

115TH CONGRESS
2D SESSION

S. 3190

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

JULY 10, 2018

Mr. LEE (for himself, Mr. CRUZ, and Mr. RUBIO) 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 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) the objective described in paragraph (1) has
4 been attained, and the Interstate System connecting
5 all States is near completion;

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 motor fuels used in the States and then distrib-
17 uting the proceeds to the States based on the per-
18 ceptions of the Federal Government on what is best
19 for the States;

20 (7) the Federal Government has used the Fed-
21 eral motor fuels tax revenues to force all States to
22 take actions that are not necessarily appropriate for
23 individual 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 provide a new policy blueprint to govern
15 the Federal role in transportation once existing and
16 prior financial obligations are met;

17 (2) to return to the individual States maximum
18 discretionary authority and fiscal responsibility for
19 all elements of the national surface transportation
20 systems that are not within the direct purview of the
21 Federal Government;

22 (3) to preserve Federal responsibility for the
23 Dwight D. Eisenhower National System of Inter-
24 state and Defense Highways;

(4) to preserve the responsibility of the Department of Transportation for—

(A) design, construction, and preservation of transportation facilities on Federal public land;

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

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

(5) to eliminate to the maximum extent practicable Federal obstacles to the ability of each State to apply innovative solutions to the financing, design, construction, operation, and preservation of Federal and State transportation facilities; and

(6) with respect to transportation activities carried out by States, local governments, and the private sector, to encourage—

(A) competition among States, local governments, and the private sector; and

(B) innovation, energy efficiency, private sector participation, and productivity.

SEC. 3. FUNDING LIMITATION.

Notwithstanding any other provision of law, if the Secretary of Transportation determines for any of fiscal

1 years 2019 through 2023 that the aggregate amount re-
 2 quired to carry out transportation programs and projects
 3 under this Act and amendments made by this Act exceeds
 4 the estimated aggregate amount in the Highway Trust
 5 Fund available for those programs and projects for the
 6 fiscal year, each amount made available for that program
 7 or project shall be reduced by the pro rata percentage re-
 8 quired to reduce the aggregate amount required to carry
 9 out those programs and projects to an amount equal to
 10 that available for those programs and projects in the
 11 Highway Trust Fund for the fiscal year.

12 **SEC. 4. FUNDING FOR CORE HIGHWAY PROGRAMS.**

13 (a) IN GENERAL.—

14 (1) AUTHORIZATION OF APPROPRIATIONS.—

15 The following sums are authorized to be appro-
 16 priated out of the Highway Trust Fund (other than
 17 the Mass Transit Account):

18 (A) FEDERAL-AID HIGHWAY PROGRAM,
 19 ETC.—For the national highway performance
 20 program under section 119 of title 23, United
 21 States Code, the surface transportation block
 22 grant program under section 133 of that title,
 23 and the highway safety improvement program
 24 under section 148 of that title, for each of fiscal
 25 years 2019 through 2023, an aggregate amount

1 not to exceed 10 percent of the balance of the
2 Highway Trust Fund (other than the Mass
3 Transit Account) as estimated (taking into ac-
4 count estimated revenues) at the beginning of
5 each such fiscal year.

6 (B) EMERGENCY RELIEF.—For emergency
7 relief under section 125 of title 23, United
8 States Code, \$100,000,000 for each of fiscal
9 years 2019 through 2023.

10 (C) FEDERAL LANDS PROGRAMS.—

11 (i) FEDERAL LANDS TRANSPOR-
12 TATION PROGRAM.—For the Federal lands
13 transportation program under section 203
14 of title 23, United States Code,
15 \$300,000,000 for each of fiscal years 2019
16 through 2023, of which \$240,000,000 of
17 the amount made available for each fiscal
18 year shall be the amount for the National
19 Park Service and \$30,000,000 of the
20 amount made available for each fiscal year
21 shall be the amount for the United States
22 Fish and Wildlife Service.

23 (ii) FEDERAL LANDS ACCESS PRO-
24 GRAM.—For the Federal lands access pro-
25 gram under section 204 of title 23, United

1 States Code, \$250,000,000 for each of fis-
 2 cal years 2019 through 2023.

3 (2) FEDERAL-AID SYSTEM.—

4 (A) IN GENERAL.—Section 103(a) of title
 5 23, United States Code, is amended by striking
 6 “the National Highway System, which in-
 7 cludes”.

8 (B) CONFORMING AMENDMENTS.—Chapter
 9 1 of title 23, United States Code, is amended—

10 (i) in section 103, by striking the sec-
 11 tion designation and heading and inserting
 12 the following:

13 **“§ 103. Federal-aid system”;**

14 and

15 (ii) in the analysis, by striking the
 16 item relating to section 103 and inserting
 17 the following:

“103. Federal-aid system.”.

