  
19 which are not described in clause (v) using  
20 the percentages determined under clause  
21 (ii)(II)(aa) for such States.

22 “(v) ENFORCEMENT OF FUNDING  
23 MECHANISM REQUIREMENT.—If a State,  
24 which enacted legislation providing for a  
25 funding mechanism described in clause

(iii), terminates such mechanism before fiscal year 2007, the State's share determined under clauses (ii) and (iv) shall be deducted from any amount the State would otherwise receive from the Highway Trust Fund for fiscal year 2007.

“(B) ADDITIONAL EXPENDITURES FROM  
FUND.—

“(i) IN GENERAL.—Amounts in the Infrastructure Special Assistance Fund, in excess of the amount specified in subparagraph (A)(i), shall be available, as provided by appropriation Acts, to the States for any surface transportation (including mass transit and rail) purpose in such States, and the Secretary shall apportion such excess amounts among all States using the percentages determined under clause (ii)(II)(aa) for such States.

“(ii) ENFORCEMENT.—If the Secretary determines that a State has used amounts under clause (i) for a purpose which is not a surface transportation purpose as described in clause (i), the improperly used amounts shall be deducted from

1           any amount the State would otherwise re-  
 2           ceive from the Highway Trust Fund for  
 3           the fiscal year which begins after the date  
 4           of the determination.”.

5           (b) EFFECTIVE DATE.—The amendment made by  
 6 this section takes effect on October 1, 2003.

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

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

11           “(6) RETURN OF EXCESS TAX RECEIPTS TO  
 12 STATES FOR SURFACE TRANSPORTATION PUR-  
 13 POSES.—

14           “(A) IN GENERAL.—On the first day of  
 15 each of fiscal years 2004, 2005, 2006, and  
 16 2007, the Secretary, in consultation with the  
 17 Secretary of Transportation, shall—

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

19           “(I) the amounts appropriated in  
 20 such fiscal year to the Highway Trust  
 21 Fund under subsection (b) which are  
 22 equivalent to the taxes attributable to  
 23 the excess of—

1                   “(aa) the Highway Trust  
2                   Fund financing rate for such  
3                   year, over

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

6                   “(II) the amounts so appro-  
7                   priated which are equivalent to the  
8                   taxes described in paragraphs (4)(D)  
9                   and (5)(B), and

10                  “(ii) allocate the amount determined  
11                  under clause (i) among the States (as de-  
12                  fined in section 101(a) of title 23, United  
13                  States Code) for surface transportation  
14                  (including mass transit and rail) purposes  
15                  so that—

16                  “(I) the percentage of that  
17                  amount allocated to each State, is  
18                  equal to

19                  “(II) the percentage of the  
20                  amount determined under clause (i)(I)  
21                  paid into the Highway Trust Fund in  
22                  the latest fiscal year for which such  
23                  data are available which is attrib-  
24                  utable to highway users in the State.



1           “(B) ENFORCEMENT.—If the Secretary  
 2           determines that a State has used amounts  
 3           under subparagraph (A) for a purpose which is  
 4           not a surface transportation purpose as de-  
 5           scribed in subparagraph (A), the improperly  
 6           used amounts shall be deducted from any  
 7           amount the State would otherwise receive from  
 8           the Highway Trust Fund for the fiscal year  
 9           which begins after the date of the determina-  
 10          tion.”.

11          (b) EFFECTIVE DATE.—The amendment made by  
 12          this section takes effect on October 1, 2003.

13      **SEC. 6. INTERSTATE SURFACE TRANSPORTATION COM-**  
 14                              **PACTS.**

15          (a) DEFINITIONS.—In this section:

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.—The term  
2       “surface transportation” includes mass transit and  
3       rail.

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

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

13           (1) promote the continuity, quality, and safety  
14      of the Interstate System;

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

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

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

1           (5) establish surface transportation infrastruc-  
 2           ture banks to promote regional or other multistate  
 3           investment in infrastructure described in paragraph  
 4           (3).

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

9           (1) accept contributions from a unit of State or  
 10          local government or a person;

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

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

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

17                (B) issue bonds; and

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

21          (d) INFRASTRUCTURE BANKS.—

22                (1) IN GENERAL.—An infrastructure bank  
 23                may—

24                (A) make loans;

(B) under the joint or separate authority of the participating States with respect to the infrastructure bank, issue such debt as the infrastructure bank and the participating States determine appropriate; and

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

(2) FORMS OF ASSISTANCE.—

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

(B) SUBORDINATION OF ASSISTANCE.—The amount of any loan or other assistance described in subparagraph (C) that is received for a surface transportation project under this section may be subordinated to any other debt financing for the surface transportation project.

