

112TH CONGRESS
1ST SESSION

S. 1164

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

JUNE 9, 2011

Mr. DEMINT 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) 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 motor fuels used in the States and then distrib-
17 uting the proceeds to the States based on the Fed-
18 eral Government's perceptions of what is best for the
19 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 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. FUNDING FOR CORE HIGHWAY PROGRAMS.**

22 (a) IN GENERAL.—

23 (1) FUNDING.—For the purpose of carrying out
24 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, \$5,200,000,000 for fiscal year
7 2014, \$5,280,000,000 for fiscal year 2015,
8 \$5,360,000,000 for fiscal year 2016,
9 \$5,440,000,000 for fiscal year 2017, and
10 \$5,520,000,000 for fiscal year 2018.

11 (B) EMERGENCY RELIEF.—For emergency
12 relief under section 125 of that title,
13 \$100,000,000 for each of fiscal years 2014
14 through 2018.

15 (C) INTERSTATE BRIDGE PROGRAM.—For
16 the Interstate bridge program under section
17 144 of that title, \$2,527,000,000 for fiscal year
18 2014, \$2,597,000,000 for fiscal year 2015,
19 \$2,667,000,000 for fiscal year 2016,
20 \$2,737,000,000 for fiscal year 2017, and
21 \$2,807,000,000 for fiscal year 2018.

22 (D) FEDERAL LANDS HIGHWAYS PRO-
23 GRAM.—

24 (i) INDIAN RESERVATION ROADS.—

25 For Indian reservation roads under section

1 204 of that title, \$470,000,000 for fiscal
2 year 2014, \$510,000,000 for fiscal year
3 2015, \$550,000,000 for fiscal year 2016,
4 \$590,000,000 for fiscal year 2017, and
5 \$630,000,000 for fiscal year 2018.

6 (ii) PUBLIC LANDS HIGHWAYS.—For
7 public lands highways under section 204 of
8 that title, \$300,000,000 for fiscal year
9 2014, \$310,000,000 for fiscal year 2015,
10 \$320,000,000 for fiscal year 2016,
11 \$330,000,000 for fiscal year 2017, and
12 \$340,000,000 for fiscal year 2018.

13 (iii) PARKWAYS AND PARK ROADS.—
14 For parkways and park roads under sec-
15 tion 204 of that title, \$255,000,000 for fis-
16 cal year 2014, \$270,000,000 for fiscal year
17 2015, \$285,000,000 for fiscal year 2016,
18 \$300,000,000 for fiscal year 2017, and
19 \$315,000,000 for fiscal year 2018.

20 (iv) REFUGE ROADS.—For refuge
21 roads under section 204 of that title,
22 \$32,000,000 for each of fiscal years 2014
23 through 2018.

24 (E) HIGHWAY SAFETY PROGRAMS.—

1 (i) IN GENERAL.—For highway safety
2 programs under section 402 of that title,
3 \$170,000,000 for each of fiscal years 2014
4 through 2018.

5 (ii) HIGHWAY SAFETY RESEARCH AND
6 DEVELOPMENT.—For highway safety re-
7 search and development under section 403
8 of that title, \$35,000,000 for each of fiscal
9 years 2014 through 2018.

10 (F) SURFACE TRANSPORTATION RE-
11 SEARCH.—For cooperative agreements with
12 nonprofit research organizations to carry out
13 applied pavement research under section 502 of
14 that title, \$200,000,000 for each of fiscal years
15 2014 through 2018.

16 (G) ADMINISTRATIVE EXPENSES.—For ad-
17 ministrative expenses incurred in carrying out
18 the programs referred to in subparagraphs (A)
19 through (F), \$92,890,000 for fiscal year 2014,
20 \$95,040,000 for fiscal year 2015, \$97,190,000
21 for fiscal year 2016, \$99,340,000 for fiscal year
22 2017, and \$101,490,000 for fiscal year 2018.

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

1 “(g) TRANSFERABILITY OF FUNDS.—

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

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

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

23 (4) INTERSTATE MAINTENANCE PROGRAM.—
24 Section 104(b) of title 23, United States Code, is

1 amended by striking paragraph (4) and inserting the
2 following:

3 “(4) INTERSTATE MAINTENANCE COMPO-
4 NENT.—For each of fiscal years 2014 through 2018,
5 for the Interstate maintenance program under sec-
6 tion 119, 1 percent to the Virgin Islands, Guam,
7 American Samoa, and the Commonwealth of the
8 Northern Mariana Islands and the remaining 99
9 percent apportioned as follows:

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

16 “(I) a percentage share of apportion-
17 ments equal to the percentage for the
18 State described in clause (ii); or

19 “(II) a share determined under sub-
20 paragraph (B).