18 (3) FEDERALIZATION AND DEFEDERALIZATION
 19 OF PROJECTS.—Notwithstanding any other provision
 20 of law, beginning on October 1, 2018—

21 (A) a highway construction or improve-
 22 ment project shall not be considered to be a
 23 Federal highway construction or improvement
 24 project unless and until a State expends Fed-

1 eral funds for the construction portion of the
2 project;

3 (B) a highway construction or improve-
4 ment project shall not be considered to be a
5 Federal highway construction or improvement
6 project solely by reason of the expenditure of
7 Federal funds by a State before the construc-
8 tion phase of the project to pay expenses relat-
9 ing to the project, including for any environ-
10 mental document or design work required for
11 the project; and

12 (C)(i) a State may, after having used Fed-
13 eral funds to pay all or a portion of the costs
14 of a highway construction or improvement
15 project, reimburse the Federal Government in
16 an amount equal to the amount of Federal
17 funds so expended; and

18 (ii) after completion of a reimbursement
19 described in clause (i), a highway construction
20 or improvement project described in that clause
21 shall no longer be considered to be a Federal
22 highway construction or improvement project.

23 (4) REPORTING REQUIREMENTS.—No reporting
24 requirement, other than a reporting requirement in
25 effect as of the date of enactment of this Act, shall

1 apply on or after October 1, 2018, to the use of
 2 Federal funds for highway projects by a public-pri-
 3 vate partnership.

4 (b) EXPENDITURES FROM HIGHWAY TRUST
 5 FUND.—

6 (1) EXPENDITURES FOR CORE PROGRAMS.—

7 Section 9503(c) of the Internal Revenue Code of
 8 1986 is amended—

9 (A) in paragraph (1)—

10 (i) by striking “October 1, 2020” and
 11 inserting “October 1, 2025”; and

12 (ii) by striking “FAST Act” and in-
 13 serting “Transportation Empowerment
 14 Act”;

15 (B) in paragraph (2), by striking “July 1,
 16 2023” and inserting “July 1, 2025”;

17 (C) in paragraph (3)(A)(i), by striking
 18 “October 1, 2022” and inserting “October 1,
 19 2018”; and

20 (D) in paragraph (5), by striking “October
 21 1, 2011” and inserting “October 1, 2022”.

22 (2) AMOUNTS AVAILABLE FOR CORE PROGRAM
 23 EXPENDITURES.—Section 9503 of the Internal Rev-
 24 enue Code of 1986 is amended by adding at the end
 25 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)—

5 “(A) in the case of gasoline and special
 6 motor fuels the tax rate of which is the rate
 7 specified in section 4081(a)(2)(A)(i), the core
 8 programs financing rate is—

9 “(i) after September 30, 2019, and
 10 before October 1, 2020, 18.3 cents per gal-
 11 lon,

12 “(ii) after September 30, 2020, and
 13 before October 1, 2021, 9.6 cents per gal-
 14 lon,

15 “(iii) after September 30, 2021, and
 16 before October 1, 2022, 6.4 cents per gal-
 17 lon,

18 “(iv) after September 30, 2022, and
 19 before October 1, 2023, 5.0 cents per gal-
 20 lon, and

21 “(v) after September 30, 2023, 3.7
 22 cents per gallon, and

23 “(B) in the case of kerosene, diesel fuel,
 24 and special motor fuels the tax rate of which is

1 the rate specified in section 4081(a)(2)(A)(iii),
2 the core programs financing rate is—

3 “(i) after September 30, 2019, and
4 before October 1, 2020, 24.3 cents per gal-
5 lon,

6 “(ii) after September 30, 2020, and
7 before October 1, 2021, 12.7 cents per gal-
8 lon,

9 “(iii) after September 30, 2021, and
10 before October 1, 2022, 8.5 cents per gal-
11 lon,

12 “(iv) after September 30, 2022, and
13 before October 1, 2023, 6.6 cents per gal-
14 lon, and

15 “(v) after September 30, 2023, 5.0
16 cents per gallon.

17 “(2) APPLICATION OF RATE.—In the case of
18 fuels used as described in paragraphs (3)(C) and
19 (4)(B) of subsection (c), and aviation fuel described
20 in paragraph (5) of subsection (c), the core pro-
21 grams financing rate is zero.”.

22 (c) TERMINATION OF MASS TRANSIT ACCOUNT.—
23 Section 9503(e) of the Internal Revenue Code of 1986 is
24 amended—

1 (1) in the first sentence of paragraph (2), by
 2 inserting “, and before October 1, 2018” after
 3 “March 31, 1983”; and

4 (2) by adding at the end the following:

5 “(6) TRANSFER TO HIGHWAY ACCOUNT.—On
 6 October 1, 2018, the Secretary shall transfer all
 7 amounts in the Mass Transit Account to the High-
 8 way Account.”.

9 (d) EFFECTIVE DATE.—The amendments and re-
 10 peals made by this section shall take effect on October
 11 1, 2018.

12 **SEC. 5. FEDERAL-AID HIGHWAY PROGRAM.**

13 (a) APPORTIONMENT.—

14 (1) ADMINISTRATIVE EXPENSES.—Section
 15 104(a) of title 23, United States Code, is amended
 16 by striking paragraph (1) and inserting the fol-
 17 lowing:

18 “(1) AUTHORIZATION OF APPROPRIATIONS.—

19 “(A) IN GENERAL.—There are authorized
 20 to be appropriated from the Highway Trust
 21 Fund (other than the Mass Transit Account)
 22 for each of fiscal years 2019 through 2023, to
 23 be made available to the Secretary for adminis-
 24 trative expenses of the Federal Highway Ad-
 25 ministration, an amount equal to 1 percent of

the balance of the Highway Trust Fund (other than the Mass Transit Account) as estimated (taking into account estimated revenues) at the beginning of each such fiscal year.