(C) OTHER ASSISTANCE.—Other assistance referred to in subparagraphs (A) and (B) includes any use of funds for the purpose of—

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

16 (3) NO OBLIGATION OF UNITED STATES.—

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

1 (B) STATEMENT ON INSTRUMENT.—Any  
 2 security or debt financing instrument issued by  
 3 an infrastructure bank shall expressly state that  
 4 the security or instrument does not constitute a  
 5 commitment, guarantee, or obligation of the  
 6 United States.

7 (e) EFFECTIVE DATE.—This section takes effect on  
 8 October 1, 2003.

9 **SEC. 7. REDUCTION IN TAXES ON GASOLINE, DIESEL FUEL,**  
 10 **KEROSENE, AND SPECIAL FUELS FUNDING**  
 11 **HIGHWAY TRUST FUND.**

12 (a) REDUCTION IN TAX RATE.—

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

16 (A) in clause (i), by striking “18.3 cents”  
 17 and inserting “2 cents”; and

18 (B) in clause (iii), by striking “24.3 cents”  
 19 and inserting “2 cents”.

20 (2) CONFORMING AMENDMENT.—Section  
 21 6427(b)(2)(A) of such Code is amended by striking  
 22 “7.4 cents” and inserting “1.9 cents”.

23 (b) ADDITIONAL CONFORMING AMENDMENTS.—

24 (1) Section 4041(a)(1)(C)(iii)(I) of the Internal  
 25 Revenue Code of 1986 is amended by striking “(4.3

1 cents per gallon after September 30, 2005)” and in-  
2 serting “(zero after September 30, 2007)”.

3 (2) Section 4041(m)(1)(A) of such Code is  
4 amended—

5 (A) in clause (i), by striking “2005” and  
6 inserting “2007,”; and

7 (B) by striking clause (ii) and inserting the  
8 following:

9 “(ii) zero after September 30, 2007,  
10 and”.

11 (3) Section 4081(d)(1) of such Code is amend-  
12 ed by striking “4.3 cents per gallon after September  
13 30, 2005” and inserting “zero after September 30,  
14 2009”.

15 (4) Section 9503(b) of such Code is amended—

16 (A) in paragraphs (1) and (2), by striking  
17 “October 1, 2005” both places it appears and  
18 inserting “October 1, 2009”;

19 (B) in the heading of paragraph (2), by  
20 striking “OCTOBER 1, 2005” and inserting “OC-  
21 TOBER 1, 2009”;

22 (C) in paragraph (2), by striking “after  
23 September 30, 2005, and before July 1, 2006”  
24 and inserting “after September 30, 2009, and  
25 before July 1, 2010”; and

1 (D) in paragraph (4), by striking “2005”  
 2 each place it appears and inserting “2007”.

3 (c) FLOOR STOCK REFUNDS.—

4 (1) IN GENERAL.—If—

5 (A) before October 1, 2007, tax has been  
 6 imposed under section 4081 of the Internal  
 7 Revenue Code of 1986 on any liquid; and

8 (B) on such date such liquid is held by a  
 9 dealer and has not been used and is intended  
 10 for sale;

11 there shall be credited or refunded (without interest)  
 12 to the person who paid such tax (in this subsection  
 13 referred to as the “taxpayer”) an amount equal to  
 14 the excess of the tax paid by the taxpayer over the  
 15 amount of such tax which would be imposed on such  
 16 liquid had the taxable event occurred on such date.

17 (2) TIME FOR FILING CLAIMS.—No credit or re-  
 18 fund shall be allowed or made under this subsection  
 19 unless—

20 (A) claim therefor is filed with the Sec-  
 21 retary of the Treasury before April 1, 2008;  
 22 and

23 (B) in any case where liquid is held by a  
 24 dealer (other than the taxpayer) on October 1,  
 25 2007—



1 (i) the dealer submits a request for re-  
 2 fund or credit to the taxpayer before Janu-  
 3 ary 1, 2008; and

4 (ii) the taxpayer has repaid or agreed  
 5 to repay the amount so claimed to such  
 6 dealer or has obtained the written consent  
 7 of such dealer to the allowance of the cred-  
 8 it or the making of the refund.

9 (3) EXCEPTION FOR FUEL HELD IN RETAIL  
 10 STOCKS.—No credit or refund shall be allowed under  
 11 this subsection with respect to any liquid in retail  
 12 stocks held at the place where intended to be sold  
 13 at retail.

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

19 (5) CERTAIN RULES TO APPLY.—Rules similar  
 20 to the rules of subsections (b) and (c) of section  
 21 6412 and sections 6206 and 6675 of such Code shall  
 22 apply for purposes of this subsection.

23 (d) EFFECTIVE DATE.—

24 (1) IN GENERAL.—Except as provided in para-  
 25 graph (2), the amendments made by this section

1 shall apply to fuel removed after September 30,  
2 2007.