21 “(ii) The percentage referred to in clause
22 (i)(I) for a State for a fiscal year shall be the
23 percentage calculated for the State for the fiscal
24 year under section 105(b) of title 23, United
25 States Code.

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
7 rural lane miles in all States with an aver-
8 age population density greater than 20
9 persons per square mile and all States with
10 a population of more than 1,500,000 per-
11 sons and with a land area of more than
12 10,000 square miles.

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

17 “(iii) $\frac{2}{9}$ in the ratio that the total
18 urban lane miles in each State bears to the
19 total urban lane miles in all States de-
20 scribed in clause (i).

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

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

5 (5) INTERSTATE BRIDGE PROGRAM.—Section
6 144 of title 23, United States Code, is amended—

7 (A) in subsection (d)—

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

12 (ii) by inserting “on the Federal-aid
13 system or described in subsection (c)(3)”
14 after “highway bridges” each place it ap-
15 pears;

16 (B) in the second sentence of subsection
17 (e)—

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

20 (ii) in paragraph (2), by striking the
21 comma at the end and inserting a period;
22 and

23 (iii) by striking paragraphs (3) and
24 (4);

1 (C) in the first sentence of subsection (k),
2 by inserting “on the Federal-aid system or de-
3 scribed in subsection (c)(3)” after “any
4 bridge”;

5 (D) in subsection (l)(1), by inserting “on
6 the Federal-aid system or described in sub-
7 section (c)(3)” after “construct any bridge”;
8 and

9 (E) in the first sentence of subsection (m),
10 by inserting “for each of fiscal years 1991
11 through 2013,” after “of law,”.

12 (6) NATIONAL DEFENSE HIGHWAYS.—Section
13 311 of title 23, United States Code, is amended—

14 (A) in the first sentence, by striking
15 “under subsection (a) of section 104 of this
16 title” and inserting “to carry out this section”;
17 and

18 (B) by striking the second sentence.

19 (7) FEDERALIZATION AND DEFEDERALIZATION
20 OF PROJECTS.—Notwithstanding any other provision
21 of law, beginning on October 1, 2013—

22 (A) a highway construction or improve-
23 ment project shall not be considered to be a
24 Federal highway construction or improvement
25 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 (8) 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, 2013, 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), by striking “Surface
 10 Transportation Extension Act of 2011” and in-
 11 serting “Transportation Empowerment Act”;

12 (B) in paragraph (1), by striking “October
 13 1, 2011” and inserting “October 1, 2018”;

14 (C) in paragraphs (3)(A)(i), (4)(A), and
 15 (5), by striking “October 1, 2011” each place
 16 it appears and inserting “October 1, 2020”;
 17 and

18 (D) in paragraph (2), by striking “July 1,
 19 2012” and inserting “July 1, 2021”.

20 (2) AMOUNTS AVAILABLE FOR CORE PROGRAM

21 EXPENDITURES.—Section 9503 of such Code is
 22 amended by adding at the end the following:

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

1 “(1) IN GENERAL.—Except as provided in para-
2 graph (2)—

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

7 “(i) after September 30, 2013, and
8 before October 1, 2014, 18.3 cents per gal-
9 lon,

10 “(ii) after September 30, 2014, and
11 before October 1, 2015, 9.6 cents per gal-
12 lon,

13 “(iii) after September 30, 2015, and
14 before October 1, 2016, 6.4 cents per gal-
15 lon,

16 “(iv) after September 30, 2016, and
17 before October 1, 2017, 5.0 cents per gal-
18 lon, and

19 “(v) after September 30, 2017, 3.7
20 cents per gallon, and

21 “(B) in the case of kerosene, diesel fuel,
22 and special motor fuels the tax rate of which is
23 the rate specified in section 4081(a)(2)(A)(iii),
24 the core programs financing rate is—

1 “(i) after September 30, 2013, and
2 before October 1, 2014, 24.3 cents per gal-
3 lon,

4 “(ii) after September 30, 2014, and
5 before October 1, 2015, 12.7 cents per gal-
6 lon,

7 “(iii) after September 30, 2015, and
8 before October 1, 2016, 8.5 cents per gal-
9 lon,

10 “(iv) after September 30, 2016, and
11 before October 1, 2017, 6.6 cents per gal-
12 lon, and

13 “(v) after September 30, 2017, 5.0
14 cents per gallon.

15 “(2) APPLICATION OF RATE.—In the case of
16 fuels used as described in paragraph (3)(C), (4)(B),
17 and (5) of subsection (c), the core programs financ-
18 ing rate is zero.”.