“(B) CONSIDERATION IN CONGRESS.—

“(i) IN GENERAL.—Notwithstanding any other provision of law, it shall not be in order in the Senate or the House of Representatives to consider any measure that would make available for expenditure from the Highway Trust Fund (other than the Mass Transit Account) for a fiscal year an amount less than the amount authorized under subparagraph (A) for such fiscal year.

“(ii) WAIVER.—

“(I) IN GENERAL.—Clause (i) may be waived or suspended in the Senate only by the affirmative vote of $\frac{3}{5}$ of the Members, duly chosen and sworn.

“(II) DEBATE.—Debate on appeals in the Senate from the decisions of the Chair relating to subclause (I) shall be limited to 1 hour, to be equal-

ly divided between, and controlled by,
 the mover and the manager of the
 measure that would make available
 for expenditure from the Highway
 Trust Fund (other than the Mass
 Transit Account) for a fiscal year an
 amount less than the amount de-
 scribed in subparagraph (A).

“(III) VOTE.—An affirmative
 vote of $\frac{3}{5}$ of the Members, duly cho-
 sen and sworn, shall be required in
 the Senate to sustain an appeal of the
 ruling of the Chair on a point of order
 raised in relation to subclause (I).

“(iii) RULES OF EACH HOUSE OF
 CONGRESS.—This subparagraph is enacted
 by Congress—

“(I) as an exercise of the rule-
 making power of the House of Rep-
 resentatives and the Senate, respec-
 tively, and as such it is deemed a part
 of the rules of each House, respec-
 tively, but applicable only with respect
 to the procedure to be followed in that
 House in the case of a joint resolu-

1 tion, and it supersedes other rules
 2 only to the extent that it is incon-
 3 sistent with those rules; and

4 “(II) with full recognition of the
 5 constitutional right of either House to
 6 change the rules (so far as relating to
 7 the procedure of that House) at any
 8 time, in the same manner and to the
 9 same extent as in the case of any
 10 other rule of that House.”.

11 (2) DIVISION AMONG PROGRAMS OF STATE’S
 12 SHARE OF BASE APPORTIONMENT.—Section 104(b)
 13 of title 23, United States Code, is amended—

14 (A) in the matter preceding paragraph (1),
 15 by striking “the congestion mitigation and air
 16 quality improvement program, the national
 17 highway freight program, and to carry out sec-
 18 tion 134” and inserting “and the national high-
 19 way freight program”;

20 (B) in each of paragraphs (1), (2), and
 21 (3), by striking “paragraphs (4), (5), and (6)”
 22 and inserting “paragraph (4)”;

23 (C) by striking paragraph (4);

24 (D) by redesignating paragraph (5) as
 25 paragraph (4);

1 (E) in paragraph (4) (as so redesignated),
 2 by striking subparagraph (D); and
 3 (F) by striking paragraph (6).

4 (3) CALCULATION OF STATE AMOUNTS.—Sec-
 5 tion 104(c) of title 23, United States Code, is
 6 amended—

7 (A) in paragraph (1)—

8 (i) in the matter preceding subpara-
 9 graph (A), by striking “each of fiscal years
 10 2016 through 2020” and inserting “fiscal
 11 year 2019 and each fiscal year thereafter”;
 12 and

13 (ii) in subparagraph (A)(i)—

14 (I) in subclause (I), by adding
 15 “and” at the end;

16 (II) in subclause (II), by striking
 17 “and” and inserting “by”; and

18 (III) by striking subclause (III);

19 and

20 (B) in paragraph (2)—

21 (i) by striking “fiscal years 2016
 22 through 2020” and inserting “fiscal year
 23 2019 and each fiscal year thereafter”; and

24 (ii) by striking “the congestion miti-
 25 gation and air quality improvement pro-

gram under section 149, the national highway freight program under section 167, and to carry out section 134” and inserting “and the national highway freight program under section 167”.

(4) METROPOLITAN PLANNING.—Section 104(d) of title 23, United States Code, is amended—

(A) in paragraph (1)—

(i) by striking subparagraph (B);

(ii) by striking “(A) USE.—”;

(iii) by redesignating clauses (i) and (ii) as subparagraphs (A) and (B), respectively, and indenting appropriately;

(iv) in subparagraph (A) (as so redesignated)—

(I) by striking “clause (ii)” and inserting “subparagraph (B)”; and

(II) by inserting “(as in effect on the day before the date of enactment of the Transportation Empowerment Act)” after “section 134 in the State”; and

(v) in subparagraphs (A) and (B) (as so redesignated), by inserting “(as in effect

on the day before the date of enactment of the Transportation Empowerment Act)” after “paragraphs (5)(D) and (6) of subsection (b)” each place it appears; and (B) in paragraph (2)—

(i) by striking “STATES.—” and all that follows through “The distribution” in subparagraph (A), in the matter preceding clause (i), and inserting “STATES.—The distribution”;

(ii) in clause (ii), by striking “section 134 and other”;

(iii) by striking subparagraph (B); and

(iv) by redesignating clauses (i) and (ii) as subparagraphs (A) and (B), respectively, and indenting appropriately.