3 (2) ADDITIONAL CONFORMING AMENDMENTS.—

4 The amendments made by subsection (c) take effect  
5 on October 1, 2003.

6 **SEC. 8. MASS TRANSPORTATION.**

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

9 **“§ 5338. Authorizations**

10 “There is authorized to be appropriated to the Sec-  
11 retary to carry out this chapter \$3,000,000,000 for each  
12 of fiscal years 2004 through 2009, of which—

13 “(1) \$2,500,000,000 for each fiscal year shall  
14 be used to carry out sections 5307 and 5309;

15 “(2) \$500,000,000 for each fiscal year shall be  
16 used to carry out section 5311; and

17 “(3) the amount remaining after allocation  
18 under paragraphs (1) and (2) for each fiscal year  
19 shall be used at the discretion of the Secretary, in-  
20 cluding for capital expenditure under this chapter.”.

21 (b) EFFECTIVE DATE.—The amendment made by  
22 this section takes effect on October 1, 2003.

1 **SEC. 9. REVENUE ALIGNED BUDGET AUTHORITY.**

2 Section 110(a) of title 23, United States Code, is  
3 amended by striking paragraph (1) and inserting the fol-  
4 lowing:

5 “(1) ALLOCATION.—If the amount determined  
6 under section 251(b)(1)(B)(ii)(I)(cc) of the Balanced  
7 Budget and Emergency Deficit Control Act of 1985  
8 (2 U.S.C. 901(b)(2)(B)(ii)(I)(cc)) for fiscal year  
9 2003 or any fiscal year thereafter is greater than  
10 zero, the Secretary, on October 1 of the following  
11 fiscal year, shall allocate for that following fiscal  
12 year an amount of funds equal to the amount deter-  
13 mined under that section.”.

14 **SEC. 10. REPORT TO CONGRESS.**

15 Not later than 180 days after the date of enactment  
16 of this Act, after consultation with the appropriate com-  
17 mittees of Congress, the Secretary of Transportation shall  
18 submit a report to Congress describing such technical and  
19 conforming amendments to titles 23 and 49, United States  
20 Code, and such technical and conforming amendments to  
21 other laws, as are necessary to bring those titles and other  
22 laws into conformity with the policy embodied in this Act  
23 and the amendments made by this Act.

1 **SEC. 11. EFFECTIVE DATE CONTINGENT UPON CERTIFI-**  
2 **CATION OF DEFICIT NEUTRALITY.**

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

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

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

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

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

18 (1) the Director of the Office of Management  
19 and Budget (referred to in this section as the “Di-  
20 rector”) submits the report as required in subsection  
21 (c); and

22 (2) the report contains a certification by the Di-  
23 rector that, based on the required estimates, the re-  
24 duction in discretionary outlays resulting from the  
25 reduction in contract authority is at least as great

1 as the reduction in revenues for each fiscal year  
2 through fiscal year 2009.

3 (c) OMB ESTIMATES AND REPORT.—

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

7 (A) estimate the net change in revenues re-  
8 sulting from this Act for each fiscal year  
9 through fiscal year 2009;

10 (B) estimate the net change in discre-  
11 tionary outlays resulting from the reduction in  
12 contract authority under this Act for each fiscal  
13 year through fiscal year 2009;

14 (C) determine, based on those estimates,  
15 whether the reduction in discretionary outlays  
16 is at least as great as the reduction in revenues  
17 for each fiscal year through fiscal year 2009;  
18 and

19 (D) submit to Congress a report setting  
20 forth the estimates and determination.

21 (2) APPLICABLE ASSUMPTIONS AND GUIDE-  
22 LINES.—

23 (A) REVENUE ESTIMATES.—The revenue  
24 estimates required under paragraph (1)(A)  
25 shall be predicated on the same economic and

1           technical assumptions and scorekeeping guide-  
2           lines that would be used for estimates made  
3           pursuant to section 252(d) of the Balanced  
4           Budget and Emergency Deficit Control Act of  
5           1985 (2 U.S.C. 902(d)).

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

14          (d) CONFORMING ADJUSTMENT TO DISCRETIONARY  
15          SPENDING LIMITS.—Upon compliance with the require-  
16          ments specified in subsection (b), the Director shall adjust  
17          the adjusted discretionary spending limits for each fiscal  
18          year through fiscal year 2003 under section 601(a)(2) of  
19          the Congressional Budget Act of 1974 (2 U.S.C.  
20          665(a)(2)) by the estimated reductions in discretionary  
21          outlays under subsection (c)(1)(B).

22          (e) PAYGO INTERACTION.—Upon compliance with the  
23          requirements specified in subsection (b), no changes in  
24          revenues estimated to result from the enactment of this  
25          Act shall be counted for the purposes of section 252(d)

1 of the Balanced Budget and Emergency Deficit Control  
2 Act of 1985 (2 U.S.C. 902(d)).

○