19 (c) TERMINATION OF TRANSFERS TO MASS TRANSIT
20 ACCOUNT.—

21 (1) IN GENERAL.—Section 9503(e)(2) of the
22 Internal Revenue Code of 1986 is amended by in-
23 serting “, and before October 1, 2013” after “March
24 31, 1983”.

1 (2) TECHNICAL AMENDMENT.—Section
2 9503(e)(4) of such Code is amended by striking
3 “24-month” and inserting “48-month”.

4 (d) EFFECTIVE DATE.—The amendments made by
5 this section take effect on October 1, 2013.

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

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

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

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

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

25 “(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 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 (iii), during fiscal years
20 2014 through 2017, \$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.—Each State is
25 entitled to a share of the amount specified

1 in clause (i) determined in the following
2 manner:

3 “(I) Multiply the percentage of
4 the amounts appropriated in the latest
5 fiscal year for which such data are
6 available to the Highway Trust Fund
7 under subsection (b) which is attrib-
8 utable to taxes paid by highway users
9 in the State, by the amount specified
10 in clause (i). If the result does not ex-
11 ceed \$15,000,000, the State’s share
12 equals \$15,000,000. If the result ex-
13 ceeds \$15,000,000, the State’s share
14 is determined under subclause (II).

15 “(II) Multiply the percentage de-
16 termined under subclause (I), by the
17 amount specified in clause (i) reduced
18 by an amount equal to \$15,000,000
19 times the number of States the share
20 of which is determined under sub-
21 clause (I).

22 “(iii) DISTRIBUTION OF REMAINING
23 AMOUNT.—If after September 30, 2017, a
24 portion of the amount specified in clause
25 (i) remains, the Secretary, in consultation

1 with the Secretary of Transportation,
2 shall, on October 1, 2017, apportion the
3 portion among the States using the per-
4 centages determined under clause (ii)(I)
5 for such States.

6 “(B) ADDITIONAL EXPENDITURES FROM
7 FUND.—

8 “(i) IN GENERAL.—Amounts in the
9 Infrastructure Special Assistance Fund, in
10 excess of the amount specified in subpara-
11 graph (A)(i), shall be available, as provided
12 by appropriation Acts, to the States for
13 any surface transportation (including mass
14 transit and rail) purpose in such States,
15 and the Secretary shall apportion such ex-
16 cess amounts among all States using the
17 percentages determined under clause (ii)(I)
18 for such States.

19 “(ii) ENFORCEMENT.—If the Sec-
20 retary determines that a State has used
21 amounts under clause (i) for a purpose
22 which is not a surface transportation pur-
23 pose as described in clause (i), the improv-
24 erly used amounts shall be deducted from
25 any amount the State would otherwise re-

1 ceive from the Highway Trust Fund for
2 the fiscal year which begins after the date
3 of the determination.”.

4 (b) EFFECTIVE DATE.—The amendment made by
5 this section takes effect on October 1, 2013.

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

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

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

13 “(A) IN GENERAL.—On the first day of
14 each of fiscal years 2014, 2015, 2016, and
15 2017, the Secretary, in consultation with the
16 Secretary of Transportation, shall—

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

18 “(I) the amounts appropriated in
19 such fiscal year to the Highway Trust
20 Fund under subsection (b) which are
21 attributable to the taxes described in
22 paragraphs (1) and (2) thereof (after
23 the application of paragraph (4)
24 thereof) over the sum of—

1 “(II) the amounts so appro-
2 priated which are equivalent to—

3 “(aa) such amounts attrib-
4 utable to the core programs fi-
5 nancing rate for such year, plus

6 “(bb) the taxes described in
7 paragraphs (3)(C), (4)(B), and
8 (5) of subsection (c), and

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

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

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

24 “(B) ENFORCEMENT.—If the Secretary
25 determines that a State has used amounts

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

9 (b) EFFECTIVE DATE.—The amendment made by
 10 this section takes effect on October 1, 2013.

11 **SEC. 6. REDUCTION IN TAXES ON GASOLINE, DIESEL FUEL,**
 12 **KEROSENE, AND SPECIAL FUELS FUNDING**
 13 **HIGHWAY TRUST FUND.**

14 (a) REDUCTION IN TAX RATE.—

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

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

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

21 (2) CONFORMING AMENDMENTS.—

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

24 (i) by striking “19.7 cents” and in-
 25 serting “4.1 cents”, and

1 (ii) by striking “24.3 cents” and in-
2 serting “5.0 cents”.

3 (B) Section 6427(b)(2)(A) of such Code is
4 amended by striking “7.4 cents” and inserting
5 “1.5 cents”.