(5) TRANSFERABILITY OF FUNDS.—Section 104 of title 23, United States Code, is amended by striking subsection (f) and inserting the following:

“(f) TRANSFERABILITY OF FUNDS.—

“(1) IN GENERAL.—To the extent that a State determines that funds made available under this title to the State for a purpose are in excess of the needs of the State for that purpose, the State may transfer

1 the excess funds to, and use the excess funds for,
 2 any surface transportation (including public trans-
 3 portation and rail) purpose in the State.

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

13 (6) SUPPLEMENTAL FUNDS.—Section 104(h) of
 14 title 23, United States Code, is amended—

15 (A) by striking paragraph (2);

16 (B) by striking the subsection designation
 17 and heading and all that follows through “Be-
 18 fore” in subparagraph (A), in the matter pre-
 19 ceding clause (i), and inserting the following:

20 “(h) SUPPLEMENTAL FUNDS FOR NATIONAL HIGH-
 21 WAY PERFORMANCE PROGRAM.—

22 “(1) AMOUNT.—Before”;

23 (C) by redesignating subparagraph (B) as
 24 paragraph (2) and indenting appropriately;

1 (D) in paragraph (1) (as so redesignated),
 2 by redesignating clauses (i) and (ii) as subpara-
 3 graphs (A) and (B) and indenting appro-
 4 priately; and

5 (E) in paragraph (2) (as so redesignated),
 6 by striking “subparagraph (A)” and inserting
 7 “paragraph (1)”.

8 (7) BASE APPORTIONMENT DEFINED.—Section
 9 104(i) of title 23, United States Code, is amended—

10 (A) in paragraph (1), by striking “the con-
 11 gestion mitigation and air quality improvement
 12 program under section 149, the national high-
 13 way freight program under section 167, and to
 14 carry out section 134” and inserting “and the
 15 national highway freight program under section
 16 167”; and

17 (B) in paragraph (2), by striking “and the
 18 surface transportation block grant program”.

19 (b) NATIONAL HIGHWAY PERFORMANCE PRO-
 20 GRAM.—

21 (1) IN GENERAL.—Section 119(d)(2) of title
 22 23, United States Code, is amended—

23 (A) by striking subparagraph (H);

24 (B) by striking subparagraph (M);

25 (C) by striking subparagraph (O); and

1 (D) by redesignating subparagraphs (I),
 2 (J), (K), (L), (N), and (P) as subparagraphs
 3 (H), (I), (J), (K), (L), and (M), respectively.

4 (2) REPEAL OF ENVIRONMENTAL MITIGATION
 5 PROVISIONS.—Section 119 of title 23, United States
 6 Code, is amended—

7 (A) by striking subsection (g); and

8 (B) by redesignating subsections (h)
 9 through (j) as subsections (g) through (i), re-
 10 spectively.

11 (c) SURFACE TRANSPORTATION BLOCK GRANT PRO-
 12 GRAM.—

13 (1) IN GENERAL.—Section 133(b) of title 23,
 14 United States Code, is amended—

15 (A) by striking paragraph (3);

16 (B) by striking paragraph (6) and insert-
 17 ing the following:

18 “(6) modifications to comply with accessibility
 19 requirements under the Americans with Disabilities
 20 Act of 1990 (42 U.S.C. 12101 et seq.).”;

21 (C) by striking paragraph (15); and

22 (D) by redesignating paragraphs (4)
 23 through (14) as paragraphs (3) through (13),
 24 respectively.

1 (2) REPEAL OF BRIDGES NOT ON FEDERAL-AID
2 HIGHWAYS PROVISIONS.—Section 133 of title 23,
3 United States Code, is amended—

4 (A) by striking subsection (f);

5 (B) by striking subsection (h); and

6 (C) by redesignating subsections (g) and
7 (i) as subsections (f) and (g), respectively.

8 (3) CONFORMING AMENDMENTS.—

9 (A) Section 133(c) of title 23, United
10 States Code, is amended by striking “1991, ex-
11 cept” in the matter preceding paragraph (1)
12 and all that follows through the period at the
13 end of paragraph (4) and inserting “1991.”.

14 (B) Section 133(d)(1) of title 23, United
15 States Code, is amended in the matter pre-
16 ceeding subparagraph (A) by striking “(after the
17 reservation of funds under subsection (h))”.

18 (C) Section 133(g) of title 23, United
19 States Code (as redesignated by paragraph
20 (2)(C)), is amended by striking “(excluding
21 those carried out under subsection (h)(5))”.

22 (D) Section 165(c)(7) of title 23, United
23 States Code, is amended by striking “para-
24 graphs (1) through (4) of section 133(c) and

1 section 133(b)(12)” and inserting “section
2 133(b)(11)”.

3 (d) METROPOLITAN TRANSPORTATION PLANNING.—

4 (1) IN GENERAL.—Section 134 of title 23,
5 United States Code, is repealed.

6 (2) CONFORMING AMENDMENTS.—

7 (A) The chapter analysis for chapter 1 of
8 title 23, United States Code, is amended by
9 striking the item relating to section 134.

10 (B) Section 2864(d)(2) of title 10, United
11 States Code, is amended by inserting “(as in ef-
12 fect on the day before the date of enactment of
13 the Transportation Empowerment Act)” after
14 “title 23”.

