

105TH CONGRESS
1ST SESSION

H. R. 3045

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

IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 13, 1997

Mr. KASICH (for himself, Mr. INGLIS of South Carolina, Mr. BOYD, Mr. GOSS, Mr. HOBSON, Mr. MILLER of Florida, Mr. HOEKSTRA, Mr. OBEY, and Mrs. THURMAN) introduced the following bill; which was referred to the Committee on Transportation and Infrastructure, and in addition to the Committees on Ways and Means, Rules, and the Budget, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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.

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

4 (I) For the Interstate mainte-
5 nance program, \$5,000,000,000 for
6 fiscal year 1998, \$5,100,000,000 for
7 fiscal year 1999, \$5,300,000,000 for
8 fiscal year 2000, \$5,400,000,000 for
9 fiscal year 2001, \$5,600,000,000 for
10 fiscal year 2002, and \$5,800,000,000
11 for fiscal year 2003.

12 (II) For highway bridge replace-
13 ment and rehabilitation,
14 \$1,183,000,000 for fiscal year 1998,
15 \$1,217,000,000 for fiscal year 1999,
16 \$1,251,000,000 for fiscal year 2000,
17 \$1,286,000,000 for fiscal year 2001,
18 \$1,321,000,000 for fiscal year 2002,
19 and \$1,358,000,000 for fiscal year
20 2003.

21 (III)(aa) For Indian reservation
22 roads, \$197,000,000 for fiscal year
23 1998, \$202,000,000 for fiscal year
24 1999, \$208,000,000 for fiscal year
25 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.

1 (D) CONGRESSIONAL CONSIDERATION.—

2 (i) TERMS OF THE RESOLUTION.—

3 For purposes of subparagraph (C), the
4 term “joint resolution” means only a joint
5 resolution that is introduced before Octo-
6 ber 1 and—

7 (I) that does not have a pre-
8 amble;

9 (II) the matter after the resolv-
10 ing clause of which is as follows:
11 “That Congress approves the deter-
12 mination of the Secretary of the
13 Treasury regarding the imposition of
14 the core highway programs rate for
15 the State of ____ submitted on
16 ____”, the blank spaces being filled in
17 with the appropriate State and date,
18 respectively; and

19 (III) the title of which is as fol-
20 lows: “Joint resolution approving the
21 determination of the Secretary of the
22 Treasury regarding the imposition of
23 a core highway programs rate.”.

24 (ii) REFERRAL.—A resolution de-
25 scribed 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

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

6 (3) CONGRESSIONAL CONSIDERATION.—

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

11 (i) that does not have a preamble;

12 (ii) the matter after the resolving
13 clause of which is as follows: “That Con-
14 gress approves the elimination of the mass
15 transit fuel tax rate for the State of ____
16 submitted on ____”, the blank spaces
17 being filled in with the appropriate State
18 and date, respectively; and

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

22 (B) CONSIDERATION.—A resolution de-
23 scribed in subparagraph (A) shall be considered
24 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 (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 transportation-related asset financed in whole
8 or in part by the Federal Government, including a road, tunnel, bridge, or mass-transit-related
9 or rail-related asset.
10 ed or rail-related asset.

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

15 (b) PRIVATIZATION INITIATIVES BY STATE AND
16 LOCAL GOVERNMENTS.—The head of each Executive
17 agency shall—
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 transportation infrastructure assets and waive or modify

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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