6 (b) ADDITIONAL CONFORMING AMENDMENTS.—

7 (1) Section 4041(a)(1)(C)(iii)(I) of the Internal
8 Revenue Code of 1986 is amended by striking “7.3
9 cents per gallon (4.3 cents per gallon after Sep-
10 tember 30, 2011)” and inserting “1.4 cents per gal-
11 lon (zero after September 30, 2020)”.

12 (2) Section 4041(a)(2)(B)(ii) of such Code is
13 amended by striking “24.3 cents” and inserting “5.0
14 cents”.

15 (3) Section 4041(a)(3)(A) of such Code is
16 amended by striking “18.3 cents” and inserting “3.7
17 cents”.

18 (4) Section 4041(m)(1) of such Code is amend-
19 ed—

20 (A) in subparagraph (A), by striking
21 “2011” and inserting “2020,”;

22 (B) in subparagraph (A)(i), by striking
23 “9.15 cents” and inserting “1.8 cents”;

24 (C) in subparagraph (A)(ii), by striking
25 “11.3 cents” and inserting “2.3 cents”; and

1 (D) by striking subparagraph (B) and in-
2 serting the following:

3 “(B) zero after September 30, 2020.”.

4 (5) Section 4081(d)(1) of such Code is amend-
5 ed by striking “4.3 cents per gallon after September
6 30, 2011” and inserting “zero after September 30,
7 2020”.

8 (6) Section 9503(b) of such Code is amended—

9 (A) in paragraphs (1) and (2), by striking
10 “October 1, 2011” both places it appears and
11 inserting “October 1, 2020”;

12 (B) in the heading of paragraph (2), by
13 striking “OCTOBER 1, 2011” and inserting “OC-
14 TOBER 1, 2020”;

15 (C) in paragraph (2), by striking “after
16 September 30, 2011, and before July 1, 2012”
17 and inserting “after September 30, 2020, and
18 before July 1, 2021”; and

19 (D) in paragraph (6)(B), by striking “Oc-
20 tober 1, 2011” and inserting “October 1,
21 2018”.

22 (c) FLOOR STOCK REFUNDS.—

23 (1) IN GENERAL.—If—

1 (A) before October 1, 2017, tax has been
2 imposed under section 4081 of the Internal
3 Revenue Code of 1986 on any liquid; and

4 (B) on such date such liquid is held by a
5 dealer and has not been used and is intended
6 for sale;

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

13 (2) TIME FOR FILING CLAIMS.—No credit or re-
14 fund shall be allowed or made under this subsection
15 unless—

16 (A) claim therefor is filed with the Sec-
17 retary of the Treasury before April 1, 2018;
18 and

19 (B) in any case where liquid is held by a
20 dealer (other than the taxpayer) on October 1,
21 2017—

22 (i) the dealer submits a request for re-
23 fund or credit to the taxpayer before Janu-
24 ary 1, 2018; and

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

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

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

16 (5) CERTAIN RULES TO APPLY.—Rules similar
17 to the rules of subsections (b) and (c) of section
18 6412 and sections 6206 and 6675 of such Code shall
19 apply for purposes of this subsection.

20 (d) EFFECTIVE DATES.—

21 (1) IN GENERAL.—Except as provided in para-
22 graph (2), the amendments made by this section
23 shall apply to fuel removed after September 30,
24 2017.

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

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

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

11 (2) the report contains a certification by the Di-
12 rector that, based on the required estimates, the re-
13 duction in discretionary outlays resulting from the
14 reduction in contract authority is at least as great
15 as the reduction in revenues for each fiscal year
16 through fiscal year 2018.

17 (c) OMB ESTIMATES AND REPORT.—

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

21 (A) estimate the net change in revenues re-
22 sulting from this Act for each fiscal year
23 through fiscal year 2018;

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

1 contract authority under this Act for each fiscal
2 year through fiscal year 2018;

3 (C) determine, based on those estimates,
4 whether the reduction in discretionary outlays
5 is at least as great as the reduction in revenues
6 for each fiscal year through fiscal year 2018;
7 and

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

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

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

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

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

3 (d) CONFORMING ADJUSTMENT TO DISCRETIONARY
4 SPENDING LIMITS.—On compliance with the requirements
5 specified in subsection (b), the Director shall adjust the
6 adjusted discretionary spending limits for each fiscal year
7 through fiscal year 2013 under section 601(a)(2) of the
8 Congressional Budget Act of 1974 (2 U.S.C. 665(a)(2))
9 by the estimated reductions in discretionary outlays under
10 subsection (c)(1)(B).

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

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