15 (C) Section 103(b)(3) of title 23, United
16 States Code, is amended by striking subpara-
17 graph (B) and inserting the following:

18 “(B) COOPERATION.—In proposing a
19 modification under this paragraph, a State shall
20 cooperate with local and regional officials.”.

21 (D) Section 106(h)(3)(C) of title 23,
22 United States Code, is amended by striking
23 “sections 134 and 135” and inserting “section
24 135”.

1 (E) Section 108(d)(5)(A) of title 23,
2 United States Code, is amended by striking
3 “sections 134 and 135” and inserting “section
4 135”.

5 (F) Section 119(d)(1)(B) of title 23,
6 United States Code, is amended by striking
7 “sections 134 and 135” and inserting “section
8 135”.

9 (G) Section 133(d) of title 23, United
10 States Code, is amended—

11 (i) in paragraph (1)(A), in the matter
12 preceding clause (i), by striking “para-
13 graph (6)” and inserting “paragraph (5)”;

14 (ii) by striking paragraph (2);

15 (iii) in paragraph (5), by striking
16 “sections 134 and 135” and inserting
17 “section 135”; and

18 (iv) by redesignating paragraphs (3)
19 through (6) as paragraphs (2) through (5),
20 respectively.

21 (H) Section 135 of title 23, United States
22 Code, is amended—

23 (i) in subsection (a)—

24 (I) in paragraph (1)—

1 (aa) by striking “Subject to
2 section 134, to” and inserting
3 “To”; and

4 (bb) by inserting “(as in ef-
5 fect on the day before the date of
6 enactment of the Transportation
7 Empowerment Act)” after “sec-
8 tion 134(a)”; and

9 (II) in paragraph (3), by insert-
10 ing “(as in effect on the day before
11 the date of enactment of the Trans-
12 portation Empowerment Act)” after
13 “section 134(a)”; and

14 (ii) in subsection (b)(1), by striking
15 “with the transportation planning activities
16 carried out under section 134 for metro-
17 politan areas of the State and”;

18 (iii) in subsection (f)—

19 (I) in paragraph (2)—

20 (aa) by striking subpara-
21 graph (A); and

22 (bb) by redesignating sub-
23 paragraphs (B), (C), and (D) as
24 subparagraphs (A), (B), and (C),
25 respectively;

- 1 (II) by striking paragraph (4);
- 2 (III) in paragraph (6), by strik-
- 3 ing “paragraph (5)” and inserting
- 4 “paragraph (4)”; and
- 5 (IV) by redesignating paragraphs
- 6 (5) through (9) as paragraphs (4)
- 7 through (8), respectively;
- 8 (iv) in subsection (g)—
- 9 (I) in paragraph (2)—
- 10 (aa) by striking subpara-
- 11 graph (A); and
- 12 (bb) by redesignating sub-
- 13 paragraphs (B) and (C) as sub-
- 14 paragraphs (A) and (B), respec-
- 15 tively; and
- 16 (II) in paragraph (8), by striking
- 17 “and section 134”;
- 18 (v) in subsection (i), by striking “ap-
- 19 portioned under paragraphs (5)(D) and (6)
- 20 of section 104(b) of this title and”;
- 21 (vi) in subsection (j), by striking “and
- 22 section 134” each place it appears; and
- 23 (vii) by adding at the end the fol-
- 24 lowing:

1 “(n) DEFINITIONS.—In this section, the definitions
 2 under section 134(b) (as in effect on the day before the
 3 date of enactment of the Transportation Empowerment
 4 Act) shall apply.”.

5 (I) Section 137 of title 23, United States
 6 Code, is amended—

7 (i) by striking subsection (e); and

8 (ii) by redesignating subsections (f)
 9 and (g) as subsections (e) and (f), respec-
 10 tively.

11 (J) Section 142 of title 23, United States
 12 Code, is amended—

13 (i) by striking subsection (d); and

14 (ii) by redesignating subsections (e)
 15 through (i) as subsections (d) through (h),
 16 respectively.

17 (K) Section 144(j) of title 23, United
 18 States Code, is amended—

19 (i) in paragraph (3)(B), by striking
 20 “a transportation improvement program
 21 under section 134(j) or a statewide trans-
 22 portation improvement program under sec-
 23 tion 135, as applicable” and inserting “a
 24 statewide transportation improvement pro-
 25 gram under section 135”; and

1 (ii) in paragraph (4)(A), by striking
2 “sections 134 and 135” and inserting
3 “section 135”.

4 (L) Section 168(a)(3) of title 23, United
5 States Code, is amended by striking “metropoli-
6 tan or statewide transportation planning under
7 section 134 or 135, respectively” and inserting
8 “statewide transportation planning under sec-
9 tion 135”.

10 (M) Section 201(c)(1) of title 23, United
11 States Code, is amended by striking “sections
12 134 and 135” and inserting “section 135”.

13 (N) Section 217(g)(1) of title 23, United
14 States Code, is amended in the first sentence by
15 striking “metropolitan planning organization
16 and State in accordance with sections 134 and
17 135, respectively” and inserting “State in ac-
18 cordance with section 135”.

19 (O) Section 327(a)(2)(B)(iv)(I) of title 23,
20 United States Code, is amended by striking
21 “134 or”.

22 (P) Section 505 of title 23, United States
23 Code, is amended—

24 (i) in subsection (a)(2)—

1 (I) by striking “metropolitan
2 and”; and

3 (II) by striking “sections 134
4 and 135” and inserting “section
5 135”; and

6 (ii) in subsection (b)(2), by striking
7 “sections 134 and 135” and inserting
8 “section 135”.

9 (Q) Section 602(a)(3) of title 23, United
10 States Code, is amended by striking “sections
11 134 and 135” and inserting “section 135”.

12 (R) Section 174 of the Clean Air Act (42
13 U.S.C. 7504) is amended—

14 (i) in the fourth sentence of sub-
15 section (a), by striking “the metropolitan
16 planning organization designated to con-
17 duct the continuing, cooperative and com-
18 prehensive transportation planning process
19 for the area under section 134 of title 23,
20 United States Code,”;

21 (ii) by striking subsection (b); and

22 (iii) by redesignating subsection (c) as
23 subsection (b).

24 (S) Section 176(c) of the Clean Air Act
25 (42 U.S.C. 7506(c)) is amended—

1 (i) in paragraph (1), in the matter
 2 preceding subparagraph (A), by striking
 3 the second sentence;

4 (ii) in paragraph (7)(A), in the matter
 5 preceding clause (i), by striking “section
 6 134(i) of title 23, United States Code, or”;
 7 and

8 (iii) in paragraph (9)—

9 (I) by striking “section 134(i) of
 10 title 23, United States Code, or”; and

11 (II) by striking “under section
 12 134(j) of such title 23 or”.

13 (T) Section 182(c)(5) of the Clean Air Act
 14 (42 U.S.C. 7511a(c)(5)) is amended—

15 (i) by striking “(A) Beginning” and
 16 inserting “Beginning”; and

17 (ii) in the last sentence by striking
 18 “and with the requirements of section
 19 174(b)”.

20 (U) Section 5304(i) of title 49, United
 21 States Code, is amended—

22 (i) by striking “sections 134 and 135”
 23 each place it appears and inserting “sec-
 24 tion 135”; and

1 (ii) by striking “this this” and insert-
 2 ing “this”.

3 (e) NATIONAL BRIDGE AND TUNNEL INVENTORY
 4 AND INSPECTION STANDARDS.—

5 (1) IN GENERAL.—Section 144 of title 23,
 6 United States Code, is amended—

7 (A) in subsection (e)(1) by inserting “on
 8 the Federal-aid system” after “any bridge”;
 9 and

10 (B) in subsection (f)(1), in the matter pre-
 11 ceding subparagraph (A), by inserting “on the
 12 Federal-aid system” after “construct any
 13 bridge”.

14 (2) REPEAL OF HISTORIC BRIDGES PROVI-
 15 SIONS.—Section 144 of title 23, United States Code,
 16 is amended—

17 (A) by striking subsection (g); and

18 (B) by redesignating subsections (h)
 19 through (k) as subsections (g) through (j), re-
 20 spectively.

21 (f) HIGHWAY SAFETY IMPROVEMENT PROGRAM.—

22 (1) IN GENERAL.—Section 148 of title 23,
 23 United States Code, is amended—

24 (A) in subsection (a)—

25 (i) by striking paragraph (2);

1 (ii) in paragraph (4)(B)—

2 (I) by striking clause (v);

3 (II) by redesignating clauses (vi)

4 through (xxviii) as clauses (v) through

5 (xxvii), respectively; and

6 (III) in clause (xxvii) (as so re-

7 designated), by striking “clauses (i)

8 through (xxvii)” and inserting

9 “clauses (i) through (xxvi)”;

10 (iii) in paragraph (8), by striking “bi-

11 cyclist,”;

12 (iv) by striking paragraphs (9)

13 through (12); and

14 (v) by redesignating paragraphs (3)

15 through (8) as paragraphs (2) through (7),

16 respectively;

17 (B) by striking subsections (b) through (i);

18 and

19 (C) by redesignating subsections (j) and

20 (k) as subsections (b) and (c), respectively.

21 (2) CONFORMING AMENDMENTS.—

22 (A) Section 101(a)(28) of title 23, United

23 States Code, is amended by inserting “(as in ef-

24 fect on the day before the date of enactment of

1 the Transportation Empowerment Act)” after
 2 “section 148(a)”.

3 (B) Section 202(e)(1) of title 23, United
 4 States Code, is amended by striking “eligible
 5 projects described in section 148(a)(4)” and in-
 6 serting “highway safety improvement projects
 7 (as defined in section 148(a))”.

8 (C) Section 402(b)(1)(F)(v) of title 23,
 9 United States Code, is amended by inserting
 10 “(as in effect on the day before the date of en-
 11 actment of the Transportation Empowerment
 12 Act)” after “section 148(a)”.

13 (D) Section 31102 of title 49, United
 14 States Code, is amended—

15 (i) in subsection (c)(2)—

16 (I) by striking subparagraph (K);

17 and

18 (II) by redesignating subpara-
 19 graphs (L) through (BB) as subpara-
 20 graphs (K) through (AA), respec-
 21 tively;

22 (ii) in subsection (d), by striking
 23 “subsection (c)(2)(Y)” and inserting “sub-
 24 section (c)(2)(X)”; and

1 (iii) in subsection (l)(2)(G), by strik-
 2 ing “subsection (c)(2)(P)” each place it
 3 appears and inserting “subsection
 4 (c)(2)(O)”.

5 (g) REPEAL OF CONGESTION MITIGATION AND AIR
 6 QUALITY IMPROVEMENT PROGRAM.—

7 (1) IN GENERAL.—Section 149 of title 23,
 8 United States Code, is repealed.

9 (2) CONFORMING AMENDMENTS.—

10 (A) The chapter analysis for chapter 1 of
 11 title 23, United States Code, is amended by
 12 striking the item relating to section 149.

13 (B) Section 106(d) of title 23, United
 14 States Code, is amended in the matter pre-
 15 ceding paragraph (1), by striking “section, sec-
 16 tion 133, or section 149” and inserting “section
 17 or section 133”.

18 (C) Section 150 of title 23, United States
 19 Code, is amended—

20 (i) in subsection (c)—

21 (I) by striking paragraph (5);

22 and

23 (II) by redesignating paragraph

24 (6) as paragraph (5); and

1 (ii) in subsection (d)(1), by striking
 2 “(5), and (6)” and inserting “and (5)”.

3 (D) Section 322(h)(3) of title 23, United
 4 States Code, is amended by striking “and the
 5 congestion mitigation and air quality improve-
 6 ment program under section 149”.

7 (E) Section 505(a)(3) of title 23, United
 8 States Code, is amended by striking “149,”.

9 (h) NATIONAL DEFENSE HIGHWAYS.—Section 311
 10 of title 23, United States Code, is amended—

11 (1) in the first sentence, by striking “under
 12 subsection (a) of section 104 of this title” and in-
 13 serting “to carry out this section”; and

14 (2) by striking the second sentence.

15 **SEC. 6. FUNDING FOR HIGHWAY RESEARCH AND DEVELOP-**
 16 **MENT PROGRAM.**

17 (a) AUTHORIZATION OF APPROPRIATIONS.—There is
 18 authorized to be appropriated out of the Highway Trust
 19 Fund (other than the Mass Transit Account) to carry out
 20 section 503(b) of title 23, United States Code,
 21 \$115,000,000 for each of fiscal years 2019 through 2023.

22 (b) APPLICABILITY OF TITLE 23, UNITED STATES
 23 CODE.—Funds authorized to be appropriated by sub-
 24 section (a) shall—

1 (1) be available for obligation in the same man-
 2 ner as if those funds were apportioned under chap-
 3 ter 1 of title 23, United States Code, except that the
 4 Federal share of the cost of a project or activity car-
 5 ried out using those funds shall be 80 percent, un-
 6 less otherwise expressly provided by this Act (includ-
 7 ing the amendments by this Act) or otherwise deter-
 8 mined by the Secretary; and

9 (2) remain available until expended and not be
 10 transferable.

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

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

15 “(6) RETURN OF EXCESS TAX RECEIPTS TO
 16 STATES FOR SURFACE TRANSPORTATION PUR-
 17 POSES.—

18 “(A) IN GENERAL.—On the first day of
 19 each of fiscal years 2019, 2020, 2021, and
 20 2022, the Secretary, in consultation with the
 21 Secretary of Transportation, shall—

22 “(i) determine the excess (if any) of—
 23 “(I) the amounts appropriated in
 24 such fiscal year to the Highway Trust
 25 Fund under subsection (b) which are

1 attributable to the taxes described in
 2 paragraphs (1) and (2) thereof (after
 3 the application of paragraph (4)
 4 thereof) over the sum of—

5 “(II) the amounts so appro-
 6 priated which are equivalent to—

7 “(aa) such amounts attrib-
 8 utable to the core programs fi-
 9 nancing rate for such year, plus

10 “(bb) the taxes described in
 11 paragraphs (3)(C), (4)(B), and
 12 (5) of subsection (c), and

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

19 “(I) the percentage of that
 20 amount allocated to each State, is
 21 equal to

22 “(II) the percentage of the
 23 amount determined under clause (i)(I)
 24 paid into the Highway Trust Fund in
 25 the latest fiscal year for which such

1 data are available which is attrib-
 2 utable to highway users in the State.

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

13 (b) EFFECTIVE DATE.—The amendment made by
 14 this section shall take effect on October 1, 2018.

15 **SEC. 8. REDUCTION IN TAXES ON GASOLINE, DIESEL FUEL,**
 16 **KEROSENE, AND SPECIAL FUELS FUNDING**
 17 **HIGHWAY TRUST FUND.**

18 (a) REDUCTION IN TAX RATE.—

19 (1) IN GENERAL.—Section 4081(a)(2)(A) of the
 20 Internal Revenue Code of 1986 is amended—

21 (A) in clause (i), by striking “18.3 cents”
 22 and inserting “3.7 cents”; and

23 (B) in clause (iii), by striking “24.3 cents”
 24 and inserting “5.0 cents”.

25 (2) CONFORMING AMENDMENTS.—

1 (A) Section 4081(a)(2)(D) of such Code is
2 amended—

3 (i) by striking “19.7 cents” and in-
4 serting “4.1 cents”, and

5 (ii) by striking “24.3 cents” and in-
6 serting “5.0 cents”.

7 (B) Section 6427(b)(2)(A) of such Code is
8 amended by striking “7.4 cents” and inserting
9 “1.5 cents”.

10 (b) ADDITIONAL CONFORMING AMENDMENTS.—

11 (1) Section 4041(a)(1)(C)(iii)(I) of the Internal
12 Revenue Code of 1986 is amended by striking “7.3
13 cents per gallon (4.3 cents per gallon after Sep-
14 tember 30, 2022)” and inserting “1.4 cents per gal-
15 lon (zero after September 30, 2023)”.

16 (2) Section 4041(a)(2)(B)(ii) of such Code is
17 amended by striking “18.3 cents” and inserting “4
18 cents”.

19 (3) Clauses (iii) and (iv) of section
20 4041(a)(2)(B) of such Code are each amended by
21 striking “24.3 cents” and inserting “5.0 cents”.

22 (4) Section 4041(a)(3)(A)(ii) of such Code is
23 amended by striking “18.3 cents” and inserting “3.7
24 cents”.

1 (5) Section 4041(m)(1) of such Code is amend-
2 ed—

3 (A) in subparagraph (A), by striking
4 “2022” and inserting “2023,”;

5 (B) in subparagraph (A)(i), by striking
6 “9.15 cents” and inserting “1.8 cents”;

7 (C) in subparagraph (A)(ii), by striking
8 “11.3 cents” and inserting “2.3 cents”; and

9 (D) by striking subparagraph (B) and in-
10 serting the following:

11 “(B) zero after September 30, 2022.”.

12 (6) Section 4081(d)(1) of such Code is amend-
13 ed by striking “4.3 cents per gallon after September
14 30, 2016” and inserting “zero after September 30,
15 2021”.

16 (7) Section 9503(b) of such Code is amended—

17 (A) in paragraphs (1) and (2), by striking
18 “October 1, 2022” both places it appears and
19 inserting “October 1, 2023”;

20 (B) in the heading of paragraph (2), by
21 striking “OCTOBER 1, 2022” and inserting “Oc-
22 TOBER 1, 2023”;

23 (C) in paragraph (2), by striking “after
24 September 30, 2022, and before July 1, 2023”

1 and inserting “after September 30, 2023, and
 2 before July 1, 2024”; and

3 (D) in paragraph (6)(B), by striking “Oc-
 4 tober 1, 2020” and inserting “October 1,
 5 2023”.

6 (c) FLOOR STOCK REFUNDS.—

7 (1) IN GENERAL.—If—

8 (A) before October 1, 2023, tax has been
 9 imposed under section 4081 of the Internal
 10 Revenue Code of 1986 on any liquid; and

11 (B) on such date such liquid is held by a
 12 dealer and has not been used and is intended
 13 for sale;

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

20 (2) TIME FOR FILING CLAIMS.—No credit or re-
 21 fund shall be allowed or made under this subsection
 22 unless—

23 (A) claim therefor is filed with the Sec-
 24 retary of the Treasury before April 1, 2024;
 25 and

1 (B) in any case where liquid is held by a
 2 dealer (other than the taxpayer) on October 1,
 3 2023—

4 (i) the dealer submits a request for re-
 5 fund or credit to the taxpayer before Janu-
 6 ary 1, 2024; and

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

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

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

22 (5) CERTAIN RULES TO APPLY.—Rules similar
 23 to the rules of subsections (b) and (c) of section
 24 6412 and sections 6206 and 6675 of such Code shall
 25 apply for purposes of this subsection.

1 (d) EFFECTIVE DATES.—

2 (1) IN GENERAL.—Except as provided in para-
3 graphs (2) and (3), the amendments made by this
4 section shall apply to fuel removed after September
5 30, 2023.

6 (2) CERTAIN CONFORMING AMENDMENTS.—

7 (A) The amendments made by subsection
8 (b)(4) shall apply to fuel removed after Sep-
9 tember 30, 2019.

10 (B) The amendments made by subpara-
11 graphs (A), (B), and (C) of subsection (b)(6)
12 shall take effect on October 1, 2019.

13 (C) The amendment made by subsection
14 (b)(6)(D) shall take effect on June 1, 2018.

15 **SEC. 9. REPORT TO CONGRESS.**

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

1 **SEC. 10. APPLICATION CONTINGENT ON CERTIFICATION OF**
2 **DEFICIT NEUTRALITY.**

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

5 (1) this Act will apply only if the Director of
6 the Office of Management and Budget certifies that
7 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 apply 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 under subsection (c);
21 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 2023.

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 2023;

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 2023;

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 2023;
18 and

19 (D) submit to Congress a report that de-
20 scribes 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 score keeping 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.—On compliance with the requirements
16 specified in subsection (b), the Director shall adjust the
17 adjusted discretionary spending limits for each fiscal year
18 through fiscal year 2023 under section 601(a)(2) of the
19 Congressional Budget Act of 1974 (2 U.S.C. 665(a)(2))
20 by the estimated reductions in discretionary outlays under
21 subsection (c)(1)(B).

22 (e) PAYGO INTERACTION.—On 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)).

